



EMPLOYMENT TRIBUNALS

Claimant: M R Doust

Respondent: Whitgift Foundation - Whitgift

Heard at: London South Employment Tribunal

On: 9 May 2019

Before: Employment Judge Tsamados (sitting alone)

Representation

Claimant: In person

Respondent: Ms I Shrivastava of Counsel

RESERVED JUDGMENT

The reserved judgment of the Employment Tribunal is as follows:

The claimant was not unfairly dismissed. His claim against the respondent is therefore dismissed.

REASONS

Claims and issues

1. By a Claim Form received by the Employment Tribunal on 10 May 2018 following a period of Early Conciliation from 9 March 2018 to 23 April 2018, the claimant, Mr Doust, has brought a complaint of unfair dismissal against his former employers, Whitgift School. In its response received on 5 July 2018, the respondent, more correctly identified as The Whitgift Foundation - Whitgift, denied the claim. Standard directions for case management of the hearing were sent out by letter dated 14 June 2008.
2. At the start of the hearing, I identify the issues with the parties. The respondent states that the potentially fair reason for dismissal is redundancy or some other substantial reason. Its position is that there was a

reorganisation which led to the disappearance of the claimant's role and the creation of two new roles.

3. Matters arising from a potential redundancy reason are: whether or not this was a redundancy within the meaning of section 139 Employment Rights Act 1996 and if so was it a genuine redundancy; whether the claimant was fairly selected for redundancy; whether there was adequate consultation; and whether there was alternative employment available which would have avoided the need to make the claimant redundant.
4. The claimant's position is that he should have been given training so as to undertake one or other of the new roles and that the consultation was rushed and put through rapidly. The claimant seeks compensation.
5. In view of the lack of evidence, beyond the claimant's schedule of loss as to remedy, I indicated that we would deal with liability first and then remedy separately if appropriate.

Evidence

6. I was provided with a bundle of documents from the respondent which I will refer to as "R1" where necessary. This consisted of 271 pages to which additional pages erroneously numbered from 273 onwards to 279 were added.
7. I heard evidence from the claimant and his witness, Mr Graham Illingworth, and from Mr Peter Ellis, Mr Andrew Joubert and Mr William Munks, on behalf of the respondent. This was by way of written statements and in oral testimony.

Findings

8. I set out below the findings of fact the Tribunal considered relevant and necessary to determine the issues I am required to decide. I do not seek to set out each detail provided to the Tribunal, nor make findings on every matter in dispute between the parties. I have, however, considered all the evidence provided to me and have borne it all in mind.
9. The claimant was employed originally as an ICT technician at the Whitgift School from 17 March 2003 until December 2011. Following an ICT restructuring exercise, he was employed from January 2011 onwards as a junior ICT technician. He was dismissed with effect from 19 January 2018.
10. The Whitgift School, which is part of the Whitgift foundation, is one of the top independent boys' schools in the south of England. It offers a fee-paying high-quality academic education to 1500 boys, with approximately 40% receiving some financial assistance from the Whitgift foundation through its bursary and scholarship scheme. The School employs approximately 1000 staff across all of its operations and has a common set of employment policies and procedures that apply to all employees of the Whitgift foundation.

11. I was not referred to the claimant's contract of employment or written particulars of employment. I was referred to the Whitgift foundation redundancy policy at R1 187 – 193.
12. Information technology plays a key role in the delivery of education at the Whitgift School ("the School") and has changed significantly over the last 10 to 15 years and continues to change. The School, as with any other school, has to ensure that its IT infrastructure continues to meet the current educational requirements, as well as having sufficient safeguards in place to protect pupils from the dangers of online abuse.
13. Mr William Munks, the Assistant Head (Academic) was a member of the Senior Management Team. He gave evidence of the changes in the management of the IT department over the last 10 years and concerns about the School's aging ITC infrastructure and piecemeal proposals to provide solutions.
14. He also gave evidence of the restructuring proposal written in 2008 by Mr B Lewis (at R1 149-151) which was never implemented, and he also further gave evidence that the claimant's job title never changed to Network Manager, as the claimant alleged.
15. The claimant raised concerns as to this alleged promotion to Network Manager. He pointed to evidence within his witness statement at paragraph 3 and 6 in support. His witness, Mr Graham Illingworth, who worked in the IT department from January 2004 until August 2017 (latterly as the Laptop Engineer), also gave evidence of the alleged promotion.
16. However, I note that the claimant's job title was changed to Junior ICT Technician following the restructure in December 2011. Further, I do not believe that any previous job title has any bearing on the later events relating to the claimant's redundancy.
17. Mr Munks also gave evidence that training for staff is encouraged and that all staff should receive an annual performance review which provides the opportunity to discuss any training and development requirements with their line manager. He said that copies of the review should be held centrally as well as by the individual and their line manager.
18. In April 2016, the Whitgift School was sufficiently concerned about its ITC infrastructure to seek outside advice. It commissioned an independent site report from external IT company, with particular expertise in the education sector, to undertake a fundamental review of its ICT infrastructure. The external IT company identified serious deficiencies in the current infrastructure and the urgent need for a major overhaul of the School's systems. The School considered outsourcing its IT function but decided to keep it in-house and recruit an experienced head of IT who would possess the knowledge and expertise to restructure the ICT infrastructure so as to meet the school's requirements and put appropriate safeguards in place.
19. In March 2017, Mr Andrew Joubert, an experienced IT professional with experience of independent schools, was appointed head of ICT. Mr Joubert

