# EMPLOYMENT TRIBUNALS

**Claimant:** Florentina-Alexandra Savu

**Respondent:** Extra Personnel Ltd

**Heard at:** Birmingham (remotely by CVP) **On:** 1, 2 and 3 February 2022

**Before:** Employment Judge Gilroy QC
Ms Rachel Addison
Brendon Allen

**REPRESENTATION:**

**Claimant:** Ms Stacey Sheehan (Lay Representative)
**Respondent:** Mr Ian Pettifer (Solicitor)

# JUDGMENT

The unanimous judgment of the Tribunal is that the Claimant's claim of pregnancy and maternity discrimination, contrary s.18 of the Equality Act 2010, is dismissed.

# REASONS

## Introduction and Background

1. The Claimant was employed by the Respondent, an employment agency, as a "flexi-worker". In the course of her employment, she worked on an assignment (a work placement) at Salts Healthcare Limited, "Salts". Following the termination of that assignment she brought a number of claims against the Respondent before the Employment Tribunal. All but one of those claims, (a claim of pregnancy and maternity discrimination contrary to s.18 of the Equality Act 2021), were dismissed as having been presented out of time. It was held that the s.18 claim, whilst also "out of time", should nevertheless be heard on the grounds that it was "just and equitable" that it be heard.

## Evidence and Material before the Tribunal

2. The Tribunal heard oral evidence from the Claimant and from her partner, Mr Gheorghe-Florin Marinescu. Mr Mark Asson, Account Director for Job and Talent, the Respondent's parent company, gave evidence on behalf of the Respondent. At the time of the events being considered by the Tribunal, Mr Asson was the Senior Branch Manager of the Respondent's Birmingham branch.

3. All witnesses provided written witness statements. The Tribunal was also provided with an agreed bundle of documents, and each party provided short written submissions (which they supplemented orally) at the conclusion of the hearing.

4. The hearing was conducted remotely by CVP.

## The Issues

5. At a preliminary hearing conducted before Employment Judge Flood on 12 March 2021, it was determined that the issues for the Tribunal to determine at the final hearing of this matter were as follows:

**Pregnancy and Maternity Discrimination (Equality Act 2010 section 18)**

1. Did the Respondent treat the Claimant unfavourably by doing the following things:

    1.1. On 2 June 2020, terminate her assignment with its client Salts Healthcare Limited ("Salts");

    1.2. On 2 June 2020, fail to consider the Claimant's absence record for pregnancy related absence and raise this with Salts to ask it to reconsider its instruction to end the Claimant's assignment?

2. Did the unfavourable treatment take place in a protected period?

3. If not did it implement a decision taken in the protected period?

4. Was the unfavourable treatment because of the pregnancy?

5. Was the unfavourable treatment because of illness suffered as a result of the pregnancy?

## The Law

6. The relevant parts of the Equality Act 2010 provide as follows:

***18 Pregnancy and maternity discrimination: work cases***

*(1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristic of pregnancy and maternity.*

*(2) A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably -*

*(a) because of the pregnancy, or*

*(b) because of illness suffered by her as a result of it.*

*(5) For the purposes of subsection (2), if the treatment of a woman is in implementation of a decision taken in the protected period, the treatment is to be regarded as occurring in that period (even if the implementation is not until after the end of that period).*

*(6) The protected period, in relation to a woman's pregnancy, begins when the pregnancy begins, and ends -*

*(a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;*

*(b) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.*

***136 Burden of Proof***

*(2) If there are facts from which the court could decide, in the absence of any other explanation, that a person (A) contravened the provision concerned, the court must hold that the contravention occurred.*

## Findings of fact

7. The Tribunal made the following findings of fact.

The parties

7.1. The Claimant was employed by the Respondent from 9 March 2018 until 2 June 2020, when her assignment with Salts was terminated.

Relevant Facts

7.2. Whilst working at Salts, the Claimant was engaged as a Production Operative, working on the production line, performing tasks including packing.

7.3. During the course of her assignment with Salts, the Claimant was absent from work on a number of occasions. Upon return to work after each absence she would complete a pro-forma return to work form. Sickness monitoring and absence procedures for individuals in the Claimant's position were maintained by Salts. The Respondent did not hold copies of absence records for those of its workers performing assignments at Salts.

7.4. Based upon the information contained within the forms relating to the Claimant's absences, it can be ascertained that the dates of each absence and the reason or reasons for it were as follows.

