



EMPLOYMENT TRIBUNALS (SCOTLAND)

Case Number: 8002592/2025

Hearing held in Glasgow on 8 (reading), 9, 10 and 11 June 2026

Summary oral reason 11 June 2026

Summary written reasons 3 August 2026

Employment Judge M Whitcombe

Mrs W Carvajal Molina

Claimant
In person

Santander UK Plc

Respondent
Represented by:
Mr M O'Carroll
(Advocate)

JUDGMENT

- (1) The complaint of unfair dismissal fails and is dismissed.
- (2) The complaint of indirect sex discrimination fails and is dismissed.
- (3) Summary oral reasons were given in the presence of the parties or their representatives at the end of the hearing on 11 June 2026. Neither side applied for those reasons in writing.

SUMMARY REASONS

Introduction and background

1. These are the summary *written* reasons for the judgment recorded above, produced at the claimant's request in accordance with rule 60(4A)(b)(i) and (4B) of the Employment Tribunal Procedure Rules 2024. I apologise for the delay in providing them, which results from some initial administrative delay in referring

the request to me, and then my own absence on annual leave and fulfilling professional obligations elsewhere.

Complaints which were no longer proceeding by the end of the hearing

2. A complaint of automatically unfair dismissal based on an alleged breach of regulation 10 of the Maternity and Parental Leave Regulations 1999 was abandoned during the hearing.
3. Complaints of failure to inform and/or consult in breach of the collective redundancy obligations contained in the Trade Union and Labour Relations (Consolidation) Act 1992 and a complaint of pregnancy or maternity discrimination in breach of section 18 of the Equality Act 2010 were each withdrawn and dismissed prior to the hearing.

Relative credibility of witnesses

4. The respondent's witnesses gave their evidence in a straightforward and thoughtful way which I found persuasive. I thought they were doing their honest best to help. It was striking that their evidence on several important points, such as the search for alternative employment or the suitability of alternative vacancies was not challenged at all.
5. In contrast, the claimant gave her evidence and conducted the case in a way that damaged her credibility. She was very slow to make realistic concessions. She was also reluctant to concede facts which were not really disputed. She was comfortable referring repeatedly in documents to "fabricated" redundancy scores, when in truth she accepted that there was no bias, invention or deliberate manipulation of scores. She continued to seek reinstatement despite agreeing that there was no role into which she could be reinstated. The way in which she portrayed her time as a Financial Crime Manager as amounting to only 5 weeks in that role stretched a point too far. For all those reasons, as well as the overall impression that her oral evidence made on me, I was not satisfied that the claimant's perception of events was generally accurate, or that the way in which she described things was generally reliable.

6. I therefore preferred the respondent's evidence on several important points to that of the claimant. For example, I found that the claimant performed FCM duties over a period which meant that there could be a meaningful assessment of her performance in that role. Fact finding in an employment tribunal is on "the balance of probabilities", in other words, a "more likely than not" basis. A preference for one side's evidence on an issue does not imply that the other side has been found to be lying.

Unfair dismissal

Reason for dismissal

1. By the end of the hearing the claimant accepted that the reason for her dismissal was the potentially fair reason of redundancy. I am independently satisfied of that on the balance of probabilities. No other reason was suggested.

Approach to the fairness of dismissal

2. I must assess reasonableness without substituting my own view for that of a hypothetical reasonable employer. That means considering the *range* of responses that reasonable employers might have adopted in the same circumstances. If the decision and procedure of this employer fell within that range, then the dismissal is fair. If it falls outside the reasonable range, then the dismissal is unfair.
3. The claimant's submissions seemed to overlook those principles. Many of the claimant's criticisms of the process held the respondent to an extremely high standard, arguing that if anything further could have been done, it should have been done. That is not the correct legal approach. When carrying out redundancy scoring an employer must adopt an approach of sufficient objectivity to fall within a reasonable range. That does not mean that every evaluative judgment made by the employer necessarily requires a clearly identified and documented evidential base, still less a second or third level of documentary evidence to justify conclusions appearing in the first level documents. I will return to this point below.

Pool for selection

4. The pool was rationally and logically constructed, given the respondent's business objectives. There was no challenge to it from the trade union and there was no challenge to it at this hearing. It was a pool that a reasonable employer could certainly have adopted.

Selection criteria

5. There was no real challenge to any of the criteria, and they were certainly capable of fair and objective application. The trade union agreed them as part of collective consultation. There was a logical connection to the respondent's business requirements. They were selection criteria that a reasonable employer could have adopted.

Collective consultation

6. The claimant did not actively challenge this. I am satisfied that collective consultation was genuine and meaningful. It covered the right topics and fell within a reasonable range.

Individual consultation

7. Once again, the claimant did not really challenge the consultation carried out with her as an individual. I find that it was appropriate and that the respondent went to a great deal of trouble to deal with the claimant's extensive queries. Individual consultation fell well within a reasonable range.

