



EMPLOYMENT TRIBUNALS

Claimant: Mr N Ferris
Respondent: City of York Council

Heard at Leeds On: 28, 29 and 30 October 2025

Before: Employment Judge Miller
Members: Miss L Fawcett
Mr M Brewer

Representation

Claimant: Mr L Bronze, Counsel
Respondent: Ms I Ferber, KC

RESERVED JUDGMENT

1. The offer of the role of Director of City Development was not an offer of suitable alternative employment and the claimant is entitled to a statutory redundancy payment.
2. Under section 163 Employment Rights Act 1996 it is determined that the claimant is entitled to a redundancy payment of £10,500.

REASONS

Introduction

1. I start with an apology to the parties for the time it has taken to deliver this judgment. This has been solely down to the judge's workload.
2. The claimant in this case was the Corporate Director for Place (CDP) at City of York Council. The parties agree that the claimant was dismissed by reason of redundancy with effect from 27 August 2024. He undertook early conciliation from 16 May 2024 to 27 June 2024 and submitted his claim to the tribunal on 24 October 2024. The claim is solely for a statutory redundancy payment pursuant to part XI of the Employment Rights Act 1996.

3. The only issue in dispute is whether the claimant is denied entitlement to a statutory redundancy payment because he unreasonably refused an offer of suitable alternative employment before the end of his employment pursuant to section 141 (2) and (3) of the employment Rights Act 1996.
4. The issues were identified in a case management hearing on 2 May 2025 as follows:
 - 4.1. What was the reason or principal reason for dismissal? The Respondent says the reason was redundancy.
 - 4.2. Was the Claimant offered suitable alternative employment?
 - 4.3. Did the Claimant unreasonably refuse an offer of suitable alternative employment?
5. It may seem unusual that such a claim has required a separate case management hearing, has been heard over 3 days, with a substantial reserved judgment and with the parties represented by experienced counsel and, in the case of the respondent, Kings Counsel.
6. The reason for this, we are told, is that the statutory redundancy payment is, in effect, a trigger or gateway to other entitlements including a defined benefit pension scheme. The cost and benefit of this is, we understand, substantial to the respondent and the claimant respectively.
7. To the extent that this background is relevant we refer to it in our judgment.

The hearing and preliminary matters

8. Both parties attended and were represented at the hearing.
9. The respondent produced a witness statement from Mr Ian Floyd, the respondent's Chief Operating Officer, the respondent's most senior officer and the claimant's line manager. Mr Floyd attended and gave oral evidence.
10. The claimant produced a witness statement including over 220 pages of appendices. We did not read all of those attachments, the validity of which was disputed, but where we were taken to them in cross examination we have considered them as far as is relevant.
11. The claimant also produced a witness statement from someone called Toni Hall who described herself as having significant and relevant experience in recruitment. The respondent objected to Ms Hall's evidence being admitted on the grounds that she was not a witness of fact, but a purported expert. Her evidence was not, they said admissible as she purported to give expert evidence on the two questions (as to suitability and reasonableness) that the tribunal was required to answer. Further, the procedural requirements for producing expert evidence had not been complied with.

Toni Hall evidence decision

12. We refused to admit this evidence and did not read it, or hear from Ms Hall, for the following reasons:
13. The respondent made an application a few days before the final hearing to exclude the evidence of Ms Hall, the witness statements having been exchanged around 22 October 2025. The respondent says they were taken by

