



EMPLOYMENT TRIBUNALS

Claimant: Mr L Lassey-Hocking

Respondent Goss Media Ltd

Heard at: Newcastle Employment Tribunal via CVP

On: 16 October 2024, 17 February 2026

Before: Employment Judge Jeram

Representation:

Claimant: Ms Sheerin of Counsel

Respondent: Ms M Mercier, CEO

JUDGMENT having been sent to the parties on 24 February 2026 and written reasons having been requested in accordance with Rule 62(3) of the Employment Tribunals Rules of Procedure 2013, the following reasons are provided:

REASONS

1. By a claim presented on 5 June 2025 the claimant advances a single complaint of unfair dismissal, his claim for redundancy pay having been subsequently withdrawn.

Evidence

2. I heard from the claimant. For the respondent I heard from: Melanie Mercier (CEO), James Trickey (Chief Technology Officer), Piers Cleveland-Copeman (Lead Designer). I also read the witness statement of Chanelle Mather-Shapiro (Chief of Product). I had regard to the contents of an agreed hearing file.

Issues

3. The issues were identified by Judge Aspden in directions sent to the parties in September 2025. They were identified as follows:
 - a. What was the reason for dismissal?
 - b. If it was redundancy, whether the respondent acted reasonably in all the circumstances, including the respondent's size and

administrative resources, in treating that as a sufficient reason to dismiss the claimant? The Tribunal's determination whether the dismissal was fair or unfair must be in accordance with equity and the substantial merits of the case. It will usually decide, in particular, whether:

- i. The respondent adequately warned and consulted the claimant;
 - ii. The respondent adopted a reasonable selection decision, including its approach to a selection pool;
 - iii. The respondent took reasonable steps to find the claimant suitable alternative employment;
 - iv. Dismissal was within the range of reasonable responses.
- c. If the claim succeeds, the chance that the respondent would have nevertheless fairly dismissed the claimant for redundancy had it acted reasonably.

Findings of Fact

4. The claimant was employed from 11 March 2022 as a Quality Assurance Lead for the respondent until his dismissal on 11 April 2025.
5. The respondent is a technology start-up whose core business was the development and operation of a mobile phone application and social gaming platform that allows users to make predictions and place wagers on events such as television programmes, celebrity news and other trending topics.
6. When the respondent was incorporated in 2019, the team consisted of the CEO Melanie Mercer (MM), her co-founder, one software developer and James Trickey (JT), the Chief Technology Officer. Over time, the team grew; at its height it consisted of 20 or so employees. Team members were based in the UK, the US and Canada.
7. The claimant was responsible for recruiting and managing junior quality assurance staff as well as designing and implementing processes. The objective of his role was to ensure functionality, reliability, and overall performance of the respondent's mobile application. He was also responsible for identifying reporting software defects, ensuring compatibility across multiple platforms, and working collaboratively with the development and product teams to uphold high standards of quality throughout the software development cycle. The claimant was one of the most senior members of the respondent's employees. He was in regular contact with MM and JT and having regard to the platform messages he sent to JT, he enjoyed an informal style of communication with JT.

8. The claimants designated place of work when he commenced employment with the respondent was at the respondent's office in London.
9. As a start-up venture, the respondent's continued existence was reliant upon external investment. The claimant understood that this, having prior experience of start up businesses.
10. The claimant's contract of employment contained a restraint clause, preventing him without prior written consent of the Board, from holding any interest in any other business. By May 2023 and thereafter, the claimant was carrying on a property business without the knowledge or consent of the respondent.
11. In 2023, the respondent's product was not developing as expected. There was a growing list of failed features, slow development and recurring bugs that hindered progress. Plans were put in place to identify problems, regroup and improve the situation. The claimant, as lead quality assurance engineer for the product, was likely to be aware of these issues.
12. On 26 July 2023, the claimant gave notice of his intended resignation. He did so, he said, with a 'heavy heart', identifying a number of shortcomings he perceived in the respondent. He listed 5 concerns; he said his primary concern as his 'persistent struggle to maintain a healthy work/life balance' and his secondary concern as being the stress associated with his responsibilities.
13. On 9 August 2023 the claimant said he was willing to reconsider his position, if the respondent was willing to permit the claimant to work remotely, something he described as a 'major change that would significantly benefit his work/life balance and reduce stress'. He insisted on the recruitment of a second QA engineer, a request that MM considered to be excessive but subsequently agreed to. He added that he believed his wages should be reviewed in January 2024. He summarised his position by saying that if the respondent could honour his requests, he would be 'more than willing to reconsider' his decision to leave.
14. The respondent accepted these terms and the claimant thereafter rejoined employment, primarily working from home.
15. On 16 August 2023, the claimant incorporated Lem Well Limited, a company specialising in property management, serviced accommodation and property refurbishment and in respect of which the claimant was the sole director and shareholder.
16. When the respondent spoke asked the claimant to avoid working, as was his tendency, before 7am, to ensure he was available to assist his US

colleagues, it was unaware that the claimant was operating his own business.

