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EMPLOYMENT TRIBUNALS (SCOTLAND)

Case No: 4104024/2022

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Held on 21 and 22 March 2023 and 10, 11 and 12 May (members meeting in chambers) 2023

Tribunal Members N Bakshi and J Smillie and Employment Judge S Neilson

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Miss C Graham

**Claimant
Represented by
Mr McParland,
Solicitor**

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Eddie Stobart Limited

**Respondent
Represented by
Ms Shaw, Solicitor**

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JUDGMENT OF THE EMPLOYMENT TRIBUNAL

The unanimous judgment of the Employment Tribunal is that:-

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- (a) the claimant's claims for automatic unfair dismissal under section 99 of the Employment Rights Act 1996 based upon regulations 20(1)(a); 20(1)(b) and 20(2)(a) of the Maternity & Parental Leave etc Regulations 1999 do not succeed and are dismissed;
- (b) the claimant was subjected to a detriment by the respondent under section 47C of the Employment Rights Act 1996, and separately unfavourable treatment because of her pregnancy/maternity leave under section 18 of the

Equality Act 2010 in the respect that the respondent failed to deal with /investigate her grievance;

- 5 (c) The claimant's other claims for detrimental treatment under section 47C of the Equality Act 2010 and regulation 19 of the Maternity & Parental Leave etc Regulations 1999 and for unfavourable treatment because of her pregnancy under section 18 of the Equality Act 2010 do not succeed and are dismissed;
- (d) The claimant's claims for victimisation under section 27 of the Equality Act 2010 do not succeed and are dismissed; and
- 10 (e) The respondent is ordered to pay to the claimant the sum of £10,000 in respect of injury to feelings.

REASONS

- 15 1. The case was heard over four days (with a fifth day in chambers for deliberation by the Tribunal). The Claimant was represented by Mr McParland Solicitor and the Respondent was represented by Ms Shaw, Solicitor. There was an agreed bundle of productions to which the witnesses referred. There was also an agreed Schedule of Loss.
- 20 2. The claimant gave evidence on her own behalf and Mr Cameron Taylor, Rail Manager for the respondent, Mr Tony Delaney, General Manager; Ms Helen Saunders, Head of HR, and Mr John Whitmore, Head of Infrastructure gave evidence on behalf of the respondent.

Issues

3. The issues to be determined in the case were as follows.
- 25 4. Was the claimant automatically unfairly dismissed contrary to Section 99 Employment Rights Act 1996 ("the ERA") and Regulation 20 of the Maternity & Parental Leave etc Regulations 1999 ("the MAPLE Regulations") and specifically Regulations 20(1)(a); 20(1)(b) and/or 20(2) of the MAPLE

Regulations. The Tribunal will refer to these as “the Automatic Unfair Dismissal claims”.

5. Was the claimant subjected to any detriment by any act, or any failure to act by the respondent done by reason of pregnancy, childbirth or maternity contrary to Section 47C of the ERA and Regulation 19 of the MAPLE Regulations. The Tribunal shall refer to this as “the Detriment Claim”.
6. Was the claimant treated unfavourably contrary to Section 18 of the Equality Act 2010 (“the EA”). The Tribunal will refer to this as “the Unfavourable Treatment Claim”.
7. Was the claimant victimised contrary to Section 27 of the EA. The Tribunal shall refer to this as “the Victimisation Claim”.

Findings in Fact

8. The respondent is a large transport and logistics business, operating throughout the United Kingdom, including from its Newhouse Depot in East Glasgow.
9. The claimant was employed by the respondent as a Planner at its Newhouse Depot. She reported to Mr Eddie Murphy.
10. The claimant’s employment commenced on 12 July 2021 and terminated on 26 May 2022.
11. The claimant earned a salary of £28,000 per annum with effect from 1 September 2021 in her role as a Planner. This was subsequently increased to £28,840 prior to the termination of her employment.
12. The claimant was one of 9 Planners operating out of the Newhouse Depot for the respondent.
13. The Claimant became aware she was pregnant on or about 28 October 2021. She notified her line manager, Mr Eddie Murphy on or about 29 October 2021.

14. The claimant commenced her maternity leave period on 12 April 2022.
15. The claimants last day in the office was Friday 8 April 2022.
16. In or about March 2022 the respondent took a decision to cease the planning function in Scotland as part of a reorganisation.
- 5 17. On 29 March 2022 the respondent announced a 30 day consultation period in relation to the proposed redundancy of all 9 Planners based at Newhouse Depot and the creation of four new Transport Shift Manager (“TSM”) roles at that location.
18. The claimant was notified by the respondent that she was at risk of
10 redundancy by e mail of 29 March 2022. The claimant was notified in that e mail that her first redundancy consultation meeting would be on 1 April 2022.
19. By e mail of 30 March 2022 at 14:06 Ms Webster, HR Business Partner for the respondent, sent to the claimant and others a list of vacancies in the business. This list included the 4 TSM roles at Newhouse.
- 15 20. In response to the e mail of 30 March 2022 from Ms Webster the claimant replied as follows at 15:25 :- *“Hi Dawn, Thank you for your e mail and I would like you to consider my comments below in advance of our meeting tomorrow. I believe that due to being a pregnant employee who will be on maternity leave come the 28 April that I am entitled legally to be offered an alternative
20 position that I do not have to apply for and that I must be prioritised over fellow employees for posts. I understand if this does not happen then it would be unfair dismissal. Therefor can you please note my interest in a dayshift position of TSM.”*
21. Ms Webster responded to that e mail by an e mail to the claimant at 16:19 on
25 30 March 2022. In that e mail Ms Webster said *“Can you please confirm the start date of your maternity leave, as I don’t appear to have received notification of your intentions for Maternity Leave dates and as per the attached policy, this notice is required by the 15th week before your baby is*

due.” Ms Webster also addressed the issue of alternative roles and said *“With regards to the roles available, if the role is a level move and the redundancies are made following the start of your maternity you must be offered any suitable alternative vacancy first – in preference to other redundant employees who are not pregnant. However, as the roles available are at a higher level (Transport Shift Manager) to what your current role is (Planner), you do not have an automatic entitlement to promotion. You will need to provide me with your CV and you will be given due consideration for the vacancies, and you would need to meet the minimum criteria for the role.”*

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22. The claimant confirmed her maternity leave dates to Ms Webster by e mail at 16:29 on 30 March 2022.