- surprise by the evidence of the witness statement of Ms Hall which they say sets out expert evidence or quasi expert evidence.
14. We heard submissions from both the parties. We have not read the witness statement except for the first five paragraphs which sets out an introduction. Ms Hall was not a part of the process leading up to the claimant's redundancy. She is someone who has a previous relationship with the claimant's solicitor and she was asked to give evidence about her opinion, as Mr Bronze agreed, about whether the job that the claimant was offered was suitable alternative employment and whether his refusal of that was reasonable.
 15. We considered whether in fact Ms Hall had spoken to the claimant previously which might then be relevant, because the test for us in determining reasonableness is subjectively whether given all of the surrounding circumstances at the time the claimant acted reasonably in turning down the job offer. That was not, however, the case. Ms Hall's evidence is to retrospectively give her opinion about the matters that we have to consider.
 16. In our view this does amount to expert or quasi expert evidence, and it is in any event opinion evidence. The general rule is that opinion evidence will not be admitted unless it is expert evidence, and there is a process to go through for that. Both parties have referred to the De Keyser principles (*De Keyser Limited v Wilson* [2001] IRLR 324, EAT). Those principles effectively provide a safeguard to ensure that if a party proposes to call expert evidence the Tribunal is satisfied that it is necessary and relevant, and then a process is applied to ensure that the parties have an opportunity to produce their evidence fairly and proportionately. No such process was followed at this time and in respect of Ms Hall and we agree that the respondent has been surprised by this last-minute production of the expert evidence.
 17. The questions that Ms Hall proposes and purports to address are the matters that the Tribunal has to consider under section 141 of the Employment Rights Act 1996. That is the role of this Tribunal, and it is relevant to refer to the recent presidential guidance on the composition of tribunals. Until recently this case would have been determined by a judge sitting by themselves, but it has been decided in this particular case that the expertise of members would be particularly pertinent to the decision of the question. That is because that is exactly the sort of question that the Tribunal is here to decide, whether the job was a suitable alternative and whether the refusal of it was reasonable.
 18. For those reasons we refuse to admit the evidence of Ms Hall. It is not relevant because it is opinion evidence and, to the extent that it is expert evidence, it has not been obtained in accordance with a fair process so that the respondent has been prejudiced by the production of this expert. Finally and importantly, it would be disproportionate to admit the evidence. Even if Ms Ferber was able to quickly question Ms Hall, as Mr Bronze suggests, Ms Hall's evidence will still add another hour at least to the hearing length. Ultimately, we would hear a lot of evidence which we would then have to give little or no weight to because it would be opinion evidence about something about which we have to make our own decision.
 19. For those reasons we refuse to admit the witness evidence of Ms Hall.

20. We were also provided with a file of documentary evidence of 1541 pages. We have considered the documents we were referred to in the statements and the hearing as far as they are relevant.
21. In the event, we did not have time to properly consider the case and give an oral judgment and we therefore produce this reserved decision.
22. We record our thanks to the parties, witnesses and representatives for the helpful way they conducted the case.

Findings of fact

23. We have not made findings of fact about every disputed issue before us, and we have attempted to restrict our findings to those matters that are relevant to decide the disputed issues before us. Where facts are disputed, we have made our decision on the balance of probabilities.
24. The claimant, Mr Ferris, was the Corporate Director of Place at City of York Council. In late 2023/early 2024 the respondent decided to undergo a restructure of its senior management team.
25. The respondent had a senior management structure as follows. At the top was the Chief Operating Officer, Mr Ian Floyd. Reporting directly to him were three Corporate Directors comprising of the claimant as the Corporate Director of Place, a Corporate Director of Adult Social Care and a Corporate Director of Children's Services. Unlike the claimant, the Corporate Directors of Adults and Children's services fulfilled specific statutory roles relating to their respective service areas.
26. There were also another three or four Directors (as opposed to Corporate Directors) who are part of the same corporate management team reporting, like the Corporate Directors, directly to the Chief Operating Officer. Each of the Corporate Directors had Directors reporting to them including the claimant who had two Directors reporting to him. The pay structure was not clear, but the Corporate Directors were paid more than Directors. The role of Corporate Director was paid at a very senior level, at the time £119,000 per year. The proposed replacement Director jobs (to which we will come) were paid at £106,000 per year which we conclude must have been similar to the other Director salaries.
27. We conclude that, although there were both Directors and Corporate Directors on the senior management team, in fact the role of Corporate Director was more senior than that of Director.
28. The claimant's portfolio of responsibilities as Corporate Director of Place included 11 service areas which comprised:
 - 28.1. Planning
 - 28.2. Transport
 - 28.3. Highways
 - 28.4. Environment
 - 28.5. Public Protection
 - 28.6. Community Safety

- 28.7. Emergency planning
- 28.8. Economic Growth
- 28.9. Regeneration
- 28.10. Housing delivery/operations
- 28.11. Housing management
- 28.12. Council Commercial and surplus Assets
- 28.13. Facilities Management
- 29. These functions were split between the two directors who reported to him as follows:
- 30. Director of Environment, Transport and Planning who had responsibility for
 - 30.1. Highways and Transport
 - 30.2. Environment
 - 30.3. Planning and Development Services
 - 30.4. Public Protection (including Regional Investigations)
 - 30.5. Community Safety
 - 30.6. Flood Risk Manager
 - 30.7. Emergency Planning Manager
- 31. Director of Housing, Economy and Regeneration who had responsibility for
 - 31.1. Regeneration and Economy
 - 31.2. Strategic Planning Policy
 - 31.3. Property
 - 31.4. Housing Management Services
 - 31.5. Housing delivery and Asset Management
- 32. The claimant's job involved high level decision making which involved a great many meetings, including with elected councillors. The claimant's role was, really, to be ultimately responsible for a large number of the respondent's functions.
- 33. Relevantly, the Corporate Director of place also had ultimate responsibility for 775 staff, a revenue budget in the region of £70m per year (although that appeared to vary from year to year) and a capital budget of around £400m. The post had a very substantial number of legal delegations consistent with the wide remit of the role and authority to approve virements up to £500,000
- 34. In the initial restructuring proposals, the Corporate Director of Place role was removed from the Council.
- 35. The first restructure proposals were put to the claimant in early January 2024. The claimant's role was to be replaced by two Directors which were, at that time, a Director of Transport and Environment and a Director of Housing and Communities. The functions were not staying as they were with the previous Directors who reported to the claimant – some of the functions were transferring