has over 16 years significant proven experience in delivering exceptional information technology support, consultation, design and management. He has designed, installed and supported several school and business infrastructures.

20. Mr Joubert's first priority was to carry out a fundamental evaluation of the school's ICT infrastructure to ensure that they were fit for the purpose and needs of the curriculum and pupils in the rapidly changing digital environment. Mr Joubert carried out this overhaul during the Summer holidays so that it was completed by the start of the academic year in September 2017.
21. Mr Joubert then undertook a review of the roles of the current ICT staff team so as to determine whether they were appropriate to support the new ICT infrastructure.
22. When he commenced his employment, there were six members of staff in the IT support department including himself. There was a Network Manager, a Management Information System Manager, a Senior ICT Technician, a Junior ICT Technician (the claimant's role) and a Laptop Engineer. The Network Manager's role was to lead and provide a third line comprehensive and effective technical support service. The Management Information System Manager's role was to provide complete support for the MIF database, SIMs at third level line, while supporting all end-users' issues and queries. The Senior and Junior ICT Technicians were responsible for the day-to-day support of the ICT equipment throughout the school and providing first line technical support to end users. The Laptop Engineer was responsible for the day-to-day support of the staff laptop fleet across the school and in fact retired and was not replaced in August 2017.
23. Mr Joubert held initial meetings with each member of the IT support team individually to assess their skills and set targets for the year. With regard to the claimant, he provided him with some targets to learn SCCM (Microsoft System Central Configuration Manager), which controls all software and image deployment across the infrastructure and is critical to managing the estate due to the vast amount of software within the school. If the claimant had completed this course, and then undertake an examination, he would have had the knowledge to manage and develop this core school system. Mr Joubert gave the claimant the ability to learn SCCM knowledge via online training with CBT Nuggets, details of which he had circulated to the IT team on 12 September 2017 (R1 113). Mr Joubert's evidence explained that he had used this training system for over 10 years, and it proved to be a fantastic resource his previous teams and indeed himself. The claimant also attended an Azure AD training course under Mr Joubert's management. This was a one-day introductory course into Azure AD/Office 365 systems which were currently in use in school's new infrastructure. This course would have given the claimant a brief understanding of how the system worked and how to navigate basic controls.
24. The claimant did not use the online training tool provided to him. At his first consultation meeting on 1 November 2017, he stated that it was not proper training compared with traditional face-to-face classroom delivery. Had he

done so he would have gained knowledge required for a multitude of Microsoft certifications. Although the claimant had concerns as to user license restrictions on accessing the online courses, he did not raise these with Mr Joubert at the time and only raised the matter at his appeal hearing. Mr Joubert's understanding was that the training licence could be used by more than one user as long as there was not more than one user accessing the account at any one time.