23. The claimant attended her first redundancy consultation meeting on 1 April. In attendance were Mr Taylor and Ms Webster. At that meeting the claimant stated that she wished to be considered for the TSM roles. The claimant stated that she had sought legal advice and that because she is pregnant she should get the role before anyone else without the need to be interviewed. Ms Webster responded to this by stating that there was no automatic right to the role at this point. Ms Webster stated “As an example if there was a CEO role in Scotland, you would not have an automatic right to that role, it has to be suitable and we have to assess your suitability.” Ms Webster stated that the claimant would be assessed against the job description when that was finalised. Mr Taylor gave as an example the fact that a Certificate of Professional Competence may be required for the TSM role.

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24. The Claimant notified Mr Taylor and Ms Webster at the consultation meeting on 1 April 2022 that she was not willing to relocate.

25. On 3 April 2022 the claimant submitted her CV to Ms Webster.

26. On 4 April 2022 Ms Webster sent an e mail at 15:36 to Mr Delany, Barry Foster and cc Mr Taylor. She attached copies of the CV’s for the applicants for the TSM role (including the claimants). In that e mail she stated:- *“I have*

highlighted the requirement for Caitlin to be assessed against the TSM role in priority of all other applicants, as she has a right to be offered any “suitable” alternatives prior to any colleagues and not to be interviewed, that being said she has set an expectation in her e mail that she will be spoken to about her suitability. I have copied you into the responses I have sent to Caitlin so you are aware of the advice I have given.” Ms Webster outlined the next steps in the process including “CV’s to be assessed against the JD and scoring matrix (with said conversation with Caitlin to take place).

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27. There was no conversation with the Claimant about her suitability for the TSM role prior to her interview by Mr Delaney.

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28. Ms Webster sent the job description for the TSM role by e mail to all who had expressed an interest in the role, including the claimant at 13:15 on 8 April 2022. The claimant did not receive it as she had left to commence her maternity leave. The claimant had left her out of office automatic e mail response on.

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29. Mr Delaney spoke with Ms Webster prior to his interview with the claimant and was informed by Ms Webster that the claimant did not automatically qualify for the TSM role.

30. The claimant had obtained, prior to her interview with Mr Delaney, a copy of a job description for a TSM role from a colleague in London.

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31. On 11 April the claimant was invited to attend an interview for the TSM role on 13 April 2022.

32. The claimant attended an interview for the TSM role on 13 April 2022. The interview was conducted by Mr Delaney, General Manager and Mr Simon Murphy, Regional Transport Planning Manager.

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33. There were six applicants for the TSM roles who were interviewed by Mr Delaney and Mr Simon Murphy. All six had previously been planners at

Newhouse who were at risk of redundancy. Four of these applicants were successful and were offered TSM roles.

34. In carrying out the interviews Mr Delaney and Mr Simon Murphy applied a scoring system based upon set criteria and with scores awarded on the basis of Fully Meets [criteria] 3 points; Partially Meets [criteria] 2 points; Didn't Meet [criteria] – could be trained 1 point; Didn't Meet – 0 points and Didn't Answer 0 points. This was a scoring system that Mr Delaney had used previously.
35. The criteria used by Mr Delaney and Mr Murphy were designated as Requirements. These were Commercial Awareness; Coaching and Development; Impacting & Influencing; Problem Solving; Leadership; Drive for Results; Developing the Business; Customer Focus; Planning and Organising and Communication and Influencing. Separately the applicants were also scored based upon the answers to certain questions.
36. Mr Delaney reviewed the claimants C.V. and considered its contents as part of the interview process.
37. The TSM role had a salary of £31,000 per annum.
38. The claimant was given a score of 8 on the Requirements and 13 on the questions by both Mr Delaney and Mr Simon Murphy. A total score of 21 which was substantially below the scores accorded to the other applicants where the next lowest was 54.
39. On or about 20 April 2022 Mr Delaney notified the claimant by telephone that she had not been successful in her application for the TSM role and he provided her with verbal feedback. In providing the feedback Mr Delaney did not go through the scores that had been allocated to the claimant but did explain to her that she had not answered some of the questions and that on others she had not “sold herself” and that for future reference she should think about how to do that.

40. The role of Planner with the respondent is an operational role. It is primarily to ensure that customer loads are collected and delivered on time with the resource available and that this is done legally with regards to drivers hours of work. The job purpose is defined by the respondent as “To provide a plan that deploys the allocated resource pool in the most effective way; To ensure the plan meets all legal obligations in respect of WTD and EU Drivers legislation; To maintain the Customer Services requirements of work allocated to the resource pool.”
41. The TSM role with the respondent has more of a management function than the Planner role and has a broader remit essentially dealing with the management of drivers and vehicles. The purpose of the TSM role is defined by the respondent as “Reporting into the Transport Manager, you will work collaboratively to ensure effective running of a busy transport operation. Ensuring that Operational KPI’s are met and that the operations are conducted strictly in accordance with legal requirements, whilst helping to formulate and deliver the short, medium and long-term resource plans for your area.”
42. The Planner role does not have line management responsibility for the drivers and the planner is not involved in dealing directly with recruitment, absence and performance management, disciplinary and grievance issues.
43. The TSM role does have line management responsibility for drivers and the TSM will be involved in recruitment, absence and performance management, disciplinary and grievance issues.
44. The Planner does not have responsibility for investigating accidents or scheduling vehicle maintenance and MOT tests.
45. The TSM does have responsibility for investigating accidents, scheduling vehicle maintenance and MOT tests.
46. With regard to compliance with legislation the Planner is responsible for ensuring that drivers do comply with their working hours under the Working

Time Regulations. The TSM has a broader responsibility with regard to compliance with the Working Time Regulations, Health & Safety legislation and legislation with regard to the use and maintenance of the vehicles.

5 47. The claimant's Planner role was in respect of drivers and deliveries in and around London. The planning for this tended to focus on short single delivery routes where drivers were not expected to travel long distances or being away carrying out multiple deliveries.

10 48. The other applicants for the TSM role who were interviewed at the same time as the claimant had more relevant management experience than the claimant.

15 49. On 26 April 2022 the claimant submitted a written grievance by e mail to Mr Taylor. The e mail was sent at 17:59:35. The written grievance was on the grounds that (a) no suitability assessment had been carried out in relation to the claimant and the TSM role; (b) the legislation regarding a suitable vacancy had not been adhered to; (c) there should not have been an interview and (d) the claimant was not given an opportunity to prepare for the interview as she did not receive the job description.