between them – but all of the claimant’s functions appeared to be broadly covered in the two roles.

36. From the first time that the new structure was shown to the claimant, he expressed his view that he was unhappy with the proposal to replace his role with two Director roles.
37. There was a meeting with Mr Floyd on 9 January when the new structure was discussed – Mr Floyd suggested that the claimant could propose (as part, we understand, of the consultation process) that the Housing Director role was a Corporate Director role. Nothing appears to have come of that suggestion. The claimant discussed whether he might apply for the job of CEO in the new Combined Mayoral Authority that had recently come into existence. As we understand it this was a combined Authority across York and North Yorkshire - not replacing, but additional to the two local authorities.
38. The next day, on 10 January, the claimant phoned Mr Floyd and said he wanted his voluntary redundancy pension figures as he believed that the notice period for his dismissal, if he was made redundant, would take the end of his employment past his 55th birthday.
39. At the time the claimant was aged 54 and he was turning 55 on 19 July 2024. The relevance of this is that under the respondent’s pension scheme, once the claimant turned 55, if he were to be made redundant, he would become entitled to an enhanced pension as well as his statutory and any contractual redundancy entitlement. The claimant was interested in being made redundant and taking his pension if his job were to be removed. This is the relevance of the background we mentioned above in the introduction.
40. On 15 January 2024 the claimant had a conversation with Mr Floyd in which he said he would like to take compulsory redundancy. The claimant said the process (by which he means the restructuring process) felt deliberately personal – i.e. aimed at getting rid of him. He said in oral evidence that although the basis of the restructure was to “flatten” the senior management structure, his was the only job being removed.
41. Mr Floyd at this meeting seemed to be of the view that redundancy after the claimant turned 55 was a possibility. He was not concerned at that time with the cost of the claimant’s early pension. The next day the claimant spoke to someone in HR about his pension - the claimant was clearly concerned that he would be made redundant before he was 55 and also concerned about the cost to the respondent of his pension. We suspect he was concerned both that the timing of his redundancy would have a substantial impact on the authority because of the cost, but also that he might not receive the enhanced pension.
42. On 16 January 2024, the claimant met with Mr Floyd who reiterated that there were two jobs in the proposed new structure the claimant could apply for and the claimant again restated his view that he considered that the restructure was deliberately intended to get rid of him. After that meeting, the claimant met with another manager who told him that:

“Councillor Michael Pavlovic had been in West offices on Friday the 12th and saying to housing staff that the restructure report was published and that should make them happy I was incredibly frustrated with this however recognize the

position this place staff in so I just commented to Tracy that this reinforced my view that this was Members and Ian conspiring to remove me deliberately”

43. The claimant had very clearly reached the decision by this date that the restructure was being used to remove him from the organisation, and this was being driven by councillors. It is far from clear how this comment – even if the claimant’s note of his conversation is completely accurate – should lead him to conclude that Councillor Pavlovic was happy that the claimant’s post had been removed, let alone how he then came to the conclusion from this that there was a plan or plot to get rid of him. There may have been other things going on that we did not hear about, but Councillor Pavlovic’s comment about housing staff being pleased with the restructure could have meant anything.
44. The same day, 16 January 2024, the claimant sent an email to Mr Floyd stating that he believed that the new structure had been deliberately construed to remove him from the respondent. The claimant did not dispute the genuineness of and the need for the restructure, but rather considered that the respondent took advantage of the need for a restructure to remove the claimant. He was still of that view at the tribunal hearing. In the email the claimant also criticises the structure and expresses concerns about the true level of savings that will be achieved by the restructure.
45. Mr Floyd took the proposed structure to the Staffing Matters and Urgency Committee (SMUC). This is a committee of councillors with responsibility, as the name suggests, for staffing matters. The committee approved a consultation period.
46. The consultation period started on 24 January 2024 and Mr Floyd wrote to the claimant and informed him that his job was “in scope”- that is it would be affected by the restructure. There were in fact proposed to be 5 senior jobs to be removed comprising the claimant’s role, three Director roles and the Chief Finance officer role. These would be replaced with three director roles but not at this point a Director of City Development. It was clear that the CDP role would be replaced, at that time, by two Director roles. The new Director roles would report directly to the Chief Operating Officer (Mr Floyd). This was the flatter structure referred to: The corporate management team would consist of 2 Corporate Directors – Adults and Children’s services and a number of Directors, all reporting directly to the Chief Operating Officer. The Directors would, however, be paid less than any of the previous or existing Corporate Directors. There was no indication of who would have what role in the new structure at this point.
47. Then, on or around 1 February 2024, Mr Floyd proposed that two of the proposed Director jobs that would be replacing the CDP role be replaced by three Director jobs - a third post of Director of City Development (DCD) was added, and a draft job description was sent to the claimant on 6 February 2024. The areas of responsibility in the DCD role were
 - 47.1. Economic development and regeneration
 - 47.2. Major projects
 - 47.3. Local Plan
 - 47.4. Tourism
 - 47.5. Inward investment
 - 47.6. Combined Authority projects