Alternative employment

8. By the end of the hearing there was no real challenge to the respondent's approach. It entailed a meaningful search, with vacancies of potential interest identified by the claimant from a much bigger list. The respondent undertook a conscientious analysis of the suitability of those roles and concluded that they were not "suitable" for the purposes of MAPLE 1999. The claimant would nevertheless have been guaranteed an interview if she had applied for any of them, but she did not apply. I find that the respondent's approach to alternative employment fell well within a reasonable range.

Scoring methodology and supporting evidence

9. This was the claimant's main point on fairness. She maintained a tight focus on the need for what she regarded as sufficiently documented evidence for a valid, objective and fair assessment against the redundancy selection criteria. I concluded that the respondent's approach fell comfortably within a reasonable range of approaches for the following reasons.
 - a. Joanne McLaren, whose evidence I accept, had good personal knowledge of the 15 people she scored. It came from her own experience of them on calls, being copied into emails and her interaction with their immediate supervisors from whom she would understand the activities and performance of staff reporting to those supervisors, such as the claimant. Joanne McLaren also had an overview of all teams that immediate supervisors would likely lack, and she was better placed than those supervisors to carry out fair scoring across the whole pool.
 - b. There is nothing wrong with an evaluative assessment by a manager, provided that they are properly informed, as I find Joanne McLaren was. It is not necessary, to fall within a reasonable range of procedures, that every piece of information considered when reaching a score should be both written and retained for scrutiny. I find that the process was documented to a sufficient extent to ensure confidence, objectivity and fairness, even if it was not enough to satisfy the claimant.
 - c. The claimant had been in the relevant role for long enough for there to be a fair assessment of her ability and performance.
 - d. The methodology was to assess performance based on the time spent in role. That fell within a reasonable range of methodologies and was more likely to result in a fair assessment of all in the pool than any fixed window or period for assessment. The respondent's methodology gave the assessing manager enough flexibility to take a realistic approach where members of the pool had been out of the

business for any reason, well aware that some members of the pool would have had longer to develop and demonstrate competence than others.

- e. Notably, the claimant has not suggested that her scores were wrong, or that they would have been any higher if a more fully documented evidential base had been used for assessment.

Overall conclusion on fairness

- 10. A reasonable employer could have dismissed in the same circumstances and the procedure adopted also fell within a reasonable range. Therefore, the claimant's dismissal for redundancy was fair.

Indirect sex discrimination

- 11. The key details of the argument were as follows.

- a. The provision, criterion or practice ("PCP") relied on by the end of the hearing was the practice of assessment of those at risk of redundancy based on management observation of the time actively spent in role.
- b. The alleged "particular disadvantage" was a reduced opportunity to develop competencies under management observation.
- c. So far as necessary, the respondent relied on the legitimate aim of ensuring as effective and fair a redundancy scoring exercise as reasonably possible.

- 12. I find that the claimant has failed to prove the necessary group or individual disadvantage required for a successful complaint of indirect sex discrimination. The PCP was flexible enough to allow for fair comparison, and potentially one which was *advantageous* to someone absent from the business because of maternity leave. The alleged disadvantage is somewhat speculative, since the PCP is more than capable of allowing for a fair and carefully calibrated comparison.

13. That is borne out by such statistics as are available, with the important cautionary note that the smallest changes in the makeup of small pools can produce deceptively striking changes in statistics. Here, we are dealing with a pool of just 15.
14. The selection pool of 15 was made up of 10 men and 5 women. Of the five employees selected for redundancy 3 were male and 2 were female. Therefore 30% of men in the pool were selected for redundancy and 40% of women in the pool. Given the modest size of the pool, I do not regard that as a difference sufficient to prove the necessary “particular disadvantage” on the balance of probabilities. If just one additional man in the pool had been selected for redundancy instead of a woman in the pool, then 40% of men would have been selected for redundancy but just 20% of women. That shows the problem of drawing reliable inferences from a small pool. Assessed realistically, the statistics suggest nothing disadvantageous to women as a group, or the claimant as an individual woman.
15. In any event, I find that the PCP was a proportionate means of achieving a legitimate aim. There was no challenge to the aim, the means used were rationally connected to that aim, and they were proportionate because no less discriminatory way has been identified in which the respondent could have achieved that aim. The claimant’s suggested alternatives would have resulted in a less effective, fair or accurate process and would not have been proportionate to the aim.
 - a. Delaying the claimant’s assessment until 2 or 3 months after her return from maternity leave would have delayed the entirety of the redundancy exercise. Also, it would remain the case that others in the pool would have had more time in role than the claimant, so it would not address the issue of concern to the claimant.
 - b. Giving greater weight to the year end 2023 performance rating would be illogical, since by the time of the redundancy exercise the members of the pool were carrying out a different role. It would not be a fair way

of comparing people, or one rationally connected to the role that the
10 staff retained would be required to perform in the future.

16. For all those reasons, the indirect sex discrimination claim fails too.

Date of summary written reasons **13 August 2026**