



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8003201/2025

Hearing held in Edinburgh on 6, 7 & 8 May 2026

Employment Judge J McCluskey

A Lopatynska

**Claimant
In person**

Lloyds Bank Plc

**Respondent
Represented by:
M Briggs
Advocate**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The judgment of the Tribunal is that the claim of unfair dismissal is not well founded and is dismissed.

REASONS

Introduction

1. The claimant makes a complaint of unfair dismissal. She seeks compensation by way of remedy.
2. The claimant's employment terminated on 29 August, 2025. ACAS early conciliation began on 7 November 2025 and ended on 19 December 2025. The claim was presented on 29 December 2025.

3. The claimant gave evidence on her own behalf. The following witnesses gave evidence on behalf of the respondent: Charlotte Lever– Risk Function Chief Controls Officer (dismissing manager); and Robert Simpson – Investigation and Hearing Manager, HR/ People (appeal manager).
4. There were two joint files of productions, one with liability documents and the other with remedy documents. The liability file extended to 908 pages. The remedy file extended to 442 pages. The Tribunal reminded parties that it would only read documents to which it was taken in evidence. The joint liability file was used by both parties throughout the hearing. The claimant also produced her own file of productions. The only document to which the Tribunal was taken in the claimant’s file was her schedule of loss.

Issues

5. The unfair dismissal issues to be determined are:
 - (i) What was the reason or principal reason for dismissal? The respondent says the reason was capability (performance).
 - (ii) If the reason was capability, did the respondent act 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, in particular: whether the respondent adequately warned the claimant and gave the claimant a chance to improve; and whether dismissal was within the range of reasonable responses.

Findings in fact

6. The Tribunal made the following essential findings in fact, necessary to determine the claim.
7. The claimant was employed by the respondent from 1 September 2014 to 29 August 2025. From April 2024 until her dismissal, she worked in the role of Assistant Risk Manager.

April – December 2024

8. The claimant had training for around three months – May, June, July 2024 when she started in the role of Assistant Risk Manager. By August 2024 she was expected to perform tasks herself. The usual practice for new starts doing the tasks which the claimant performed, was for each task performed by the new start to be checked by colleagues who were more senior to the individual. The senior colleagues would then sign off when the individual had

been assessed as able to perform each task independently. This was the procedure used with the claimant.

9. In the period August 2024 – December 2024 the claimant's line manager Mairi Johnstone had concerns about the claimant's performance. There were many errors in tasks which the claimant had carried out, and tasks had not been finished on time. Ms Johnstone's concerns arose from her own observations of the claimant's work and from the more senior colleagues who had been asked to check and sign off the claimant's work – Kim Beattie and Anna Anderson. As a result, the claimant had not been signed off on many tasks as able to perform them independently. Ms Johnstone told the claimant about her concerns at an end of year feedback session.

1:1 meetings in Q1 2025

10. In January 2025, at the claimant's monthly 1:1 meeting, Ms Johnstone raised concerns that the claimant had not been signed off as able to perform audit tasks independently. Ms Johnstone wrote in the 1:1 meeting document that by the end of quarter 1 (March 2025) the claimant was expected to be signed off as able to perform all audit tasks independently (with the exception – CEMT and DCM). Ms Johnstone's concerns arose from her own observations of the claimant's work and from the more senior colleagues who had been asked to check and sign off the claimant's work.
11. In February 2025, at the claimant's monthly 1:1 meeting, Ms Johnstone raised concerns about the claimant's ability to perform out ACL tasks correctly and that she had not been signed off as able to perform these tasks independently. The claimant disagreed that she was unable to perform these tasks correctly. This was discussed. Ms Johnstone remained of the view that the claimant could not yet perform ACL tasks independently. Ms Johnstone's concerns arose from her own observations of the claimant's work and from the more senior colleagues who had been asked to check and sign off the claimant's work. Ms Johnstone set up extra support for the claimant from Anna Anderson.
12. In March 2025, at the claimant's monthly 1:1 meeting, Ms Johnstone raised concerns about the claimant's performance. This included Nexus and CRW audits. The claimant had been performing these tasks for some time but was not signed off to do them independently. The claimant disagreed that she was unable to perform these tasks correctly. This was discussed. Ms Johnstone remained of the view that the claimant could not yet perform these tasks independently. Ms Johnstone's concerns arose from her own observations of the claimant's work and from the more senior colleagues who had been asked to check and sign off the claimant's work.