20 50. The claimant attended a final consultation meeting with Ms Webster and Mr Delaney by Teams video on 28 April 2022. At this meeting the claimant made Ms Webster and Mr Delaney aware that she had not received the job description for the TSM role prior to her interview. The claimant also made Ms Webster and Mr Delaney aware that she had submitted a grievance with regard to the respondent's treatment of her. When asked if there was any information that the claimant would like the respondent to consider for the final time the claimant stated "I have submitted a grievance against the company with regards to the way I have been treated and the company not following the right process for someone who is pregnant." In response Ms Webster stated "This would be an appeal and Tony will go through this" to which the claimant replied that ACAS had told her to submit a grievance. This

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issue was not discussed further. At this meeting the claimant was offered an alternative role as a Planner based in Carlisle which she declined.

51. On 28 April 2022 the claimant was given written notice of the termination of her employment on grounds of redundancy to take effect on 26 May 2022.

5 52. By e mail of 3 May 2022 from Ms Webster to the claimant (with Mr Taylor and Mr Delaney copied in) sent at 12:13:00 the claimant was notified that Mr Taylor had not received her grievance and the claimant was asked to send a copy to advice@eddiestobart.com (being the e mail address for the HR advice team).

10 53. By e mail of 3 May 2022 at 13:49:10 the claimant sent a copy of her written grievance of 26 April 2022 to advice@eddiestobart.com.

15 54. The claimant's e mails of 26 April and 3 May were received by the respondent into their system. However, they were caught by the respondents IT software that protects against inappropriate e mails that might pose a security risk (known as Mimecast). The e mails were not delivered to either Mr Taylor or to the HR help desk. Neither Mr Taylor nor the HR help desk received any notification that e mails had been sent to them by the claimant. This only became apparent to the respondents after instructing an internal IT check in March 2023.

20 55. The claimant was contacted by telephone by Helen Saunders, Head of HR for the respondents on 16 May 2022. Ms Saunders was checking with the claimant about her maternity pay. The claimant raised with Ms Saunders the issue of her grievance and the fact she had not had a response. Ms Saunders undertook to look into it.

25 56. Ms Saunders checked with the HR advice team by e mail on 19 May 2022 if any grievance or appeal had been received from the claimant. Susie Jones from the HR advice team confirmed to Ms Saunders by e mail on 19 May 2022 that no grievance or appeal had been received.

57. Ms Saunders wrote to the claimant about her maternity pay on 20 May 2022 but made no mention in that letter of the grievance.
58. The claimant was upset by the way in which she had been dealt with by the respondent in relation to her redundancy and by the failure of the respondent to deal with her grievance.
59. On 15 July 2022 Thomas Rafferty, an Operations Administrator employed by the respondent was offered and accepted a role as a TSM.
60. On 1 August 2022 Susie Jones from the HR advice team confirmed to Holly Partington of the respondent that no grievance had been received from the claimant.
61. The claimant obtained alternative employment on 1 May 2023 and would have been on maternity leave until 13 April 2023.
62. The claimant's losses are agreed in the sum of £1,580.16 had she remained in the Planner role and £1,497.78 had the claimant been in the TSM role.

15 **Submissions**

63. Mr McParland lodged written skeleton submissions with the Tribunal. He expanded upon them before the Tribunal.
64. In summary Mr McParland submitted that the Tribunal should accept the evidence of the claimant as honest and reliable and treat the evidence of Mr Taylor, Mr Delaney and Ms Saunders with caution as they were clearly trying to justify a decision after the event. He asked the Tribunal to draw an adverse inference from the fact that Ms Webster, a potentially key witness, was not called to give evidence by the respondent.
65. He submitted that the claimants primary claim was under Regulation 20(1)(b) of the MAPLE Regulations – a failure to comply with Regulation 10 of the MAPLE Regulations. He submitted that the failure to carry out an assessment by itself would represent a failure to comply with Regulation 10

although he accepted that ultimately it would be for the Employment Tribunal to determine if it was a suitable role based upon the evidence heard. He referred to the case of *Sefton Borough Council -v- Wainwright 2015 IRLR 90* as authority for the proposition that an assessment was essential. He also submitted that the evidence established that the claimant had the requisite skills as set out in her C.V. to do the TSM role.

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66. The claimant's additional claims are that in any event the claimant has a claim under Regulation 20(1)(a) and Regulation 20(2) of the MAPLE Regulations. Under 20(1)(a) that it is tainted by discrimination – although the claimant does accept that it is a redundancy as defined in Section 139 of the ERA. In respect of the claim under Regulation 20(2) of the MAPLE Regulations Mr McParland submitted that it would be appropriate to draw adverse inferences to show that the reason for selection was connected with maternity leave.

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67. Turning to the Detriment claim the first four grounds were as set out in the skeleton but the fifth and sixth ground required to be re-framed given the evidence that had been led about the blocking of the e mails. Essentially the allegation was now that the respondent failed to take steps to deal with the grievance – and the reason for this was connected to maternity leave.

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68. With regard to the Unfavourable Treatment Claim the grounds were the same as the Detriment claim.

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69. Lastly in relation to the Victimisation claim the claimants position is that because the protected acts were tainted by discrimination that brings the protected acts within the ambit of the EA.

70. With regard to loss the claimant was seeking her financial loss in respect of the unfair dismissal claim and an award for injury to feelings of £15,000 – falling within the middle Vento band.

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71. Ms Shaw for the respondent had also lodged written skeleton submissions which she expanded upon before the Tribunal.

72. In relation to the Regulation 20(1)(a) of the MAPLE Regulations claim Ms Shaw submitted there was clear evidence that this was a genuine redundancy situation. The reason for dismissal was redundancy.

5 73. In relation to the Regulation 20(1)(b) and Regulation 10 of the MAPLE Regulations Ms Shaw submitted that you had to apply the words of Regulation 10 and that whilst some form of assessment was required it depended upon the circumstances how extensive that should be and in this case only a very basic assessment was required. Ms Shaw highlighted what she claimed were the differences between the Planner role and the TSM role
10 from the evidence provided by the respondent and asked the Tribunal to accept that evidence. She submitted that there was no requirement for the respondent to involve the claimant in any assessment and that the respondent had adequate knowledge from which it could come to a view. She conceded that communication with the claimant could have been better but
15 the respondent was in a position at a relative glance, without an in depth review, to come to a view on the suitability of the TSM role. Ms Saunders evidence disclosed that the HR team at the respondent had sufficient knowledge to know the difference between the two roles. In any event, Ms Shaw submitted, it was ultimately an objective test of whether the respondent
20 was correct to determine that the TSM role was not a suitable vacancy.

