



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 8002411/2025 Hearing at Edinburgh on 28 and 29 April 2026

Employment Judge: M A Macleod

Ms R McEwan

**Claimant
In Person**

**The Nail and Beauty Zone Limited
Pure Spa & Beauty**

**Respondent
Represented by
Mr M Lumsden
Director**

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The Judgment of the Employment Tribunal is that the claimant was unfairly dismissed by the respondent; that she was unlawfully deprived of statutory maternity pay; and that she was unlawfully deprived of a redundancy payment; and therefore that the respondent is ordered to pay to the claimant the sum of NINE THOUSAND NINE HUNDRED AND NINETY SEVEN POUNDS AND THIRTY SEVEN PENCE (£9,997.37).

REASONS

1. The claimant presented a claim to the Employment Tribunal on 8 October 2025 in which she complained that she had been unfairly dismissed and discriminated against on the grounds of pregnancy or maternity.
2. The respondent submitted an ET3 response in which they resisted the claimant's claims.

3. A Hearing was listed to take place on 28 and 29 April 2026 at the Employment Tribunal, Edinburgh.
4. The claimant appeared on her own behalf, and the respondent was represented by Mr M Lumsden, Director.
5. The claimant gave evidence on her own account. The respondent called Mrs Becky Lumsden, Director, and Charlotte Johnston, Head of Operations, as witnesses.
6. A Joint Bundle of Productions was produced to the Tribunal by the respondent.

The List of Issues

7. The List of Issues in this case was set out following a Preliminary Hearing on 15 January 2026 by Employment Judge Sangster (51), as follows:
 1. **Pregnancy/Maternity Discrimination – section 18 Equality Act 2010 (EqA)**
 - a. Did the respondent subject the claimant to unfavourable treatment by dismissing her?
 - b. If so, was the unfavourable treatment because of pregnancy or maternity leave?
 2. **Automatically Unfair Dismissal – section 99 Employment Rights Act 1996 (ERA)**
 - a. Was the sole or principal reason for the claimant's dismissal related to pregnancy, childbirth or maternity?
 3. **Unfair Dismissal – section 94 – 98 ERA**
 - a. Was the claimant dismissed?
 - b. If so, what was the reason (or, if more than one, the principal reason) for dismissal, and was it a potentially fair reason for dismissal? The respondent asserts that the claimant was dismissed due to redundancy.
 - c. If so, did the respondent act reasonably in the circumstances in treating this as a sufficient reason to dismiss the claimant?

4. Remedy

a. If the claimant establishes any of their complaints, to what remedy are they entitled? Specifically:

- i. What basic award and/or compensatory award is payable to the claimant, if any?**
- ii. What financial losses has the discrimination caused the claimant?**
- iii. What financial losses has the discrimination caused the claimant?**
- iv. What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?**

b. Unauthorised Deductions from Wages – section 13 ERA

- i. Did the respondent make unauthorised deductions from the claimant's wages by failing to pay the claimant in respect of statutory maternity pay?**
- ii. If so, how much was deducted?**

c. Redundancy Payment – section 163 ERA

- i. Did the claimant have a right to a redundancy payment?**
- ii. If so, what payment was she entitled to receive?**

Findings in Fact

- 8. Based on the evidence led and information provided, the Tribunal was able to find the following facts admitted or proved.
- 9. The claimant commenced employment with the respondent as a Senior Therapist on 28 June 2023. Her contract of employment (28ff) confirmed her start date and job title. Her place of work was said to be Rose Street, Edinburgh, and the respondent's address 138 Lothian Road, Edinburgh.
- 10. Her rate of pay was £11.42 per hour when booked to carry out treatments on clients, and £10.42 per hour for holidays, training and periods when she was not booked. She worked for 40 hours per week, and was entitled to 22 days for the first year of her employment, on the basis that the holiday year ran from 1 April to 31 March each year, and she joined the

respondent in June. Thereafter her holiday entitlement would be 29 per year including bank holidays.

