



EMPLOYMENT TRIBUNALS

Claimant: Mrs L Harris-Pugh
Respondent: Net Natives Ltd

Heard at: London South (by video) **On:** 2-6 February 2026

Before: EMPLOYMENT JUDGE CORRIGAN
Mr C Mardner
Mr P Adkins

Appearance

For the claimant: In person
For the respondent: Mr S Evans, CEO

REASONS

For the Judgment dated 16 February 2026 (superseded by reconsideration judgment dated 24 April 2026)

1. These reasons address the reasons for the decision on liability and the decisions in principle in respect of remedy. The actual calculations were addressed in the reconsideration judgment and the reasons for the changes made and the final calculations were provided at the time of sending the reconsideration judgment.
2. By her claim form dated 24 May 2024 the claimant brought a claim of automatic unfair dismissal under section 99 Employment Rights Act 1996 and pregnancy/maternity discrimination under section 18 Equality Act 2010.

Issues

3. The relevant issues were set out in the Case Management Orders dated 11 June 2025 and were as follows. Part of the relevant issues for the discrimination claim had been excluded but are set out below. The unfair dismissal remedy issues have not been set out as the claim for unfair dismissal was not successful so those issues were not relevant. Similarly only the relevant issues for the discrimination remedy are listed here:

Unfair dismissal

- 3.1 What was the reason or principal reason for dismissal? The respondent says the reason was redundancy, the claimant says the reason was her pregnancy.

- 3.2 Was the reason or principal reason for dismissal the claimant's pregnancy?

Pregnancy and Maternity Discrimination

- 3.3 There was no dispute the claimant was in the protected period as she was pregnant.

- 3.4 Did the respondent treat the claimant unfavourably by doing the following things:

- 3.4.1 Carrying out an unfair redundancy process;
- 3.4.2 Dismissal;
- 3.4.3 Not appointing the claimant to suitable alternative employment.

- 3.5 Was the unfavourable treatment because of the pregnancy?

- 3.6 Was the unfavourable treatment because the claimant was seeking to exercise the right to ordinary or additional maternity leave or equivalent maternity leave?

Remedy for discrimination

- 3.7 What financial losses has the discrimination caused the claimant?

- 3.8 Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

- 3.9 If not, for what period of loss should the claimant be compensated?

- 3.10 What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

- 3.11 Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?
- 3.12 Should interest be awarded? How much?

Hearing

4. The tribunal heard evidence from the claimant and Mrs Megan Turner (former colleague) on the claimant's behalf. The tribunal heard evidence on behalf of the respondent from Mr Steve Evans (Founder/COO) and from Ms Lorraine Hawkes (Head of People).
5. There was an agreed evidence file of 253 pages. The parties had included a without prejudice meeting but this was removed at the tribunal's request. Additional documents were provided during the hearing and added to an additional file. The respondent also provided organisational charts.
6. Based on the evidence heard and the documents before us the tribunal found the following facts.

Facts

7. The respondent is an advertising agency dedicated to supporting the Higher Education sector. It has clients in the US, UK and elsewhere.
8. The claimant was employed as a Senior Account Director from 10 October 2022. Her basic salary was £65,000 plus commission.
9. The respondent has a written maternity policy which includes some enhanced benefits. After one year's service maternity benefits are 100% salary for the first 8 weeks of maternity leave, 80% of salary for 10 weeks and statutory maternity pay for 21 weeks. The respondent also offers paid "self-care days" in the first 2 weeks after a return from maternity leave. For staff with 3 years' service there is super enhanced maternity pay. The rights are set out on page 209 of the evidence file.
10. The claimant told her Line Manager she was pregnant on 17 August 2023. At that time the structure of the Client Services UK included a Head of Client Services UK managing 3 Account Director roles (including the claimant's) and the Head of Campaigns Strategy, who had a number of roles reporting into her. There was also a US Client Services team, also consisting of a number of Account Directors reporting to a Head of Client Services – US.
11. The claimant was informed her Line Manager was leaving on 27 September 2023. Initially the claimant understood she was to be offered the role but then underwent a competitive process with another account director. He was

