

sb



EMPLOYMENT TRIBUNALS

Claimant

Respondent

Mrs S Roberts

AND

House of Fraser (Stores) Limited

Heard at: London Central

On: 23 & 24 May 2018

Before: Employment Isaacson

Representation

For the Claimant: Mr D Northall, Counsel

For the Respondent: Ms L Gould, Counsel

REASONS

Background

1. The Judgment and Reasons were dictated in front of the parties at the end of a two-day hearing on 24 May 2018. Judgment was sent to the parties on 29 May 2018. On 7 June 2018 the Claimant's solicitor emailed the Tribunal requesting written reasons for the decision. Unfortunately, due to a break in the server the original dictation was lost. Repeated attempts were made to recover the lost dictation but were unsuccessful. Therefore, as these written reasons have been dictated months after the hearing they are not going to be identical to those dictated before the parties at the hearing.

Evidence before the Tribunal

2. The Tribunal was presented with a joint bundle of documents and had written witness statements and heard oral evidence from the Claimant and from Mrs T Blondin, a Director in the Respondent's Human Resources function. Both Counsel gave oral submissions.

Claim and Issues

3. The claim before the Tribunal is a claim for unfair dismissal. The issues the Tribunal needs to decide are:

- (1) What was the reason for the Claimant's dismissal? Was it one of the potentially fair reasons set out in section 98 of the Employment Rights Act 1996 ("ERA")?
- (2) If there was a fair reason to dismiss, was the dismissal procedurally fair?
- (3) Was the dismissal fair in all the circumstances?
- (4) If the dismissal was procedurally unfair, would the Claimant have been dismissed in any event?

The Law

4. Redundancy is defined in section 139 of the ERA:

"(1) For the purposes of this Act an employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is wholly or mainly attributable to –

- (a) *the fact that his employer has ceased or intends to cease –*
 - (i) *to carry on the business for the purposes of which the employee was employed by him, or*
 - (ii) *to carry on that business in the place where the employee was so employed, or;*
- (b) *the fact that the requirements of that business –*
 - (i) *for employees to carry out work of a particular kind, or*
 - (ii) *for employees to carry out work of a particular kind in the place where the employee was employed by the employer,*

have ceased or diminished or are expected to cease or diminish".

5. Section 98 of the ERA sets out the law relating to unfair dismissal:

"98(1) in determining for the purposes of this Part whether the dismissal of an employee is fair or unfair, it is for the employer to show –

- (a) *the reason (or, if more than one, the principal reason) for the dismissal, and*
- (b) *that it is either a reason falling within subsection (2) or some other substantial reason of a kind such as to justify the dismissal of an employee holding the position which the employee held."*

6. Redundancy is one of the potentially fair reasons set out in section 98(2) ERA.

7. Section 98(4) goes on to state:

"Where the employer has fulfilled the requirements of subsection (1), the determination of the question whether the dismissal is fair or unfair (having regard to the reason shown by the employer) –

- (a) *depends on whether in the circumstances (including the size and administrative resources of the employer's undertaking) the employer*

*acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee, and
(b) shall be determined in accordance with equity and the substantial merits of the case.”*

8. In deciding whether the dismissal was fair or unfair the Tribunal looks at whether the dismissal was procedurally fair and then goes on to decide whether it was substantively fair. The test for the Tribunal to apply is whether in the particular circumstances of each case the decision to dismiss the employee fell within a band of reasonable responses which a reasonable employer might have adopted (**Iceland Frozen Foods v Jones 1982**).
9. The Tribunal must not put itself in the shoes of the employer and decide what it would have done in the circumstances but should decide whether the employer acted reasonably.
10. In a redundancy dismissal the Tribunal follows the guidelines set out in the case of **Williams and others v Compair Maxam Limited (1982) ICR 156 EAT**:
 - (1) Give as much notice as possible of impending redundancies so that employees can look for alternative solutions or alternative jobs.
 - (2) Consult with the union regarding selection criteria and how it is applied.
 - (3) Establish selection criteria which, as far as possible, does not depend solely on the opinion of the decision maker but can be objectively checked.
 - (4) Establish whether the selection criteria was objectively chosen and fairly applied, also considering the pool for selection; and
 - (5) see if there is alternative work available before deciding to dismiss.
11. Other cases indicate that individuals should be given sufficient information about why they were selected and how. For example, being given their own scores and where they came compared to other employees so that they have sufficient information to challenge their selection and make representations on their assessment.
12. Although the selection criteria must be objective, the Tribunal shall not subject it or the application of the criteria to over minute scrutiny. The question for the Tribunal overall is was the method of selection inherently unfair?
13. Looking at the pool for selection the Tribunal should question whether it fell within a range of reasonable responses available to the employer in the circumstances and have the Respondent applied their mind to the pool?