7.5. The Claimant was absent on 13 May 2019 for one day, the reason for her absence being described as *"high temperature, dizziness, vomiting"*. From 9 to 11 July 2019, she was absent for 1½ days for *"bleeding, period pain, headache"*. On 6 August 2019, there was a one day absence for *"vomiting, feeling weak"*. There was a 1½ day absence from 8 to 10 October 2019 for *"headache, feeling cold, stomach pain"*. There was a two day absence between 8 and 11 November 2019 for *"stomach flu"*. The Claimant was absent for one day on 28 November 2019 for *"back pain"*. There was then a one day absence on 2 December 2019 for *"anxiety"*. There was an absence of one day between 17 and 20 January 2020 for *"flu (cough, temperature, running noise)"*. Between 21 and 27 January 2020 there was a four day absence for *"bronchitis, temperature"*. There was a one day absence between 6 and

9 March 2020 for *"back pain, headache"*. The Claimant was absent for one day between 17 and 20 April 2020, the reason on this occasion being stated as *"feeling dizzy. Feeling hot and could not stand up"*.

7.6. The Claimant and her partner went to the beach on Saturday 30 May 2020. She suffered sunburn, described by her as "severe insolation", and on the morning of Monday 1 June 2020 she went to the emergency department at the Good Hope Hospital because of severe pain and swelling in her ankles and legs. When she was examined, she was asked whether she was pregnant because her swollen legs and ankle pain indicated that she might be. The Claimant stated that she was not aware that she was pregnant, although she had been trying to conceive for some time. She agreed to have a pregnancy test at the hospital. The test returned a positive result and she was informed that on the basis of the measurements and calculations which had been carried out she was approximately 19 weeks pregnant and that this was the best explanation for her condition.

7.7. On the basis of the content of the Claimant's maternity certificate and an expected week of childbirth of 1 November 2020 (her child was actually born on 31 October 2020), it was agreed between the parties that she probably became pregnant on or around 26 January 2020. Accordingly, for the purposes of ss.18(5) and (6) of the Equality Act:

(a) the "protected period" commenced on 26 January 2020, and

(b) the date of the events referred to at issues 1.1 and 1.2 above, namely 2 June 2020, fell within the protected period.

7.8. From telephone records produced by the Claimant, it could be established that at 8.34 am on Monday 1 June 2020 she made a telephone call to the Respondent lasting two minutes and nine seconds. The person she spoke to was Mr Asson, the Senior Branch Manager of the Respondent's Birmingham branch. What was said during that call is the subject of the Tribunal's findings at paragraph 23 below.

7.9. At 8.52 am on 1 June 2020, Mr Asson sent an e-mail to (amongst others) Donna Mabbett and Warren Thomas, both of Salts. The subject heading of the e-mail was: *"Florentina Savu - PM shift - off sick today with swollen feet from going to the beach"*. Mr Asson's message (which clearly read on from the subject heading) read as follows:

> *"Hi all,*
>
> *It seems to be catching! She went to the beach on Saturday and has swollen feet.*
>
> *Apparently it's really bad and she is going to the hospital today - she has sent a photo to her team leader.*
>
> *Hopefully she will be back tomorrow,*
>
> *Regards,*
>
> *Mark"*

7.10. At 7.02 am on Tuesday 2 June 2020, Mr Thomas e-mailed Mr Asson and others, stating as follows:

> *"Hi Mark*
>
> *Florentina's attendance is awful, I know she has had problems but we really need to deal with this.*
>
> *If you can call me later when you get a chance.*
>
> *Warren".*

7.11. The Claimant's phone records confirmed that at 8.12 am on 2 June 2020, she made a phone call to the Respondent lasting 13 minutes and two seconds. Again, the person she spoke to was Mr Asson. Again, what was said during that call is the subject of the Tribunal's findings at paragraph 23 below.

