EMPLOYMENT TRIBUNALS

Claimant: Miss E Kolaniak
Respondent Nice Systems UK Ltd

Heard at Bristol (by CVP)
On: 20 and 21/4/2026
Before: Employment Judge Mr J S Burns

Representation
Claimant: In person
Respondent: Ms H Ifeka (Counsel)

JUDGMENT

1. The Claimant was unfairly dismissed with contributory fault of 35%

2. The Respondent must pay the Claimant £6957.45 or the appropriate balance subject to and when the requirements of the Recoupment Regulations have been complied with. (see paragraph 63 of the Reasons)

3. The Claimant's application for a preparation time order is refused.

REASONS

1. This was a claim for unfair dismissal, the Respondent contending that the reason was redundancy.

2. The documents were in a bundle of 703 pages and a supplementary bundle of 21 pages . I heard evidence from the Respondent's witnesses Mr J Thake-Edwards (Senior HR business partner) who carried out the consultation, Mr R Moore (Vice President, Information Security) and Ms M Samuel (Vice President HR), who considered the Claimants grievance and Speak-up complaint, and then from the Claimant.

Facts

3. The Respondent is a software development business.

4. The Claimant was employed by the Respondent from 24 February 2022 to 4 December 2024 as Information Security Compliance Manager based at an office near Southampton. The Claimant reported directly to Mr Moore. The Claimant's duties included drafting and

establishing security policies and standards, supporting audits and providing policy documentation to support customer requests.

5. During the morning of 9/10/2024 Ms M Lanaido, (Director, HRBP, Corporate Services) based in the USA, and who Mr Thake-Edwards described as being "*not familiar with the requirements regarding redundancy processes in the UK"* had a team video meeting with Mr Moore. Later that day Ms Laniado sent an email to Mr Thake-Edwards as follows: "*Due to redundance* (sic) *in workforce, we will need to release Ewa. Appriciate* (sic) *if you can lead it between Rich and Suling. Rich of course will share additional information/data needed."*

6. Mr Moore was a Vice President and as such was more senior to Ms Lanaido in the organisational hierarchy but Mr Moore in his evidence stated that he would normally seek to work with and follow HR direction.

7. Mr Thake Edwards and Mr Moore then conferred following which the former sent Ms Lanaido an email which reads as follows: *"Hi Moran, Kishan and I met with Richard on Friday to discuss the details. Richard will think about this situation more and get back to me. Also, based on Richard's feedback, we should set up calls to discuss specifics this rather than emails".*

8. Despite this warning, Ms Lanaido then sent another email on 16/10/24 which reads as follows: *"Hi Jahvis I met with Rich today and he confirm* (sic) *you both are meeting today. Unfortunately, we must initiate this release with urgency due to workforce reduction. This specific HC was selected as it* (sic) *the only one whom responsibilities can be distributed between the teams. Additionally, Andy and Natali are holding specifies* (sic) *knowledge in security Ewa doesn't have. Please let me know if additional is needed. I am okay to have short call if needed. Thanks"*

9. Mr Thake Edwards explained in his witness statement the reason for the dismissal as follows: *"This workforce change was not driven by a reduction in workload. Instead, I understood that it was driven by costs and a need to reduce the headcount in the Corporate Services function. Therefore, it was clear to me that the primary commercial requirement was to ensure that all necessary work could continue to be delivered effectively following any potential reduction in headcount. …. Richard explained to me that Ewa's role was primarily focused on policy writing and policy auditing. My understanding was that this was a more academic role where she was responsible for drafting information security policies and ensuring they remained up to date. Although there was an ongoing requirement for the Company to maintain these policies, Richard informed me that Ewa had already written the key policies, and that he considered that the remaining work in this area could be*

managed by the wider team. Richard advised that, in his view, Ewa's role was the only one within the team whose responsibilities could be fully absorbed by other team members"

10. The other team members who were to start doing the security policy work after the Claimants dismissal were Andrew Peter Moffett (Manager, Information Security) Natalie Bowdell (Director, Information Security and Data Protection) and Dovi Malik (Director, Corporate Compliance. After the Claimant's dismissal that Mr Moore also took on some of the Claimant's former policy-writing work.

11. On 31/10/24 Mr Moore told the Claimant that she was at risk of redundancy and advised her to look for alternative employment.

12. On 1 November 2024, Mr Moore told the Claimant that the Prague office security audit, which she had been tasked to deliver and had prepared for several weeks, would no longer be undertaken by her and would instead be handled by the office manager who had no information-security background.