11. The respondent is a business which operates a chain of spa and beauty centres, as well as skincare products. Mrs Becky Lumsden is the Owner and Chief Executive Officer of the company, as well as a Director.
12. The business suffered financial stress during the Covid-19 pandemic, requiring the salons which they ran to be closed for an extended period of time and reducing the income and therefore the profits of the business. As a result, the business required to take on a considerable amount of debt to ensure its survival. Even when the salons reopened, they were affected by the requirements on social distancing, which limited the number of treatments they could provide.
13. In addition, building works being carried out caused the closure of one of the very successful spas, in central Glasgow, at West Nile Street, for some time, causing the cancellation of many appointments. It reopened in November 2025, by which time a considerable loss had been incurred by the respondent.
14. In September 2024, the Government announced in the Budget that employers' national insurance contributions were being increased, and the respondent then faced an increase of £350,000 in costs from 1 April 2025. Their evidence was that staff costs amount to £200,000 per month, and rental costs are approximately £40,000 per month.
15. Accordingly, the respondent embarked on a process in December 2024 to implement a decision to make all of their Therapists redundant, and switch them to a self-employment model in order to supply the therapy services required by the salons.
16. The respondent also closed a number of locations, and by doing so, at the same time as making staff redundant, they hoped to be able to make savings to assist with the profitability and stability of the business. Between January and July 2025 the respondent closed approximately 8 locations, with a reduction of 180 employees to less than 30.
17. As it turned out, the measures taken in the early part of 2025 did not prove to be sufficient to allow the business to make the recovery hoped for.
18. From April 2025, the business sustained the impact of the Budget changes to national insurance, as well as an increase in the national minimum wage, and accordingly the respondent decided that further

cutbacks were needed. One of the areas which they considered was the restructuring of the salons in the Edinburgh area. There were, at that time, 3 salons operated by the respondent in Edinburgh, at Rose Street, Lothian Road and at Edinburgh Airport.

19. The claimant had been promoted to be the Manager of the Edinburgh Airport salon, though she had carried out shifts in Lothian Road as well as in the Peebles salon.
20. The salon at Edinburgh Airport was making a loss in early 2025, and the respondent considered that it was not justifiable to keep it open every day. Business in that salon was unpredictable, though it could be busy; however, it did not meet the targets set for it.
21. The respondent decided in May 2025 that the claimant and the manager at the Lothian Road salon, Sandra Mohammed, would be made redundant, in order to save costs. They decided that the manager in the Rose Street salon, which was also a shop, should not be made redundant at that time. Essentially, they considered that the salons at the airport and Lothian Road were insufficiently busy to justify a manager's presence.
22. When informing staff that they were to be made redundant, Ms Johnston's evidence was that she had to deliver the news personally by telephone, so as to ensure it was received personally, but also due to the number of locations overseen by the respondent. Ms Johnston's base is in Aberdeen. She had multiple conversations with multiple managers.
23. On 2 June 2025, Ms Johnston sent an email to the claimant (73), titled "Following Up on Our Conversation":

"Hi Rachel,

I wanted to follow up on our recent conversation in writing, so that you have everything clearly in front of you and have the opportunity to consider what we discussed.

As part of our current restructure review, I wanted to make you aware of two roles that are available within the business, a self-employed therapist role where you would work on a freelance basis within the PURE network or an employed therapist role at our spa at Peebles Hydro.

I'd be really grateful if you could let me know whether either of these is something you feel you could do or would be interested in. if you have any questions about what either role would involve, please don't hesitate to reach out and I'm happy to talk it through.

Could you come back to me by Wednesday so we can move things forward?”