7.12. At 08.18 am on 2 June 2020, Donna Mabbett e-mailed Mr Thomas, Mr Asson and others, stating as follows:

> *"Hi All,*
>
> *I agree with Warren. I have just looked at her attendance and I am afraid I would let her go, I didn't have time yesterday to have a look and her score for the last rolling 12 months is 2,000.*
>
> *This doesn't include the time for coronavirus.*
>
> *And she has been told before.*
>
> *Mark sorry I think it's time for a replacement.*
>
> *Cheers Donna"*

7.13. At 11.03 am on 2 June 2020, the Claimant sent an e-mail to the Respondent's Birmingham office under the subject heading: *"Savu Florentina information update"*, stating as follows:

> *"Good morning, I am Florentina Alexandra Savu, I work at Salts Healthcare in Aston with clock number 1490 and I would like to officially inform you that yesterday I have found out that I am pregnant by visiting Good Hope Hospital. My GP has been informed and I will soon bring documenting evidence that support this. I will also inform my supervisor about pregnancy. Please do not hesitate to contact me for any further details. Best regards, Florentina Savu."*

7.14. It was also established by reference to the Claimant's telephone records that she received a phone call from Mr Asson of the Respondent at 12.48 pm on 2 June 2020, and that this phone call lasted 57 seconds. Again, what was said during that conversation is the subject of the Tribunal's findings at paragraph 23 below.

7.15. At 2.17 pm on 2 June 2020, Mr Thomas sent an e-mail to Mr Asson, copying in Ms Mabbett, stating as follows:

> *"Hi Mark*

*Please see Florentina's calendar for the previous 2 years.*

*Note - green - sick unpaid.*

*Many thanks*

*Warren"*

7.16. Mr Thomas attached to his e-mail the Claimant's attendance/absence record for the last two years.

7.17. At 11.16 am on 3 June 2020, the Claimant sent an e-mail to the Respondent's Birmingham office under the heading: *"For the attention of HR Manager"*, stating as follows:

*"Dear Sir/Madam*

*My name is Florentina Alexandra Savu and I have been a worker for you for 2 years and 3 months.*

*On Tuesday 2nd June 2020 11:06am I sent an e-mail informing you of my pregnancy. Around one hour later, I received a phone call from yourselves informing me that you no longer had a job for me, ending my employment.*

*After seeking professional assistance, we have decided that I have been discriminated against because I am pregnant.*

*I have been advised that I should make attempts to resolve this issue outside of court.*

*Therefore, I am giving you, as my past employer, the opportunity to resolve this and am seeking compensation from yourselves for discrimination.*

*Please acknowledge your receipt of this message.*

*Kind regards*

*Florentina Alexandra Savu"*

7.18. At 4.05 pm on 16 June 2020, Jack Bates of the Respondent's HR function replied to the Claimant's e-mail of 3 June 2020. Mr Bates' e-mail contained the following:

*"As part of looking into the complaint you have submitted, we have been provided with 2 e-mails sent to our colleagues in branch from representatives of our customer, Salts Healthcare. These e-mails were sent on 2nd June at 7.02 am and 8.18 am, notably before your e-mail informing of your pregnancy - their e-mails requested that your assignment was brought to an end and for you to be replaced by an alternative person. It is not clear when this decision was communicated to you and whether this was before or after your below referred to e-mail however, it is clear that the decision was made before there was knowledge of your pregnancy."*

7.19. Having set out details of the Claimant's absence record, Mr Bates said this:

> *"By any reasonable assessment, this level of absence must be considered to be excessive and conversations have occurred between yourself and the management team at Salts Healthcare previously.*
>
> *Having been advised of their request you were subsequently informed that your assignment was coming to an end in accordance with the terms of your employment, which allow for assignments to come to an end at any time. However, you remain employed by Extra Personnel and you should discuss alternative assignments with your local representative as you would normally.*
>
> *In accordance with the above, it would appear that your complaint is unsubstantiated and we trust that yourself and your advisors will agree with that view now that you're aware of the above. Should you remain dissatisfied though, you do have access to our grievance procedure, as per your Flexi-Worker Handbook."*

7.20. The Claimant did not pursue a grievance and did not discuss with the Respondent the matter of potential alternative assignments.

7.21. Further e-mail correspondence ensued between the Claimant and the Respondent but that correspondence is not material for the purposes of this case.

7.22. There can be no doubt that the Claimant provided confirmation of her pregnancy to the Respondent in her e-mail sent at 11.03 am on 2 June 2020. This is clearly established by the documentary evidence. There is a dispute as to the content of the three telephone conversations between the Claimant and Mr Asson, two on the morning of 1 June 2020, and one during the afternoon of 2 June 2020.

7.23. The Claimant was not consistent in her evidence as to precisely when she informed the Respondent that she was pregnant. Initially, she maintained that she told Mr Asson when she telephoned him on the morning of Monday 1 June 2020. She then indicated that she told Mr Asson over the phone on the morning of Tuesday 2 June 2020.

