



EMPLOYMENT TRIBUNALS

Claimant: Miss P Mallik

Respondent: Arriva Kent and Surrey Limited

RECORD OF A PRELIMINARY HEARING

Heard at: Ashford (by video) **On:** 10 July 2026

Before: Employment Judge Corrigan

Appearances

For the claimant: Ms E Grace, Counsel (through Advocate)

For the respondent: Dr M Ahmad, Counsel

REASONS

For judgment dated 22 September 2026

Provided at both parties' request

1. At the hearing the issues before me were:

Was the work done by the claimant and the work done by the comparator(s) given different values by a job evaluation study? The respondent relied on the job evaluation report by Make UK Legal Services dated 22 April 2022.

2. If so, whether I had reasonable grounds for suspecting that the job evaluation was

- 2.1 based on a system that discriminates because of sex or

- 2.2 was otherwise unreliable.

3. The hearing was listed face to face but due to both a misunderstanding and the respondent's representative's travel difficulties it took place by video with everyone's agreement.

4. There was a bundle of 230 pages including the EAT judgment and the job evaluation report dated 22 April 2022 and the claimant's submissions. During the hearing the respondent added job analysis questionnaires and the standard factor plan attached to the job evaluation study. There was a very detailed witness statement from the report author. They were unable to attend to give evidence for personal reasons that I have not included here as the reasons will be published. The respondent had asked for a postponement (though there was no information as to when the situation

would be different) but in any event the purpose of any oral evidence would have been to allow the claimant to question the witness and she was content to proceed on the basis of the material before me. I did so, though I did allow the respondent to submit the additional documents in the circumstances. Not all of the documentation referred to in the study was provided.

5. As these reasons shall be published I shall refer to the report author/writer by that terminology or as the witness. Hers was the only witness evidence before me.
6. The claimant says it is a predominantly male workforce and that certain roles at the depot are what she describes as “traditionally male” and the roles have never been graded (paragraphs 39 and 47 claimant’s representative’s submissions). The absence of grading is also apparent from the response. The relevant study was prepared in response to the grievance and this claim (paragraph 1, page 34 bundle). The relevant period covered by the claim began in 2018 and the claim was submitted on 21 July 2021. The response was submitted in August 2021. In the claim the comparators were identified as “Engineering Store Keeper” and “Relief Duty Inspectors”.
7. The study was limited to what was purported to be the claimant’s role and three comparator roles so it was very narrow and it is clear it was commissioned so that the respondent could respond more fully to this case, which it said it defended in full. The comparator roles were Duty Manager, Store Keeper, and Payroll Administrator. The respondent told the report author that the job titles Duty Inspector, Duty Manager and Relief Inspector were used interchangeably and the role she looked at was Duty Manager.
8. The claimant (understandably by that time) did not participate and the respondent presented an alternative postholder for interview (paragraph 2 of the study). The author took account of job descriptions and interviews with the postholders and their respective managers which took place in February and April 2022 (by which time the claimant had been off sick for some time). A standard factor plan was used rather than a bespoke factor plan. It gave different values to the roles evaluated. It ends with recommendations that state that it “would be beneficial to undertake a job evaluation project for all roles across the Company...If this is undertaken then it is advisable that a bespoke factor plan is used that has been formulated with a joint working group made up of managers and individuals whose jobs are affected. This would reflect the demands and responsibilities of the roles more accurately than the use of a standard factor plan. A tailor-made factor plan would not only enhance any defence for equal value claims...”

Relevant law

9. Section 65(5) Equality Act 2010 states that a system of work is sex-specific if, for the purposes of one or more of the demands made on a worker, it sets values for men different from those it sets for women.

10. Section 80(5) Equality Act 2010 states that a job evaluation study is a study undertaken with a view to evaluating, in terms of the demands made on a person by reference to factors such as effort, skill and decision-making, the jobs to be done by some or all of the workers in an undertaking.
11. Subsections 131(5) and (6) state that where A's work and B's work have been given different values in a job evaluation study a Tribunal must determine that A's work is not of equal value to B's work unless it has reasonable grounds for suspecting that the evaluation in the study was either based on a system that discriminates because of sex or is otherwise unreliable. Section 131(7) states that a system discriminates because of sex if a difference (or coincidence) between values that the system sets on different demands is not justifiable regardless of the sex of the person on whom the demands are made.
12. I was referred to the authorities cited by the parties' representatives including *Dibro Ltd v Hore* [1990] ICR 370 where it was held that a job evaluation study post-dating the claims was admissible evidence and should have been considered provided it related to facts and circumstances at the relevant time.
13. I was also referred to *Armstrong v Glasgow City Council* [2017] IRLR 993 as authority for the principle that all the claimant has to do is to persuade me that there are reasonable grounds for suspecting that the evaluation contained in the study was unsuitable to be relied upon. There is no requirement for particularly cogent evidence, nor indeed for evidence that an element of the study is actually unsuitable. All that is required are reasonable grounds for suspicion.