13. On 11 April 2025 Charlotte Lever emailed the claimant. Ms Lever was Ms Johnstone's line manager. Ms Lever referred to her discussion with the claimant the same day. Ms Lever wrote that following feedback from Ms Johnstone and other senior colleagues in the claimant's team the claimant's performance was not at the level required. She referred to this having been fed back to the claimant at her year end check in 2024 and that support had been put in place to support the claimant to improve performance in January – March 2025. This had not brought the claimant's performance to the required standard, such that she was able to perform the tasks of her role independently. The claimant was told she was being put on a 6-week structured support plan (SSP) from 14 April 2025. The claimant was told that was Ms Johnstone's decision.

Structured Support Plan (SSP)

14. The respondent placed the claimant on a structured support plan (SSP) to support her performance. This started on 14 April 2025. The claimant was given an action plan with objectives to be met during the SSP period.

15. In the 6 week period of the SSP, the claimant and Ms Lever met weekly. Ms Lever created a detailed tracker document which set out the claimant's objectives during the 6 week period. Both the claimant and Ms Lever inputted comments to the tracker document about progress against the objectives. The claimant and Ms Lever discussed these comments. The claimant received support from a senior colleague, Ms Kim Beattie, to meet the objectives including coaching and discussions about specific queries raised by the claimant.

16. The claimant and Ms Lever exchanged emails during the 6 week SSP about her progress against the objectives. The claimant's view was that the SSP was not necessary. She did not agree with the assessment of her performance by Ms Johnstone and more senior colleagues which had resulted in her being placed on the SSP. The claimant's view was that she was competent to carry out most tasks independently and ought to have been signed off as able to do so by the end of 2024. For those tasks which she said she was not yet competent to carry them out independently by April 2025, she said it was because she had been given insufficient time to show competence as they were quarterly tasks.

17. The 6 week SSP ended on 23 May 2025. Ms Lever considered the claimant's view that she was competent to carry out most tasks independently by the end of 2024 and should not have been placed on the SSP. Ms Lever did not share that view. Ms Lever reached the conclusion that the claimant had properly been placed on the SSP based on her own observations of the claimant's work and those of the more senior colleagues. Ms Lever also

concluded that the claimant had not met five out of the ten objectives set out in the tracker document. She reached this view from her own observations of the claimant's work as inputted to the tracker document and discussed with the claimant during the SSP period and from the more senior colleague, Ms Beattie, who had been tasked with supporting the claimant during the SSP period.

Formal Action Plan (FAP)

18. On 30 May 2025 the respondent wrote to the claimant to invite her to a formal review meeting. The invite letter said that the actions and support provided had not led to the improvement in performance which was expected. The invite letter confirmed that the claimant's action plan could be accessed on the claimant's internal system, Workday.
19. The invite letter listed the documents which were enclosed with the letter. This included details of the progress made against objectives within the SSP, feedback on improvement still required, coaching and support provided to date, the status of audits completed showing late delivery in March and April 2025 and 1:1s and check in feedback from Ms Johnstone in January – March 2025 (page 303).
20. The claimant was given the opportunity to bring a companion to the formal meeting. She was told that progress against her objectives in the SSP would be discussed and what further support may be needed. She was told that if there were still performance improvements to be made, her performance improvement plan would be moved to the next stage.
21. The formal review meeting took place on 2 July 2025. The claimant was accompanied by her trade union representative. The meeting was chaired by Ms Lever.
22. At the meeting on 2 July 2025, the claimant was given the opportunity to state her case fully. The claimant's overall position remained that there were no issues with her performance and she ought to be signed off to work on most tasks independently. Her position was also that for tasks which were completed quarterly, she had still not been given sufficient time to obtain sign off.
23. Ms Lever wanted time to consider what had been said at the meeting and the documentation provided. She told the claimant she would reach a decision as soon as possible. The meeting ended.
24. On 7 July 2025 Ms Lever wrote to the claimant with the outcome of the formal review meeting. Ms Lever decided that there had not been an improvement in the claimant's overall performance to the required level. Ms Lever decided