24. The claimant's evidence was that she did not receive that email. She accepted it was sent to her correct email address, but adamant that she did not see it. Further, she was clear that the only conversation which she had with the respondent about redundancy took place with Ms Johnston on 4 June 2025. When asked by the claimant in cross-examination when the consultation took place, Ms Johnston replied that to her knowledge, it was “that week of 4 June when you received the letter”. I refer to that letter below.
25. The claimant did speak to Ms Johnston when she called her from Aberdeen on 4 June 2025. On balance of probabilities, it is my conclusion that the only conversation relating to the claimant's impending redundancy took place on that date, by telephone. The claimant was on a day off from work that day, and received a WhatsApp message from Ms Johnston asking if she was free to take a call. She agreed. Ms Johnston called her, and in a short call – the claimant estimated 4 minutes – she told her that unfortunately she was being made redundant, and that her dismissal would take effect on 4 July 2025. She mentioned the possibility of a self-employed role in Edinburgh, but no other roles. She confirmed that she would be sending out a letter to the claimant to notify her. She said it was not her decision.
26. The claimant was approximately 27 weeks' pregnant at the time she was made redundant. She was told by the respondent that they would support her claim for statutory maternity pay, for which she qualified on the basis that she had worked up to 15 weeks prior to the due date of the baby.
27. On 4 June 2025, Ms Johnston wrote to the claimant by email (37) to thank her for the earlier conversation and to attach the redundancy letter (35):

“Dear Rachel,

I am writing to inform you of a difficult decision that has been made due to the financial challenges currently facing the company. Despite our best efforts to adapt to changing market conditions, we are still experiencing significant financial strain. This is mainly due to ongoing location closures and the rising costs of operating the business. As a result, we are left with no choice but to reduce overheads and streamline operations.

After careful consideration of all available options, it is with regret that I must inform you that your role will be made redundant, effective 4th June

2025. This decision has not been taken lightly and we are committed to supporting you through this difficult transition.

In accordance with your employment contract, you are entitled to one month's notice of termination. Therefore, your last working day will be 4th July 2025. Your final pay will include all earnings up to and including your last working day, as well as payment for any accrued holiday entitlement. Should you have taken more holidays than accrued, any excess will be deducted from your final pay. Your P45 will be sent to you after all final payments are processed.

We are aware that you are currently expecting and want to confirm that you qualify for maternity allowance payments. We will fully support your maternity leave claim, and you will receive the statutory maternity pay to which you are entitled, which will be the same as your entitlement through the employer.

Please return any company property before your last working day to ensure a smooth transition. Failure to do so may result in deductions from your final pay.

You also have the right to appeal this decision. If you wish to do so, please submit your appeal in writing within 5 working days of receiving this letter.

We will work closely with you during your notice period to help manage the transition of your duties and ensure you receive the support you need. Should you require a reference for future opportunities, we will be happy to provide one..."

28. The claimant was shocked by the phone call as she was not expecting to be made redundant, and was concerned about the future given that she was pregnant.
29. On 7 June 2025, the claimant submitted an appeal against the decision to dismiss her (36):

"I am writing to formally appeal against my redundancy, as stated on 04/06/2025.

My reasons for appeal are as follows:

- *The correct redundancy procedure has not been followed and I was not given a consultation prior to being informed of my redundancy. This has eliminated the opportunity for me to ask*

questions regarding the redundancy and to adequately prepare for this outcome.

- *I have not been supplied an explanation of why I have specifically been selected for redundancy, or been given an opportunity to put myself forward to be considered for my employment to remain*
- *I am currently 27 weeks' pregnant and I am entitled to enhanced protection covered by discrimination law (equality act 2010). Per this law, I should be provided with a suitable alternative role should there be one available to me. A freelance therapist role is not an acceptable alternative as it does not provide the security and support of my current management position.*
- *Due to the time in-between my role being made redundant and my maternity leave starting, I am not facing being out of pocket for over a month, placing unexpected financial strain on myself and my family.*
- *I have not been supplied any indication of my redundancy pay in my redundancy letter, this will be owed to myself due to my position becoming redundant after the second anniversary of my employment.*
- *The decision to make my role redundant has placed me in a very difficult and stressful position where I would be unable to find alternative employment in this late stage of pregnancy. This has caused unnecessary emotional stress for myself which in turn could potentially effect (sic) my pregnancy and my baby. This also places additional strain on myself when my maternity leave ends to find suitable alternative employment and potentially more time left unpaid should this be a lengthy process.*

Due to the reasons stated above, I am appealing my redundancy due to unfair dismissal and discrimination against my pregnancy. I would be grateful if you would let me know when we can meet to discuss my appeal."