48. There were a number of iterations of this job description but it is clear, and we find, that the areas of responsibility were substantially reduced from the CDP role

49. Soon after, on 21 February 2024 in a meeting with Mr Floyd and Claire Waind (HR manager supporting Mr Floyd), the claimant expressed the view that this was not a suitable alternative job, although it had not been suggested at that time that the specific job was for the claimant.

50. The claimant took detailed notes of the meetings with Mr Floyd. Neither Mr Floyd nor Ms Waind appear to have kept any notes of any of these meetings which is extremely surprising. We quote an extract from that meeting because, in our view, it helpfully explains the claimant's views about the role

"I then moved the conversation onto the new preferred structure and asked if they having deleted my post at the January SMU considered the new Director role created two weeks ago as suitable alternative employment. Both Claire and Ian danced around an answer in that it would be subjected job evaluation, salary, final scope and role. I then confirmed that I didn't think it would be I currently have a 70 million pound budget 780 staff and £500 million of capital programme I have applied for three chief executive roles in the last year been short listed for one coming second and you don't get interviews for CEO if you have a service director with 30 staff and a pencil budget.

That role would destroy my future career prospects therefore I wanted to make it clear I would be a voluntary redundancy rather than taking any other role other than a Corporate Director role".

51. The claimant also discussed again his pension entitlement in that meeting and was keen to ensure that the council had found out his pension figures (although we are not sure if that relates to the amount he would be entitled to or the cost to the respondent of his pension) and the fact that these figures were based on him being over 55 when/if he was dismissed.

52. It is right, however, to also observe that the claimant did also propose an alternative structure and we accept his evidence that he was trying to wear 2 hats in this process – one as an employee whose job was at risk from redundancy and one as a very senior manager trying to do his best for the respondent.

53. We find that at this meeting on 21 February 2024, the claimant did not want the DCD role. He considered it was unsuitable because it would represent a step back (a demotion in our words) and that he was expecting to be made redundant and to receive his pension and other benefits as a result.

54. On 2 February 2024 (546) the claimant confirmed to Ms Waind that:

"subject to the Council confirming that the restructuring process and therefore redundancy notices would be such that I will have access to my pension (my 55th Birthday being the 19th of July) then I do wish to pursue redundancy on efficiency grounds on which the attached pension quotation to which you have been in copy previously is based".

55. It is clear that the claimant was by this time focussed on leaving with his enhanced pension. The claimant was of the view that the respondent wanted

him out and there were no suitable alternative jobs for him in the proposed new structure.

56. The claimant submitted a response to the consultation on 1 March 2024. This was a lengthy document of around 20 closely typed pages. The summary sets out at the start of that document six areas of concern to the effect that the process is discriminatory, it has been undertaken in such a way to deliberately remove the claimant from the respondent's employ, and the restructure will not in any event achieve the desired savings.
57. The claimant genuinely held a view that there was a plan to get him out of the organisation.
58. He did not go so far as to say that there was a conspiracy, although he may have thought that at the time, but the plan was, in his view being led by an elected councillor who he perceived as not being favourable to him. In evidence the claimant said that the reason for this was that he spoke truth to power; that there was a new administration from May 2023 who were new and inexperienced; and there was a tension between the new elected administration and the corporate management team of which the claimant was a significant part. His view was that as he bore responsibility for all of the public facing functions (the 'Place' functions) which were highly visible to members of the public, he was, effectively, the focus of the tension between what the councillors wanted to achieve and the financial and legal constraints on the powers of the council to achieve the things the councillors wanted to achieve quickly or effectively. This the claimant believes is what motivated the councillors to want him out of the organisation.
59. In his consultation response, the claimant said
"I therefore suggest that the true purpose of the DCD role is that if you are unable to discriminate against me through age and accelerate the process which you are keeping open as an option then you intend to place me in an untenable position and ruin my future prospects in Local Government. To do so you are trying to create a role that is without substance or responsibilities that any Council would not consider meaningful. You yourself reinforced this view to me when on the 22nd of February you stated that it was your view that I would have to take the DCD job or resign. I noted that that was not how the Council policy nor the law worked. You then extraordinarily noting what I have said about the value for money of the role as DCD suggested that it could be a Corporate Director role, which you then went on in a subsequent meeting with a colleague to suggest the same proposal that the DCD could be a Corporate Director.