17. By October 2024, there were no meaningful improvements to the product and the pressure on the business intensified. There was a litany of bugs, and features were being regularly released in a broken, incomplete or abandoned state before reaching the live app.
18. MM began to prepare funding materials for a third round of funding in October 2024. Such was the concern for the respondent's cash flow, the respondent negotiated a reduced period of contractual notice with two of its employees.
19. MM appraised her staff daily calls of the developing operational and funding challenges faced by the respondent. Her style of communication was direct and she provided a high level of detail. She emphasised in the meetings the growing financial pressure on the respondent, the need for the product team to produce results and to meet targets upon which the next funding round would rely and for the respondent to remain viable. Her calls to her team were 'transparent, uncomfortable and significant'.
20. She informed members of staff including the claimant that securing investment was critical for the respondent's viability and security of employee roles.
21. I accept the undisputed evidence of JT that staff frequently raised concerns about job security in the event that funding was not secured. I accept the respondent's evidence that it was 'inconceivable' that anyone present, including the claimant, could have failed to grasp the seriousness of the threat to their job security.
22. By January 2025, MM was occupied with fundraising on a full-time basis. Throughout January 2025 and February 2025, MM during several meetings informed staff, including the claimant, that she was actively seeking urgent and critical external investment.
23. On 12 March 2025, MM was notified by the potential investor that it declined the opportunity to invest in the business. It was the final source of critical funding for the respondent. At the current rate of outgoings, the respondent was likely to remain solvent for a matter of months.
24. Such was the state of the respondent's finances, on the evening of 12 March 2025, the respondent made two distinct decisions. First, it resolved to take the app offline for an indefinite period. Second, it decided to place at risk of redundancy those employees whose roles involved maintaining, supporting and promoting the app on notice of dismissal by reason of redundancy. Of the 17 staff employed by the respondent at the time, 10 employees, based

in the UK and the US held roles that depended on a live, operational app, including the two members of the QA team, the content creation team, the social media manager and both front end developers; all were given the next day notice of dismissal by reason of redundancy.

25. The respondent conducted research online about how to go about handling a redundancy situation and it took advice from its accountants.

26. On 13 March 2025, JT invited all affected team members in the office to a meeting to discuss the situation; he contacted the claimant, separately, as he was working from home to join the meeting remotely.

27. JT informed the team that:

- a. the business was unable to raise the necessary capital to sustain business;
- b. that the only way to preserve the respondent's remaining resources would be to take the app off-line for an indefinite period whilst further sources of income and investment were sought;
- c. that the consequence of this would be to make the majority of roles redundant leaving only a core team;
- d. he invited questions;
- e. Melanie Mercer would be speaking to every affected employee individually.

28. JT later invited colleagues to meet with him to continue discussions in a local pub. The claimant did not attend.

29. Later that same day, JT emailed the claimant confirming his dismissal on notice on grounds of redundancy. The email confirmed that the claimant's last day of employment was to be 11 April 2025, and that he would be entitled to contractual holiday pay, notice pay and redundancy pay.

30. MM also contacted the claimant on 13 March and they had a brief exchange the following day via a messaging platform. The claimant asked no questions about the decision to terminate his employment, save to say that he was ok *'it came as a shock yesterday but its life, right, so we keep moving. Thanks for the opportunity'*. MM replied that the market was tough and the respondent could not raise the funding.

31. Ten minutes later, the claimant contacted JT and MM to state his belief that he was entitled to 3 weeks' pay, not two weeks' pay as had been earlier indicated. MM relayed to the claimant the advice that she had received from her accountant, namely that the notice period did not count towards the claimant's continuous service.