30. An appeal meeting took place on 13 June 2025 by Microsoft Teams. The claimant attended, and the meeting was hosted by Ms Johnston, who was accompanied by Siobhan Cairney. Ms Cairney took notes of the meeting (40ff).
31. The claimant confirmed that she was content for Ms Johnston to continue hosting the meeting despite her name being on the dismissal letter.

32. The notes record that Ms Johnston set out the reasons why she considered that it was necessary for redundancies to be made. It was also noted that Ms Johnston stated that prior to making the decision they already had the claimant's form MATB1, and confirmed that she had passed the threshold to receive statutory maternity pay.
33. The notes record the following exchange (43):
- "CJ: Thank you do you have anything else to add?"*
- RM: Pregnancy states enhanced protection, I should at least be offered alternative role but this has not been done.*
- CJ: Do you believe there are any other roles you would be suitable for or do you have any restrictions?"*
- RM: I have not been travelling as much recently due to unwell parts of pregnancy, helped at Peebles but journey didn't help but other locations to consider."*
34. It was the claimant's position in evidence that this did not amount to an offer of a role employed at Peebles, but if it had been, she would not have been able to accept it for the duration of her pregnancy, and would therefore have sought to negotiate the arrangements for the periods before and after the birth of her baby.
35. The respondent's position was that they interpreted this response as a rejection of an offer to accept the manager's position at Peebles.
36. The evidence confirmed that the Peebles salon closed in November 2025, and therefore even if the claimant wished to take up the position of manager there after her maternity leave had concluded, which she intends to take place in September 2026, the position would no longer be available to her.
37. The respondent did not issue any outcome to the claimant's appeal. Ms Johnston held her hands up, as she put it in evidence, that she had failed to provide an outcome to the claimant. Her explanation was that she was very busy with a number of other situations, and took the view that it made no difference, in that she had made clear, in Ms Johnston's view, that she would not take any of the alternative offers.
38. The claimant left the employment of the respondent on 4 July 2025. She did not receive any statutory maternity pay, nor did she receive a redundancy payment.

39. Following her dismissal, the claimant made no attempts to find alternative employment, on the basis that she was approximately 28 weeks' pregnant, and she believed it very unlikely that any employer would take her into their employment for such a short time before she embarked on maternity leave. It was her intention to take a full year's maternity leave. Her baby was born on 15 September 2025, and accordingly she intended to return to work no earlier than 15 September 2026.
40. She has, to the date of this Hearing, made no efforts to secure alternative employment for the period following the planned end of her maternity leave. Her evidence was that she intends to start looking for work from July 2026 onwards.
41. On 30 March 2026, the claimant received a letter from HM Revenue & Customs (59), which was disclosed to the respondent shortly before this Hearing, which confirmed that she was entitled to statutory maternity pay amounting to £7,613.22. The respondent has to the date of the Hearing made no payment to the claimant in this regard. Their stated intention is to make payments to the claimant by instalments through their payroll. When I asked Ms Johnston why they were intending to pay the claimant through payroll when her employment ended in July 2025, she explained that the respondent could not afford to pay it in one payment.
42. The respondent's explanation for the failure to pay the statutory maternity pay is that the claimant did not provide the MATB1 form until after her final payment had been made through payroll, and that payroll had omitted to go back and check the position as they should have.
43. The respondent's explanation for the failure to pay a redundancy payment to the claimant was that they did not believe that she was due to receive such a payment as her employment had not lasted 2 years at the point when she was told she was being made redundant. They now accept that this was an error, since her employment ended, after notice, on 4 July 2025.

Submissions

44. Both parties made short submissions at the conclusion of the evidence.
45. For the respondent, Mr Lumsden confirmed that they conceded that the statutory maternity pay was in fact due to the claimant, and accepted that errors had been made by the respondent. They were committed to putting that right.