13. The first (postponed) consultation meeting took place between the Claimant and Mr Thake Edwards on 8/11/24. Mr Moore knew what work his team members were doing which was recorded on an everyday activity tracker document to which the Claimant could have had access. However, no separate document showing the facts or specific details of the proposed work redistribution was ever produced for the consultation. This made it harder for the Claimant to counter or suggest modifications to the proposal.

14. The second consultation meeting took place on 15/11/24. During the meeting there was a discussion about the "communication plan" - ie the plan to contact persons within the Respondent organisation to see if they had any alternative work in prospect which could be offered to the Claimant. The Claimant said she wanted there to be contact with not only her team but also with "*information security experts from other lines of businesses*" because "*they might have work available, but they might not know that I am available"*. Mr Thake Edwards "*you can state who you believe it should be made aware. But ultimately, that communication plan should be decided by management with your view".*

15. There was a list of persons who were working in the information security area within the respondent organisation listed in a policy document entitled "Information Security Policy" dated 28/5/24 which the Claimant herself had compiled. The Claimant did not feel able to contact these individuals themselves because she had been told to keep the matter confidential.

16. Mr Thake Edwards and Mr Moore did not contact any persons on the list or otherwise to ask if there was any vacancy for the Claimant. Instead they directed her to an intranet site where current vacancies were advertised, however none were.

17. The contemporaneous documents suggest that Mr Thake Edwards engaged in extended, rambling and unfocussed dialogues with the Claimant during these so-called consultation meetings which lead to little or nothing being done to answer the Claimant's concerns and which placed the onus entirely on her to suggest alternatives. Summary minutes of these meetings were produced which the Claimant did not regard as accurate or comprehensive.

18. During November 2024 the Claimant started looking for another job which she obtained with University of Portsmouth Academic Services Limited which signed her new contract on 20/11/24. The Claimant signed it on 1/12/2024. It provided for the Claimant to work full-time for the new employer from 18/2/2025.

19. On 27/11/24 the Claimant was signed off due to stress from 2/11/24 to 15/12/24.

20. On 27 November 2024, the Claimant submitted a formal grievance challenging her redundancy on both procedural and substantive grounds and on the same day she raised a similar complaint on the Respondent's internal "speak-up" platform.

21. On 28 November 2024, Ms Samuel responded and informed her that, if she felt the redundancy process or any decision arising from it was inappropriate, she could raise these matters through the redundancy process. No further response was provided and the grievance/speak up complaint were not progressed further.

22. The Claimant was invited to a final consultation meeting on 4 December 2024 to discuss the outcome of the consultation process. On 29/11/24 Mr Thake Edwards sent the Claimant an email suggesting that if she could not attend, she should send in written representations. The Claimant replied by email on 3/12/24 that she would not be able to attend, but that "*The grievance submitted on 27.11.2024 (your Manager Michal Samuel was one of the recipients) and concerns raised through the Speak Up procedure on the same date due to the poor way the redundancy process that I have been subjected to have been handled, should be taken into account during the proceeding* "

23. A meeting took place in the Claimant's absence on 4/12/24 but neither Mr Thake Edwards or Mr Moore considered the Claimant's grievance or referred to it during the meeting, and they proceeded on the mistaken assumption that "*no input has been received*".

24. Mr Moore made the decision to dismiss the Claimant immediately, which he did by letter the same day. The Claimant was paid her statutory redundancy payment and pay in lieu of one months' notice

25. The letter reminded the Claimant on her right to appeal but she did not exercise that right.

26. She claims that she was too unwell to attend the final consultation meeting or appeal but she was well enough do both of these things, as she was well enough to look for new work in November, obtain and negotiate a new employment contract, submit a lengthy grievance on 27/11, enter into correspondence with Ms Samuels on 9/12, and apply to ACAS on 23/12/24.

27. The reason she did not attend the final consultation meeting and did not lodge an appeal was that by then she had found and accepted another job, which she intended to take up in any event. The Claimant is not the type of person who would accept employment from a new employer and sign an employment contract unless she had the intention of honouring and performing the contract. If she would have preferred to have remained employed by the Respondent than take up the new work she had found at Portsmouth University, then she would have postponed deciding whether or not to sign the new contract until after the final consultation meeting. She did not do that because by 1/12/24 at the latest she had decided that she would be leaving the Respondent's employment anyway.

28. In February/March 2025, the Respondent advertised a role titled: "*Cyber Security Specialist (Information Security Analyst – Audit, Compliance and Cybersecurity*)", initially in Southampton, then amended to London. There is a disagreement between the parties as to whether this would have been suitable for the Claimant, which disagreement I am unable to resolve on the evidence before me.