32. On Wednesday 19 March 2025, MM contacted the claimant again to discuss the reasons for his redundancy, its implications including his

entitlement to holiday pay and his notice pay. She expressed her regret about the situation. They spoke for 36 minutes. She informed him that she had not yet managed to take advice on his redundancy pay. He said he appreciated the call, and that the additional details helped him understand the situation better. The claimant does not suggest that those discussions were inadequate, lacking or required follow up. They discussed the areas of QA work left to be done. After the call, MM messaged the claimant to thank him for being so understanding of the situation.

33. In the weeks that followed, both MM and JT had several conversations with the claimant about the redundancy situation and they spoke openly about the respondent's position.
34. In one of the calls between MM and the claimant, he joked that he would sue the respondent for £10,000 on the basis that a consultation meeting had not been held. MM was rendered speechless by this comment, but the claimant reassured her that he was only joking.
35. On 20 March 2025, MM having taken advice, reverted to the claimant to confirm that his entitlement was, as the claimant claimed, 3 years pay, the third anniversary of employment falling on his last day of employment; she apologised for her error.
36. On 25 March 2025, JT contacted the claimant. He enquired with the claimant about how his search for alternative employment was progressing. During that conversation, the claimant stated that any spare time he had was being spent on developing his business. He added *'you know I have a serviced accommodation, right?'* He attached a link to the website, stating *'2 more being furnished so fingers crossed I can bin QA engineering in the near future, I am genuinely over it'*.
37. When JT replied that he did not know of the claimant's business, he was informed 'the Americans stayed in my flat last summer'. He did not in that exchange suggest that any other person, such as MM, was aware of his business.
38. On 4 April 2025, the app was taken off-line. It remains offline as at the date of the hearing.
39. The claimant's last day at work, was 7 April 2025, when he contacted the respondent to express his gratitude for the experience and wishing everyone 'nothing but the best for whatever's next'.
40. At the date of the hearing, the app remained offline. During 2025, the respondent closed and vacated its office in London.

41. The respondent maintains a skeleton staff consisting of the founder, the Chief Technology Officer, Chief Product Officer, one engineer, one designer, and one data analyst, three of whom have taken a reduction in pay.

The Law

42. A potentially fair reason for dismissal is redundancy: s.98(2) Employment Rights Act 1996.
43. The determination of the question whether the dismissal was fair or unfair, having regard to the reason for dismissal, depends on whether, in the circumstances (including the size and administrative resources of the employer's undertaking) the employer acted reasonably or unreasonably in treating it as a sufficient reason for dismissing the employee and must be determined in accordance with equity and the substantial merits of the case: s.98(4) ERA 1996.
44. In *Williams v Compair Maxam Ltd* [1982] ICR 156 the Employment Appeal Tribunal laid down guidance which a reasonable employer might be expected to consider in making redundancy dismissals:
- a. Whether the selection criteria were objectively chosen and fairly applied;
 - b. Whether the employees were given as much warning as possible and consulted about the redundancy;
 - c. Whether, if there was a union, the union's view was sought;
 - d. Whether any alternative work was available.
45. 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.
46. Fair 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.
47. Whether consultation is adequate is a question of fact and degree, and it is not automatically unfair that there is a lack of consultation in a particular respect: *Mugford v Midland Bank* [1997] IRLR 208.
48. The Tribunal must also bear in mind that a failure to act in accordance with one or more of the principles set out in *Williams v Compair Maxam* will not necessarily lead to the conclusion that the dismissal was unfair. The Tribunal must look at the circumstances of the case in the round.

49. The '*Polkey principle*' established by the House of Lords is that if a dismissal is found to have been unfair then the fact that the employer would or might have dismissed the employee anyway had the employer acted fairly goes to the question of remedy and compensation reduced to reflect that fact. In *Hill v Governing Body of Great Tey Primary School UKEAT/0237/12/SM* the Employment Appeal Tribunal held that a "Polkey deduction" has these particular features. First, the assessment of it is predictive: could the employer fairly have dismissed and, if so, what were the chances that the employer would have done so? The question as to what a hypothetical fair employer would have done is not the test: the Tribunal has to consider not a hypothetical fair employer, but has to assess the actions of the employer who is before the Tribunal, on the assumption that the employer would this time have acted fairly though it did not do so beforehand.