46. He submitted that it was important that the Tribunal understood that the reason that came about was not discriminatory. The claimant did not forward the MATB1 form until late, and Payroll then made a mistake. It was not a deliberate act to deny the claimant her statutory rights. The claimant did not assist matters, as she did not contact HMRC until early 2026. Had they been told about matters earlier, they could have addressed the issue before.
47. He also conceded that the claimant is due a statutory redundancy payment. Again, this was a Payroll error, calculating the length of the claimant's service on the notice date rather than the termination date. It is accepted that the respondent requires to pay this, but it did not amount to evidence of unfair dismissal or discrimination.
48. So far as the unfair dismissal claim was concerned, Mr Lumsden submitted that this was a genuine redundancy situation, in that the claimant's role no longer exists, and it was real and necessary for the business.
49. The process of consultation was carried out by telephone. The claimant was offered alternative roles, which were genuinely put to the claimant. He accepted that the consultation could have been more effective prior to dismissal, but that it was effectively carried out in the appeal meeting, and it amounted to full consultation in all but name.
50. Nothing that was said in the appeal meeting would have changed the outcome.
51. Mr Lumsden submitted that if the dismissal were procedurally unfair, only the basic award should be granted to the claimant, but the procedural unfairness, if there was any, was corrected by the appeal hearing.
52. The respondent is adamant that there was no discrimination against the claimant. The same redundancy process was followed for the other manager, Ms Mohammad, who was not pregnant. The only comparator was treated identically.
53. The delay in paying statutory maternity pay occurred due to the claimant's own delays. There is nothing in any of this to suggest that the claimant was treated the way she was because she was pregnant. The respondent got things wrong, but not for that reason. There is no evidence to this effect.
54. So far as any compensation is concerned, no compensation is properly due to her. She chose to take her full maternity leave, and for the latter

part of 2025 would be unpaid. The claimant has failed to seek other employment and therefore has not mitigated her losses.

55. The respondent is a small business, and has made mistakes, but the claimant should not receive any compensation other than the basic award (though the respondent continues to deny that the claimant was unfairly dismissed or discriminated against on the grounds of pregnancy/maternity).
56. The claimant submitted that there was no redundancy consultation, and therefore the correct procedure was not followed, and she was unfairly dismissed.
57. The MATB1 form was properly submitted, but the respondent did not wish to process it. No alternative roles were offered to her. In the meeting, Ms Johnston mentioned self-employment, but did not mention the Peebles management role.
58. There were 3 managers, but the manager based in Rose Street was kept in employment. The claimant argued that this role should have been offered to her
59. She had increased stress levels due to the manner of her treatment. She is now in a difficult and unpredictable position as she remains unemployed. She described the way that she had been treated by the respondent as devastating.

The Relevant Law

60. Section 18(2) of the Equality Act 2010 provides:

“A person (A) discriminates against a woman if, in the protected period in relation to a pregnancy of hers, A treats her unfavourably –

(a) because of the pregnancy, or

(b) because of illness suffered by her as a result of it.”

61. Section 18(6) defines the protected period:

“the protected period, in relation to a woman’s pregnancy, begins when the pregnancy begins, and ends –

(a) if she has the right to ordinary and additional maternity leave, at the end of the additional maternity leave period or (if earlier) when she returns to work after the pregnancy;

(b) if she does not have that right, at the end of the period of 2 weeks beginning with the end of the pregnancy.”

62. Section 98(4) of the Employment Rights Act 1996 requires the Tribunal to consider whether or not the decision to dismiss an employer was fair or unfair. The reason for dismissal must be considered, in order to decide whether or not it is a potentially fair reason within section 98(1) of ERA.
63. The Tribunal must consider whether, in the circumstances, including the size and administrative resources of the employer, the employer acted reasonably or unreasonably in treating the reason as sufficient to justify dismissing the claimant.
64. The fundamental issue is one of reasonableness, and the Tribunal must not substitute its own views for that of the employer, but must consider whether or not it was reasonable in all of the circumstances to dismiss the particular employee for the reason of redundancy.
65. **Williams v Compare Maxam Ltd [1982] IRLR 83** is authority for the proposition that a reasonable employer will usually seek to ascertain whether, instead of dismissing an employee, the employer could offer him alternative employment.
66. In the cases of **Mr Joseph De Bank Haycocks v ADP RPO UK Ltd [2023] EAT 129** and **Mrs S Mogane v (1) Bradford Teaching Hospitals NHS Foundation Trust (2) Karen Regan [2022] EAT 139**, the EAT considered these issues. In **Haycocks**, the EAT stated, at paragraph 23:

“23. Starting with Compair Maxam [Williams & Ors v. Compair Maxam Ltd ICR 156] the theme surrounding reasonableness in redundancy situations is that it reflects what is considered to be good industrial relations practice; that employers acting within the band of reasonableness follow good industrial relations practice. The substance of what amounts to good practice will vary widely depending on the type of employment, workforce and the specific circumstances giving rise to the redundancy situation. Judgment approved by the court Hendy Group Ltd v Mr D Kennedy © EAT 2025 Page 16 [2024] EAT 106 However, there are certain key elements which seem to appear. First amongst those is that a reasonable employer will seek to minimise the impact of a redundancy situation by limiting numbers, mitigating the effect on individuals or avoiding dismissal by engaging in consultation. At one time consultation, certainly in the cases above, tended to relate to methods of selection. However, in more recent years it has been noted that consultation could result in a broader range of outcomes. (During the hearing the JCB workforce taking a pay cut to avoid redundancies was discussed as an example).”

Discussion and Decision

67. Before addressing the issues, it is appropriate to make some observations as to the evidence before me.
68. The claimant gave evidence in a calm and straightforward manner, and I considered her evidence to be credible and reliable. She was insistent that the failure to consult with her was of significance, but she answered the questions put to her – and she was subjected to lengthy questioning, largely about her attempts to mitigate her loss, by Mr Lumsden – patiently and honestly.
69. The main point of dispute was whether or not the email of 2 June had been sent by the respondent, and received by the claimant. The claimant was adamant that she did not receive it. Ms Johnston's evidence was that she had sent it. The email address it bore was correct. I concluded that the claimant had not received the email, for the simple reason that it was inconsistent with the subsequent correspondence between the parties. When the respondent wrote to the claimant to confirm her redundancy on 4 June, they made no reference to a previous email on 2 June. Further, there was no reference to that email in the claimant's appeal hearing.
70. I found Ms Johnston to be a reliable and credible witness, and considered that she was attempting to be helpful to the Tribunal in her evidence, but I have not been able to find that the email which was purportedly sent on 2 June reached the claimant. There is no explanation as to why this should be, and without wishing to speculate, it is simply a matter of reviewing the available evidence to establish my findings.
71. So far as Mrs Lumsden was concerned, I considered that she gave her evidence calmly and in a believable manner. Like the other witnesses, it was clear that she was seeking to answer questions in a manner which assisted the Tribunal.

1. Pregnancy/Maternity Discrimination – section 18 Equality Act 2010 (EqA)

- a. **Did the respondent subject the claimant to unfavourable treatment by dismissing her?**
 - b. **If so, was the unfavourable treatment because of pregnancy or maternity leave?**
72. The respondent did dismiss the claimant, and in my judgment, that was unquestionably unfavourable treatment of her.

73. Was that unfavourable treatment, however, because of pregnancy or maternity leave? The respondent was adamant that they did not discriminate against the claimant, and that the reason for dismissal was only redundancy, and not due to pregnancy or maternity.
74. There is no doubt that the claimant was pregnant when she was dismissed, on 4 June 2025, and that the respondent was aware of this.
75. The respondent's submissions suggested that the only "comparator" was treated exactly the same as the claimant, on the basis that Ms Mohammad was also made redundant from the same job as the claimant had, in the Lothian Road salon. However, this represents a misunderstanding of section 18: no comparator is required. The question is whether the claimant's treatment was unfavourable, not less favourable than a comparator's.
76. However, the decision to dismiss the claimant took place outwith the protected period. In any event, it appears to me that the principal reason for the claimant's dismissal was redundancy, as I address below.
77. Accordingly, this claim does not succeed.