Conclusions

14. I accepted the study dated 22 April 2022 was a job evaluation study within the meaning of s80, dealing with the roles of the postholders involved at the time of the study. However, I was not persuaded that it gave a value to the claimant's work at the relevant time in this case. It did not look at the period of time that the claimant was working (though the relevant witness appears to have had the claimant's job description). The questionnaires are clearly about the work at the point in time that the interviews and analysis were conducted and do not reference back to the relevant time. The witness herself accepts this at paragraph 87 of her statement. She was not asked to do otherwise (paragraph 88).
15. In addition, the report writer did not interview the claimant or the person then doing the claimant's work at the relevant depot but someone working at a different depot selected by the respondent. There is no analysis to show that this was the same as the claimant's role, and it appears the respondent's selection of the role was accepted as being representative of the claimant's role.

16. Moreover, the roles of store keeper and duty manager were evaluated but not the roles of duty relief inspector or “driver who supports the duty managers” specifically. The witness statement confirms this.
17. There are notes on the duty manager job analysis questionnaire mentioning Relief Duty Inspectors at various points:
 - 17.1 “(For information Relief Duty Inspector/Managers are Drivers who support Duty Managers)”
 - 17.2 “NB some Drivers are assigned Relief Duty Managers, this is the same as Relief Duty Inspector. When a Relief Duty Manager is not driving and is performing that role, they are doing the same role as a Duty Manager -They are technically drivers that cover Duty Manager holidays and sickness”
 - 17.3 “[The Duty Manager] may be the only Duty Manager available- ideally there should be 2, but not always possible for a Relief Duty Manager to support....(Relief Duty manager may be required to drive to ensure services run)” and
 - 17.4 “Normally a Relief Duty Manager before progress to Duty Manager”.
18. From this I conclude the Duty Manager and Duty Relief Inspector were both roles that existed and the author did not evaluate (and interview postholders for) both but accepted what was said by the respondent and limited her enquiry to the Duty Manager. Whilst on the one hand there are comments to suggest the roles are the same there is also reference to the relief role being supportive of the Duty Manager role, meaning they may well not be. That analysis between the roles was not done. I conclude a different value has not been put on the claimant’s work and the work done by a Duty Relief Inspector by the job evaluation study.
19. Even if I am wrong about whether or not the study gave a value to the claimant’s work (or the work of a Duty Relief Inspector) I consider there are reasonable grounds to suspect the study is unreliable. The claimant was not involved. The respondent had said the claimant was unlikely to participate and the correspondence to the claimant anticipated that decision. It was clearly commissioned in response to the grievance and this claim, with the litigation in mind. It just involved a very small number of the workforce. It was not a job evaluation study of the whole or defined part of the workforce (such as that recommended in the study’s own conclusion). It appears the respondent chose which employees should be involved and there are comments made within the analysis steering the report author away from the Duty Relief Inspector role named by the claimant.
20. I did take into account that the respondent conceded the other equal pay claim rather than defend it, and that the fact that a report post-dates the claimant’s employment does not prevent it being reliable or applicable to her work, but I nevertheless conclude that there are reasonable grounds to suspect there was an agenda in the way the respondent approached it. It certainly did not address the relevant period. I consider there are reasonable grounds to suspect the study is unreliable.

21. The respondent has already conceded the claimant's like work claim and made payment of the back pay on 12 August 2022. An equal pay audit revealed to the respondent that the claimant was being underpaid in comparison with two comparators. One was paid a higher hourly rate and the other a higher overtime rate. I took on board that the context is a workplace that has significantly more men than women and where roles have never been graded. I noted the comments in the EAT judgment about this and consider that this also gives reasonable grounds to suspect that the job evaluation study was based on a system that discriminates on the basis of sex. There is no suggestion that the report writer was even aware of that context. I note that this is referring to a system within the workplace not the way the witness approached the study.

Approved by:
Employment Judge Corrigan
Date: 2 October 2026

Sent to the parties on:
Date: 2 October 2026

Notes

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