14. An employer should do what it can so far as reasonable to seek alternative work but it is not necessarily to enquire about job opportunities elsewhere.
15. Individual consultation should include a warning that the individual has been provisionally selected for redundancy, confirmation of the basis for selection, have an opportunity for the employee to comment on their redundancy selection assessment, consider alternative positions and have the opportunity to address any matters that they have.

Findings of Fact

16. The Claimant started employment with the Respondent on 2 February 2004 as a Design Coordinator in Home until 2006 when she was promoted to a Design Manager in Home. In 2008 she was promoted to Head of Design and then Director of Design in Home in 2012. A copy of the Claimant's contract of employment is at page 29 of the bundle and there is a job description at page 36A for the Director of Design which the Claimant says she had never seen before disclosure.
17. There is a chart at page 146 of the bundle which sets out the management structure under the Director of Buying, Kate Thompson before the redundancy exercise. The Claimant reported directly to Emma Worley, who was the Produce Director. In the Home Department there were three Directors, the Claimant who was Director of Design, Kate Thompson the Director of Buying and Michaela Wray the Director of Merchandising. The Claimant reported directly to Emma Worley for the last six months of her employment. Prior to this date she reported to Maria Hollins the Executive Product and Trading Director.
18. Until 2016 the Claimant had annual personal development reviews each year. The feedbacks were always positive with ratings that she was performing or exceeding role expectation. The Claimant believed that Miss Hollins paid no interest to Home Design and she had no experience or knowledge about it as her background was in merchandising. She felt that Miss Hollins was often rude and dismissive. Emma Worley was brought in by Maria Hollins to take on some of her direct reports and became the Claimant's line manager in February 2017. The Claimant felt that Miss Worley kept her distance from her from the outset.
19. On 4 July 2017 the Respondent made an announcement recognising the strengths of the business but acknowledging where change must be addressed. It announced the need to change to focus on improving customer engagement, driving more sales and deliver operational efficiencies that reduced costs.
20. The announcement went on to list the number of changes in different departments. Under the heading "Home" the announcement stated:

“In light of the current performance of the Home category, there is a need to reduce the cost and size of the team. It is therefore proposed that the Director of Design – Home, role will cease to exist and the team will move to report into the Director of Buying for Home.”

21. The Claimant understandably felt that the announcement was being critical of her own performance and it clearly stated that her role as Director of Design would cease to exist and that her team would move to report to the Director of Buying for Home which was Miss Thompson. The announcement also went on to say that the merchandising roles would be reduced from two to one.
22. The Claimant was not the only individual impacted by the announcement. In total over 100 roles were removed across the business as a result of poor trade performance and the need to reduce cost. The Claimant accepted that there was a need to reduce costs and increase efficiency and that over 100 people were affected by the exercise.
23. There is some correspondence in the bundle which illustrates the discussions taking place between management prior to the announcement. An example is an email dated 30 May 2017, at page 140, which states that they are looking at open vacancies and identifying which were business critical as there was clearly a need to reduce numbers.
24. There is also an email exchange dated 20 June 2017 from Miss Hollins to Miss Worley. The email dated 20 June 2017 from Miss Hollins suggests that *“Given the issues getting traction with the Home leadership team”* they should think about making Michaela and Kate redundant and replacing with a Home Director, filling with an interim hire. This could give a clear message to the Home Team that they need to think differently. The Claimant is not mentioned in this email.
25. Miss Worley replied *“We kind of agree but feel that we need 2 bodies in these roles is needed because of the workload /system issues ...this could work with a Director and Manager reporting in to them”*. Miss Hollins replies that she is thinking about an immediate interim then appointing a home expert which would then support one or two managers depending on what they could afford. She then goes on to say: *“My rationale for doing this now was that we could exit problematic Home management team. Have talked through with exec this morning and they agree”*.
26. The Tribunal was not able to question Miss Hollins about what she meant by *“exiting the problematic Home management team”*. The Claimant said that this email exchange does not mention her because the decision has already been made to get rid of her but argues that it demonstrates that the Respondent wanted to get rid of her as she was viewed as problematic. However, if the email isn't about the Claimant as the decision had already been made to get rid of her, then the email couldn't be relevant to the Claimant as the reference to problematic Home management team would not be a reference to her.