Discussion and Conclusions

50. The claimant at the outset of the hearing accepted that there was a potentially fair reason for dismissal, namely redundancy. The matters to be addressed are therefore (a) whether the dismissal was fair within the meaning of s.98(4) ERA having regard to the guidance in *Williams v Compair Maxam* and (b) in the event that the dismissal is unfair, the chances of the respondent nevertheless dismissing the claimant for redundancy had it acted fairly.

51. The case takes place in a relatively unusual context. The respondent was a start up business. The CEO, MM had a direct and transparent style of leadership. She provided information at high level of detail to her team and so regularly; she did not 'pull her punches'. The respondent's sole venture was the development of a mobile application and gaming platform. The viability of the respondent relied entirely on external funding. The respondent's prospects of attracting external investors in turn relied on its ability to demonstrate a product with attractive prospects.

52. The respondent was small company, and at the relevant time there were 17 employees. The claimant was a senior employee with open access to senior management including MM and JT. His style of communication with JT was casual. He was the quality assurance lead. He knew in 2023 that the product presented development concerns. He was also aware of the high risk nature of start up companies.

53. Insofar as it was not already obvious to the claimant given his role in quality assurance, in or around October 2024 MM explicitly informed her team that the state of the app was having a direct impact on the ability to attract further funding. She confirmed that there were implications for job security in the event that funding was not secured. By January / February 2024, the

claimant knew that that need for funding was urgent and the risk of collapse was not only real but imminent.

53. I turn to the question of warning, reminding myself that it is a general but not an absolute requirement of a fair procedure to warn affected employees. On the facts as I have found them to be, the respondents' employees were given a general warning by MM towards the end of 2024 that the future for the respondent was sufficiently precarious that job security was at risk. The message, however expressed by MM, was sufficiently clear to members of the team that some voiced their concerns about their own job security. MM did not assuage those fears.
54. The claimant knew that MM was encountering problems raising funding that was essential to continue developing a product that he knew had presented problems since 2023. He and his team members were aware of the real risk to job security by the end of 2024 and in any event by no later than January / February 2025 they were aware that the situation was critical.
55. It is against those observations that I do not consider the absence of an individual warning to be of such significance to have caused the claimant any, or any significant prejudice.
56. For the avoidance of doubt, I am satisfied that the single occasion on which the claimant professed surprise (*"it came as a shock yesterday but its life, right, so we keep moving. Thanks for the opportunity"*) was in respect of the timing of the news, rather than a failure to appreciate that a lack of funds meant that the respondent may no longer be able to afford to retain its employees.
57. The respondent decided to take the app offline for an indefinite period. That was a commercial decision for the respondent alone to take. It decided to place at risk all those employees whose roles were directly involved in the development of the app. That was a decision that was clearly within the band of reasonable responses. The product was the whole of the respondent's business. Without an app, it no longer required employees to work on any aspect of the app whether in design, development or quality assurance.
58. Whether a fair consultation has taken place is a question of fact and degree. On the question of adequate information, I take the view that the daily, detailed and direct meetings held by MM are part of that analysis. The claimant was aware of the inherent financial risks associated with a start up businesses because of his own knowledge and experience and he was aware of the evolving risks to this respondent because of the information provided by MM in her daily meetings. The circumstances were factually simple; the venture relied on securing external funding in respect of a product that had encountered problems. That was information of which the

claimant was aware since 2023. By January 2025, he knew that imminent funding was critical to the respondent's viability. On 13 March 2025 JT provided to the claimant and other affected employees additional information, namely the respondent had decided to take the product offline for an indefinite period and they had been selected for redundancy. By this date, the claimant received all relevant information relating to the decision to place the claimant on notice of dismissal.