that five out of the ten objectives in the SSP had been met. She set these out and the reasons why.

25. The letter of 7 July 2025 set out the five objectives in the SSP which had not been met and the reasons why. These were objective 1 – manual rectification; objectives 3 and 4 – timely completion of audits and the audit tracker; objective 6 - completing oversight for ACL validations for CRW, Eclair and Nexus Senate systems and objective 8 – zero instances of unacceptable behaviour which falls short of conduct expectations as outlined in policy documentation. Ms Lever’s letter set out in detail her decision about why these objectives had not been met.
26. The letter of 7 July 2025 said that these five objectives required further improvement including delivery to timescales, demonstrating an understanding of user access management principles by completion of audit tasks which are correct first time and behaviours which were consistently in line with colleague conduct expectations. (page 360)
27. Ms Lever decided to move the claimant’s performance improvement plan to the next stage. Ms Lever told the claimant she was moving her to a formal action plan (FAP) starting on 7 July 2025 for a period of four weeks. Ms Lever confirmed that the claimant’s action plan could be accessed on the respondent’s internal system, Workday. The claimant was given a right of appeal against the decision to move her to a formal action plan (FAP).
28. In the 4-week period of the FAP, the claimant and Ms Lever met weekly. Ms Lever created a detailed tracker document which set out the claimant’s objectives during the 4-week period. Both the claimant and Ms Lever inputted comments to the tracker document about progress against the objectives. The claimant and Ms Lever discussed these comments. The claimant received support from a senior colleague, Ms Kim Beattie, to meet the objectives in the FAP including coaching and discussions about specific queries raised by the claimant.
29. On 11 July 2025 the claimant appealed against Ms Lever’s decision to move the claimant’s performance improvement plan to the next stage (the FAP). Her appeal was lengthy. The reasons given in her appeal included: that she had met the objectives of the SSP during the SSP period; there were issues with training before SSP started such as due dates for tasks being unclear; she had concerns about the performance of the more senior colleagues who were assigned to support her; some tasks are done quarterly and she did not have a chance to complete them or complete more than once during SSP; and there should be no monitoring of her work on objectives which she had met to see if those processes were being embedded. The claimant provided emails which she said supported the reasons for her appeal.

30. Ms Rachel Wise, Executive Assistant, Risk Chief Operating Office was appointed to hear the claimant's appeal. Ms Wise met with the claimant. Ms Wise considered the lengthy appeal documentation provided by the claimant. Ms Wise upheld Ms Lever's decision to move the claimant's performance improvement plan to the next stage (the FAP). She wrote to the claimant on 7 August 2025 to confirm her decision. Ms Wise found that there had been repeated incidences of late delivery; failures to meet agreed timeframes; insufficient engagement with dependent colleagues to ensure timescales were met; training and coaching sessions had been provided to the claimant to support her learning and skill development; and there had been instances of conduct below the expected standard such as the claimant declining to attend meetings to support her development. (page 561).
31. The four-week FAP period ended on 4 August 2025. The respondent waited for Ms. Wise's decision before considering the next steps.