27. What the email exchange does demonstrate is that Miss Hollins does view the need for the Home team to think differently, however, it does not help in providing detail for the rationale behind the decision to select the Claimant for redundancy as it appears the decision was either made before this exchange of emails and the exchange of emails does not relate to the Claimant.
28. On 4 July 2017 the Claimant was called to a meeting with Miss Worley and Mr Karayiannis the HR Manger. The announcement was read out to her informing her that her role would cease to exist and that her team would report in to Miss Thompson, the Director of Buying. The Claimant felt that Miss Worley was very abrupt and cold towards her. Mr Worley read the script to her hardly making eye contact. The Claimant was then issued with a personal letter confirming the redundancy process (page 42). It was a generic letter sent out to all members of staff who were at risk of redundancy and is dated 4 July 2017. The letter is headed Precautionary Notice of Redundancy. It states that there will be both collective and individual consultation.
29. On 7 July Mr Karayiannis emailed the Claimant to say that he was there if she was wanted to have a chat and appreciated that it was a tough week for her. (page 152)
30. On 10 July the Claimant requested a meeting with Miss Blondin, the Director in HR. The Claimant explained that she was upset with the way the message of her redundancy had been delivered to her, that she could not understand how the decision could have been made that her role was disappearing with no consideration given to her taking on the new created role, which had already been offered to Kate Thompson.
31. The Claimant felt that Miss Worley was inappropriate during the redundancy consultation and it was agreed that further consultation would be done by Maria Hollins instead. The Claimant recalls that it was agreed that she would be able to work from home.
32. The Claimant felt that Miss Blondin then denied this agreement about her working from home because of a later email exchange she saw dated 4 August 2017 (page 171). The Claimant suggested that this demonstrates that Miss Blondin was inconsistent. However, the Tribunal found Miss Blondin to be a reliable witness and accepts that at times people do forget some of the conversations they have in meetings particularly when they are about difficult things such as redundancy. The Tribunal accepts the evidence of the Claimant that at the end of the meeting it had been agreed that she could work from home.
33. On 13 July the Claimant received a letter inviting her to a consultation meeting on 17 July confirming that she was entitled to be accompanied to the meeting. The meeting in fact took place on 21 July and was heard by

someone independent, Mr Hearsey from the Legal Department (page 46-49).

34. Prior to the meeting on 19 July an internal announcement was made by Miss Hollins. It stated in the first paragraph: *"I would like to update you all on a review of the leadership structure that has taken place across Buying and Design"*. It then referred to a proposed structure with the following changes:

"Home – The Director of Buying House Brands and Head of Buying Branded will be combined into one role. This role will have sole accountability for the category and will be responsible for driving all areas on Home Following an assessment of the new roles, I can confirm that the following individuals will oversee the areas as below, Kate Thompson – Director of Buying – Home."

35. On the one hand the email suggested that the announcement was just about proposals but then talks about changes in structure that have taken place, including the decision regarding the Director of Buying, Kate Thompson who would oversee the Home Department.
36. In advance of the first consultation meeting the Claimant was sent a copy of a job profile for the newly created Director of Buying and Design role (pages 41A -C). It was not clear to the Claimant why she had been sent a copy of the job profile and when she queried this with Miss Blondin she was told that it was for a discussion point. She was not told that this was a role that she could apply for and the Claimant believed it was because the role had already been offered to Miss Thompson.
37. At the first consultation meeting the Claimant raised a number of questions which are set out at pages 50-51 of the bundle. The Claimant wanted to understand the rationale for her redundancy, who did management speak to before making the decision, why the announcement referred to the performance of Home, why was the structure on Home different to other departments and why was the new job description attached to her invite to the meeting? How was the job description created and why there was design input in to it? She referred to the fact that she felt Kate was so spread thinly that the team would not get the support required and questioned why they had taken resources from an already stretched resource.
38. The Respondent's answers to the Claimant's questions are set out in a document at pages 52-53 of the bundle. The Respondent stated that the rationale to reduce the number of Director level roles in the Home Department was due to the need for cost efficiencies and the Home Department was the only area to run with three Directors. There was a strategy decision to move the house brand and branded mix which would impact on design options and workload going forward. As a result, the task undertaken by the Director of Design to create the strategy for house brand design would be significantly diminished. On review the Executive

Committee and Senior Leadership Team felt that Home was too heavy on Director population and had under performed for various reasons which resulted in the need for significant cost saving. The need for resources in Women's Wear was different to Home. These answers were also confirmed by Miss Blondin before the Tribunal.