So for the avoidance of any doubt my view is that the 3rd Director role fails to meet all your own purported objectives, fails to deliver value for money and is entirely contrived to create a fig leaf of a redundancy mitigation whilst ruining my future career prospects and removing any operational independence or responsibilities that I have undertaken for over 10 years".
60. The respondent put it to the claimant that this was evidence of Mr Floyd bending over backwards to try to accommodate the claimant's requirements- specifically by suggesting the DCD role could be a Corporate Director role. The claimant did not agree with this characterisation but did not explain why. We

think he was just very cynical about the whole process and, by this time, wanted to leave with his pension. In any event, the DCD role was never changed to a Corporate Director role, even if that was a conversation that Mr Floyd and the claimant had at some point.

61. On 11 March 2024 Mr Floyd prepared a report on the proposed final structure to the SMUC which included the new DCD role with some slight changes to responsibilities.
62. On 12 March 2024 in a meeting with Ms Whiting (HR) the claimant restated his wish for voluntary redundancy. The claimant said, and we find, that at this point he was unhappy with the proposal to delete his job and he wanted to leave the respondent. It is clear from Ms Whiting's notes that the claimant perceived that he was personally being targeted by the elected councillors, which he related to the change of administration 2023.
63. Mr Floyd took the proposed new structure to the respondent's Staffing Matters and Urgency Committee (SMUC) for a decision on 26 March 2024. The committee approved the new structure and that included the Director of City Development and the deletion of the claimant's Corporate Director of Place role.
64. The new approved structure, as far as is relevant to this claim, deleted the CDP role and the two previous direct reports (Director of Economy, Regeneration and Housing and Director of Environment, Transport and Planning) and replaced them with Director of Transport and Environment, Director of City Development and Director of Housing and Community Services. It had been proposed to include Planning in the responsibilities of the DCD role, but the committee decided to put that with the Director of Transport and Environment.
65. Mr Floyd told the claimant, and other affected individuals, about the SMUC decisions in an email on 27 March 2024 and advised that revised job descriptions would be issued before the roles were evaluated (although indicative grades of £96,574 - £106, 857 had been stated in the report to SMUC).
66. During this time, the claimant was going through a grievance/complaint process with Ms Whiting. That is not directly relevant to these matters, but the claimant met Ms Whiting on 26 March 2024 and on 27 March he emailed her expressing his view that the restructure process was a manifestation of the bullying he had experienced.
67. On 5 April 2024, Ms Waind sent the claimant (and others) revised job descriptions for the new posts in the senior management structure. The proposal was to match people, against specific jobs if they were fundamentally the same as the previous jobs or, otherwise, undertake a discussion about suitable matches. There was an initial assessment of the CDP role against the new roles by Mr Floyd and Ms Waind on 8 April 2024. In this summary assessment, they identified that the DCD role and the Community and Housing role were suitable.
68. The claimant then met with Mr Floyd, Ms Waind, and Helen Whiting to discuss these possibilities on 10 April 2024. This was the last meeting the claimant attended about this process. (Again, we note that it is odd that the respondent appears to have made no notes of this important meeting – we have only the claimant's records).

