



EMPLOYMENT TRIBUNALS

Claimant: Miss C L Hampson

Respondents: CSC Computer Sciences Limited

HELD AT: Manchester

ON: 2-5 September 2019
6 September 2019
(in Chambers)
15 October 2019
23 and 24 December
2019
(In Chambers)

BEFORE: Employment Judge Sherratt
Mrs A Jarvis
Mr S T Anslow

REPRESENTATION:

Claimant: Mr S Pinder, Solicitor
Respondent: Mr A Moore, Solicitor

JUDGMENT

The majority judgment of the Tribunal is that the claimant performed like work with comparators Hawkins and Higgins from November 2011 and with all of the comparators from 19 October 2015 until the end of her employment.

REASONS

Introduction

1. The claimant's claim is in respect of equal pay based on like work.

2. According to the claim form the claimant was employed from 2006 until 2017. In the course of a redundancy exercise she became aware of information about salaries paid to other employees holding the same grade as her. She found that her male colleagues were paid more than she was and she was unable to explain the difference by reference to the work done. The claimant's grade had changed in October 2015 to Senior Business Consultant. Her pro-rata equivalent salary was £62,500 and one of her comparators was paid £82,013. The claimant claims that she was subject to discrimination throughout her employment and seeks compensation,
3. In her claim form she named two comparators Mr S Hawkins and Mr D Bowen. By the time of the final hearing there were two further comparators namely Mr S Higgins and Mr C Watts.
4. The response accepted that the two named comparators had the same job title as the claimant but denied that they performed like work when compared with the claimant. Mr Hawkins had been a Senior Consultant since 15 January 2001 and Mr Bowen since May 2014. It was stated that they both had skills and experience the claimant did not have and she was a relatively junior Senior Consultant compared to her comparators who it was said undertook duties and responsibilities that the claimant did not and could not perform and as such their work could not be considered broadly similar to that of the claimant. For example, they would undertake consultant leadership roles on large scale projects and the claimant did not have sufficient experience and/or skills to do this. She fulfilled data analysis roles which differed markedly from the roles performed by the comparators both in terms of skill required and responsibility.
5. If the Tribunal should find the claimant was performing like work then the respondent avers that any difference in pay was due to material factors not related to sex. It related to skills and experience and market forces.

The Law

6. Section 65 of the Equality Act 2010 deals with equal work: -

65 Equal Work

1. Section 65 provides as follows:

“(1) For the purposes of this chapter, A's work is equal to that of B if it is –

- a. like B's work,
- b. rated as equivalent to B's work, or
- c. of equal value to B's work.

(2) A's work is like B's work if –

- a. A's work and B's work are the same or broadly similar, and
 - b. Such differences as there are between their work are not of practical importance in relation to the terms of their work.
- (3) So, on a comparison of one person's work with another's for the purposes of subsection (2), it is necessary to have regard to –
- a. The frequency with which differences between their work occur in practice; and
 - b. The nature and extent of the differences.

7. Section 69 deals with the defence of material factor and provides that:

- “(1) The sex equality clause in A's terms has no effect in relation to a difference between A's terms and B's terms if the responsible person shows that the difference is because of a material factor reliance on which –
- (a) does not involve treating A less favourably because of A's sex than the responsible person treats B, and
 - (b) if the factor is within subsection (2), is a proportionate means of achieving a legitimate aim.
- (2) A factor is within this subsection if A shows that, as a result of the factor, A and persons of the same sex doing work equal to A's are put at a particular disadvantage when compared with persons of the opposite sex doing work equal to A's.
- (3) For the purposes of subsection (1), the long-term objective of reducing inequality between men's and women's terms of work is always to be regarded as a legitimate aim.

List of Issues

8. This list of issues prepared by the respondent and agreed by the claimant:-
- (i) In accordance with Section 65(1)(a) of the Equality Act 2010 did the claimant perform like work when compared to the following named comparators:
 - (a) Mr S Hawkins;
 - (b) Mr S Higgins;
 - (c) Mr T Bowen and/or
 - (d) Mr C Watts (“the comparators”)

- 1.1 In determining the above was the claimant's work the same as or, if not the same, broadly similar to that of any of the comparators; and
- 1.2 Were there any differences between the work done by the claimant and the work done by each comparator and if so, were those differences in work of practical importance in relation to the terms and conditions of employment in respect of each particular comparator?