39. The Respondent explained that the job description was provided to the Claimant to help her answer questions relating to her new role ahead of the consultation. It did not specifically say that the Claimant could apply for the new role. The job description had been created by the Product Director; designers would not get a new job description as they would continue to design products.
40. At the consultation meeting the Claimant was told that the department having three people at Director level was deemed too heavy on Director population. The Claimant stated that if this was genuinely the case and if the Respondent wanted to carry out a fair process then all Director roles should have been pooled and placed at risk of redundancy.
41. The Claimant was provided at the meeting with details of payments that she would receive if her employment was terminated. The Claimant argued that this was evidence that the decision had already been made to dismiss her. However, the Tribunal accepts that it is quite normal practice to set out redundancy payment figures for individuals who has been identified at risk of redundancy so that they at least know in advance what potential sum they may receive.
42. During the period of the Claimant's consultation Miss Thompson, the Director of Buying in Home, was also being consulted in relation to the changes to her role to incorporate design. The buying aspect of Miss Thompson's role was not impacted by the changes. Due to the change in direction of Home house brands, reducing the number of home brands and increasing the number of outside brands, there was a reduced requirement to have strategic vision. Therefore, it was proposed that the management of the three design team members would move across to the Director of Buying. This was initially viewed as no more than a 25% change.
43. The Claimant accepted the evidence of Miss Blondin that the company consulted with both the Claimant and Miss Thompson, the Director of Buying on the proposed changes before deciding to place the Director of Buying at risk of redundancy and giving both the Claimant and Miss Thompson equal opportunities to apply for the new role. Miss Thompson also provided input for the new job description.
44. After taking on board the Claimant and Miss Thompson's input, Miss Thompson was advised that changes to her role as Director of Buying was in fact more than 25% and was so significant that the company felt that this resulted in the Director of Buying's role ceasing to exist. Therefore, Miss Thompson was also put at risk of redundancy.

45. This change in position from the company is reflected in a letter to Miss Thompson dated 8 August 2017 (page 71B-C). It confirmed that the company's initial view was that the amended job role equated to approximately 25% of a change to her existing role but after Miss Thompson expressed concern in some areas either being omitted or not clear in the job description, that would impact on her ability to deliver the standards to achieve success, it was agreed to have further conversations with Miss Worley. Consequently, Miss Thompson was given a choice whether to:
- (1) Agree to changes to her existing role and commence as the role of Director of Buying, Design and QA Home with effect from 1 September 2017.
 - (2) Or if she felt that the changes to her existing role did not suit her skill set then her current role as Director of Buying for Home would be at risk of redundancy and would fall within a redundancy pool.
 - (3) It was also recognised that areas of her existing Director of Design role would not fall within the remit required to get involved in technical aspects of design but that she would be required to lead and oversee it as per the amended job profile. This meant that her current way of working would need to change. Consequently, she was being offered a trial period of eight weeks. This would give her and the company the opportunity to ensure that the role was a suitable alternative.
46. It is clear from this correspondence that had Miss Thompson accepted the amended role she would never have been put at risk of redundancy and placed in the pool with the Claimant. A letter to Miss Thompson dated 22 August 2017 (page 71D) confirms that Miss Thompson did not take up the role and was therefore put at risk of redundancy.
47. The Claimant had her second consultation meeting on 9 August 2017 having been sent a letter of invite dated 4 August 2017 (page 54). Prior to the second consultation meeting she had been provided with detailed answers to the questions that she had raised at her first consultation meeting. The Claimant still felt dissatisfied with the answers as she did not feel that they explained why her role had been targeted without being put in to a pool with others.
48. Minutes of the second consultation meeting are at pages 55-58. The Claimant asked a list of further questions which are set out at page 59 of the bundle. The Claimant confirmed to the Tribunal that there was no suggestion that the Director of Buying and Design role was a vacancy that she could apply for at this meeting. The Claimant understood that there had been changes to the design aspect of the new role but she was not given a copy of the revised job description in advance of the meeting. She did ask for a revised copy but one was not available but was later sent to her (pages 53a-d). The meeting was short and the Claimant was told that her questions would be answered after the meeting. The Claimant felt that

the redundancy process was nothing more than a sham and that she had been singled out.