69. The claimant was explicit in this meeting that he did not consider either position a suitable alternative and that redundancy was the only option. We find that this view was based at least in part on the claimant's belief that the restructure had been undertaken in such a way as to ensure his removal from the respondent.
70. It was put to the claimant that this meeting was an opportunity to discuss the nature and scope of the available roles – effectively so that the claimant could make one of the new roles his own. The claimant said the roles had been approved by elected members, so the scope was not up for discussion. Whatever the reality, the fact is that was not discussed at this meeting.
71. On 26 April 2024, Mr Floyd wrote to the claimant and offered him one last chance of choosing either the DCD or Housing and Communities roles on the basis that, in his view, either was a suitable alternative. He said that if the claimant expressed no preference, he would decide which to offer. He said he would also consider any voluntary redundancy requests “as appropriate”.
72. There was a further exchange of correspondence and on 30 April 2024, the claimant said that, as he had not been selected for redundancy, he did not wish to volunteer to do another job nor be made redundant.
73. On 1 May 2024, Mr Floyd wrote to the claimant to formally place him “at risk” of redundancy. He said that he considered the roles of Director of City Development and Director of Housing and Communities to be suitable alternative roles. Mr Floyd informed the claimant that there would be a suitability assessment for each of the roles on 8 May 2024. As part of this the claimant was required to produce a one page personal statement.
74. The claimant replied on 6 May, effectively saying that he did not want to volunteer or compete for a new role, and he did not attend the meeting on 8 May. Mr Floyd undertook the suitability assessment of both potential jobs on the basis of the available information.
75. It identified the differences in salaries – CDP 119,721, the other two were 106,857 but with pay protection. This is described as
“Pay protection would apply Based on 100% for yr 1 and decreasing by 5% each year Pay protection will cease at the date when the amount of revised New Contractual Earnings equals or exceeds the revised Old Contractual Earnings and the result of the Pay Protection Calculation is nil”.
76. This means that the pay would stay more or less the same as the CDP role at the point the claimant left it, until the Director salaries caught up with the original CDP salary (or five years if they had not caught up).
77. No other significant differences were recognised in the assessment except for the change in job title from Corporate Director to Director.
78. The obvious other difference, to which we will come, is the difference in range of responsibilities. This is barely mentioned in the assessment. It is, in our view, worded in such a way to demonstrate an equivalence. It points out the overlaps and similarities; it does not identify the gaps and differences.
79. On 16 May 2024, Mr Floyd wrote to the claimant giving him notice of his dismissal by reason of redundancy and saying that they were making him an offer of the job of Director of City Development on the basis that, in his view,

that was an offer of suitable alternative employment. If the claimant took the job he would not be made redundant, if he did not accept it he would be made redundant on 27 August 2024, but would not receive his statutory redundancy payment.

80. The claimant replied on 24 May 2024. He decline the offer, and made it clear that he believed that the process to date was a mechanism by which to secure his removal from the respondent.
81. The claimant referred to the DCD job as having “hardly any responsibilities” and the assessment exercise as being cursory, ill-informed and pre-determined. The claimant expressed the view that either accepting the more junior role or making him redundant had put an end to his chances of progression in local government.
82. The claimant’s employment ended on 27 August 2024. The respondent did not pay him any redundancy pay.
83. We consider now a comparison of the job the claimant had as Corporate Director of Place and the proposed job of Director of City Development.
84. The DCD role was responsible for the following areas:
 - 84.1. Economic development and regeneration
 - 84.2. Major projects
 - 84.3. Local Plan
 - 84.4. Tourism
 - 84.5. Inward investment
 - 84.6. Combined Authority projects and liaison
85. We note here that the respondent spent a great deal of time in the tribunal exploring the importance of the new Combined Mayoral Authority (CMA) and the function of the DCD in that. As far as we understand it, while this is an important new external partner for the respondent, the CMA is a separate authority so that the role of DCD would be limited to liaising, partnership and working with the CMA. The claimant, in that role, would represent the respondent at a strategic level with the CMA. He would, however, have no responsibility for anything the CMA actually does.
86. By comparison, the CDP role had responsibility for the following areas:
 - 86.1. Planning
 - 86.2. Transport
 - 86.3. Highways
 - 86.4. Environment
 - 86.5. Public Protection
 - 86.6. Community Safety
 - 86.7. Emergency planning
 - 86.8. Economic Growth
 - 86.9. Regeneration

- 86.10. Housing delivery/operations
- 86.11. Housing management
- 86.12. Council Commercial and surplus Assets
- 86.13. Facilities Management
- 87. The claimant was also responsible in that role for work getting ready for the CMA as the areas of responsibility (predominantly transport and regeneration as we understand it) that the CMA was responsible for already fell within the CDP role.
- 88. Delegations were reduced for the DCD role proportionate to the reduced areas of responsibility.
- 89. The DCD role had responsibility overall for around 40 staff compared to around 770 for the CDP.
- 90. The CDP role had responsibility for capital expenditure of around £48,000,000 as opposed to around £400,000,000. The DCD role did also have oversight of projects with an expected value of around £100,000,000 plus investment from the CMA.
- 91. The revenue budget for the DCD role was around £946,000 compared with a revenue budget of around £70,000,000 for the CDP role.
- 92. The salaries were £106,000 per year for the DCD as opposed to £119,000 for the CDP role. We conclude that the DCD job had been evaluated under the respondent's job evaluation scheme as worth that salary.
- 93. Both roles reported directly to Mr Floyd. The DCD role would no longer have directors reporting to it.
- 94. Both roles were very senior roles with strategic responsibilities including a national and regional presence.
- 95. Neither role had any statutory director element.
- 96. Standard terms as to hours of work, leave, sickness etc remained the same