- successful. When she discussed feedback with Mr Evans on 24 October 2023 he did make a comment that she would not have got up to speed before maternity leave. He did however also say he was looking for a more senior strategic role for the claimant at that time. Despite that comment we have accepted that the successful candidate did score better, as was confirmed by Ms Turner. She herself had been on the panel and scored him higher.
12. Moving forwards the team consisted of the Head of Client Services, the Claimant as a Senior Account Director and an Account Director on a lower basic salary of £50,000.
 13. The respondent suffered significant losses of £165,113 in 2022 and £1,531,039 in 2023. We accept Mr Evans' evidence that the respondent had a substantial 7 million pound salary bill and that the cost of maternity leave was "a drop in the ocean" in comparison. Although the business remained solvent the senior leadership team were looking for ways to address the financial challenges going forwards. The respondent sought alternatives to redundancy like part time working/reduced hours in November 2023 but there were no volunteers.
 14. The claimant formally informed the respondent that she was pregnant in December 2023.
 15. Due to the losses explained above and the respective opportunities in the US and UK markets the Senior Leadership team decided a change in strategy to focus on the growing US market and cease trying to grow their UK business, though they were to maintain existing business. They also wanted to simplify by centralising the advertising department. This was not initially communicated to staff. Only Ms Hawkes was informed so that she could prepare for the consequential redundancies. The decision did impact the UK Client Services department as their focus was UK tenders and winning UK clients.
 16. On 15 January 2024 an OES pitch opportunity was diverted from the claimant to another colleague with more online experience. This was as a result of the nature of the tender (being in respect of online education) and the feedback of the client. It did not have anything to do with the claimant's pregnancy.
 17. The claimant was approached by a University potential client with a closed invitation to tender. Managing tenders had been a large part of her role and as set out below was a strength of the claimant. She was told that Mr Evans would be taking the lead without explanation. She was also excluded from a meeting with another University on 25 January 2024. This was due to the new strategy meaning the respondent was not intending to pursue this kind of opportunity going forwards (lower value UK tenders) but the claimant was not informed as the respondent's senior leadership team were not yet ready to share this with the company as they did not want to destabilise it prematurely. In the absence of explanations she believed it was because of pregnancy. Ms Turner also reached similar conclusions due to comments made about the claimant to her.

18. On 5 February 2024, the CEO announced the change in strategy to staff and that some roles would be at risk. The Respondent placed the UK Account Director team, including the Claimant, at risk of redundancy and wrote to the Claimant that day inviting her to consultation (p93). The meeting was initially scheduled for 7 February 2024.
19. The claimant wrote to Mr Evans on 6 February 2024 stating that 48 hours was not enough time for her to get the legal advice she needed before the meeting. She said that as she was 32 weeks pregnant and at risk of losing her job without any prior notice she was very stressed. She said that in order to ensure her mental health and the health of her baby was prioritised at this time she would appreciate a reasonable amount of time to digest the news and get the legal assistance she needed. She requested 4 working days and a meeting on 12 February 2024.
20. Mr Evans responded to Lorraine Hawkes saying he would be on holiday but would dial in, but saying "But do we need to do this?" He did instruct Ms Hawkes to respond with "whatever is right" (p96).
21. Ms Hawkes replied to him stating this was a reasonable request but would impact the outcome meetings of the other Account Directors unless they took voluntary redundancy (which they ultimately did). She replied to the claimant saying that of course they could change the date as requested and advising the claimant of EAP support. Then on 7 February Mr Evans wrote directly to the claimant asking to move the meeting to the afternoon of 9 February. The claimant responded that this did not give her the time she fully needed but due to her current state of mental health due to this situation which she said was also affecting her unborn child, it would be best to have the meeting before the weekend and so she did agree to a change (p98). Ms Hawkes replied saying she was sorry to hear how stressed the claimant was and thanking her for being accommodating.
22. The first consultation meeting therefore took place on 9 February 2024, chaired by Mr Evans, with Ms Hawkes present. The claimant was accompanied. Mr Evans confirmed that the Account Director function was at risk of redundancy due to the new dual strategy of the company of changing the focus from UK tender growth and bringing the advertising expertise closer to the clients. He confirmed there were 3 alternative vacancies. The claimant said she had reviewed them and was not interested. Mr Evans proposed the Lead Campaign Commercial Strategist might be of interest; the Claimant stated that it was unsuitable because it was approximately £20,000 lower in salary. Mr Evans said it also had the opportunity for commission. The claimant said she already earned commission.