74. With regard to the claim under Regulation 20(2) of the MAPLE Regulations Ms Shaw submitted that there was no evidence that selection was for a reason connected with pregnancy or maternity. The clear evidence was that the claimant was selected because she was not one of the top four
25 candidates.

75. In relation to the Detriment Claim Ms Shaw submitted that the evidence showed that the first four detriments were not made out. In relation to the grievance and the issue of whether the respondent failed to make meaningful enquiries Ms Shaw submitted that the respondents evidence showed that
30 enquiries were made. They were entitled to assume the e mail system was working. Further the treatment of the claimant would have been the same

whether the claimant was at work or on maternity leave. If there was a failure it was for an admissible reason – because of a flaw in the system.

76. With regard to the Unfavourable Treatment claim the same points applied but there was a slightly different legal test.

5 77. Finally in relation to the Victimisation Claim Ms Shaw submitted that the acts alleged to be “protected acts” under Section 27 of the EA were not as the acts related specifically to rights under Regulation 10 of the MAPLE Regulations and not rights under the EA. In any event there was no link between the alleged protected acts and the alleged detriment.

10 78. In respect of loss the respondent was not arguing mitigation in respect of the very short period of financial loss. There was no evidence of any impact upon the claimant’s feelings and in any event any award for injury to feelings should be at the lower end of the lower Vento band.

The Law

15 79. With regard to the Automatic Unfair Dismissal Claims the relevant legislation is set out in Section 99 of the ERA and Regulations 20(1)(a); 20(1)(b); 20(2) and 20(3) of MAPLE Regulations.

80. Section 99 of the ERA provides:-

20 *“99(1) – An employee who is dismissed shall be regarded for the purposes of this Part as unfairly dismissed if –*

(a) The reason or principal reason for the dismissal is of a prescribed kind; or

(b) The dismissal takes effect in prescribed circumstances.

(2) In this section “prescribed” means prescribed by regulations made by the Secretary of State.”

25 81. The relevant Regulations are the MAPLE Regulations. Regulation 20 of MAPLE Regulations provides:-

“20(1)- An employee who is dismissed is entitled under section 99 of the 1996 Act to be regarded for the purposes of Part X of that Act as unfairly dismissed if:-

5 *(a) the reason or principal reason for the dismissal is of a kind specified in paragraph (3), or*

(b) the reason or principal reason for the dismissal is that the employee is redundant, and regulation 10 has not been complied with.

(2) An employee who is dismissed shall also be regarded for the purposes of Part X of the 1996 Act as unfairly dismissed if –

10 *(a) the reason (or if more than one, the principal reason) for the dismissal is that the employee was redundant;*

15 *(b) it is shown that the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who held positions similar to that held by the employee and who have not been dismissed by the employer, and*

(c) it is shown that the reason (or if more than one, the principal reason) for which the employee was selected for dismissal was a reason of a kind specified in paragraph (3).

20 *(3) the kinds of reason referred to in paragraphs (1) and (2) are reasons connected with-*

(a) the pregnancy of the employee;

(b) the fact the employee has given birth to a child;

(c)

25 *(d) that fact that she took, sought to take or availed herself of the benefits of ordinary maternity leave [or additional maternity leave].”*

82. Regulation 10 of the MAPLE Regulations provides:-

5 *“(1) This regulation applies where, during an employee’s ordinary or additional maternity leave period, it is not practicable by reason of redundancy for her employer to continue to employ her under her existing contract of employment.*

10 *(2) where there is a suitable available vacancy, the employee is entitled to be offered (before the end of her employment under her existing contract) alternative employment with her employer or his successor, or an associated employer, under a new contract of employment which complies with paragraph (3) (and takes effect immediately on the ending of her employment under the previous contract).*

(3) the new contract of employment must be such that –

(a) the work to be done under it is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances, and

15 *(b) its provisions as to the capacity and place in which she is to be employed, and as to the other terms and conditions of her employment, are not substantially less favourable to her than if she had continued to be employed under the previous contract.”*

20 83. With respect to the Detriment Claim Section 47C of the ERA and Regulation 19 of the MAPLE Regulations provide as follows:-

“47C(1) An employee has the right not to be subjected to any detriment by any act, or any deliberate failure to act, by his employer done for a prescribed reason.

25 *(2) A prescribed reason is one which is prescribed by regulations made by the Secretary of State and which relates to (a) pregnancy, childbirth or maternity...(b) ordinary, compulsory or additional maternity leave,”*

“19(1) An Employee is entitled under section 47(c) of the 1996 Act not to be subjected to any detriment by any act, or any deliberate failure to act, by her employer done for any of the reasons specified in paragraph (2).

(2) The reasons referred to in paragraph 1 are that the employee- (a) is pregnant; (b) has given birth to a child...(d)took, sought to take, or availed herself of the benefits of, ordinary maternity leave or additional maternity leave.”

84. With regard to the Unfavourable Treatment claim Section 18 of the EA provides:-

“18 (1) This section has effect for the purposes of the application of Part 5 (work) to the protected characteristics of pregnancy and maternity.

(2) 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 her pregnancy, or

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

(3) A person (A) discriminates against a woman if A treats her unfavourably because she is on compulsory maternity leave.

(4) A person (A) discriminates against a woman if A treats her unfavourably because she is exercising or seeking to exercise, or has exercised or sought to exercise, the right to ordinary or additional maternity leave.”

85. With respect to the Victimisation Claim Section 27 of the EA provides:-

“27(1) A person (A) victimises another person (B) if A subjects B to a detriment because –

(a) B does a protected act, or

(b) A believes B has done, or may do, a protected act.

(2) Each of the following is a protected act –

(a) bringing proceedings under this Act;

(b) giving evidence or information in connection with proceedings under this Act;

5 *(c) doing any other thing for the purposes of or in connection with this Act;*

(d) making an allegation (whether or not express) that A or another person has contravened this Act.”