7.24. It was Mr Asson's position that the first time he became aware of the Claimant's pregnancy was upon receipt of her e-mail, in other words that she had not mentioned it during either of the phone calls which took place on the mornings of 1 and 2 June respectively. Mr Asson agreed that he telephoned the Claimant at 12.48 pm on 2 June 2020, after the Claimant had sent her above e-mail.

7.25. As part of her evidence, the Claimant maintained that upon speaking to Mr Asson during the phone call on Monday 1 June 2020 she was told that she needed to go to work even with her condition ie swollen legs, otherwise she would be dismissed. It was further the Claimant's position that after she sent her e-mail on 2 June 2020, she received a phone call from Mr Asson saying that he was sorry but *"from today I no longer have a job"*. Mr Asson agreed that during the call with the Claimant on 2 June 2020 he explained to her that her assignment was unfortunately coming to an end and that Salts had made this decision based on the number of absences that she had had.

7.26. After discovering that the Claimant was pregnant, Mr Asson contacted Mr Bates and told him that the Claimant had alleged that the termination of her assignment was because of her pregnancy. Mr Bates asked Mr Asson to query the sickness absences with Salts. Mr Asson spoke to Mr Thomas, and possibly also Ms

Mabbett (although he was not sure whether he spoke to Ms Mabbett) to make Salts aware of what the Claimant had said. Mr Thomas then provided Mr Asson, by e-mail, with a full breakdown of all of the Claimant's sickness absences. Mr Thomas made it clear that because of the Claimant's level of sickness absences going back such a long time, Salts were unwilling to have her back.

7.27. The Tribunal's conclusions as to when the Respondent became aware of the Claimant's pregnancy are set out at paragraph 23 below.

**Respondent's Submissions**

8. Mr Pettifer for the Respondent submitted that the decision to terminate the Claimant's assignment with Salts had been the sole decision of Salts. He also observed that the sickness monitoring and absence procedures were maintained by Salts and not by the Respondent. Mr Pettifer submitted that Mr Asson had raised the Claimant's pregnancy with Salts to ask it to reconsider the instruction to end her assignment.

9. Mr Pettifer submitted that Mr Asson's evidence, which was to the effect that the Claimant had not mentioned her pregnancy in either of the phone calls before she sent her e-mail, was to be preferred.

10. Mr Pettifer accepted that whatever had taken place on 2 June 2020 had taken place during the protected period.

11. It was submitted on behalf of the Respondent that in order to discriminate against a woman because of her pregnancy the alleged discriminator must have knowledge of the pregnancy. In this regard, reliance was placed on the decision of the EAT sitting in Scotland in the case of ***Hair Division Limited v Macmillan (UKEATS/0033/12/BI)***, and the decision of the EAT sitting in England in the case of ***Really Easy Car Credit Limited v Thompson (UKEAT/0197/17/DA)***. Both cases involved claims under s.18 of the Equality Act.

12. In ***Hair Division***, the EAT observed (at paragraph 59) that:

> *"….to discriminate against a person because of their pregnancy, the alleged discriminator requires to have knowledge of the pregnancy."*

13. ***Really Easy Car Credit*** is authority for the proposition that having made a material decision concerning the affected employee whilst lacking the knowledge that the affected employee was pregnant, there is no positive obligation on an employer to take a further decision once it learns of the pregnancy (see paragraph 27 of the judgment in that case). Mr Pettifer submitted that it was the Respondent's primary case that the acts complained of by the Claimant took place prior to the Respondent learning of her pregnancy and that if, contrary to his primary submission (that it was Salts and not the Respondent which decided to terminate the Claimant's assignment), s.18 did not require the Respondent to revoke that decision following notification of the Claimant's pregnancy.

14. It was submitted on behalf of the Respondent that the Claimant had failed to show that her illness was suffered as a result of her pregnancy. There was no medical evidence before the Tribunal - only *"half remembered hearsay evidence*

*from a doctor"*. Putting the matter at its highest, the notion that her illness was pregnancy-related was based upon medical professionals at the hospital saying words to the effect: *"this is the best explanation we have"*. However, Mr Pettifer submitted, it had not been shown that the Claimant had suffered from any illness "*as a result of"* the pregnancy. Equally there was no evidence that the absences prior to the commencement of the protected period referred to in the return to work forms related in any way to pregnancy.