23. In fact this new role had the capacity to earn commission on work with all clients that was currently shared by all three Account Directors and the respondent's view was it had the potential to earn more than the claimant currently earned. This was not explained in the meeting or at all during the process.
24. The claimant also asked about the Head of Global Advertising. Mr Evans said this was an internal promotion and not a new role and that it involved creating advertising strategies for clients and a detailed understanding of media. The claimant argued it should have been available and ring-fenced for redundant employees. Mr Evans said he would look into this but also that the consultation process was now complete and there would be an outcome meeting. If made redundant the role would cease immediately and she would be paid in lieu of notice. In discussing the above role Mr Evans did say there are a number of new promotions with reference to new business in the US.
25. The claimant noted again that she was 32 weeks pregnant and that the redundancy pay was less than statutory maternity pay (according to claimant's note- this was recorded in the respondent's note as redundancy pay) She said she would need to interview for other jobs whilst in hospital having the baby and the process had affected her mental health. She said she had not seen evidence of the restructure or new strategy. Mr Evans confirmed there had been 5 layoffs in the US and 4 redundancies in the UK so far. There were 4-5 other employees at risk. He said he could not give any further details of the restructure until the process was complete but he did say (according to the claimant's note) that they were combining departments to create a central advertising department. He said they hoped to keep the process as short as possible. The claimant presented a timeline of discrimination she felt she had experienced (the timeline that she has referred to in these proceedings). Very soon after the meeting Mr Evans then wrote the email at page 115 informing the claimant that other roles discussed like the Global Advertising Strategy was a change in job title for an existing employee who was taking on additional responsibilities in their current role and not available roles to be considered as part of the redundancy process. At 5.22pm the same day the claimant was also told the company was in a position to make the decision and invited to the outcome meeting on 12 February 2024 (Monday).
26. The claimant replied on the Monday morning saying she had just seen the invitation and asking for 2 days' notice of the meeting. She explained reasons why she was not ready for a meeting that day and again stated she was now 33 weeks pregnant and again said that because of the mental stress the redundancy had caused her on top of the stress she was naturally under this late in her pregnancy that she needed sufficient time to be ready for the meetings.
27. The respondent agreed to change the meeting and explained about the roles raised by the claimant being job title changes.

28. The Lead Campaign Commercial Strategist was a suitable role for all three Account Directors. If more than one of them had been interested there would have been a competitive process. However the two other Account Directors were taking voluntary redundancy and moved to similar roles with competitors. Mr Evans said all three could have easily moved to that role but that it was a more natural fit for the other two who have done those kind of roles previously. Ms Turner said in her evidence that after the redundancy he had said to her more than once that it was a shame the third Account Director had not taken the role. The basic salary was nearer to her existing salary. Ms Turner in evidence said that the most senior Account Director was the most obvious fit which was not challenged. The Claimant was essentially his third choice and was not likely to have been the successful candidate in a competitive selection. Her strength was her role in the tenders in the UK market and securing new leads, which were not going to be the focus anymore.
29. The paperwork in respect of the Lead Campaign Commercial Strategist was then therefore modified for external advertisement. The claimant saw the change and asked Ms Hawkes about it by email dated 12 February 2024 (p116). She noted that the reporting line had changed from Head of Global Advertising Strategy to Advertising Director. The claimant asked if this was also a newly created role. Ms Hawkes explained about the external advertising and explained that the Advertising Director was a change in title from Media Director for an existing employee due to additional responsibilities. The other change in that document is that the basic salary had been reduced to £40,000 but it did state that the estimated earnings with commission would be £80,000.
30. All that was said about the role which was available was that it had now been prepared for external advertising. By this time it was known that the other two Account Directors were not interested in this role for the reasons above.
31. The outcome meeting took place at 9am on 14 September 2024. The claimant's employment was terminated. She was not to be required to work her notice and was to be paid 12 weeks' in lieu. The claimant was invited to appeal and lodge a grievance. There was no further discussion of the Lead Campaign Commercial Strategist role that was available. This was also not mentioned again in the confirmation letter sent shortly after the meeting. There was no mention of her right to statutory maternity pay and at some point the claimant had been erroneously told she was not eligible for this (by her appeal she said that she had raised a point about maternity pay multiple times during the process and been told she was not eligible). A few hours after the meeting a letter was sent to clients explaining the situation.
32. The claimant appealed stating "It is myview that the process was unfair and pre-determined. Leading up to the final decision I complained several times that work was being taken from me and/or my role graded downwards...A