25. Mr Joubert identified that the requirements of the two existing support roles, namely the Junior and Senior ICT Technicians, had fundamentally changed due to the multiplicity of Hybrid /Cloud systems and the increased diversity and sophistication of the new system. These new systems were completely different to those in the old IT infrastructure which the claimant had managed.
26. Mr Joubert decided that the two technician posts needed to be replaced by two ICT Support Engineers, which required a different set of skills and experience. He wrote two new job descriptions and person specifications for the new roles (R1 73 – 77) of Senior Desktop Support Engineer and Desktop Support Engineer. He determined that the new systems that needed to be supported across the school required Microsoft Certified Professional-MCP (Exam Passed) as a minimum qualification requirement, together with proven experience in working with similar IT infrastructures. The new job descriptions and person specifications are significantly different from the existing ICT Technician jobs descriptions (at R1 143 – 146).
27. In October 2017 the respondent commenced a redundancy consultation process with those members of staff affected by the proposed changes. Under the respondent's redundancy policy, when a potential redundancy situation arises, the Head of Establishment or their delegated deputy, will discuss the situation with the Head of Human Resources' advice on the most appropriate approach in the circumstances. Approval in principle should then be sought from the Chair of the relevant Governing Body and the Chief Executive of the Whitgift Foundation (R1 187).
28. The Headmaster delegated responsibility for the restructure to the Second Master (who is deputy to the Headmaster), Mr Peter Ellis. Mr Ellis discussed the situation with the Head of Human Resources. Mr Martin Corney, the chief Executive of the Whitgift foundation, was then advised by the Head of Human Resources. The School then advised the Chair of the School Governing Body and approval was given in principle to commence a redundancy consultation process of those affected staff.
29. On 19 October 2017, Mr Ellis, Mr Joubert and Ms Helen Bidgway, met with the ICT Support Team and informed them about the proposed restructuring of the ICT Department. They then met with each individual member of the Team to advise them on how this affected each of them. They then commenced the consultation process with those staff who were at risk of redundancy as a result of the proposed changes.
30. At the claimant's meeting, Mr Ellis advised him that as a result of the proposed restructuring of the ICT department he was at risk of redundancy. He handed the claimant an envelope containing a letter which explained the

rationale of the proposed restructuring which is at R1 67 – 68. Mr Ellis explained that the posts of Junior ICT Technician and Senior ICT Technician were no longer required but they would be replaced by two new posts, a Desktop Support Engineer and a Senior Desktop Support Engineer, which the claimant could apply for. The letter advised him that if he wished to apply for either role, he needed to return the decision form (at R1 69) and the internal application form (at R1 71 to 72) by 3 November 2017. The letter also contained the two new job descriptions and a copy of the Whitgift Foundation's redundancy policy.

31. A formal consultation meeting took place on 1 November 2017 at which the claimant was accompanied by his union representative. The notes of this meeting are at R1 63 – 66. At the meeting the claimant said he wished to apply the both roles but had not had time to complete the internal application form. Mr Ellis agreed to extend the deadline to 10 November 2017 (at R1 53). At the meeting the claimant also said that he did not have the SCCM training promised which would have enabled him to have the skills required for the more senior role. Mr Joubert reminded the claimant that he had been given access to online training that would have enabled him to acquire this knowledge. The claimant responded that he did not consider this to be proper training. Mr Joubert said the training was only one requirement of the new role and other skills were needed to support the new infrastructure.
32. In evidence Mr Ellis stated that although the claimant did not have the requisite Microsoft certification, he was not excluded from being considered for redeployment to either of the two new posts. At the meeting he advised the claimant that if you wish to apply for either post there would be a two-stage application process, the first of which was a technical skills assessment against the requirements of each of the new posts. He further advised the claimant that there would be a minimum number of marks needed to pass each section and if he achieved these, the second stage of the recruitment process would be a face-to-face interview. He confirmed to the claimant that the roles were being advertised internally only at this stage to give those at risk of redundancy the opportunity to apply.
33. The claimant sat the two technical skills assessments on 15 November 2017. Section A was for the Desktop Support Engineer post and Section B was for the Senior Desktop Engineer post. There were 33 questions in section A and 15 questions in section B. 40 minutes was allocated to the candidates to complete section A and 20 minutes for section B. The claimant was given an extra 30 minutes to allow him to complete section A. He only took 11 minutes to complete section B.
34. The technical skills assessments were validated by an external ICT company (R1 51). A minimum pass mark was set, representing the minimum level required to demonstrate that the candidate had the skills and expertise to support the School's infrastructure. The minimum mark to demonstrate the skills required for the role was 20 out of 33 for section B and 8 out of 15 for section B.
35. Unfortunately, the claimant did not meet the minimum requirement for the skills assessment and so did not get to the second stage of interview. The

claimant scored 17 out of 33 in section A and 3 out of 15 in section B (at R1 33).