Discussion & Decision

Witnesses

10 86. With regard to the witnesses the Tribunal found on the whole that all of the witnesses were broadly truthful in their account of what occurred. Whilst Mr McParland suggested that the respondent's witnesses were biased in that they were seeking to provide evidence that would justify their positions the same could equally be said of the claimant. The Tribunal did accordingly take
15 into account that all the witnesses were, to some extent, looking to put forward their best case, so that for example the claimant did seem to the Tribunal to over state her experience and the marks she would have expected to receive in the interview and the respondents witnesses to some extent tended to focus on the things the claimant did not have experience of. With
20 regard to the absence of Ms Webster, Mr McParland encouraged us to draw an adverse inference from the fact she did not appear as a witness. The Tribunal was not prepared to draw any inference from her non-appearance. Ms Webster left the employment of the respondent in May 2022 and in these
25 circumstances, it is not unusual for a former employee not to be involved in Employment Tribunal proceedings as a witness. Without further information it would not be appropriate to draw any inference one way or another regarding her non-attendance.

Automatic Unfair Dismissal Claims

87. Dealing firstly with the Automatic Unfair Dismissal Claims. There were three separate grounds advanced under the MAPLE Regulations. Firstly under Regulation 20(1)(a) of the MAPLE Regulations that the reason or principal reason for the dismissal is a reason connected with the pregnancy of the employee or the fact that the employee has given birth to a child or the fact that the employee took, sought to take or availed herself of the benefits of, ordinary maternity leave or additional maternity leave. The claimant submits that her dismissal was “connected” with her pregnancy or the fact that she was taking maternity leave. However, the respondents led evidence, which was not challenged, that there was a genuine redundancy exercise with regard to the removal of nine Planner positions at the Newhouse Depot. Under cross examination the claimant accepted that the real reason for dismissal was redundancy. In the view of the Tribunal the reason she was dismissed was redundancy. There was no evidence to support a position that the reason or principal reason for the dismissal was a reason connected with the pregnancy of the claimant or the fact that the employee took, sought to take or availed herself of the benefits of, ordinary maternity leave or additional maternity leave. There were other employees who were made redundant at the same time as part of the same exercise. Accordingly, the Tribunal does not find that a case for automatic unfair dismissal has been made out under Regulation 20(1)(a).

88. The second ground for automatic unfair dismissal was under Regulation 20(1)(b) – that the reason or principal reason for the dismissal is that the employee is redundant, and regulation 10 has not been complied with. Regulation 10(3)(a) has a mandatory requirement that the “new contract of employment must be such that – (a) the work to be done under it is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances.” The parties have agreed that the test under limb (b) of Regulation 10(3) has been met – although both (a) and (b) must be considered together and both must be met. Accordingly, the issue here turns upon whether or not the work to be done under the TSM role “*is of a kind which is both suitable in relation to the employee and appropriate for her to*

do in all the circumstances.” It was not disputed by the respondent that if Regulation 10 of MAPLE was engaged then it had not been complied with. It was common ground that if Regulation 10 applied there was an automatic right to the TSM role and it was not appropriate to put the claimant through a competitive interview for that role.

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89. The Tribunal was referred to the authorities of *Simpson -v- Endsleigh Insurance Services Limited 2010 UKEAT/0544/09* and *Sefton Borough Council -v- Wainwright 2015 IRLR 90*.

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90. Mr McParland in his submissions stated that there was an obligation on the respondent to carry out a full assessment, involving the claimant, of whether or not the TSM role was suitable for the claimant. This had not been done and this in itself amounted to a breach of Regulation 10. In any event he submitted the evidence disclosed that the TSM role was both suitable and appropriate. The claimant had the experience and the skills. The respondents were exaggerating the differences between the two roles. It did not matter if she was not the most experienced of the applicants – once Regulation 10 was engaged she had a right to the role.

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91. Ms Shaw accepted that it was implicit that some form of assessment needed to be carried out by the respondent. However the extent of that would depend upon the context. In some situations that could be a very basic level of assessment done by the employer alone.

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92. In terms of authorities the Tribunal notes what was said in *Sefton* at para 47 “In order to afford the claimant the protection she was entitled to under reg 10 once her position was redundant (on the ET’s finding that was July/August 2012), the respondent was obliged to assess what available vacancies might have been suitable and to offer one or more of those to the claimant. She should not have been required to engage in some form of selection process.” Mr McParland contended that that supported the legal requirement for a full assessment. However, the Tribunal does not consider that it goes that far. The Tribunal has had regard to the EAT decision in *Simpson* and in particular

5 para 31:- *“It seems to us that the Tribunal were absolutely correct to focus on an objective decision made by the employer, since under the regulations there is no requirement on the employee to actually engage in this process, although clearly the employer would have to consider what it knew about the employee’s personal circumstances and work experience. It seems to us that at the end of the day it is up to the employer, knowing what it does about the employee, to decide whether or not a vacancy is suitable. Ms Palmer suggested this places a very difficult task on employers when deciding, for example, whether or not to offer a more senior post to an employee who is on maternity leave. The Tribunal, at the end of paragraph 10.7, suggested that there was no reason why the Respondent could not choose to test suitability by assessment and interview. The IDS Handbook on Redundancy, at page 106, sets out the position thus:- “To a large extent, this puts an employee away on maternity or adoption leave in a far more advantageous position than if she were at work, since it may be that, had she been at work, she would not have been offered one of the available alternative jobs in preference to other more highly qualified candidates.” We are by no means satisfied that an employer could choose to test suitability by assessment and interview.”*

93. 20 Having regard to the clear statement of the law set out in *Simpson* the Tribunal accepts the submission of Ms Shaw that a formal assessment is not required to comply with Regulation 10. However, it is also clear that the interview process by itself cannot provide an answer to the question of suitability and appropriateness. Whilst it is for the employer to assess whether or not Regulation 10 applies in respect of a particular role (as set out in 25 *Simpson*) ultimately the test is an objective test and the Tribunal must therefore be satisfied that there were objective grounds upon which the employer could come to that conclusion. Indeed, there are likely to be cases where no meaningful assessment as such is carried out by the employer or only a very basic level of assessment (where for example the two roles are 30 vastly different in scope and content). The Tribunal must therefore determine whether there are objective grounds to support that assessment/decision by the employer, based on the evidence before it, and therefore whether there

is evidence to support the decision by the employer on whether the work to be done under the TSM contract “is of a kind which is both suitable in relation to the employee and appropriate for her to do in the circumstances.” That is to apply the words of the legislation.