1.2.1 The respondent will contend that there were differences between the work of the claimant and the comparators in respect of the duties, responsibilities and skills that were of practical importance in relation to the terms and conditions of employment.

If the claimant's work was the same or broadly similar to that of any of the comparators and there were no differences in the work carried out between the claimant and a comparator that was of practical importance in relation to the terms and conditions of employment, the claimant performed like work with a or the comparators the Tribunal will then need to consider Section 69(1) of the Equality Act 2010 and determine whether or not the respondent had a material factor defence.

1.2.2 Can the respondent show that the difference between the terms of the claimant and any of the comparators found to be performing like work was because of the material factor and reliance on which:-

- (a) Does not involve treating the claimant less favourably because of her gender than the respondent treats the comparator; and
- (b) If as a result of the material factor of the claimant and persons of the same sex doing work equal to the claimants are put at a particular disadvantage when compared with persons of the opposite sex doing work equal to the claimant's, is the factor a proportionate means of achieving a legitimate aim?

- 2.1 The respondent will rely on the material factors of differing duties, responsibilities, skills and experience in respect of the comparators.
- 2.2 Additionally, in relation to Mr Higgins, Mr Bowen and Mr Watts the respondent will also rely on market forces as being a material factor.

- 2.3 If the claimant did perform like work with reference to a comparator and the respondent has not made out a material factor defence in relation to the comparator what is the amount of arrears to be paid to the claimant?

The Evidence

9. The claimant gave evidence on her own behalf. The respondent called Mr Martin Slingsby, the claimant's and the comparators' manager and Mr Steven Hawkins one of the comparators. There was a bundle of documents extending to around 700 pages.

The Respondent

10. The respondent is an information technology service company providing professional IT services to clients. It is part of a larger worldwide group with approximately 130,000 staff worldwide.
11. It specialises in delivering significant multimillion-pound information governance projects for global clients.
12. The company bids for work and when a contract is won the appropriate manager will select a team of consultants to carry out the work according to the requirements of the client and the skills and abilities of the consultants.
13. The consultants work at different levels. A graduate would be recruited at professional level and would hope to move up to senior professional level before becoming a Consultant. A Consultant would hope to progress to Senior Consultant and then to Practice Head.
14. When the claimant joined the respondent, she was at the Consultant level and her promotion advanced her to Senior Consultant.

The Claimant

15. The claimant joined the respondent in June 2006 on a base salary of £43,000 having been employed by Hewlett Packard from February 1998 culminating in the role of Business Intelligence Technical Projects Manager/Analyst.
16. Taken from the claimant's CV, whilst at HP, she managed a WW detailed reporting project using Business Objects and specialised in Universe Design and security. She managed worldwide weekly meetings for the financial planning and reporting team, managed the release management of the reporting tool suite and provided consultancy on the use of business information tools within HP. She helped to design and develop various reporting tools. Amongst her achievements she successfully rolled out three joint development projects acting as Consultant and technical lead.
17. In the period from 2001 to 2004 when she was a Business Information Project Lead/Analyst/Designer/Developer she organised the project for the solutions design for several web based reporting solutions. She trained five members

of the team in business objects. She project managed an R and D initiative and worked as an expert in business information on an external project. The claimant successfully managed a project team of five in the upgrade of the application delivery servers.

18. She joined the respondent at the Consultant level and was formally promoted to Senior Consultant with effect from 19 October 2015. According to the respondent there was a block on promotions during a period of the claimant's employment and had this not been in place then it is probable that the claimant would have been promoted sooner.
19. Mr Slingsby gave oral evidence as to how the claimant's salary was fixed at the time of her promotion. He told us that the respondent received external advice on the median salary for people doing each grade of work and when someone was promoted up one grade they would receive a salary increase of 5% or, if less, to a figure which was the median less 30%. According to Mr Slingsby the salary range for the role was the median plus or minus 30%. Mr Slingsby however confirmed that in certain cases pay would be above the maximum.