36. The claimant was informed of the results by Mr Joubert and advised that as a result his application would not be taken forward to the second stage in respect of either role. Mr Ellis confirmed this in writing to the claimant (R1 31).
37. On 29 November 2017 (which was rescheduled from 21 November 2017 due to the unavailability of the claimant's union representative) a further consultation meeting was held with the claimant. At the meeting Mr Ellis informed him that because he not been successful in his application for either of the two new roles, the School needed to consider whether there were any other suitable alternative vacancies, not just at School but also within the wider Whitgift Foundation. They looked at the current list of vacancies across the foundation and agreed that none were suitable for the claimant. Mr Ellis therefore advised the claimant that as a result of his role of Junior ICT Technician becoming redundant and there being no suitable alternative roles, his employment would come to an end.
38. Mr Ellis said in evidence that sensitive to the time of year, he advised the claimant that rather than issuing him with notice from the beginning of December 2017, he would remain employed for a further month until the end of December 2017 and would be then paid 12 weeks' payment in lieu of notice plus his statutory redundancy payment. Mr Ellis did offer the claimant the opportunity placed on gardening leave during December 2017 if he found it too difficult to come into work. Mr Ellis also advised the claimant of his right to appeal and if he wished to do so he should write to the Chief Executive of the Whitgift foundation within seven calendar days, setting out his grounds of appeal.
39. The respondent then proceeded to advertise the new posts externally in December 2017 using the same recruitment process including the same technical skills assessment tests. The advertisements and re-advertisements are at R1 87 – 111. For the Desktop Support Engineer role, there were 25 applicants, 20 of whom were declined without interview because they did not meet the minimum technical requirements, 5 of whom were interviewed, and the successful candidate exceeded the minimum score on the skills assessment and was able to demonstrate at interview that he had the relevant skills and experience of new IT systems. He joined the School in May 2018. The Senior Desktop Support Engineer role was successfully filled in February 2018. Between January 2018 and the two new post holders joining, the two posts were covered by external contractors who had the knowledge and expertise required to support the new infrastructure.
40. One of the claimant's concerns in evidence was that the Respondent advertised the new posts before he had appealed and before the appeal decision was even made. In evidence Mr Ellis stated that the School needed the two Engineers to commence work as soon as possible and were anxious to get the recruitment process started. He added that in any event the two post holders did not start until after the claimant's appeal had been decided and had the appeal been successful, the School would have carried an extra person if they appointed or would have accommodated the claimant.

Similarly, in evidence Mr Corney said that if the claimant's appeal had been successful, they would have reviewed the appointments had they been made. On balance I accept the respondent's evidence.

41. The claimant appealed the decision to make him redundant. His letter of appeal is at R1 19. As an appeal hearing could not be convened until 8 January 2018, the claimant's employment was extended until the appeal hearing had taken place.
42. The appeal hearing took place on 8 January 2018 in front of three Governors of the Whitgift Foundation, Mr Corney as adviser to the Governors, the Head of HR to answer any questions relating to the process, Mr Ellis who conducted the redundancy process, Mr Munks who had overall responsibility for IT within the School, Mr Joubert, the Director of IT, the claimant and his union representative. Notes of the hearing were taken and are at R1 5 – 17.
43. The procedure relating to the appeal process is set out at appendix 1 of the redundancy policy at R1 192 – 193.
44. During the appeal, claimant raised a concern that the technical skills assessment contained some errors and he was therefore disadvantaged. The Governors acknowledged that this was unfortunate, but they accepted that the claimant was given marks for those questions regardless of whether his answers were correct or not and so suffered no disadvantage.
45. In addition, the claimant told the meeting that he did not receive any training over recent years and when training had been offered by Mr Joubert in September 2017, it had been online training which he did not consider to be adequate compared to traditional classroom training. He felt that if he had training, he would have been able to pass the technical skills assessment and would have been appointed to one of the roles. The Governors noted that the claimant had not accessed the online training that been offered and which they felt was an acceptable method of delivery. The Governors also felt that they could not speculate as to whether undertaking specific training would have given the claimant the skills and experience needed to support the new ICT infrastructure, which was now in place and needed to be supported straightaway by Desktop Support Engineers with the requisite skills and experience.
46. After considering all the evidence presented at the hearing by the School and the claimant, the panel decided to uphold the decision to make the claimant redundant. The panel found that there had been a sound business rationale for the redundancy, that the claimant had been fairly selected because his post was no longer required once the new IT's ICT infrastructure was in place and that he was given the opportunity to apply for the two new posts but he did not have the requisite skills or experience for either new role. The panel also found that there had been an appropriate period of consultation lasting six weeks during which there had been three meetings, that the Foundation's redundancy policy had been followed and that possible alternative employment options had been considered.