Law

- 97. Section 141 Employment Rights Act 1996 says, as far as is relevant to this claim:
 - (2) Where subsection (3) is satisfied, the employee is not entitled to a redundancy payment if he unreasonably refuses the offer.
 - (3) This subsection is satisfied where—
 - (a) the provisions of the contract as renewed, or of the new contract, as to—
 - (i) the capacity and place in which the employee would be employed, and
 - (ii) the other terms and conditions of his employment,would not differ from the corresponding provisions of the previous contract, or
 - (b) those provisions of the contract as renewed, or of the new contract, would differ from the corresponding provisions of the previous contract but the offer constitutes an offer of suitable employment in relation to the employee.

98. This means that an employee is not entitled to a statutory redundancy payment if the unreasonably refuse an offer of suitable alternative employment.
99. This means there are two questions:
- 99.1. Was the offer of alternative employment an offer of *suitable* employment; and if so
- 99.2. Did the claimant unreasonably refuse that offer.
100. If we find that the offer was not of suitable employment, we do not need to go on to consider whether the refusal of it was reasonable or not.
101. In *Stevenson v Mid Essex Hospital Services NHS Trust* EA-2019-000834 The EAT summarised a number of helpful principles:
- “The employer has the burden of proving that the employment offered was suitable and that the employee's refusal of it was unreasonable: *Bird v Stoke on Trent PCT* (2011) ([2011](#)) [UKEAT/0074/11](#) per Keith J at [11].
- Although suitability is tested objectively, in each case it is necessary to decide whether the proposed job, considered with reference to every aspect of it, was suitable for the employee in question, i.e. whether it suits his or her skills, aptitude and experience: *Bird* at [18].
- Similarly, it is necessary to decide whether the particular employee in question (and not some other hypothetical reasonable employee) was reasonable in refusing the offer, i.e. had sound and justifiable reasons. This is judged from the employee's point of view, on the basis of the facts as they appeared or should have appeared to the employee at the time of the refusal: *Bird* at [19]”.
102. They went on to say:
- “A case where the issue is the suitability of alternative employment will always require a careful comparison of the alternative employment with the employee's former employment. A tribunal will need to identify what if any differences there are, decide whether those differences matter and explain why”.
103. We were referred to a significant number of cases but, in reality, each case is fact specific and they were of limited assistance. It is apparent however that the following factors may impact in suitability:
- 103.1. The amount of remuneration
- 103.2. Other terms and conditions
- 103.3. Status – is there a perceived or actual reduction in status
- 103.4. Job content – does the job make adequate use of the employee's skills and experience
104. As to the reasonableness of refusal, this can overlap with, or be influenced by the extent of suitability of the proposed job, the respondent's motives for offering the job, impact on future career prospects, and factors external to the job.
105. A decision to refuse an otherwise suitable job solely because of a preference to obtain redundancy payments or other benefits is likely to make a refusal unreasonable.

Conclusions

106. In our view the DCD job was not a suitable alternative for the following reasons.
107. We consider first the differences in the jobs.
108. Firstly, the Director of City Development role was evaluated by the respondent under its own job evaluation scheme as of a lower grade than the CDP role and therefore we conclude that was of lower value to the respondent than the CDP role. That different evaluation carried with it a pay cut in the region of 10%. The pay protection scheme did not maintain the pay; it was designed to freeze the pay for at least five years. In fact, the pay protection only lasted for two years according to the respondent's calculations.
109. The Corporate Director of Place role had a very wide remit. Possibly too wide for the effective running of all those services, hence the restructure, but nonetheless it did have that wide remit. The CDP role had a wider range of delegated responsibilities and was allocated greater sums in the budget.
110. There was a substantial difference in the size of the budget each of the two jobs was responsible for and a very substantial difference in the total number of staff.
111. The CDP role had two Director reports and 11 heads of service underneath that. The claimant undertook a wide-ranging high level strategic role. He was, we conclude from his evidence, high profile in the council. He was required to liaise with all the heads of service for his various roles to ensure that matters were being progressed, that the respondent's plans were being adhered to. On the other side, he was required to liaise with various portfolio holders and other elected members about their priorities that fell within his directorate.
112. Although we do not know if there was a plan or conspiracy to get the claimant out of his job, we conclude that the elected members will have known very well that the claimant's new job as Director of City Development, were he to take it, would be substantially reduced in terms of pay, scope and status.
113. It may well be that the DCD job would include a new role in liaising with the Mayoral Combined Authority in the future but that was not known at the time and was at best a third aspect to that role rather than the very substantial and wide-ranging roles that he had as Corporate Director of Place.
114. The respondent made a great deal of the fact that both of the jobs (CDP and DCD) were senior jobs with strategic overview and both were well paid.
115. That is likely correct. However, while after the restructure the claimant would still be part of the corporate management team reporting to the Head of Paid Service, he would not be a Corporate Director, and he would be on the management team as a peer with his former director reports. He would no longer have responsibility for the functions and areas that the other two Directors (at least one of whom would be his former direct report) would now have. This in our view represented a clear reduction in status, and in fact amounted to a demotion in any sense of the word, despite Mr Floyd's assertion that it was not a demotion.
116. Next we consider if those differences matter and why.