suitable role was not offered to me despite one being available.” She suggested it was all orchestrated to remove her because she was pregnant.

33. The appeal was heard by the CFO on 28 February and the appeal was dismissed on 8 March 2024. At the meeting the claimant reiterated that her work had been removed without reason and that this made it easier to put her role at risk. She said she was offered the Lead Commercial Strategist that was not suitable as she would be forced to take a £20,000 pay cut. The CFO did ask more questions about this and she confirmed the role was below her experience and qualifications but “also it was not right to take a £20k pay cut before heading out on maternity leave”. Her focus was on the other roles she should have been offered. She complained again about the impact on her mental health and the short notice of meetings. She also had a question about statutory redundancy pay vs statutory maternity pay. She acknowledged she was not entitled to redundancy pay due to her length of service but explained that as she was dismissed within 15 weeks of her due date she was entitled to statutory maternity pay. She asked when she would be paid it and was told this would be investigated separately to the appeal. The appeal outcome letter is at pages 143-144. It did not address the claimant’s understanding of the £20,000 pay cut just before maternity leave.
34. On 4 March 2024 Ms Hawkes confirmed the claimant would be paid £7,624.80 statutory maternity pay, less tax and National Insurance.
35. The claimant was due to start maternity leave in mid-March and she gave birth on 24 March 2024.
36. The Head of Client Services-US was made the Director of Client Services US managing 7 account directors in the US. Both roles (both before and after the change in strategy) were at a higher level than the Claimant’s role and have a US focus. The postholder had been working with the company since 2018 and had been Head of Client Services US for a couple of years.
37. The Head of Campaigns Strategy, part of the claimant’s team before the re-structure, was a strategic role overseeing campaigns not clients. This role was moved into a new Advertising Department following the removal of the Client Services UK team. The alternative role discussed with the claimant would also have been in that department, reporting to the Head of Campaigns Strategy. This did represent a promotion for the holder of the Head of Campaigns Strategy role as that role had previously been on the same level as the claimant’s Account Director role.
38. Ms Turner was Head of Marketing and she too was due to start maternity leave in the near future. After the claimant’s redundancy, in March, Mr Evans began speaking to a former member of the Marketing Department about the need for maternity cover for Ms Turner’s role and the strategy change to focus on US growth. This person had been the person who had built the US team and had