Dismissal

32. On 15 August 2025 the respondent wrote to the claimant to invite her to a final review meeting. The invite letter said that at the meeting there would be a review of her performance and progress made against objectives. The invite letter recorded that as this was a final review meeting, one outcome of the meeting could be the claimant's dismissal on the grounds of capability. Reference was made to the claimant's performance documents stored in Workday, to which the claimant had access. The claimant was given the opportunity to bring a companion to the meeting.
33. The meeting took place on 26 August 2025. The claimant was accompanied by her trade union representative. The meeting was chaired by Ms Lever.
34. The claimant was given the opportunity to state her case fully. The claimant's performance objectives were discussed. The claimant's overall position remained that there were no issues with her performance and she ought to be signed off to work on most tasks independently. She said that some deadlines given to her were unclear or were outside the review period and that for tasks which were completed quarterly she still had not been given sufficient time to obtain sign off.
35. Ms Lever wanted time to consider what had been said at the meeting and the documentation provided. She told the claimant she would reach a decision as soon as possible. The meeting ended.
36. Ms Lever considered what the claimant had said in the meeting and in supporting documentation provided by the claimant for the meeting. On 29 August 2025, Ms Lever wrote to the claimant with her decision (page 745).

Ms Lever decided that there had not been an improvement in the claimant's overall performance to the required level

37. Ms Lever's letter said that when Ms Lever and the claimant met on 26 August 2025 they discussed the objectives which had been met successfully during the FAP and the reasons why.
38. Ms Lever's letter said that when Ms Lever and the claimant met on 26 August 2025 they discussed the objectives which the claimant had not met successfully during the FAP and the reasons why. These were objective 1 – audits completion; objective 5 – automated recertification via Sailpoint – UAR validation and submission; objective 6 – completing oversight from ACL validations for CRW, Eclair and Nexus Senate systems; objective 8 – zero instances of unacceptable behaviour which falls short of conduct expectations as outlined in policy documentation; and objective 9 positive feedback from colleagues (page 746)
39. Ms Lever's letter set out her conclusions. Ms Lever decided that the reasons the objectives had not been met was due to late delivery of tasks and lack of proactive management by the claimant; a lack of knowledge and understanding of user access management principles through completion of audit tasks which are correct first time and behaviours which were consistently in line with colleague conduct expectations. These were the same reasons why the claimant had been moved from the structured support plan to the formal action plan. These were the same concerns which the respondent had had with the claimant's performance since 2024.
40. Ms Lever's letter referred to the support given to the claimant including weekly 1:1s with Ms Lever to review progress against objectives and provide feedback; weekly 1:1s with Kim Beattie to support with specific questions and ensure feedback on task deliverables was understood; and weekly 1:1s with Ms Johnstone to support prioritisation of tasks, wellbeing and questions about tasks.
41. Ms Lever decided that as the claimant's performance was still not at the required standard, the claimant's employment was to be terminated on the grounds of capability with effect from 29 August 2025. The claimant was given a right of appeal.

Appeal against dismissal

42. On 7 September 2025 the claimant appealed against the decision to terminate her employment. Her appeal document was lengthy, extending to 37 pages. In the summary of her appeal the claimant wrote "I met the objectives [for] both SSP and formal PIP, and supported this statement with detailed information and evidence, and I would like to receive answers to the

following questions: - considering the fact that the majority of the tasks were tasks that I either didn't have a chance to complete before SSP or only had a chance to complete what were those alleged performance issues that resulted in performance improvement plans? - why was my employment terminated when I met the objectives of SSP and formal PIP despite the fact that I was effectively learning the role while on performance improvement?" (page 791).