Comparators

20. According to Mr Slingsby Mr Hawkins joined the respondent on 15 January 2001 as a Data Warehouse Consultant on a base salary of £50,000 and from his professional profile is said to have undertaken numerous roles within the business. Before joining the respondent, he had nearly 30 years of relevant industry experience. He was promoted to the level of Senior Consultant in 2007 on £60,176. Mr Hawkins undertook technical consultancy and team leadership on data management solutions and strategies. He was the primary interface with senior customer teams and users at their clients. He took leadership of teams to implement the solutions and strategies that had been agreed to be developed with the client and was an experienced project leader and People Manager. He was the claimant's People Manager during part of her employment. He was said to lead on multimillion pound bids for data management solutions and had experience over a number of business sectors. It was claimed that the work and projects he undertook were markedly different from those of the claimant. In the view of Mr Slingsby the claimant could not perform the roles and duties carried out by Mr Hawkins as she did not have the necessary skills, expertise or experience. He would however have envisaged the claimant in time progressing to a position where she could do the work done by Mr Hawkins.
21. Mr Bowen is said to have commenced with the respondent in February 2014 as a Senior Consultant: Business Strategy reporting to Mr Slingsby with a base salary of £81,000. He joined the business from Capita where he was already a Senior Consultant on £73,000 and was seen as a relatively senior hire. He was recruited for his skills in "big data solutions". The starting salary reflected his expertise and the need to incentivise him to join the respondent. According to Mr Slingsby big data solutions enable information solutions to be implemented with next generation technologies such as Amazon web services. These skills are said to be scarce in the industry.

22. Mr Bowen had previously worked for the respondent from 2007 to 2011 leaving on some £60,000. He was said to be an expert in technical and business consultancy on data management solutions and strategies and he led multimillion pound client engagements and bids at CIO level from a big data solutions perspective. He rarely ran a team on a project although he had done so in the past. His role primarily involved running the project from a client engagement perspective. He would be the point of contact for the client to discuss and answer any technical queries passing them on for action to the person leading the appropriate team working on the project *services*.
23. He was said to lead consultancy and advisory projects for senior clients across multi sectors and assisted the sales team in gaining new clients and/or work. He would work on a number of projects at any one time, often covering various sectors. He assisted in putting together bids including costings, some of which were highly complex and multi million pound in value.
24. It was the view of Mr Slingsby that the claimant could not perform the duties undertaken by Mr Bowen as she did not have the skills, expertise or experience.
25. Mr Higgins commenced employment at £43,000 in or around June 2005 as a Data Architect, a position that the claimant achieved in 2009 on £47,537. His key tasks were said to be as a Technical Consultant in respect of data management solutions and strategies leading technical teams implementing solutions and strategies as agreed with the client. He was technical lead for the NHS healthcare solution development programme from 2010 to 2012 where the claimant was part of his team. He is said to have led on complex data migration for Network Rail with Network Rail and NHS projects requiring the implementation of multimillion pound and highly complex business and data solutions for which he took the overall lead. The claimant it is said could not have undertaken the lead on these projects as she didn't have the necessary skills or experience. Mr Higgins would lead on multimillion pound bids and proposals for data management solutions as an experienced project and technical leader. He led on complex projects involving teams from five to twenty or more people. In 2015 he threatened to leave the respondent and was offered an extra £10,000 a year to stay as he was critical to the delivery of work for \network Rail and other clients.
26. Mr Watts commenced employment in October 2007 initially as a Business Intelligence Consultant on £62,000. He joined from PA Consulting, where he was on £52,000 with a potential bonus of up to 40%, and is said to have had in addition highly desirable skills relating to information strategy governance and business change. He came with significant consultancy and client engagement experience and formulated information strategies for various large complex organisations who were clients of the respondent. Again, it was the view of Mr Slingsby that Ms Hampson simply did not have such strategic skills and capability.
27. Mr Watts is said to have engaged clients at CTO and CIO level on data management solutions and strategies whereas the claimant was tasked with

data analysis and migration. Mr Watts is said to have had leadership of teams implementing solutions and strategies and is said to have led on multimillion pound bids and proposals for data management solutions. He managed teams up to ten people with fifteen years of experience of project leadership. He assisted with winning new work through successful bids and proposals.