49. On 17 August the Claimant received a letter from the Respondent (page 60) providing her with answers to her questions and enclosed a revised version of the job description. The Claimant was advised for the first time that the new role was open to both herself and Miss Thompson to apply for. She was asked to confirm by the following Monday whether or not she had an interest in the role. The Claimant felt that the changes to the job profile were merely to appease her and had been done as a form of damage limitation by the Respondent. She believed that even if she went through the process of applying for the new role that her application would not be successful and would be nothing but a humiliating process.
50. The answers to the questions confirm that at the time of the announcement regarding the Claimant's role the company did not think it was possible to put all three Director roles in to a pool because the Director or Merchandising role carried a significantly different role to that of Buying Director and Design Director. The Home Department was the only area to run with three Directors and at the time of the announcement it was envisaged that there would be no more than a 25% change to the role of Director of Buying and therefore they thought that Director of Design was the only role being put at risk. It was only following consultation with the Director of Buying that they realised that the role was more significantly changed and therefore also put that role at risk of redundancy.
51. The Claimant was only given two days to consider whether to apply for the new role. The Tribunal does not find that this was an unreasonable amount of time. Redundancy exercises are often done in a short timescale as the parties involved want the process completed swiftly as the uncertainty causes stress.
52. On 18 August the Claimant was invited to a third consultation meeting to take place on 22 August. This letter confirmed that if the company was unable to find a way to avoid the redundancy situation or identifying any suitable alternative employment then the Claimant's employment would be terminated by reason of redundancy.
53. At this point the Claimant lost faith in the company and the fair process that they claimed to be following. She genuinely believed that she was being singled out and that the company wanted to get rid of her. She felt she just wanted to end the process she saw as a sham and therefore on 20 August she wrote to Mr Karrayiannis (pages 66-68) expressing her belief that the redundancy process followed was unfair. She pointed out that the original announcement insinuated that personally she was somehow responsible for the current performance of the Home department. Initially she was not considered for the role of Director of Buying and Design that she felt that she was only being considered for the role in an attempt to rectify a flawed consultancy process and that she would feel humiliated to apply. She therefore did not want to prolong the process any further and rather than

applying for the role asked for a payment of six months salary in addition to the statutory redundancy payment.

54. The Tribunal accepts the evidence of the Claimant that she had lost all trust and faith in the management of the company and that was why she did not apply for the new role. Miss Thompson also did not apply for the role of Director of Buying and Design.
55. Minutes of the third consultation meeting are at pages 69-71 of the bundle. At the meeting Mr Hearsey confirmed that the Claimant's employment was being terminated as no suitable alternatives were put forward by the Claimant during the consultation process. The Claimant's employment was terminated with effect from 31 August 2017.
56. This was confirmed in a letter from Miss Blondin dated 8 September 2017 (pages 75-76). Unfortunately, the letter was sent to an old address of the Claimant and therefore the Claimant never received that letter. The letter confirmed that the reason for the Claimant's termination was redundancy and that she would be paid accrued holiday pay. But it did not set out a right to appeal the decision. The Tribunal is critical of the Respondent company for not having in these standard letters a paragraph setting out the right to appeal. However, the Tribunal does not find that this omission amounts to a serious flaw in the process.
57. The Claimant having not heard from the Respondent for almost two months wrote to Miss Blondin and Mr Hearsey on 25 October 2017 (pages 86-87). The Claimant's letter stated that the redundancy had been unfair and contesting the process that had been followed. The Claimant sought financial compensation from the Respondent to avoid having to take the legal route of issuing a claim for unfair dismissal.
58. The Claimant received a response on 8 November 2017 from Miss Fairchild, the Respondent's Director of HR (pages 89-92). The letter repeated what Mr Hearsey said during the redundancy consultation process and did not uphold the Claimant's appeal or request for an enhanced redundancy package.

Applying Law to the facts

59. Turning to the reason for the dismissal. The Claimant alleges that the real reason for her dismissal was not redundancy but because the Respondent wanted to get rid of her as they viewed her as a problematic manager. The Claimant says there needs to be some reasons specific to the Claimant and that the announcement by the company and their response to her grievance all lack any specific explanation for the Claimant's redundancy.
60. However, the Tribunal finds that the Respondent produced evidence that there was a need for a substantial restructure as a result of the retail industry changing and recent trade performance. There was a need for cost savings and this is not disputed by the Claimant. The company had

looked at ways to reduce costs by not recruiting for vacancies that were not critical. Over a hundred roles were put at risk of redundancy as set out in the company's announcement. Although the announcement does not detail the reason for the Claimant's own redundancy other than saying in light of current performance, the Tribunal accepts the Respondent's evidence as detailed in the reply to the questions asked by the Claimant in her first consultation meeting at page 52. The rationale for reducing the number of director level roles in the Home department was due to the need to make cost efficiencies due to poor trade performance. In addition there was a strategic move from In House own brands to buying in brands which had a significant impact on the Claimant's role.