- worked in the marketing department for 5 years before moving on to another employer 2 years before. He had also worked for Mr Evans' wife and was a long-term friend of Mr Evans. There was genuine excitement between the two about the future. He was offered a fixed term as Marketing Director to coincide with Ms Turner's maternity leave but the plan was he would become permanent and Ms Turner would report into him.
39. The claimant was badly affected by the redundancy and spent the end of her pregnancy in bed and the start of her baby's life worrying about getting work. She had an interview two weeks after the birth which she felt did not go well. Her husband did not take paternity leave due to their financial concerns. She attended interviews during her maternity leave.
40. There was a second round of redundancies in around October 2024. Ms Turner was then on maternity leave. She, and not the Marketing Director on the fixed term, was put at risk. Bumping was discussed with her but, whatever she was told, she rightly got the impression they preferred to keep him because of his US experience and she took voluntary redundancy. She felt this would not have happened if she was not on maternity leave. She did say to Mr Evans at the time that although she was sad to leave she understood she did not have the US skills for the direction they were going.
41. Ultimately the claimant did get work on 5 December 2024, returning to work directly for a University similar to the work she had done prior to joining the respondent. At that stage she had fully mitigated her financial loss.

Relevant law

42. The claimant did not have sufficient service to claim ordinary unfair dismissal. Section 99 Employment Rights Act 1996 and regulation 20 Maternity and Parental Leave Regulations 1999 provide that a dismissal (or selection for redundancy) is automatically unfair if the reason or the principal reason is the pregnancy of the employee or that she sought to take ordinary or additional maternity leave.
43. Regulation 10 provides that where a redundancy situation arises during maternity leave the employee is entitled to be offered a suitable alternative vacancy. From 6 April 2024 this protection also applies to pregnant employees.
44. Section 18 Equality Act 2010 provides that an employer discriminates against a woman if, during her pregnancy, they treat her unfavourably because of the pregnancy or because she is seeking to exercise her maternity leave rights.
45. Unfavourable treatment is because of pregnancy/maternity rights if it, or the reason for it, is inherently or necessarily unfavourable to a woman who is

- pregnant or seeking to exercise her right to maternity leave (for example because it is the application of inherently discriminatory criteria) or, alternatively, because the treatment is consciously or subconsciously motivated by the pregnancy/maternity leave (See for example *Amnesty International v Ahmed* [2009] ICR 1450, *Onu v Akwiwu* [2014] ICR 571 & *Indigo Design Build and Management Ltd and anor v Martinez* EAT 0020/14).
46. Section 136 Equality Act 2010 provides that if there are facts from which we could decide, in the absence of any other explanation, that there was discrimination, then we must uphold the discrimination claim unless the employer proves that they did not discriminate.
47. The Vento bands at the relevant time included the lower band of £1,200 - £11,700 (less serious cases) and middle band of £11,700- £35,200.
- Conclusions**
- Unfair dismissal**
- What was the reason or principal reason for dismissal? The respondent says the reason was redundancy, the claimant says the reason was her pregnancy. Was the reason or principal reason for dismissal the claimant's pregnancy?*
48. We accept the principal reason was redundancy. We accept that the decision was made by the Senior Leadership Team to cease to try and grow UK work in a difficult market and to focus on the US market with opportunities there for growth. We accept that the entire account director function was deleted because it was no longer required.
49. There were other redundancies as well as the account director roles and there were women on maternity leave who were not put at risk. Out of 6 women who were pregnant or on maternity leave at the time, 4 remained employed and 2 were made redundant.
50. We accept that the claimant's role was one of those deleted in the process due to the decision to focus on the US opportunities. The claimant had not triggered the protection of regulation 10 Maternity and Parental Leave Regulations 1999 i.e. that she should be offered a suitable role ahead of others. She would have had that protection if her maternity leave had commenced. The change to the legislation to cover those who are pregnant but not yet on maternity leave did not come into force until April 2024.
51. Even if she had, there were reasons why the other roles that were not offered were either not suitable or not really vacancies. Those reasons had nothing to do with her pregnancy or maternity leave. The one available role was discussed with the claimant and she said she was not interested.

52. The claimant was not selected for redundancy because she was pregnant or about to go on maternity leave.
53. We did explore whether the speed of the process was at all related to avoiding the additional protection the claimant would have acquired once she started maternity leave but we were satisfied this was not on the respondent's mind.

Pregnancy and Maternity Discrimination

Did the respondent treat the claimant unfavourably by doing the following things: Carrying out an unfair redundancy process; Dismissal; Not appointing the claimant to suitable alternative employment.