2. Automatically Unfair Dismissal – section 99 Employment Rights Act 1996 (ERA)

- a. **Was the sole or principal reason for the claimant's dismissal related to pregnancy, childbirth or maternity?**

3. Unfair Dismissal – section 94 – 98 ERA

- b. **Was the claimant dismissed?**
- c. **If so, what was the reason (or, if more than one, the principal reason) for dismissal, and was it a potentially fair reason for dismissal? The respondent asserts that the claimant was dismissed due to redundancy.**
- d. **If so, did the respondent act reasonably in the circumstances in treating this as a sufficient reason to dismiss the claimant?**
78. In my judgment, the sole or principal reason for dismissal was not related to the claimant's pregnancy (which is the only potentially unlawful reason here). The respondent has had to undergo a lengthy and clearly painful process of restructuring and downsizing, and even after the claimant's

dismissal, had to close the salon in Peebles which may have been an alternative location for the claimant to work.

79. The evidence of the respondent was persuasive in demonstrating that they required to take a number of measures, firstly with the therapists and then with managers, to attempt to address the ongoing financial difficulties in the business. I found this evidence to be credible, from both Mrs Lumsden and Ms Johnston.
80. Accordingly, I am not prepared to conclude that the claimant's principal reason for dismissal was pregnancy.
81. I turn then to determine whether or not the claimant was unfairly dismissed by the respondent.
82. The reason for dismissal was that of redundancy, a potentially fair reason for dismissal.
83. Did the respondent act unfairly by treating the reason as sufficient for dismissal? I take into consideration here not just the substantive reasoning of the respondent but also the process which they followed.
84. There were 3 issues raised by the claimant in these proceedings about the dismissal:
 - a. The failure by the respondent to consult her in advance of informing her that she was to be made redundant;
 - b. The failure to consider suitable alternative employment; and
 - c. The failure to consider the claimant to be placed as manager in the Rose Street salon.
85. Firstly, it is my judgment that the respondent did fail to consult with the claimant in advance of the decision to dismiss her on the grounds of redundancy. On 4 June Ms Johnston telephoned the claimant to advise her that she was being made redundant, and wrote to her on the same date to advise her of the decision, which would mean her employment would end on 4 July 2025.
86. Before informing her of this decision, there was no discussion at all with the claimant about redundancy or the possibility that her job may be lost as a result of the reduced need for the work which she was carrying out.
87. It was entirely unsurprising that the claimant was shocked and upset by the telephone call on 4 June, as it came without warning. At no stage was she asked if she considered that there may be an alternative to dismissal.

88. The purpose of consultation must be to engage in a dialogue with the affected employee to establish whether the draconian step of dismissal is inevitable. There was simply no attempt to consult with the claimant prior to informing her of her dismissal. On 4 June, it was presented to her as a fait accompli.
89. The suggestion that the consultation took place after the dismissal cannot be sustained. At that time, it is simply too late to consult with an employee, since the decision has already been taken; there is nothing over which to consult the claimant. Consultation must by definition take place in advance of the decision to dismiss.
90. Secondly, there was a failure to offer suitable alternative employment to the claimant. There was reference in the telephone call to the possibility of becoming self-employed. In addition, there was reference in the email of 2 June to the possibility of moving to the Peebles salon as an employed therapist.
91. There are difficulties with the respondent's position here. Offering the claimant the opportunity to become freelance or self-employed cannot amount to an offer of suitable alternative employment; it is not an offer of employment at all, but of a self-employed relationship offering none of the benefits or security of employment. As to the employed therapist position in Peebles, the claimant did not receive the email of 2 June and accordingly it cannot be taken that such an offer was made before she was dismissed.
92. Thirdly, the respondent, it is true, did not offer the claimant the role as manager in the Rose Street salon. However, there was an employee in that position already, and accordingly there is no basis upon which it could be suggested that that role was available to the claimant.
93. That does raise a further question, namely, whether the respondent gave any thought to placing all three managers, including the manager in Rose Street, at risk of redundancy, and offering them the opportunity to compete for the possibility of taking up that post. However, the claim does not make this complaint, and accordingly it is my judgment that it would be unfair to find against the respondent on a ground not pled by the claimant, and of which the respondent has not had fair notice.
94. However, it is my conclusion that the claimant was unfairly dismissed by the respondent, primarily on the basis that they failed utterly to consult with her in advance of the decision to dismiss her on the grounds of redundancy, and secondly because they failed to offer her suitable alternative employment.