29. I accept Mr Moore's evidence in paragraphs 53 to 55 of his witness statement, which were unchallenged, that following the Claimant's dismissal, her responsibilities were absorbed by the rest of the team in accordance with the proposal, that her previous role has not been filled, and that the Respondent, with the help of AI, has successfully managed the workload without her.

Relevant law

30. As to whether the employee was redundant section 139(1) of the Employment Rights Act 1996 provides as follows:

"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 –

the fact that his employer has ceased or intends to cease –(i) to carry on the business for the purpose 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

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"

31. Where redundancy is established by the employer as a potentially fair reason for dismissal under Section 98(1) and (2) of the Employment Rights Act 1996, then section 98(4) must be considered which provides as follows: "*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) depends upon 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 shall be determined in accordance with equity and the substantial merits of the case.'*

32. S.139(1)(b)(i) includes situations in which the employer has a diminishing need for employees, reorganises, and redistributes the work so that it can be done by fewer employees.

33. Where redundancy is established, the employer will normally not act reasonably unless he warns and consults any employees affected or their representative, adopts a fair basis on which to select for redundancy and takes such steps as may be reasonable to avoid or minimise redundancy by redeployment within his own organisation Polkey v. A E Dayton Services LTD [1987] IRLR 503 at para 28.

34. Proper consultation involves consultation when proposals are in a formative stage, adequate information on which to respond, adequate time in which to respond, and conscientious consideration of the response. R v British Coal Corp ex parte Price 1994 IRLR 72 at para 24.

35. Unless there is a customary arrangement or agreed procedure the employer has a good deal of flexibility in defining the pool from which he will select employees for dismissal. He need only show that he has applied his mind to the problem and acted from genuine motives. Thomas Betts Manufacturing Ltd v Harding 1980 IRLR 255 CA. However, in choosing the pool the employer must act reasonably and must have a justifiable reason for excluding a particular group of employees from the selection pool where the excluded category do the same or similar work to those who are up for selection. British Steel PLC v Robertson EAT 601/94.

36. The employer should try as far as reasonable to find alternative work within its own organisation and where appropriate within other companies in the same group. The burden of proof is on the employer to show that there was no suitable employment that the employee could or would have taken — and to provide appropriate evidential support for that assertion. Software 2000 Ltd v Andrews.

37. It is not the function of the tribunal to decide whether it would have thought it fairer to act in some other way: the question is whether the dismissal lay within the range of conduct which a reasonable employer could have adopted. Thus the tribunal should not impose its own views as to the reasonableness of selection for redundancy but should ask whether the selection was one which an employer acting reasonably could have made. Drake International Systems Ltd v O'Hare EAT 0384/03

38. Where a dismissal is unfair, the tribunal must also consider whether, by virtue of Polkey v AE Dayton Services [1987] IRLR 503, HL, there should be any reduction in the compensatory award to reflect the chance that the claimant would have been dismissed or her employment ended in any event, looking at the situation applying to the particular employer. If the unfairness consists simply in failures by the employer to search for alternative employment, then the key issue will be whether if a proper search had been carried out, whether the claimant would have found and accepted such alternatives. Virgin Media Ltd v Seddington. 2009 UKEAT 0539/09 EAT

39. A reduction for contributory fault can affect the basic award and/or the compensatory award. This can apply to redundancy dismissals, although it is unusual for it to do so.

Conclusions

40. I accept that there was a genuine redundancy situation and that redundancy was the reason for dismissal.

41. I do not find that the decision to put the Claimant in a pool of one was outside a range of reasonable decisions. She was the only Information Security Compliance Manager and on the available evidence she was the only employee in the team whose work could be distributed to and managed by other team members, and it is not shown that she could have taken on the specialised work of the others.

42. I do not find that the Respondent's response to the grievance/speak up complaint (namely not to deal with them separately but to require the Claimant to raise her complaints about the redundancy process within consultation meetings and or by appealing) was outside a range of reasonable decisions. It is undesirable and impractical to have two parallel processes running in relation to the same subject matter.

43. I do not find that the Respondent's decision to go ahead with the third and final consultation meeting in the Claimant's absence was outside a range of reasonable decisions as the

Claimant had been invited to the meeting and although she said would not attend she also did not ask for an adjournment.