The Claimant

28. Taken from the claimant's witness statement, the comparators were in the redundancy selection pool with her and she thought they all performed what were very similar roles with the same job title. They had the similar responsibilities as Senior Consultants and could be put forward for the same roles within the business or with clients.
29. The claimant believed that she had performed very well for the respondent which is reflected in her appraisals and the fact that she had been selected by the respondent to enter a leadership programme for individuals identified as having talent within the business. She believed she always surpassed expectation in terms of performance and she was upset when she learned of the differential in pay.
30. According to the claimant she believed she did like work to the comparators in that there was a significant similarity of the role starting with the job title and moving forward to the basic work undertaken. They worked for different clients from time to time as contractors with different aspects to particular projects but they could all be asked to undertake any project by reference to job title and skillset. She was not aware of any significant contractual differences between her and the comparators.
31. Commenting on the respondent's assertion that if there were differences in terms and conditions between her and her comparators it would be because of the genuine material factor reflecting the level of experience or skills or market forces, whilst the claimant accepted that it might at a particular time be difficult to recruit at a particular level an individual worker might have significant levels of skill justifying a higher package she did not accept that this would involve every single person working in the role.
32. The claimant was initially employed by the respondent as a Business Intelligence Consultant working with information management. Her role involved managing the different aspects of dealing with data in different sectors including healthcare. She did quite a lot of work involving NHS data issues although she believed the respondent had a view that this work was less valuable because the NHS work was charged at a lesser rate than commercial clients. She did not believe however that this justified differential rates of pay.
33. The claimant's role progressed and from December 2011 she worked in Global Business Services in particular in enterprise solutions.

34. At some stage the claimant did internal work for the respondent when she was not doing client work and in such a capacity was involved in supervising more than one hundred and seventy employees leading and supporting practice heads and the capability leader. This the claimant believed was an important role that she performed to a high standard.
35. As part of his cross-examination Mr Slingsby accepted that work done internally for the business ranked at the same level as external consultancy work. Between April 2013 and September 2013, she worked with the Operations Director ensuring the successful implementation of the respondent's practice vision that "operational reporting should become a showcase within CSC and more importantly, to external consultants demonstrating the ability to implement analytical experience". This involved connection to more than eight hundred and eighty employees and performing to a high standard. The claimant had taken over from a person who was said to be two grades above her following a four-week handover.
36. The person she took over from was at that time two grades above her. The respondent contends that the claimant took over a part of this role rather than the complete role.
37. In the claimant's 2012 appraisal which was carried out by Mr Hawkins and signed off by Martin Slingsby who instructed Mr Hawkins to move the claimant's rating up from "meets" to "consistently exceeds" it was noted in the appraisal summary that a senior manager, Mr Glyn Knaresborough stated that "Clare picked up a challenging role (from a very senior member of staff) with minimal handover and has produced excellent results. I hope she is genuinely proud of what she has achieved in a short period of time". It goes on to note that Mr Knaresborough would like her to continue in the role over the next year as she is acting at PL level she should have no hesitation in taking this opportunity to enhance her position and career within CSC.
38. From September 2013 according to the claimant she undertook work involving different tasks involving managing the solutions scope, definition, design and the delivery of change across a wide variety of sectors including healthcare, public sector, telecoms and technology. This involved functions working as a Solution Architect, Business Consultant, Data and Business Analyst, Technical Project Manager and a Data Migration specialist. This latter was a key part of her role with the NHS contract.
39. Although the claimant became a Senior Business Consultant on a formal basis from October 2015 she regards herself as having undertaken work reflecting the tasks and skills required of a Senior Business Consultant from September 2013.
40. In the claimant's 2012 appraisal, signed off by Martin Slingsby in March 2013, Mr Slingsby is quoted as saying that the claimant was a cast iron candidate for promotion this year but with the promotions banned embargo this was not forthcoming. It was said that at the current performance levels the claimant would be put forward for promotion at the next available promotion round.