43. An appeal hearing was arranged for 1 October 2025 to be chaired by Robert Simpson from the respondent's People / HR Team. The claimant was given an opportunity to be accompanied at the appeal hearing.
44. The appeal hearing with Mr Simpson took place on 1 October 2025 and was continued on 2 October 2025. The claimant was accompanied by her trade union representative.
45. The claimant was given the opportunity to state her case fully. Mr Robertson wanted time to consider what had been said at the meeting and the documentation provided. He told the claimant he would reach a decision as soon as possible. The appeal meeting ended.
46. On 22 October 2025 Mr Robertson wrote to the claimant with the outcome of the claimant's appeal (page 879).
47. Mr Simpson considered each of the reasons for the claimant's appeal as stated to him at the appeal hearing and in supporting documentation provided by the claimant for the appeal. Mr Simpson made findings about each of the reasons for appeal as stated to him, in his outcome letter.
48. Mr Simpson's letter made various findings: objectives and deadlines in the period January – July 2025 were sufficiently communicated and supported to the claimant; delays and missed objectives were attributable to the quality of the claimant's submissions and approach to tasks, not to reviewer behaviour; there was no evidence to support the claimant's contention that other teams or reviewers caused the claimant to miss deadlines; decisions not to sign the claimant off on certain tasks were based on substantive performance criteria and not on stylistic preferences, the business expectations of the claimant were clearly communicated; the claimant's input on an Eclair 10% ACL integrity task was not disregarded, the decision of the reviewer was that her input was not sufficient for sign off; while there was some subjective elements to feedback from colleagues it was proportionate and supported by other objective evidence; the objective about the claimant's conduct related directly to actions within the performance management framework only, specifically how the claimant responded to feedback; the appeal manager Ms Wise was impartial; and there was no procedural unfairness in the claimant's email access being removed after her employment ended (page 882).

Grievances

49. The claimant raised five grievances against various employees during the performance improvement plan period. The respondent told the claimant that these grievances were not competent as they were about the management of her performance. The claimant was told that any concerns she had about the performance improvement plan or the involvement of any individuals in that plan needed to be raised by her as part of the performance improvement plan process and not as separate grievances.

Observations on the evidence

50. This judgment does not seek to address every point upon which the parties have disagreed. It only deals with the points which are relevant to the issues the Tribunal must consider, to decide if the claim succeeds or fails. If the Tribunal has not mentioned a particular point, it does not mean that it has overlooked it. It is simply because it is not relevant to the issues.

51. The standard of proof is on balance of probabilities. This means that if the Tribunal considers that, on the evidence, the occurrence of an event was more likely than not, then it is satisfied that the event in fact occurred. Likewise, if it considers that, on the evidence, an event's occurrence was more likely not to have occurred, then it is satisfied that it did not occur.

Relevant law

52. Section 94 ERA provides that an employee has the right not to be unfairly dismissed.

53. Section 98 ERA sets out that for a dismissal to be fair, the employer must show the reason for the dismissal and that it is one of the potentially fair reasons set out in section 98 (1) or (2) of the ERA.

54. A reason relating to the capability of the employee for performing work of the kind which they are employed to do is one of the potentially fair reasons for dismissal (section 98(2)(a) ERA).

55. Capability is defined in S.98(3)(a) ERA as “capability assessed by reference to skill, aptitude, health or any other physical or mental quality”.

56. The respondent must establish a lack of capability (i.e. does the respondent honestly believe the claimant is incompetent or unsuitable for the job, and are the grounds for that belief reasonable? (**Alidair Ltd v Taylor 1978 ICR 445, CA**). The test set down in Alidair means that a respondent has to produce evidence of poor performance and show that this was its real reason for dismissing the employee.