44. However, the Teams-meeting between Mr Moore and Ms Lanaido, followed by the emails from the latter on 9/10/24 and 16/10/24, and the removal of the Claimant's work around this time, (for example the Prague audit on 1/11/24), lead me to the conclusion that the decision to dismiss the Claimant had been made before consultation started. The emails from Ms Lanaido are particularly telling as they use language which indicates a firm intention and decision reached by her, with the concurrence and support of Mr Moore, to dismiss, as a matter of some urgency, the Claimant on the basis that she had already been selected for the purpose. The Claimant had not been put provisionally in a pool of one for open-minded consideration. The dismissal was therefore predetermined and the consultation was a sham in the sense that it could not affect the outcome.

45. The Respondent presented the work redistribution proposal in generalised terms only. The Claimant asked for more details which would have allowed her to engage with the specifics. Acting fairly, the Respondent should have provided these. The discussion never reached the level of detail about the proposal which the Claimant wanted. She complained about this at the time.

46. I am not satisfied that the search for alternative employment within the Claimant organisation was sufficient. The Claimant specifically asked if queries could be made within other areas of the business to see if there might be a vacancy pending. Mr Thake Edwards told the Claimant that it would be management who would decide whether this could be done but the inquiries were not made.

47. I accept that within Mr Moore's team the Claimant's work could be absorbed, but I also accept the Claimant's evidence that regulatory obligations on the Respondent, including EU Digital Operational Resilience Act 2025 (DORA) and Network and Information Systems Directive 2 (NIS 2), 2024 were increasing, and therefore Corporate Information Security work was likely to be in demand.

48. The Respondent is a large international organisation where persons may have limited visibility of developments in other departments. There could have suitable alternative roles emerging. The Cyber Security Specialist role in Southampton which was advertised in February 2025 might have been an example of this. In these circumstances merely looking at the advertisement board for current vacancies was insufficient, as the Claimant recognised at the time.

49. It was unfair for Mr Moore and Mr Thake Edwards not to consider the Claimant's grievance as her written representations for the final consultation meeting. She had specifically asked them to do so, in response to the suggestion that she could rely on written representations.

As a matter of substance, the grievance was relevant to the redundancy process. Furthermore, Ms Samuel's reason for not dealing with the grievance and speak-up report was that the proper place for the Claimant to raise those matters was within the redundancy process. Yet when she asked for the grievance to be considered within that process, her request was ignored, seemingly because of carelessness or oversight.

50. For these reasons the Claimant was unfairly dismissed.

51. I have considered the Polkey principle, namely what would have happened in the absence of the unfairness which I have identified. In that scenario the Respondent would still have wanted to make a position in Mr Moore's team redundant. That proposal could have been put forward with enough detail and without predetermination so as to make real and effective consultation possible. The Claimant with that detail might have been able to suggest alternatives such as some other form of redistribution or that she could take a pay-cut or go part-time. Inquiries could have been carried out with Information Security leads in other areas of the business about alternative work which the Claimant wanted.

52. The question whether the Claimant would have found alternative employment within the Respondent and would have accepted it are key issues but given the inadequate search by the Respondent it is difficult to reach a definitive conclusion.

53. A fair consultation would have taken longer but it may well have had the same outcome. She had a writing role which was vulnerable to A1 and following her dismissal her role has not been filled.

54. For these reasons and doing the best I can, I find that the Claimant would have been fairly dismissed within 6 months of 4/12/24 in any event that is by 6/6/25.

55. I am not satisfied that the Claimant was too sick to attend either the final consultation meeting or the appeal. The Claimant did not have sight of the Lanaido emails (which to the Respondent's credit, it produced in the Tribunal disclosure during the proceedings) when she decided in effect to abandon the Respondent's internal process.

56. The Claimant submits that her non-attendance at the appeal was reasonable because it could not cure procedural defects. I do not accept that submission because it could have overturned the dismissal.

57. She also submits that the appeal would not have been independently determined seeing that Mr Savani, (the HR employee to whom she had been directed to send her appeal), had worked closely with Mr Moore and Mr Thake Edwards. However, the Claimant had been asked simply to send the appeal to Mr Savani, and not told that it would be he who would decide any appeal. If the Clamant was worried about that, she could and should have contacted HR for confirmation that an independent person would deal with any appeal. Had she done so, that reassurance would have been given. Mr Savani was just the filing officer.

58. While the Claimant justly criticises the unfair aspects of the process, her non-participation in the important final stages was substantial contributory fault. There would have been a

chance of the Claimant avoiding the unfair dismissal altogether if instead of abandoning the process before it was completed, she had fought it out to the end - including in particular pursuing an appeal before an independent person who may not have been set in the predetermination which affected Mr Moore. I assess the Claimant's contributory fault in this regard as 35%.