47. The outcome of the appeal was confirmed to the claimant in writing on 12 January 2018 (R1 1-3). The claimant's employment ended on 19 January 2018 with the remainder of his contractual notice to be paid in lieu and with a statutory redundancy payment.
48. In evidence Mr Joubert responded to the claimant's assertion that if he had received training in SCCM he would have reached the minimum requirement in the technical skills assessment. Mr Joubert said that this was not in itself sufficient because SCCM knowledge is just one part of the skills assessment. Mr Joubert further stated that the level of expertise required to pass the skills assessment could only be gained by knowledge and previous experience of the new systems, in addition to having undertaken training and examinations. Further, Mr Joubert stated that the claimant would have had to successfully the interview stage where he would have had to demonstrate further that he had the requisite skills and knowledge support IT infrastructure. Mr Joubert's opinion was that it was unlikely that the claimant would have been able to demonstrate this. On balance of probability, this evidence is accepted.
49. It did appear from the evidence that the claimant simply took the view that the training methodology was inadequate without using it at all to start with (his position at the meeting on 1 November) and then belatedly to an insufficient level (at the appeal hearing as set out in the notes) pointed to an issue with the functionality and the licencing arrangements.
50. At the end of the evidence, I heard oral submissions from the respondent's counsel and whilst I had explained what was required to the claimant, the only matter he raised was in fact something new he had not previously said in his evidence.

Relevant law

51. Section 139 of the Employment Rights Act 1996:

'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.

(2) For the purposes of subsection (1) the business of the employer together with the business or businesses of his associated employers shall be treated as one (unless either of the conditions specified in paragraphs (a) and (b) of that subsection would be satisfied without so treating them)...

(6) In subsection (1) "cease" and "diminish" mean cease and diminish either permanently or temporarily and for whatever reason.'

52. Section 98(4) Employment Rights Act 1996:

'(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.

(2) A reason falls within this subsection if it—
(a) relates to the capability or qualifications of the employee for performing work of the kind which he was employed by the employer to do,
(b) relates to the conduct of the employee,
(c) is that the employee was redundant, or
(d) is that the employee could not continue to work in the position which he held without contravention (either on his part or on that of his employer) of a duty or restriction imposed by or under an enactment.

(3) In subsection (2)(a)—
(a) “capability”, in relation to an employee, means his capability assessed by reference to skill, aptitude, health or any other physical or mental quality, and
(b) “qualifications”, in relation to an employee, means any degree, diploma or other academic, technical or professional qualification relevant to the position which he held.

(4) [In any other case 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.’

Conclusions

53. I first had to consider whether the respondent has shown a potentially fair reason for the claimant's dismissal within section 98(1) & (2) Employment Rights Act 1996 (“ERA”). The respondent states that the potentially fair reason was redundancy or some other substantial reason. I find that the respondent has shown that the potentially fair reason for dismissal is redundancy and that it falls within the definition of redundancy set out in section 139(1)(b) ERA. The requirements for the business of work of a particular kind carried out by its Junior ICT and Senior ITC Technicians had diminished or ceased. This followed from the changes to the IT infrastructure and the review of the staff roles needed to service both the infrastructure and the service provided to the end users.
54. I then turned to consider the reasonableness of the dismissal under section 98(4) ERA it applies to the claimant's dismissal for the reason shown, that being redundancy.
55. In particular I considered those matters which might render a dismissal for redundancy unfair as identified in **Williams v Compair Maxam Ltd** [1982] IRLR 83, EAT, as approved by **Robinson v Carrickfergus Borough Council** [1983] IRLR 122, NICA.
56. These can be summarised as follows:
- 55.1 That there was no genuine redundancy situation;
 - 55.2 That the employer failed to consult;
 - 55.3 The employee was unfairly selected; or
 - 55.4 That the employer failed to offer alternative employment.

57. Whilst these are guidelines for the fair handling of redundancy dismissals and I do recognise that it is not necessarily unfair to fail to follow the guidelines in every case, they do provide a useful standard in such cases.