54. We do conclude the redundancy process was unfavourable and the alternative role available was not fully considered with the claimant prior to the decision to dismiss. The consideration it was given was lacklustre.
55. The full rationale of the restructure was not properly explained at the outset, for example with the detail of what the structure would look like going forwards and how the various roles were being changed. The decision about whether the role was to be removed was not separated from the next stage of whether there was suitable alternative work.
56. Insufficient details were given of the alternative work that was available. The claimant learned more from the external advert than from her own consultation meeting. The fact that there was greater opportunity for commission than she had in her current role was not explained. It was not explained that she would have the chance to earn commission on all the accounts whereas currently this was shared by three current postholders.
57. The claimant was not adequately informed during the consultation of the payments she would get if she was made redundant, in particular that she would still be paid statutory maternity pay.
58. The process was too quick with no time to digest the situation, particularly for a woman at that stage of pregnancy and so close to the start of her maternity leave and her due date. We consider that is a particularly vulnerable time to be facing redundancy. At that stage of pregnancy the pregnancy is likely to be showing visibly and she has likely planned for maternity leave and the focus is on that and the birth. It is a very difficult time to have those plans upended.
59. Even when the claimant asked for more time for this very reason the meeting was brought back forward to suit Mr Evans.
60. The claimant's concerns about why work was taken away were not addressed.

61. Having not properly explained the new structure at the outset, the process then missed a stage which was to come back and discuss with the claimant the reasons why the other roles were created or postholders promoted, why they were not suitable or why they were not really vacancies. That needed to happen in the context of her already understanding the change in structure being imposed and shift in focus to the US. There was also no revisiting, with all the relevant information after time to digest it, the alternative role that was available.
62. The claimant had made clear that her concern was the significant drop in income. There was no thought about that or effort to reassure her of the level of commission. There was no thought to the specific impact on her with impending maternity leave which would mean she would not have the opportunity for commission in the short term and in the absence of salary protection would be taking a real cut during maternity leave, save that it was assumed the impact was not significant because she was intending to return after six months. There was no thought to whether that drop in salary was so significant that it warranted a period of notice, possibly even contractually required this, which would impact the maternity pay she was entitled to. There was also no revisiting of the alternative role once it was clear the others were not interested and it could be offered to the claimant without a competitive process. A fair process would have properly informed and consulted in respect of all of this with time to consider and make a fully informed decision.

Was the unfavourable treatment because of the pregnancy? Was the unfavourable treatment because the claimant was seeking to exercise the right to ordinary or additional maternity leave or equivalent maternity leave?

63. Unquestionably the respondent created a very difficult situation that had a disproportionately disadvantageous effect on the claimant because she was pregnant and about to take maternity leave. However there is no equivalent to a failure to make reasonable adjustments type claim for pregnancy discrimination and the claimant did not bring an indirect sex discrimination claim. This was also not an ordinary unfair dismissal claim as the claimant did not have the requisite length of service.
64. The question for us is whether the treatment or the reason for it was either inherently discriminatory or it was consciously or subconsciously motivated by the pregnancy.
65. We find that there are primary facts from which we could, in the absence of an alternative explanation conclude that the reason for the unfavourable treatment was pregnancy or the impending maternity leave. These include the timing and the events that occurred between her announcing her pregnancy and the date she was due to begin maternity leave. Firstly during that time work was taken