Remedy

59. The Claimant did not seek reinstatement / re-engagement.

60. The Claimant received a redundancy payment so is not entitled to a basic award

61. The Compensatory award is 65% of the Claimant's financial losses for the period 4/12/24 to 4/6/24 after she has given credit for her notice pay. She did not apply for an ACAS uplift in the light of my findings about Ms Samuel's handling of the grievance.

62. The calculation of the Claimant's compensation is set out in the Schedule. I had to recall Mr Moore to give evidence about the bonus, which I accepted. Given the disproportionate difficulties in calculation and the small amounts involved I ruled with the parties' consent that the difference in monthly salary after the Claimant started with Portsmouth Uni was £30 net per month.

63. The Recoupment regulations apply. The prescribed period is 4/12/24 to 4/6/25. The prescribed amount is £6697.45. The difference between the prescribed amount and the total award is £260. The Claimant's NI number is SH343351D

Preparation Time Orde

64. The Claimant applied for an order in respect of 70 hours of her time spent battling over the trial bundle which under the directions was supposed to be finalised by the Respondent on 9/3/26. She suggested that the Respondent had acted unreasonably by sending her various (6) draft versions of the bundle and not responding to her 34 comments about the contents which she sent on 8/3/26. She also complained that the Respondent had made unjustified costs warnings.

65. It is clear from the submissions that the Claimant herself delayed in downloading bundles which had been sent to her and that on 3/3/26 (well prior to the deadline on 9/3/26) the Respondents had sent a draft seeking the Claimant's approval, which was then not forthcoming.

66. While I am sure that the Claimant found the process of trial preparation stressful and difficult, as do many litigants in person, I am equally sure that the Respondent's solicitor would have been put to a great deal of difficulty work in trying to finalise an agreed bundle in time.

67. It is not shown that the Respondent or its solicitor acted unreasonably in this respect. Even if it had been, I would have exercised my discretion against awarding preparation time for the following reasons: (i) the Claimant herself waited until the evening before the Final Hearing before serving a 21 page supplementary bundle; (ii) the Respondent acted honestly in disclosing the Lanaido emails; (iii) to save time and assist the trial process Ms

Ifeka went out of her way to assist the Claimant and the Tribunal during the Hearing by pointing out pages and providing page numbers when which the Claimants wished to put to the Respondent's witnesses during cross examination or otherwise refer to in support of her case, (which page numbers the Claimant had not thought to note for herself) and (iv) the Claimant had not prepared any contemporaneous record of the claimed time spent and her 70 hours claimed was simply an estimate.

J S Burns Employment Judge
21/4/2026

Date sent to parties
27 April 2026

SCHEDULE

1. KEY INFORMATION	
Gross annual basic pay	£67,000.00
Gross weekly basic pay:	£1,288.46
Net weekly basic pay:	£1,004.60[1]
Respondent's weekly pension contributions:	£64.42
Contractual notice period (months):	1
Effective date of termination:	04/12/2024
2. BASIC AWARD	
Basic Award:	£1,400
Less Adjustments	
Statutory redundancy payment:	(£1,400)
Total Basic Award:	Nil
3. COMPENSATORY AWARD	
Total Loss of salary for 10 weeks and 3 days:	£10,648.76
Loss of pension contributions for 10 weeks and 3 days:	£682.84
Loss of statutory rights:	£400
Loss of salary due to lower earnings, for 15 weeks[2]:	£103.85[3]
Loss of Bonus:	£2,663.25[4]
Subtotal	£14498.70
Less Adjustments	
Payment in lieu of notice received (net) :	(£3794.93)

[1] This has been calculated by adding the salary sacrifice pension contributions (£558.34) to the money actually received by the Claimant (£3,794.93). This is a net monthly pay of £4,353.27.

[2] Taking losses up to 6 months following the dismissal.

[3] £30 per month difference is a weekly net difference of £6.92. The Claimant suffered this loss for 15 weeks (6.92 x 15 = 103.85), taking the losses up to 6 months following the dismissal.

[4] The Respondent says that the Claimant would have received a bonus equal to 90% of her monthly pay. This would be a gross payment of £5,025.00. Minus income tax at 40% and NI contributions of 2%, leaves net pay of £2,663.25.

Total Compensatory Award:	£10703.77
Contributory fault (35%):	(£3746.31)
TOTAL COMPENSATION	£6957.45

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