Genuine redundancy

58. It is not open to an employee to challenge whether the employer acted reasonably in creating the redundancy situation and equally the tribunal cannot investigate the commercial and economic reasons which prompted the situation or look into the rights and wrongs of the employer's decision (**James W Cook & Co (Wivenhoe) Ltd v Tipper and others** [1990] IRLR 386, CA; **Moon v Homeworthy Furniture (Northern) Ltd** [1976] IRLR 298, EAT.) However, the tribunal is entitled to investigate whether the redundancy situation is in fact genuine (**James W Cook & Co (Wivenhoe) Ltd v Tipper and others** [1990] IRLR 386, CA.)
59. I find this to be a genuine redundancy and indeed it was not challenged by the claimant. The respondent had reviewed overhauled its IT infrastructure and then reviewed the requirements of the staff needed to administer and support that infrastructure. This was long overdue and within the context of providing educational services to pupils. The respondent needed more skilled positions of Desktop Support Engineer and Senior Desktop Support Engineer to provide the necessary support for the new infrastructure. My findings in this regard are set out at paragraphs 25 and 26 above.

Failure to consult

60. An employer should give as much warning as possible of impending redundancies to enable any recognised trade union and affected employees to consider possible alternative solutions and if necessary, find alternative employment (**Williams v Compare Maxam Ltd** [1982] IRLR 83, EAT).
61. Consultation is very important in redundancy situations and can take many forms. At one end of the spectrum it involves collective discussions and meetings with a recognised trade union; at the other end it will entail discussions with individual employees who are likely to be made redundant. Failure to consult individually may well make a dismissal unfair, although compensation may be limited if consultation would not have made any difference to the outcome.
62. I find that there was adequate consultation with the claimant and that this commenced once the respondent determined from its business decision that potentially redundancies arose. The claimant was called to individual consultation meetings over the period commencing 19 October 2019 and ending on 29 November 2019 in which he was fully advised of the position and the risk of redundancy and invited to apply for either or both of the new posts.

Selection

63. An employer must choose a fair pool from which to select the redundant employees. This is very much a matter for the employer and there is much flexibility in deciding on a pool, provided the employer has applied its mind to it and acts from genuine motives (**Thomas & Betts Manufacturing Ltd v Harding** [1980] IRLR 255, CA). Once a reasonable pool is chosen, the employer can choose any reasonable selection criteria, provided these can be objectively measured and are of course not discriminatory in law. Having chosen fair selection criteria, the employer must apply these fairly and objectively.
64. The claimant and the Senior ICT Technician were the only two employees affected by the overhaul of the infrastructure and the change of work requirements. Both were identified as at risk of redundancy. No other posts were affected by the changes. The claimant was offered the opportunity to apply for either or both of the new posts and did so. Unfortunately, he was unsuccessful in his applications because he failed the technical skills assessment. I have indicated at paragraph 48 above that I accepted the respondent's evidence as to the impact of SCCM training on the claimant's chances of obtaining either of the new posts.

Alternative Employment

65. An employer must at least look for alternative employment and should offer any suitable available vacancies. The employer's duty is not limited to offering similar positions or positions in the same workplace and it should consider the availability of any vacancies with associated employers. When offering alternative employment, the employer must give sufficient detail of the vacancy and allow (unless the job functions are obvious) a trial period. Failure to do so could make a dismissal unfair (**Elliott v Richard Stump Ltd** [1987] IRLR 215, EAT)
66. At the final consultation meeting, the respondent advised the claimant of vacancies within the School and the Whitgift Foundation. Both the respondent and the claimant agreed that there were none that were suitable to the claimant.
67. I also find that the respondent followed its redundancy policy and the claimant was accompanied to at least two of the meetings by his trade union representative.
68. In conclusion, I find that the claimant's dismissal was both procedurally and substantively fair falling within the test of reasonableness.
69. The Claimant was therefore not unfairly dismissed. His complaint is unfounded and is dismissed.
70. As a footnote, I would say the following. Of course, the information technology is a fast changing and expanding area. It was vital for the School to have an up to date IT infrastructure so as to provide top quality educational services to its pupils and to have appropriately and properly skilled staff to service the needs of that infrastructure and the users. Sadly, the role that the claimant undertook was no longer required and the claimant did not

demonstrate the necessary skills for either of the new positions that were required. There was no suggestion in evidence that there were any complaints or issues to do with the claimant's ability to carry out his role. It was simply a case that the needs of the School had changed as to type of work that was required.

Employment Judge Tsamados
25 July 2019