57. What the tribunal has to decide is whether there was material in front of the employer that satisfied the employer of the employee's inadequacy or unsuitability and on which it was reasonable to dismiss.
58. In terms of section 98(4) ERA, if the Tribunal was satisfied that the respondent has established a potentially fair reason for dismissal, it must then determine the question of whether the dismissal was fair or unfair having regard to the matters set out in section 98(4) (a) and (b): whether taking into account the size and administrative resources of the employer, it acted reasonably or unreasonably in treating the reason as a sufficient reason for dismissing the employee; and the equity and substantial merits of the case.
59. As section 98(4) ERA makes clear, it is not enough that the respondent has a reason that is capable of justifying dismissal. The Tribunal must be satisfied that, in all the circumstances, the respondent was actually justified in dismissing for that reason. There is no burden of proof on either party and the issue of whether the dismissal was reasonable is a neutral one for the Tribunal to decide. There is always an area of discretion within which a respondent may decide on a range of responses all of which might be considered reasonable. It is not for the Tribunal to ask whether a lesser sanction would have been reasonable but whether or not the dismissal was reasonable (**Boys and Girls Welfare Society v Macdonald 1997 ICR 693, EAT**).
60. In applying section 98(4) ERA, the Tribunal must not substitute its own view of the matter for that of the employer but must apply an objective test of whether the dismissal was in the circumstances within the range of reasonable responses open to a reasonable employer (see **Iceland Frozen Foods Limited v Jones [1982] IRLR 439, Post Office v Foley and HSBC Bank plc (formerly Midland Bank plc) v Madden [2000] IRLR 827CA**).
61. The test of whether or not the employer acted reasonably is usually expressed as an objective one — i.e. Tribunals must use their own collective wisdom as industrial juries to determine 'the way in which a reasonable employer in those circumstances, in that line of business, would have behaved' — **NC Watling and Co Ltd v Richardson 1978 ICR 1049, EAT**.
62. The ultimate test in determining the application at section 98(4) is whether the dismissal fell within the "band of reasonable responses", a test which reflects the fact that inevitably there may be different decisions reached by different employers in the same circumstances (**British Leyland (UK Limited) v Swift 1981 IRLR 91**).

Submissions

63. The claimant and the respondent both made oral submissions. The Tribunal carefully considered the submissions of both parties during its deliberations. The Tribunal has dealt with the points made in submissions, where relevant, when setting out the facts, the law and the application of the law to those facts in reaching its decision. It should not be taken that a submission was not considered because it is not part of the discussion and decision recorded.

Discussion and decision

Reason for dismissal

64. The first issue is what was the reason for dismissal? The respondent says the reason is capability (performance). A reason relating to the capability of the employee for performing work of the kind which they are employed to do is one of the potentially fair reasons for dismissal. The claimant was employed in the role of Assistant Risk Manager. She started in the role in April 2024. There were concerns about her performance in 2024. These were raised with her at the end of year review. The concerns were then documented from January – March 2025 in 1:1 meetings with the claimant's line manager, then in a performance improvement plan (structured support plan and a formal action plan) thereafter. During the performance improvement plan, the claimant was given written objectives setting out where her performance needed to improve, there were weekly meetings with the claimant where her progress against objectives was discussed and recorded via a tracker system and two senior colleagues were assigned to provide support to the claimant to improve. There were then review meetings with the claimant, both at the end of the structured support plan and the formal action plan where her performance was discussed with her. At the end of the formal action plan, the claimant's performance had not met the required level for her role. Thereafter the claimant was invited to a meeting to discuss her progress against the performance objectives. The objectives met and those which had not been met were discussed. As a number of objectives had not been met the respondent decided to terminate the claimant's employment.

65. The claimant submitted that capability was not the real reason for her dismissal. She submitted that she had provided evidence to the respondent throughout the performance improvement period that she was competent to carry out her role, but that this had been disregarded. She submitted that the assessment of her competence by her line manager (Ms Johnstone) and two senior colleagues (Ms Anderson and Ms Beattie) assigned to support her was wrong. She submitted that the assessment of her competence by Ms Wise who heard the claimant's appeal against being moved to the formal action plan stage of performance improvement was wrong. She submitted that the

assessment of her competence by Ms Lever (dismissing manager) and Mr Simpson (appeal manager) was wrong. She submitted that she was competent to carry out all the tasks of her role and that evidence she had provided of this had been disregarded. Therefore, capability could not be the real reason for her dismissal. She submitted that given the number of individuals who had concluded that her performance was not at the required standard, this suggested a conspiracy against her.