41. With regard to promotion the claimant accepts that there was a bar on promotions and when she was promoted it was a one off on the part of her manager, Mr Slingsby who was able to secure the promotion but she had been doing the role of the Senior Business Consultant for several years reflected in her links to the most senior people within the business and across the global entity.
42. Mr Slingsby completed a “promotion, progression and out of cycle justification form” when he put the claimant forward for promotion. It was said to be a business promotion not a technical promotion. As to overview he wrote “given Clare’s discipline, propensity for follow up, ability to understand not only what is required to complete a task but also where it fits in within the overall organisational process make her an excellent candidate for a leadership position. She works well with others, has a perspective, takes direction easily and is pragmatic in dealing with issues. The company would be well served to put her in a position of greater responsibility”.
43. He goes on to write that “Clare displays all of the values essentials to CSC’s success – amongst these are commitment, collaboration, dedication, innovation, resilience, pragmatism, enthusiasm and respect for individuals. These values will be extremely important for the step up to leader level”. This led to the claimant being promoted to Senior Consultant Business with effect from October 2015 although she was not notified of the promotion until November 2015.
44. Within the bundle we were provided with job descriptions for Senior Consultant Business and Senior Consultant Technical. For Business it states “Provides business consulting services to clients; contributes to the design and delivery of business solutions including configuring package – based solutions, change management planning and communications, business – focussed testing, and training development and delivery; serves as a business resource on a team or as a Team Leader for other business consultants. Develops and demonstrates specialised knowledge and skills in at least one business consulting discipline: business strategy, industry, organisational change, ERP product, or business process architecture”. The document then goes on to describe the Essential Job Functions which include “Leads a team of 4-6 company resources, in area of expertise, to conclusion of a project phase(Management)” and “Establishes and maintains networking relationships with middle management in client organisations (Relationship Management)”.
45. Within the bundle there was another document that the Tribunal was not taken to until the claimant’s solicitor made reference to it in his closing submissions. The document was in support of an out of cycle pay change request. Mr Slingsby wrote:

“Clare is currently working as a Data Architect and SME on all things data quality within the BBC TVL account. She is also Account Manager for Trillium and Informatica. Influenced at all levels within the project, audiences include Capita and the BBC; driving and influencing decision making based on flawless analysis. Along with Clare’s full-time role,

she also maintains a strategic role within BD and AUK providing the OPS business reporting, without which a view of the operating business would not be possible. Prior to her role on the BBC TVL account Clare held a strategic role within the BD & A UK providing the Ops business reporting, without which a view of the operating business would not be possible. Prior to her role on the BBC TVL account Clare held a strategic role within the BD&A team, operating at a global level. She worked directly with the leadership team for BD and A and was a key contributor to the weekly presentations delivered to the Head of BD and A. Clare was due to go before the promotion board in 2012 but this was put on hold due to the organisational changes. She has consistently 'surpassed' or 'exceeded' her appraisals for several years.

Clare is currently being billed well over 45% DCM, she has not booked to the bench code in several years”.

46. This document was not put to Mr Slingsby in cross-examination.
47. According to the claimant the respondent had different work groups and as a Consultant she could be posted on any project. She worked as an operational lead for a work area working closely with managers at a more senior level within the business. For a number of years this was Mr Slingsby. She would cover for her manager as appropriate and report through to another manager at an even higher level within the business namely Mr Knaresborough.
48. The claimant tells us that she undertook a significant role involving a contract with the BBC around TV licensing. Part of the work was undertaken by Capita. She was involved and put IT solutions in place to deliver the particular contract. She spent a lot of time working on solutions to move data assisting Capita in obtaining funds due. The role involved data migration with a lot of contractors being taken on. She worked in various locations.
49. She refers to one of the comparators, Mr Hawkins, who had been her manager in the past but she was then doing the role he was doing and also another one. According to the claimant when the role was split Mr Hawkins managed contractors more than she did but she had a significant role regarding the data which was essential to the contract, profiling the data and then cleaning it for use.
50. With reference to Mr Bowen the claimant believes that he worked on smaller projects than her and he left before coming back on what was clearly more money than her. She did not believe Mr Bowen or Mr Hawkins undertook work which would justify a distinction to the work she was doing on the BBC contract in the period when they were earning more than she was.
51. In the claimant's view the levels of work within the business did not necessarily match the pay grades. The work she was being allocated was such that she had a worldwide lead role and was reporting to board level.