- away from the claimant without explaining the rationale to her. Secondly the other candidate was appointed to the head of client service role and the comment was made during feedback about not having time to get up to speed before maternity leave. There was also the speed of the redundancy process coupled with the fact that her colleagues were a better fit for the alternative work available but she was about to have greater protection than them in a redundancy situation once her maternity leave commenced. There was very lacklustre encouragement from Mr Evans when discussing that alternative position with the claimant, alongside a failure to properly inform her of its terms and deal with her concerns about them – which were surmountable. The commission was expected to give better salary and it was open to the respondent to think about protecting her salary in the early period of her maternity leave (especially as slowing down the process and giving her the contractual notice in advance of the salary reduction would have gone some way to mitigating that effect).
66. We considered that these facts shifted the burden of proof. Turning to the explanation provided by the respondent, we were satisfied that pregnancy and maternity leave had nothing to do with the decision to make the role redundant. As set out above for the unfair dismissal claim, the reason for the redundancy was the decision to stop growing the UK market and maintain services for existing clients only. We are also satisfied that work was removed from the claimant either because of the online focus or because of the decision to stop tendering prior to telling staff about the redundancies.
67. We accept that the respondent was concerned to minimise disruption to the business for those who would be staying after the redundancies and this was why once the decision was made, the respondent's motivation was to complete the process and the dismissals very quickly. They were not motivated by the impending maternity leave and additional protection that the claimant would have once on maternity leave. The speed of the process was just about prioritising the people who were staying. The respondent underestimated what was involved and did not understand the overwhelming task for the one HR Manager to handle the redundancy process.
68. The failure to consider the claimant for the roles she highlighted in the process was not to do with her pregnancy but to do with the skills and experiences of those who were given the positions. The Marketing Director role was not discussed with the claimant because Mr Evans specifically wanted that person back in the business as he was his friend and had US experience, it was after she had already left and was partly a strategy to cover Ms Turner's maternity leave.
69. However, the respondent was not really thinking of the claimant for the alternative position that was available and which would have been the best mitigation of the impact of the redundancy on the claimant as she went on maternity leave. There are a number of factors that together mean we are

- unconvinced that her upcoming maternity leave played no part in that thinking. We find it likely that at least part of the reason for the respondent not really thinking of the claimant for that role was that the claimant was about to go on maternity leave, though this was not the only reason. These factors were the comment by Mr Evans in the earlier recruitment to the head of team role that she would not have been up to speed before her maternity leave (which would be even more the case when she was just weeks away from maternity leave); the lacklustre encouragement to consider that role; the failure to give the claimant time and further meeting to properly consult her about the terms of that role, along with the comments about it being a shame that her colleague had not taken that role (without mention of the claimant).
70. There are also aspects of the redundancy process that required specific consideration of and consultation about, her position as someone about to go on maternity leave. The failure to address this was inherently discriminatory because she was pregnant and about to start maternity leave. The remuneration package offered in respect of the suitable alternative employment was inherently unfavourable if the respondent was going to (as both parties assumed) apply the cut to basic pay immediately without notice and allow it to impact the enhanced maternity pay she had been expecting to receive. There was no express communication of that but the Claimant was not corrected when she expressed her assumption during the process and Mr Evans confirms this was to be the position in his witness statement.
71. The respondent was offering pay in lieu of notice versus a job that had a lower basic pay and relied more heavily on commission. The failure to consider the impact on the claimant's enhanced maternity benefits if she took the alternative role was inherently discriminatory. The new pay package whilst having the potential to be better than her existing package if she were not going on maternity leave would uniquely disadvantage the claimant as it would reduce her enhanced maternity pay if the reduction was applied immediately, as she would not have the chance to earn the commission before her maternity leave. It might not have been necessary to give contractual notice of the change to a person who could earn the commission straight away but the failure to consider giving any kind of notice of the change would have had an impact on the claimant due to the reduction in salary during maternity leave.
72. The failure to correctly inform the claimant of the impact of the redundancy on her statutory maternity pay rights (and erroneously telling her she was not entitled to statutory maternity pay for unexplained reasons) is also inherently unfavourable to her due to the proximity of the maternity leave.
73. During the process the claimant did raise that the situation was uniquely unfair to her due to her stage of pregnancy and pending maternity leave but there was no effort to rectify it even though Ms Hawkes acknowledged in evidence said it was open to them to protect the pay if she had asked. They may even have

been contractually obliged to give the contractual notice before cutting the basic salary. All of these failures of the consultation were specific to the claimant's position of being in late pregnancy and about to start maternity leave and were inherently unfavourable to her because of that.