95. The respondent has sought to argue that the claimant's statement in the appeal hearing should be taken into account in assessing the fairness of the dismissal, namely that she would have had problems getting to Peebles during her pregnancy. In my judgment, it would be an error to take that statement, limited as it was, into account in assessing the fairness of the dismissal, since it took place after the respondent had made its decision to dismiss her.
96. The claimant's claim of unfair dismissal under section 94 of the Employment Rights Act 1996 therefore succeeds.

4. Remedy

- a. **If the claimant establishes any of their complaints, to what remedy are they entitled? Specifically:**
- i. **What basic award and/or compensatory award is payable to the claimant, if any?**
 - ii. **What financial losses has the discrimination caused the claimant?**
 - iii. **What financial losses has the discrimination caused the claimant?**
 - iv. **What injury to feelings has the discrimination caused the claimant and how much compensation should be awarded for that?**
- b. **Unauthorised Deductions from Wages – section 13 ERA**
- i. **Did the respondent make unauthorised deductions from the claimant's wages by failing to pay the claimant in respect of statutory maternity pay?**
 - ii. **If so, how much was deducted?**
- c. **Redundancy Payment – section 163 ERA**
- i. **Did the claimant have a right to a redundancy payment?**
 - ii. **If so, what payment was she entitled to receive?**
97. Before addressing the remedy in respect of the claimant's unfair dismissal, it is appropriate to address the claims relating to the unlawful deductions from wages and the redundancy payment.

98. The respondent has conceded that the claimant is entitled to the outstanding sum relating to statutory maternity pay, and intimated their intention to pay this sum in instalments to the claimant. That may be their intention, but in light of the evidence and of the respondent's concession, it is my judgment that the claimant's claim succeeds, and therefore the respondent is ordered to pay to the claimant the outstanding sum due, namely £7,613.22 (60).
99. Further, the respondent has conceded that the claimant is entitled to a redundancy payment, having completed two years' service shortly before her dismissal took effect on 4 July 2025. The respondent is therefore ordered to pay to the claimant a redundancy payment of £628.05.
100. Addressing then the claimant's entitlement to compensation in respect of unfair dismissal, it is my judgment that the claimant is entitled to a basic award of £628.05; however, this is offset by the redundancy payment already awarded to the claimant, and accordingly no basic award is due to the claimant.
101. So far as a compensatory award is concerned, I take into consideration that the respondent argued that the claimant would have been in the same position had a fair procedure been followed. In my judgment, the evidence supports that argument, with one caveat. It is plain that the respondent's financial difficulties have caused them to continue to make cutbacks after June 2025, including the closure of the Peebles spa, and accordingly I consider that the claimant would have been made redundant following a fair procedure.
102. However, there is one caveat, which is that if a fair procedure had been followed by the respondent, it is likely that the claimant would have been employed for at least 4 further weeks to allow for a reasonable period of consultation with her.
103. I accept that the claimant did not make any efforts to secure alternative employment, and indeed by the time of the Tribunal hearing continued to be on maternity leave. Taking into account her evidence that she intended to be on maternity leave until September 2026, and that she did not plan to start looking for alternative employment until July 2026, it is my judgment that the claimant's failure to commence the process of seeking alternative employment before the birth of her baby was not reasonable.
104. She also seeks to recover losses from a period when she would not have been earning any salary from the respondent due to her ongoing maternity leave. The purpose of a compensatory award is to compensate

a party for loss, not to penalise the employer, nor to apply some kind of charge to them because the claimant would have to start looking for work during her maternity leave.

105. It is my judgment, therefore, that the claimant is entitled to 4 weeks' pay amounting to £1,256.10 by way of a compensatory award. It is not just and equitable to extend the compensatory award period beyond that, in my judgment.
106. Finally, the claimant is entitled to be awarded £500 in relation to the loss of employment rights.
107. The claimant is therefore entitled to the sum of £2,100 in compensation for her unfair dismissal.
108. The claimant's claims therefore succeed, in part, as set out above, and the respondent is ordered to pay to her the total sum of £9,997.37.

Date sent to parties

1 June 2026