5 94. In the view of the Tribunal the fact that an alternative role may be a more senior position or a promoted position does not by itself mean that it is not suitable and appropriate. That will no doubt be a factor to be considered but it is not determinative.

10 95. The Tribunal is also conscious that the words of the legislation require the role to be “*suitable in relation to the employee*” and “*appropriate for her to do in the circumstances*”. The fact that the role may be suitable and appropriate for other planners is not determinative nor is the fact that the claimant was interviewed alongside five other planners. Although these may be factors that assist the Tribunal in determining the position as it applied to her.

15 96. From the evidence there was some confusion as to exactly when the respondents determined that the TSM role was not a suitable available vacancy in the context of Regulation 10 of MAPLE. The claimant raised the issue in her e mail of 30 March 2023 to Ms Webster. Ms Webster responded within one hour to clearly state that the claimant did not have an automatic
20 entitlement to the TSM role. However Ms Webster then in the consultation meeting of 1 April refers to “having to assess your suitability” and in the e mail Ms Webster sends to her colleagues on 4 April 2022 she states “I have highlighted the requirement for Caitlin to be assessed against the TSM role in priority to all other applicants, as she has a right to be offered any “suitable”
25 alternatives prior to any colleagues and not to be interviewed, that being said she has set an expectation in her e mail that she will be spoken to about her suitability.” Under “next steps” Ms Webster highlights “CV’s to be assessed against the JD and scoring matrix (with said conversation with Caitlin to take place)”. It is unfortunate that Ms Webster was not available to provide
30 evidence (she left the employment of the respondent in May 2022) but what was clear from the evidence of Mr Delaney is that he was always proceeding

on the basis that there was no automatic right for the claimant to be offered the TSM role.

5 97. Based upon the evidence the Tribunal accepts that a decision was made by the respondent that the TSM role was not suitable and appropriate for the claimant and that that decision was taken by the respondent on or about 30 March 2022 (if not earlier) and that position did not change. There was no formal assessment carried out after 30 March 2022. Accordingly, this does appear to be a situation where a decision was made by the respondent based upon their knowledge of the two roles. The Tribunal has accordingly to assess
10 the evidence that was placed before it in relation to the experience of the claimant and the requirements of the TSM role to determine whether or not, on an objective basis, the respondent had grounds to come to the view that the TSM role did not meet the requirements of Regulation 10.

15 98. In considering the evidence that was provided by the claimant and the witnesses for the respondent about the roles the Tribunal was of the view that there was a tendency on the part of the claimant to diminish the differences between the two roles and to talk up her own experience and equally a tendency on the part of the respondents to focus on the differences between the roles and to highlight the claimants lack of experience. That is perhaps
20 understandable given the context within which the evidence was being provided. However, the Tribunal was satisfied that there were clear differences between the Planner role and the TSM role and in particular that whilst the Planner was responsible for planning routes – ensuring drivers and vehicles were aligned and that the driver gets the goods to customer and returns, the TSM has responsibility for the management of drivers and
25 vehicles, dealing with performance issues of drivers (disciplinary/performance/return to work etc). The TSM role was also responsible for vehicle maintenance and compliance with legislation.

30 99. The Tribunal also accepted that the claimant did lack the kind of management experience that would be required in the TSM role– she did not have experience of dealing with disciplinary hearings, return to work, performance

management and whilst she had experience of the Working Time Regulations in respect of drivers hours she did not have the broader experience of health and safety and other legislation as it related to the vehicles. The claimants experience as set out in her CV was more focussed on administration roles rather than management roles. The other planners who were successful at interview for the TSM role had more management experience than the claimant as set out in their C.V.'s.

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100. The Tribunal did take into account the fact that there was only a modest salary difference between the two roles and the fact that all the planners were interviewed for the TSM roles (and five of them, including Mr Rafferty) were ultimately given TSM roles. However the issue is whether or not there were objective grounds upon which the respondents could come to the view that the work to be done under the TSM contract is of a kind which is not suitable in relation to the employee and appropriate for her to do in the circumstances. The Tribunal considers that there was sufficient evidence to satisfy the Tribunal that it was permissible for the respondent to come to that view. Accordingly, the Tribunal does not uphold the claim under Regulation 20(1)(b) of the MAPLE Regulations.

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101. The third ground for automatic unfair dismissal is under Regulation 20(2). For this to be established it must be shown that (i) the reason for dismissal was redundancy; (ii) the circumstances constituting the redundancy applied equally to one or more employees in the same undertaking who held positions similar to that held by the claimant and who have not been dismissed by the respondent, and (iii) it is shown that the reason or principal reason for which the employee was selected for dismissal was a reason connected with the pregnancy of the employee or the fact that the employee has given birth to a child or the fact that the employee took, sought to take or availed herself of the benefits of, ordinary maternity leave or additional maternity leave.

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102. It is not disputed by the respondent that (i) and (ii) are satisfied here. The issue is whether the reason or principal reason why the claimant was selected other than some of the other planners was a reason connected with the

pregnancy or the fact she was on maternity leave. It is for the claimant to point to some evidence to support that.

5 103. The position of the respondent is that the reason the claimant was selected was that other candidates performed better at interview. The evidence that was presented by Mr Delaney, who explained his scoring against the responses put forward by the claimant, was that the claimant had not performed as well as the other candidates. She had less relevant experience than the other candidates. The Tribunal was not satisfied that there was any evidence that pointed to the respondent selecting the claimant for a reason connected to the claimant's pregnancy or maternity leave. It was put to Mr Delaney in cross examination that selecting an employee who was about to go off on maternity leave would be problematic for the respondents. Mr Delaney stated that in a large organisation such as the respondent it was not unusual to have to provide cover for people who were off for one reason or another, so he did not see that as an issue. It was also submitted that the claimant was deliberately marked down to achieve the result that she would be selected for redundancy. However, the Tribunal was satisfied that Mr Delaney had grounds for the marks that he awarded to the claimant based upon the experience she had in her C.V. and in the way in which she answered the questions. In addition, the score sheets for both interviewers showed the relative scores for all interviewees. Accordingly, the Tribunal does not accept that a claim on this basis is established.