74. We therefore find the failure to properly inform and consult about the alternative role including how it would affect her enhanced maternity pay and benefits versus the financial package due to the claimant because of her maternity leave if she chose redundancy did amount to discrimination under section 18 Equality Act 2010.
75. We considered that at the remedy stage we would need to consider whether or not the claimant would still have turned down the alternative work even if there had not been a discriminatory process. We also had to consider whether to award compensation on the basis of the lower level role for at least some of the maternity period. We also considered it would be necessary to apportion injury to feelings as some of the stress and upset would have occurred even without discrimination due to her own role being made redundant at that time of her pregnancy.
76. We went on to consider the award for discrimination. We heard from the parties and made an award orally but then realised at the time of writing the written judgment that some errors had been made due to errors in the schedule of loss. We received further written correspondence from the parties and then issued a judgment on reconsideration. Some of the explanations are in the correspondence and reasons for reconsideration. These reasons just address the remaining issues.

Remedy for discrimination

What financial losses has the discrimination caused the claimant

77. A non-discriminatory process with proper consultation about the alternative roles would have taken two weeks up to 28 February 2024. If she had then taken the option of the alternative role with her contractual notice she would have had two more weeks at work and then 11 weeks' at her former rate of pay. This would have taken her into the reduced period of her enhanced benefits. After that her enhanced maternity pay would have been based on the lower pay rate.
78. Credit needed to be given for the 12 weeks' notice and statutory maternity pay actually paid by the respondent. This is one of the aspects of the reconsideration.

Has the claimant taken reasonable steps to replace lost earnings, for example by looking for another job?

79. The claimant obtained alternative work and fully mitigated her loss by 5 December 2024 before her entitlement to maternity leave ended. The claimant's losses were therefore limited to her enhanced maternity pay and other benefits during maternity leave, including the holiday pay she would have accrued and her pension based on her current pay for the up to the first 11 weeks of maternity leave and then based on the lower pay rate. The holiday pay was calculated on the alternative role rate.

Injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?

80. We found that the situation of her role being made redundant at that stage of her pregnancy caused a lot of upset which would have been the case without any discrimination, and about the two other roles which she believed she should have been offered. A lot of the upset caused to the claimant was also because she believed the redundancy was constructed because she was pregnant (which we have not upheld).
81. That said there was an impact on her injury to feelings of not properly informing and consulting with her about the alternative role and the consequences on her maternity pay and benefits whether she took the role or was made redundant. The discriminatory aspects of the process contributed to her mistrust of the process as a whole and the financial implications for her maternity leave (and consequential stress) were avoidable if the process was not discriminatory. We have found it more likely than not that she would have taken the alternative role if she had been consulted properly about it and the impact on her maternity benefits properly considered. That said she was not upset about not getting that work per se but she was impacted by the financial implications on her and her family and the stress of being out of work at that stage of her pregnancy. She ended her pregnancy being unable to get out of bed as a result of the intense stress and there was a disruptive impact on her maternity leave, particularly initially. She was interviewing during her maternity leave including an interview 2 weeks after the birth of her child which understandably did not go well. Her husband had to return to work instead of taking paternity leave as planned. She also returned to work in her alternative position without taking her full maternity leave.

Is there a chance that the claimant's employment would have ended in any event? Should their compensation be reduced as a result?

82. Financially it made no sense to turn down the alternative role. The claimant's evidence was that if she had been properly consulted she would have taken it. We find that nevertheless there is a 25% chance the claimant would still have

turned it down because the role had less status, because of her erroneous belief that other roles were being withheld from her, the fact the basic pay was less, and/or her erroneous belief that the redundancy was constructed because of the pregnancy.

Should interest be awarded? How much?

83. We did not divert from the usual principles in respect of interest set out in the Employment Tribunals (Interest on Awards in Discrimination Cases) Regulations 1996 SI 1996/2803) and the calculation is set out in the correspondence following the judgment and in respect of the reconsideration.

Approved by
Employment Judge Corrigan
2 June 2026

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