15. Mr Pettifer pointed to the first instance decision of the Glasgow Employment Tribunal in ***Anderson v Spar Duntocher Case No. S/4105236/16*** in support of the proposition that in a case involving a pregnant employee taking sickness absence, in order to support a conclusion that an employer has discriminated against a woman because of illness suffered by her as a result of pregnancy, it is an essential requirement for the Tribunal to find that the alleged discriminator *"was aware this* (ie the absence) *was because of a pregnancy-related illness"* (see paragraph 70 of the judgment in that case).

**Claimant's Submissions**

16. Ms Sheehan submitted that the information given to the Claimant at hospital meant that it was clear that she was suffering from a pregnancy-related illness and this was why she was absent from her role, which triggered Salts ending her assignment. At least three of her absences had occurred during the protected period, and in relation to all three, symptoms commonly associated with pregnancy were recorded on the return to work forms.

17. Ms Sheehan submitted that the phone call at 8.34 am on 1 June 2020 was the occasion upon which the Claimant reported that she was not able to come to work *"and not much else took place on this call"*. She submitted that it was reasonable to conclude that it was during the call which commenced at 8.12 am on 2 June 2020 that the Claimant informed Mr Asson of her pregnancy. Ms Sheehan submitted that there was no obvious reason why this call should have lasted as long as it did (just over 13 minutes) if the purpose of the call was simply to inform him that the Claimant would not be attending work that day. Ms Sheehan also pointed out that Mr Asson did not mention this phone call at all in his witness statement.

18. Ms Sheehan submitted that as the Claimant had not been informed that her assignment was coming to an end, it should have been the responsibility of Mr Asson to find out more information from her about the pregnancy and then to inform Salts of this so that they had an opportunity to review the absences taken within the protected period. Ms Sheehan submitted that Salts could not make an appropriate decision about the Claimant's assignment because they were not provided with all the information about the pregnancy from the Respondent, they did not know how many absences were in the protected period, and in all the circumstances the Respondent treated the Claimant unfavourably contrary to s.18 of the Equality Act.

**Discussion**

19. Applying the reversed burden of proof under s.136(2) of the Equality Act, the Tribunal would need to consider whether facts had been established from which it could, in the absence of any other explanation, conclude that the Respondent had treated the Claimant unfavourably because of her pregnancy and, if so satisfied, it

would then need to consider the Respondent's explanation and determine whether it had met the burden of demonstrating that the decision in issue was in no way related to the Claimant's pregnancy. It is not, however, necessary for a Tribunal to apply the provisions concerning the reversal of the burden of proof to every case. If it is possible for the Tribunal to make positive findings on the evidence one way or the other, there is no need for the Tribunal to conduct the two stage exercise envisaged by s.136(2). This is sometimes referred to as the "reason why" approach.

20. The Tribunal concluded that it was appropriate to adopt the "reason why" approach in this case.

21. The driving force which lay behind the termination of the Claimant's assignment was the view taken by Salts in relation to the episode of sickness absence notified by her (via Mr Asson) on 1 June 2020. She had been absent from work on a number of previous occasions. For what it is worth, the Tribunal does not agree with the suggestion that her sickness absences were excessive, but that is not material to the decision the Tribunal has to make in this case.

22. It is clear that in order for liability to arise under s.18(2) the employer must be aware of the pregnancy or that the affected employee has a pregnancy-related illness. There is no medical evidence before the Tribunal upon which it could be established that any of the Claimant's sickness absences (including the final three) were pregnancy-related.

23. The Claimant's phone call to Mr Asson at 8.12 am on 2 June 2020 lasted 13 minutes, ending at 8.25 am. By that stage, Mr Asson had reported to Salts that the Claimant was going to be absent (his e-mail sent at 8.52 am on 1 June 2020 refers); Mr Thomas had replied to the effect that the Claimant's attendance was *"awful"*, and *"we really need to deal with this"* (his e-mail sent at 7.02 am on 2 June 2020 refers), and Salts had concluded, by no later than 8.18 am that day, that the Claimant's assignment would have to come to an end, when Ms Mabbett sent her e-mail to Mr Thomas, Mr Asson and others stating, amongst other things, "*Mark sorry I think's it's time for a replacement"*. That e-mail was sent approximately seven minutes before the conclusion of the telephone call made by the Claimant to Mr Asson and which began at 8.18 am that day. The position the Claimant finally settled upon, as to when she informed the Respondent of her pregnancy, was that this occurred during her phone call to Mr Asson at 8.12 am on 2 June 2020. The Respondent maintained that it was not aware of the Claimant's pregnancy until receipt of her e-mail sent at 11.03 am on 2 June 2020. This is not a case where the Tribunal needed to consider the credibility of the witnesses. The Tribunal was satisfied that all of the witnesses were trying to provide their best recollection of the relevant events. The Tribunal concluded that it was during the phone call commencing at 8.12 am on 2 June 2020 that the Claimant informed Mr Asson of her pregnancy. The Tribunal therefore finds that, in this regard, Mr Asson's recollection was not correct. The relevant phone call lasted 13 minutes. In the view of the Tribunal, this must have been more than simply a conversation whereby an employee was notifying her employer that she would not be attending work that day. Contrasted with the very brief phone call which took place on 1 June 2020, the 13 minute phone call the next day is, in the view of the Tribunal, much more likely to have included topics concerning the Claimant's pregnancy. By the time that called concluded, at 8.25 am, Salts had already concluded that the Claimant's placement should be terminated. Salts reached that