66. The Tribunal was satisfied that there were concerns about the claimant's performance which were documented clearly to her and for which she was given support and an opportunity to improve. Her performance was monitored and supported by various individuals in the respondent organisation. Her performance was recorded in objectives and a performance tracker document which was updated weekly. The decision to move the claimant to a formal action plan was reviewed. The documentation provided by the claimant, which she said proved that she was competent in all tasks and, for example, proved that any delays were the fault of others was considered by the respondent. The respondent did not share the claimant's view.

67. The Tribunal was satisfied that at the time of dismissal the respondent believed that the claimant did not have the skill or aptitude to carry out her role. The respondent believed that the claimant's performance was not at the required standard for her role. The respondent believed that this lack of capability justified dismissal. The Tribunal was satisfied that the respondent's grounds for that belief were reasonable.

68. The Tribunal was satisfied that the reason for dismissal was capability.

Capability procedure

69. The Tribunal next considered whether the respondent adequately warned the claimant and gave her an opportunity to improve.

70. There were concerns about her performance in 2024, after she started in the role in April 2024. These concerns were raised with her at the end of year review. The concerns were then documented from January – March 2025 in 1:1 meetings with the claimant's line manager, then in a performance improvement plan (structured support plan and a formal action plan) thereafter. During the performance improvement plan, the claimant was given written objectives setting out where her performance needed to improve, there were weekly meetings with the claimant where her progress against objectives was discussed and recorded via a tracker system. Two senior colleagues were assigned to provide support to the claimant to improve. There were then review meetings with the claimant, both at the end of the structured support plan and the formal action plan where her performance

was discussed with her. The claimant was warned that if her performance did not improve to the required standard she would move to the next stage of the performance improvement plan. At the end of the formal action plan, the claimant was invited to a formal meeting to discuss her progress against the performance objectives. The objectives met and the objectives which had not been met were discussed with her.

71. The Tribunal was satisfied that the respondent had adequately warned the claimant and given her an opportunity to improve.

Procedure generally

72. The Tribunal next considered the procedure generally.

73. The procedure followed was as set out in the paragraph above. Additionally, during the performance improvement plan period there were various formal meetings with the claimant. At the end of the structured support plan the claimant was invited to a meeting to discuss her progress against objectives. The claimant was notified in a letter in advance of what would be discussed. She was advised she could bring a companion with her to the meeting. The meeting was held at which she and her trade union representative were able to put her case. A decision was reached to move the claimant to the formal action plan part of performance improvement. The claimant was given a right of appeal. The claimant appealed against this decision. The claimant was invited to attend an appeal meeting and had the opportunity to bring a companion. The appeal meeting was held at which she and her trade union representative were able to put her case. Her appeal was not upheld.

74. At the end of the formal action plan the claimant was invited to another meeting to discuss her progress against objectives. The claimant was notified in a letter in advance of what would be discussed. She was notified that one outcome of the meeting could be the termination of her employment by reason of performance. She was advised she could bring a companion with her to the meeting. The meeting was held at which she and her trade union representative were able to put her case. A decision was reached to terminate the claimant's employment. The claimant was given a right of appeal. The claimant appealed against this decision. The claimant was invited to attend an appeal meeting and had the opportunity to bring a companion. The appeal manager was from the HR/People department. He had not previously been involved in the case. The appeal meeting was held at which she and her trade union representative were able to put her case. Her appeal against dismissal was not upheld.