Detriment Claims

25 104. In relation to the Detriment Claim under Regulation 19 MAPLE and Section 47C ERA the claimant has put forward six grounds of alleged detrimental treatment by reason of pregnancy/maternity. These are:-

30 (a) Did Ms Webster make flippant and derogatory/disparaging/offensive comments at the claimants first consultation meeting on 1 April 2022, in asking if the claimant felt she was entitled to a CEO position,

in response to the claimant raising that as a pregnant employee she was entitled to be offered the position of TSM role as a suitable alternative without interview.

5 (b) Did Ms Webster meet the claimants e mail expressing interest in the TSM role with hostility and unfairly criticise her for not following the Respondents maternity leave policy which was untrue, in response to the claimant raising that as a pregnant employee she was legally entitled to be offered a suitable alternative as a priority over others?

10 (c) During the consultation meeting on 1 April was Ms Webster dismissive of what the claimant had to say and did she make it clear the issue of the TSM role without competitive interview was not up for discussion?

15 (d) Did Mr Delaney inform the claimant that she was unsuccessful at interview and advise her that it was down to “experience”, without further elaboration?

20 (e) Did the respondent mislead the claimant about receipt of her grievance and/or fail to give adequate explanation as to the reason they did not deal with her grievance, in the knowledge that she was on maternity leave?

25 (f) Did the respondent fail to make any meaningful enquiry into and/or resolve the claimant’s grievance and/or fail to respond to the claimants grievance timeously or at all and disclosed nothing by way of explanation despite her grievance being submitted on two separate occasions and on a subsequent call with Ms Saunders, all in knowledge that the claimant was on maternity leave.

105. In relation to each of the above Tribunal must determine whether (a) these occurred; (b) if so did they amount to a detriment and (c) were they done by reason of pregnancy/maternity.
106. Dealing with each of these in turn.
- 5 107. With regard to allegation (a) it is not disputed that the words used by Ms Webster are those set out in the note of the consultation meeting of 1 April 2022. The claimant alleged it was the manner in which they were said by Ms Webster that was flippant or derogatory. Mr Taylor disputed that. The Tribunal was not satisfied that this allegation was made out. The Tribunal preferred
10 the evidence of Mr Taylor on this point. It is clear from the note that Ms Webster was using the example of the CEO by way of trying to explain the position. Ms Webster was not asking the claimant if she thought she was entitled to the CEO position. Accordingly, the Tribunal does not accept that this occurred as alleged by the claimant.
- 15 108. With regard to allegation (b) the Tribunal was not satisfied that it is correct to categorise the e mail of 30 March 2022 from Ms Webster as “hostile” and “unfairly criticising” the claimant for not following the respondent’s maternity policy. Ms Webster simply asks for confirmation of the start date of maternity leave and sets out an explanation of her understanding of the legal position
20 on redundancy. The Tribunal did not accept that by itself the e mail response could be categorised as hostile or unfair criticism.
109. With regard to allegation (c) the Tribunal was not satisfied that it would be correct to categorise the respondent’s approach at the consultation meeting as “dismissive”. Clearly the issue was discussed, and the respondents had a
25 different view from that of the claimant. Further the Tribunal does not accept that simply because there is a disagreement that that by itself would amount to detrimental treatment. Accordingly, the Tribunal do not accept this ground.
110. With regard to allegation (d) the Tribunal accepted the evidence of Mr Delaney that he did provide some feedback, albeit he did not go through the

scores. It is accordingly not correct to say that Mr Delaney simply said it was due to experience without further elaboration. There was some further elaboration given by Mr Delaney. Accordingly, the Tribunal do not accept this ground.

5 111. With regard to allegation (e) and (f) these both relate to how the grievance was handled by the respondent. Mr McParland in his submissions accepted that in essence these two grounds should now be presented as a failure by the respondent to take steps to deal with the grievance. It is not disputed by the parties that the claimant did submit a written grievance by e mail to Mr
10 Taylor on 26 April 2022 and that she submitted a further copy to advice@eddiestobart.com on 3 May 2022. The claimant notified both Ms Webster and Mr Delaney at the final consultation meeting on 28 April 2022 that she had submitted a grievance. She further notified Ms Saunders on 16
15 May 2022 that she had submitted a grievance. Although it was not known at the time we now know that the grievance was received by the respondent but blocked by their software IT protection programme (Mimecast) such that it was not received by Mr Taylor or by the HR advice team. Whilst the Tribunal understands how this came about the key points as far as the Tribunal are concerned is that the claimant did submit a grievance and it was received by
20 the respondent and further that she made it known to the respondent both at the final consultation and to Ms Saunders that she wished to pursue a grievance about the way she had been treated. If the only issue was about receipt of the e mail then the Tribunal would accept that the reason that it was not seen by Mr Taylor or the HR admin team was not pregnancy/maternity related but was due to an IT issue. However, on the evidence it is clear that
25 both Ms Webster and Ms Saunders were informed by the claimant that she had lodged a grievance. Ms Webster did make the point that she should really be lodging an appeal. Whilst that may be so it was still clear to the respondent that the claimant was unhappy with the way she had been treated and the decision not to offer her the TSM role without interview. That had been an
30 ongoing issue throughout the consultation process and in the correspondence between Ms Webster and the claimant. Ms Saunders was

specifically told about the grievance and did make some enquiries but did not follow up in writing with the claimant when she had the opportunity to do so – a fact she acknowledged. Both Ms Webster and Ms Saunders could have obtained further details regarding the grievance when they spoke. Ms Saunders could have highlighted to the claimant when she wrote back that no grievance had been received. At no point did Ms Webster or Ms Saunders check with their IT team to see whether the e mail might have been caught in the Mimecast system (indeed this was only done in March 2023). It might be reasonable to assume that e mails being stopped in the Mimecast system was something that would occur from time to time and the respondent would be aware of this. In all the circumstances the Tribunal was of the view that the respondent should have done more to enable the claimant to challenge the decision – in circumstances where she clearly told both Ms Webster and Ms Saunders that she was seeking to do so. The Tribunal considers that this does amount to a detriment – as the claimant did not have the opportunity to have her grievance dealt with. Under Section 48(2) of the ERA it is for the respondent to show the ground on which any act or any deliberate failure to act was done. The respondents have not put forward any admissible reason as to why Ms Webster and Ms Saunders did not follow up with the claimant in circumstances where the claimant categorically told them she had lodged a grievance. The Tribunal accepts the submission from Mr McParland that the claimant’s absence on maternity leave from 8 April 2022 may have played a part in the decision by the respondent not to investigate the matter further or allow the claimant to challenge the decision. It is more likely than not to have materially influenced the approach they took to the grievance. The Tribunal is entitled accordingly to come to the view that the detrimental treatment was done for a prescribed reason.