conclusion without knowing of the Claimant's pregnancy or that she was suffering from a pregnancy-related illness.

24. It was not within the Respondent's gift to procure the continuation of the Claimant's assignment with Salts. That was a matter within Salts' control. Being faced with the position whereby the "end-user" client had decided to terminate the Claimant's assignment, her employment with the Respondent did not end. She remained on the Respondent's books. However, despite it being pointed out to her that her employment continued, she did not pursue the possibility of securing any alternative assignments. Once Mr Asson was made aware of the decision Salts had made to terminate the Claimant's assignment, he was not under any positive obligation to invite Salts to reconsider their position in the light of the information he (Mr Asson) had subsequently acquired that the Claimant was pregnant.

25. Even if, which the Tribunal does not accept, it was the responsibility of the Respondent to decide whether the Claimant's assignment would be terminated, the decision to terminate the assignment occurred at a time when the Respondent was not, based on the Tribunal's findings, aware that she was pregnant or suffering from an illness related to pregnancy.

**Tribunal's conclusion in relation to the issues**

26. In the circumstances, the Tribunal concluded as follows in relation to the issues set out at paragraph 5 above:

1. Did the Respondent treat the Claimant unfavourably by doing the following things:

    1.1 On 2 June 2020, terminate her assignment with its client Salts Healthcare Limited ("Salts");

    Conclusion

    The Claimant's assignment with Salts was terminated on 2 June 2020. The decision to terminate the Claimant's assignment was essentially a decision made by Salts, albeit the Claimant was employed by the Respondent, there being no direct contractual relationship between the Claimant and Salts. The termination of the Claimant's assignment was plainly unfavourable treatment. In the light of its conclusions in relation to Issues 4 and 5, it is not necessary for the Tribunal to reach a determinative conclusion as to whether it was the Respondent or Salts which terminated the assignment, but if it were necessary to reach a conclusion on this issue, the Tribunal would have concluded that the decision to terminate the assignment was a decision made by Salts and not by the Respondent.

    1.2 On 2 June 2020, fail to consider the Claimant's absence record for pregnancy related absence and raise this with Salts to ask it to reconsider its instruction to end the Claimant's assignment?

    Conclusion

The Respondent did not treat the Claimant unfavourably by failing, on 2 June 2020, to consider the Claimant's absence record for pregnancy related absence and raise this with Salts to ask it to reconsider its instruction to end the Claimant's assignment.

2. Did the unfavourable treatment take place in a protected period?

Conclusion

The treatment referred to at Issue 1.1 took place in a protected period. In the light of the Tribunal's conclusion in relation to Issue 1.2, Issue 2 does not arise for consideration in relation to Issue 1.2.

3. If not did it implement a decision taken in the protected period?

Conclusion

The Respondent did not implement a decision taken in the protected period.

4. Was the unfavourable treatment because of the pregnancy?

Conclusion

The unfavourable treatment of the Claimant as found in relation to Issue 1.1, was not because of pregnancy.

5. Was the unfavourable treatment because of illness suffered as a result of the pregnancy?

Conclusion

The unfavourable treatment of the Claimant as found in relation to Issue 1.1, was not because of illness suffered as a result of pregnancy.

## Conclusion

27. For all of the above reasons, the Claimant's claim of pregnancy and maternity discrimination contrary to s.18 of the Equality Act 2010 must fail and is dismissed.

_____

**Employment Judge Gilroy QC**

**Date: 11 February 2022**