75. The claimant submitted that given the decisions reached by various individuals within the respondent's organisation there was a conspiracy

against her. The claimant's evidence was that as at the end of 2024 she was competent to do all tasks in her role apart from those which she had not yet had an opportunity to complete or which were done quarterly. Her submission was that she was already competent and ought not to have been put onto a performance improvement plan in April 2025. She submitted that she provided "evidence" in the form of emails and other documents which showed that she was competent and ought to have been signed off to work independently on tasks for which she had not been signed off. She submitted that where there were any issues with completing tasks on time or correctly this was because some deadlines given to her were unclear or were outside the review period or were for tasks which were completed quarterly. She submitted that this "evidence" had been disregarded by Ms Lever when deciding to terminate her employment and when Mr Simpson decided not to uphold her appeal.

76. The evidence of Ms Lever and Mr Simpson, which the Tribunal had accepted, was that they did have regard to the "evidence" produced by the claimant for the meetings which they chaired and what was said by the claimant at those meetings when she was stating her case.
77. The claimant in evidence referred to five grievances which she had raised against various employees in 2025 and "evidence" which she had produced for those grievances. The claimant said that "evidence" had been disregarded by Ms Lever. The claimant had been told that various grievances were not competent as they were about the management of her performance. The claimant was told that any concerns she had about the performance improvement plan or the involvement of any individuals in that plan needed to be raised by her as part of the performance improvement plan and not as separate grievances. The claimant was given an opportunity to state her case fully to Ms Lever as part of the performance improvement plan and in meetings with her up to and including dismissal. The Tribunal was satisfied that the Ms Lever did not disregard "evidence" provided by the claimant about her performance. It is clear from the documentation that Ms Lever, based on her own analysis and what she was told by others, carefully considered the claimant's case but did not agree that she was competent.
78. The claimant submitted a lengthy appeal (37 pages) against her dismissal. In cross examination of Mr Simpson, she picked out various sentences of her appeal and criticised Mr Simpson for not referring to them in his outcome letter. She submitted that matters she had raised in her appeal had been disregarded by Mr Simpson. The Tribunal was satisfied that Mr Simpson carefully considered the matters raised by the claimant in her appeal. Given the length it is not surprising that every sentence was not addressed. The matters raised by the claimant in her written appeal were not exactly the same as those raised by her at the appeal meeting, where the claimant had the

benefit of trade union representation. The Tribunal was satisfied that the claimant had the opportunity to state her case fully at appeal and that Mr Simpson addressed these sufficiently in his outcome. The

79. The Tribunal was satisfied that the procedure followed was reasonable.

Band of reasonable responses

80. The Tribunal considered whether dismissal was a fair sanction. Could a reasonable employer have decided to dismiss. The Tribunal was satisfied that they could. Although the claimant had a lengthy period of service, Ms Lever had concluded on 29 August 2025 that the claimant's performance had not improved to the required standard despite being in the role since April 2024 (around 17 months). The claimant had completed training over the first 3 months, had been working in the role during 2024 and had formalised support including objectives and additional support to meet those objectives throughout 2025 until her dismissal. The role that the claimant carried out was an important one. It monitored, controlled and audited risk in the use of various systems and applications across the respondent's organisation. It was important these tasks were carried out on time and to the required standard. The claimant was not doing so. The claimant did not recognise or accept that there were areas needed for improvement in her performance, maintaining that she was competent and delays were caused by others, which Ms Lever concluded was without justification. Additionally, there were concerns about the claimant's behaviours in how she responded to performance feedback from her line manager and the senior colleagues who were supporting her, as set out in the dismissal letter.

81. The Tribunal reminded itself that the question it must ask itself is not whether it would have dismissed the claimant. It must ask whether the respondent's decision to dismiss the claimant fell within the band of reasonable responses which a reasonable employer might have adopted.

82. The Tribunal was satisfied that, in the circumstances of this case, the respondent's decision to dismiss the claimant fell within the band of reasonable responses which a reasonable employer might have adopted, taking into account the size and administrative resources of the employer. The dismissal was accordingly fair.

Conclusion

83. Having concluded that the complaint of unfair dismissal is not well founded, there is no requirement to consider remedy.

Date sent to parties

20 May 2026