61. This is reinforced by documents relating to Miss Thompson's consultation regarding the change in her role and subsequently being put at risk of redundancy where there is discussion about the nature of the new role and taking on the design element.
62. The Tribunal accepts the Claimant's evidence that Miss Hollins and Miss Worley were not interested in the Home Design, this is reflected in the emails at pages 141-142, but the Tribunal finds that these emails do not specifically relate to the Claimant. The impression the Tribunal gets from this email exchange is that the decision relating to the Claimant's role had already been made and these are discussions about the remaining Home Directors.
63. The Respondent's response form is brief and merely denies the Claimant's case setting out the reason for dismissal as redundancy and refers to a chronology of events. However, the information provided to the Tribunal by Miss Blondin and the correspondence within the bundle supports the Respondent's case that the real reason for the Claimant's dismissal was redundancy.
64. There is not sufficient evidence before the Tribunal to suggest that the real reason for the Claimant's dismissal was not redundancy. Miss Hollins and Miss Worley may well have had it in for Home but the documents demonstrate that there was a genuine need to reduce costs and the Tribunal accepts the reasons behind the Claimant's selection was a strategic decision to move from in house brands to buying in brands combined with the need to reduce costs.
65. The Tribunal does not draw any inference from the lack of structure charts. The Tribunal accepts the Respondent's arguments that the fact that three design roles remained does not demonstrate that the Claimant's role was not redundant. The Claimant had a more senior strategic role. There was still a need for designers.
66. Moving on to the question whether the Claimant's dismissal was procedurally fair. It is not unreasonable for an employer to decide that one role within a department alone needs to be reduced and consequently not entering in to a selection process. The Tribunal accepts the evidence of the

Respondent that the Respondent's initial view was that the Claimant's role would be diminished and that part of her role which remained would be taken on by Miss Thompson. The Tribunal finds that that decision fell within a band of reasonable responses. The Respondent had not identified another suitable alternative role for the Claimant and therefore did not need to offer her a trial period. However, having consulted with Miss Thompson who was not going to accept the role as it was perceived by the Respondent and had raised concerns about the design element of the role, then the Respondent agreed to amend the job description for the role and put both Miss Thompson and the Claimant at risk of redundancy in the same pool.

67. The Tribunal appreciate that to the Claimant this may look like all the Respondent was doing was damage limitation but having seen the documents relating to Miss Thompson it is clear that it was as a result of her discussions with the Respondent that the Respondent then changed directions and entered in to consultation regarding the job description and the pool for selection.
68. Therefore, the Tribunal finds that the Respondent did follow a fair procedure. The Claimant was warned of the impact in redundancy. When she asked for more detail behind the rationale to the decision she was given the answers set out in detailed written answers. The Claimant was not initially offered the opportunity to apply for the new role at first because it was not seen as being available to her. The Respondent believed that Miss Thompson was taking on additional responsibilities within her role. It was only once Miss Thompson explained how she saw the role that the Respondent's agreed it was a significant new role and both Miss Thompson and the Claimant would apply for the role. This demonstrated that the Respondent was adaptable and listening during the consultation.
69. The Claimant had three consultation meetings. She had an opportunity to be accompanied to all three. She had an opportunity to ask questions and these questions were properly responded to. It was unfortunate that the Claimant's dismissal letter was sent to her wrong address. It would have been better in practice if the dismissal letter provided a right to appeal. In any event the Claimant had an opportunity to raise a grievance regarding her dismissal and that grievance was conducted reasonably. A detailed response to each of the points raised by the Claimant were sent to the Claimant.
70. The Tribunal does not find the process should have been slowed down once the new role was identified. The Tribunal looks objectively at whether the process was overall fair and not at the minute detail. In any event the redundancy consultation is often swift because the uncertainty of being at risk is very difficult for all those involved. The Claimant had made it clear to the Respondent that she would not be applying for the new role therefore it was not possible for them to offer her a trial period or training for the new role.

71. In conclusion the Tribunal finds that the reason for the Claimant's dismissal was redundancy and that the dismissal was both procedurally and substantively fair. Therefore, the Claimant's claim for unfair dismissal fails and it is dismissed.

Employment Judge Isaacson

Dated:. 18 October 2018

Judgment and Reasons sent to the parties on:

18 October 2018

For the Tribunal Office