Unfavourable Treatment Claim

112. In relation to the unfavourable treatment claim under Section 18 of the EA the issue is whether the respondent treated the claimant unfavourably because

of the pregnancy/maternity leave. The claimant relies upon the same grounds as set out above at paragraph 104.

113. The Tribunal has set out its findings in relation to the allegations at paragraphs 105 to 111. The Tribunal does not accept that there was any unfavourable treatment because of pregnancy/maternity leave in respect of allegations (a), (b), (c), and (d) for the reasons provided above. In relation to allegations (e) and (f) the Tribunal accepts that there was unfavourable treatment on the same basis as set out in paragraph 111. In respect of a claim under Section 18 of the EA the unfavourable treatment must be “because of” pregnancy/maternity leave. It does not need to be the main reason – but it has to be a reason that materially influences the respondents’ conscious or sub-conscious decision making. The claimant was absent on maternity leave and not in a position to meet in person to pursue her grievance. The Tribunal was satisfied, in the absence of any explanation from the respondent as to why they did not investigate further and deal with the grievance, that the maternity leave was likely to be a factor that materially influenced their decision. It may not have been a conscious decision but the fact she was absent from the workplace is likely to have been a material factor in the respondent not pursuing the grievance further.

20 **Victimisation Claim**

114. In relation to the Victimisation Claim the claimant alleges that she was subjected to detrimental treatment because she had done a protected act or acts.

115. The first issue to determine is whether there was a “protected act” within the terms of Section 27 of the EA. As no proceedings had been commenced at the relevant time the key issue is whether the alleged “protected acts” amounted to “(c) doing any other thing for the purposes of or in connection with this Act; or (d) making an allegation (whether or not express) that A or another person has contravened this Act.” The protected acts relied upon were the raising by the claimant of her right to be offered the TSM role as a

suitable vacancy without the need for interview (raised by the claimant in both her e mail of 30 March 2022 and in the consultation meeting on 1 April 2022) and the submission of her grievance on 26 April and/or 3 May 2022.

- 5 116. Ms Shaw submitted that there were no “protected acts” because what was being alleged was not a contravention of the EA but rather a contravention of regulation 10 of the MAPLE Regulations. We do consider that there is merit in that submission. In both her e mail on 30 March 2022 and in the consultation the point that the claimant is making is very specifically a point about her rights under regulation 10 of the MAPLE Regulations. There is no reference to discrimination under the EA. Whilst, as the case has developed, the claimant has brought in claims under the EA she was not putting forward those claims in her e mail of 30 March 2022 or at the consultation meeting on 1 April 2022. In relation to the grievance itself whilst we now have a copy of the written grievance the respondent did not at the relevant time have sight of that written document – as neither Mr Taylor or the HR admin team saw the written grievance as it was blocked by the Mimecast system. At the point in time when any of the alleged detriments are said to have taken place the respondents were only aware of the claimant raising a specific concern about her right to a suitable vacancy under Regulation 10 of the MAPLE Regulations. We did consider whether the protected acts could be said to fall within the definition of “doing any other thing in connection with this Act” meaning in connection with the EA. However, as the MAPLE Regulations were promulgated under the ERA and not under the EA we did not consider that there was any such “connection”.
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- 25 117. In any event if we are wrong in relation to the “protected acts” then we did not consider that any of the alleged detriments were done because the claimant had done a protected act. The claimant referenced four different detriments.
118. Firstly that the respondent deprived the claimant of a new role. However, the respondent did not fail to offer the TSM role because of a protected act. It refused to offer the role because they did not believe there was a requirement
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on them to offer that role without interview and because, following interview, there were other more qualified candidates.

119. Secondly that the respondent subjected the claimant to disparaging and offensive comments. The Tribunal has already found that the claimant was not subjected to disparaging and offensive comments.

120. Thirdly that the respondent misled the claimant about receipt of her grievance. The Tribunal accepts that as a matter of fact the respondent did mislead the claimant in this regard – however it did so not because of a protected act but because the relevant individuals were simply unaware that a written grievance had been received.

121. Fourthly that the respondent failed to make any meaningful enquiry into/resolve the Claimants grievance timeously or at all. The Tribunal accepts that there was a failure by the respondent to make enquiry/resolve the grievance. However, this failure was not because of a protected act. As previously set out it was done because of the maternity leave.

122. The Tribunal does not accept that the victimisation claim has been made out.

Loss

123. The one ground of claim that has been made out is that related to detrimental treatment/unfavourable treatment under Section 47C of the ERA/Regulation 19 of the MAPLE Regulations and Section 18 of the EA in the respect that the respondent failed to make enquiries about/resolve the claimant's grievance.

124. The compensation that may be awarded in respect of a claim under Section 47C of the ERA is, under Section 49, such as the Tribunal considers just and equitable in all the circumstances. This may include an injury to feelings award. In relation to a claim under Section 18 of the EA compensation may also include an injury to feelings award.

125. The Tribunal accepts the evidence of the claimant that she was upset by the manner in which her case was dealt with by the respondent and in particular what appeared to her to be the failure of the respondent to take seriously her position that she had a right to be offered the TSM role as a suitable vacancy.
5 She raised this issue on a number of occasions and took advice from ACAS. She took time to submit a written grievance on three separate occasions. She was at the same time commencing her maternity leave and moving house. It is understandable that she would experience a degree of upset at the failure, as she saw it, of the respondent to seriously consider her case. It is an
10 important right that employees have to have due consideration given by their employer to any grievance raised.

126. The Tribunal, in assessing damages, has had regard to the Presidential Guidance on Employment Tribunal awards for injury to feelings and psychiatric injury following *De Souza v Vinci Construction (UK) Ltd [2017]*
15 *EWCA Civ 879* and to the case of *Vento v Chief Constable of West Yorkshire Police (No. 2) 2003 IRLR 102*. The Tribunal determines that an injury to feelings award in the sum of £10,000 would be appropriate in this case (being at the lower end of the middle Vento band having regard to the date when this claim was lodged). Accordingly, the Tribunal orders the respondent to
20 pay to the claimant the sum of £10,000.

Employment Judge: S Neilson
Date of Judgment: 13 June 2023
Entered in register: 14 June 2023
25 **and copied to parties**