59. On 13 March, the claimant was offered an opportunity to meet with JT albeit he declined. There were two occasions when the respondent met with the claimant individually to discuss the redundancy situation, on 14 March 2025 (albeit briefly via an online messaging application) and on 19 March 2025 by telephone. The claimant did not then, or at any stage during the 4-week notice period challenge his selection for redundancy, make any suggestions to the respondent about ways in which his dismissal might be avoided, despite being in regular contact with MM and JT. The claimant did not seek any information beyond that which the respondent had provided him with. He did not raise any other matters.
60. Neither the respondent nor the claimant at any stage during the claimant's employment raised the prospect of alternative employment because they each knew that there were no vacancies.
61. The claimant argues that either there was no, or no adequate, consultation because of the timing of those meetings. I see nothing to criticise in the respondent's decision to consult with employees during their notice period to discuss on an individual basis the reason for the decision to place them on notice of redundancy. The respondent acted in good faith throughout. I have no reason to doubt that in the unlikely event that the respondent received investment, it would have retained its product team because, at the risk of repetition, the product was the business. In the event, the respondent chose to retain its product team until its finances could no longer support their continued employment. In essence, the claimant seeks to criticise the respondent in the timing of its actions, i.e. for prolonging employment for as long as it did before giving notice of redundancy to its employees.
62. For the avoidance of doubt, I do not consider that the lack of formal invitation to a consultation meeting is a significant factor in my considerations, on the facts of this case. The claimant was a senior employee who enjoyed direct and regular if not daily access to the CEO and CTO. His written communications with JT were casual in style. It was open to him to raise any shortcomings in the quality of information he had been provided with, or to raise any matters that had since occurred to him, but he did not. Those omissions are significant given that, on the evidence before me, the claimant not only knew of the importance of the obligation to consult, since he joked with MM about suing the respondent for the lack of a formal

procedure. He does not now credibly suggest that he required a formal invitation or was in some way deprived of an opportunity to explore lines of enquiry that may have avoided his dismissal, because of that lack of formal invitation.

63. Notably, however, on the single occasion that the claimant did initiate contact with MM and JT about the redundancy situation, it was to correct the calculation of his notice pay. That is, in my view, not without significance, for the reasons that follow.

64. I take the view that the claimant had no interest in prolonging his employment with the respondent or even continuing a career in quality assurance for that matter: his imminent dismissal provided him, as he informed JT on 25 March 2025, with an opportunity to concentrate on developing his existing property business. It was not only his preferred course, but it was one that the claimant knew was the only realistic course; unless the respondent contrary to all expectations secured an immediate and significant funding injection for a product which had presented longstanding quality concerns, the future for the respondent as a whole was bleak if not terminal.

65. I am satisfied that in the particular circumstances of the case, such consultation as did take place was adequate.

66. The claimant was not provided with an opportunity to appeal his dismissal. The absence of an appeal stage is one factor to be considered in determining fairness, there being no requirement under s.98(4) ERA. Although there was no obligation on the claimant to seek an appeal, I note that, despite being generally better informed than MM or CT about the consultation procedure and the calculation of his notice pay, he did not whether before or after his dismissal seek to discuss with the respondent any method by which his dismissal might be avoided. Neither did he seek to persuade me that the lack of an appeal deprived him of an opportunity to discuss how his employment might be retained. The lack of appeal did not in fact cause the claimant any identifiable or significant prejudice.

67. The claimant submits that his dismissal was unfair because the respondent should have invited volunteers for redundancy but failed to do so. Related to this, he also submits that his dismissal was unfair because the respondent failed to consider reducing the pay of other employees to enable it to afford to retain the claimant for a longer period of time (the claimant not disputing the state of the respondent's finances by March 2025). I cannot accept either of those arguments. It was a commercial decision for the respondent alone whether to, and when to, discontinue the app. It is not for this tribunal to impose its own standards or determine whether the respondent should have behaved differently. The test is whether dismissal lies within the range of conduct a reasonable employer could adopt. By the

effective date of termination of the claimant's contract, the respondent had already taken the app off line. There was no product in respect of which the respondent required a quality assurance lead, even if it could conceivably have arranged its finances to so as to retain the claimant for a longer period. The dismissal at the time it took place was plainly conduct that falls within the range of reasonable responses.

68. The claimant also suggests that the respondent should have considered 'bumping' one of the members of the core team to enable the claimant to be retained in their role. The claimant made no such suggestion during his employment and he was unable to identify which of the roles of the core team he would be suitable for employment in. I do not consider this to be a significant factor in my analysis.
69. Looking at the picture in the round, I am satisfied that the dismissal of the claimant was fair within the meaning of s.94(4) ERA.
70. If, contrary to the findings above, I had found that the procedure adopted by the respondent was unfair, my findings in the alternative were as follows. The background facts were straightforward and well known to the claimant. The lack of funding effectively terminated the respondent's ability to continue with working on the app. I am satisfied that this respondent could have fairly dismissed the claimant and having regard to the claimant's submission that a fair consultation procedure would have led to an extension of the claimant's employment by up to 2 weeks, I would have found that his employment would likely have been fairly terminated after one further week, allowing for 1-2 further meetings.

Employment Judge Jeram

Date: 12 May 2026