117. We find that they do matter, both objectively and to the claimant specifically. This is where the question of suitability may overlap with the question of reasonableness of refusal.
118. The proposed role was, as we have explained, a demotion. This would in our view be known to the elected members - who had made the decision on the structure – and to other senior members of the management team who would either have been part of the restructure or would find out about the claimant's reduced responsibilities at the senior management team meetings. This would include, of course, people who had been the claimant's reports but were now his peers with sole responsibility for matters that had previously been his responsibility.
119. Elected members and senior officers will have known very well that the claimant's new job as Director of City Development (had he taken it) would be substantially reduced in terms of both pay and scope. It may well be that the claimant took a new role in liaising with the Mayoral Combined Authority in the future but that was not known at the time and was at best a third aspect to his role.
120. Any reasonable person would consider that their role in the organisation and amongst their peers at the respondent – especially at such a senior level – had diminished.
121. The claimant was a very senior government officer and his aspirations were to either obtain a chief executive post of another authority or move sideways into a corporate director or equivalent post in another larger authority. He wanted to continue to progress his career. It was the claimant's view that taking the Director of City Development role would in fact be a step backwards and that it would harm his career. The DCD role was smaller in scope, it had none of the functions of the CDP role except for those relating to regeneration and economic development. It also incorporated the local plan but not the planning department, although we note that the Local Plan had been completed by this time.
122. We are not convinced of the extent to which the change in job would have impacted on the claimant's future job prospects, but we take judicial notice of the fact that there is a limited number of large local authorities and a commensurately small number of very senior roles in them. It is likely to be a small world so the possibility of word getting around about the claimant's demotion is not fanciful.
123. The claimant did not make a great deal of the reduction in pay, but objectively a 10% pay cut is significant.
124. Although we cannot, for reasons we explain below, make a decision about reasonableness of refusal of this job, in our view were the job suitable, the impact on the claimant's status (to use a short hand for the matters we have described in paragraph 118 - 123) would make refusal of the job reasonable. The claimant's perception of the impact of the demotion on his future prospects would make the refusal of the role reasonable.
125. For these reasons, we find that the offer of the job of Director of City Development was not an offer of a suitable job.

126. We considered whether we could go on to consider in the alternative whether the claimant acted reasonably or unreasonably in rejecting that offer.
127. The majority of the evidence we heard, as reflected in our findings, was about the claimant's conduct and his wish to have his retirement benefits rather than the alternative job. That evidence would have been material to the question of reasonableness of his refusal of the job.
128. Similarly, the claimant's assertions about the reason for the creation of the job – to avoid having to pay his enhanced pension – may have been relevant.
129. In the circumstances, however, where in our view the job was manifestly not a suitable alternative there are no circumstances in which the rejection of that job would be unreasonable. Had the claimant been offered a different job that was suitable then we think it likely that the claimant's conduct throughout the consultation period and his complete disengagement from the process about the proposed job would have made his rejection of the job unreasonable. In circumstances where the job is not suitable, then that has no bearing on the outcome.
130. For these reasons the claimant's claim is successful, and he is entitled to statutory redundancy payment.
131. The claimant worked for the respondent from 12 May 2014 until 27 August 2024, that is 10 complete years. He was aged 55 at the date of his dismissal and his earnings were in the region of £2200 per week. At the date of his dismissal the maximum weekly wage for the purpose of calculating a statutory redundancy payment was £700. The claimant is therefore entitled to 1.5 weeks pay at £700 per week for each complete year of his employment which is £10,500.

Employment Judge Miller

Date: 17 December 2025

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