52. When the claimant received the promotion to senior consultant from October 2015 the next day she was continuing with the same role within the NHS. This involved dealing with patients and administration systems and data repatriation which was an important part of the work done by the respondent with the NHS. The claimant had the task of managing all data repatriation which was complex and detailed. According to the claimant she managed a team which included people working in India. She did management and hands on work and a lot of interaction with other staff and contractors. She worked directly with the customer and within the business dealt with the most senior people.
53. The claimant accepts that some of her comparators may have been working on more lucrative contracts but the work was essentially very similar. Some would have issues particular to the contract but each had their own factual challenges. The basic work was the same and if moved to a different contract the claimant could have done it after a short period of familiarisation.
54. The claimant goes on to refer to the comparators Mr Higgins and Mr Watts setting out the pay differentials being unable to justify any difference in pay by reference to what they were doing and what she was doing which was important work for the respondent involving a senior role and a high degree of complexity in the tasks she was performing. She was reporting to senior levels and on occasion being required to undertake tasks impacting on the global nature of the respondent's business.
55. The claimant invited the Tribunal to read information about the work she undertook based on documents within the bundle. She invited us to look in particular at her internal CV and then move on to appraisals.
56. The claimant's internal CV undertakes a list of the tasks she undertook and provides details of her technical expertise. It deals with her roles and responsibilities and some of the work that she did. It was a very senior role from September 2014. According to the claimant from the CV it is clear that she was undertaking a lot of day to day work herself ensuring that the contract worked correctly but also she had significant managerial responsibilities to others and an important reporting role within the business to ensure that the contracts were operating correctly and that good value was being acquired from the contracts.
57. From her appraisals the claimant believes the respondent accepts she was a good performer, consistently exceeding her performance targets, and the claimant invites us to look at the feedback she obtained from colleagues. At appraisal time each member of staff invited colleagues to provide information in respect of their work done in the preceding year. This fed into the individual appraisal which was carried out by the People Manager rather than by the person who might have been responsible for any employee working on a particular job.
58. The 2010 appraisal states that the claimant had recently returned from maternity leave. There was no doubt she would maintain her good working practices into the new year.

59. In the 2011 appraisal where Mr Hawkins was the appraiser:
- Appraisal feedback indicates that Clare is performing above her role and taking leadership in areas where it is required, both technical and comms
 - People and capability – appraisal feedback demonstrates (that she) is closely aligned to the CSC culture and operating above her contribution group providing leadership within the role she is performing, she should consider staff management within the practice as a future opportunity to expand her skills.
 - Feedback from Clare’s colleagues, both peers and superiors describe the highest quality and timely delivery of her deliverables ensuring that any resources are utilised effectively taking the lead role where necessary to manage those resources. She demonstrates a high level of self- reliance and is acknowledged as an integral part of the data migration team. Her managers are prompting her for a lead role in the reorganised structure of the team, testament to her good work and attitude.
60. In the 2012 appraisal again by Mr Hawkins according to Glyn Knaresborough “since Clare has taken over the role our performance has improved significantly, I would say a proportion of this increase is down to how Clare performs in her role”.
61. In summarising the overall rating of ‘consistently exceeds expectations’ it is stated that Clare has consistently exceeded in most of her performance factors and the overall evaluation for her role of Operations Lead supports a ‘surpassed’ overall result, unfortunately the KRA’s did not support this. According to Glyn Knaresborough “Clare picked up a challenging role (from a very senior member of staff) with minimal handover and has produced excellent results. I hope she is genuinely proud of what she has achieved in a short period of time”. He also would like her to continue in the role over the next year, as she is acting at PL level she should have no hesitation in taking this opportunity to enhance her position and career within CSC.
62. In the 2013 appraisal, again conducted by Mr Hawkins, according to Martin Slingsby “I have seen Clare grow this year to the extent where on a weekly basis she holds the attention and influences the senior ES management team. Her communication is outstanding and, as EI Practice Head, I can honestly say that we would not be in the strong position we are without Clare’s hard work and commitment and significant ability”.
63. As the Practice Operations Manager she has had to motivate numerous groups of people to ensure high standards hence ensuring practice and tower targets are achieved.
64. Clare’s role as Operations Manager is of itself contributing to the success of the practice by ensuring targets are accurately measured but it is her role as manager of the Innovative GBS MIS system that has allowed her to reflect the practice and enterprise solutions tower most significantly. Quoting Glyn

Knaresborough, Director Enterprise Solutions Tower “this year I have been Clare’s customer. The team could not have been delivered what we have without Clare’s involvement this year, so she may not be on the CSC frontline she has had a significant impact on our ability to deliver successful projects”.

65. Mike Jones, Director – Business Consulting says of the claimant “I think you have done very well to move forward with the whole MIS area in GBS. Given the limited resources available and the limited band width of some of the key stakeholders I think you have made really good progress. Certainly, it far surpasses any previous attempts to get this area under control; there have been several, none of them achieved this much progress and they all floundered. I think your approach is really practical and throughout the process I think you have listened carefully and been very responsive to the feedback you have been given”.
66. Again, from the appraisal “the evidence of both CSC team members and CSC executives suggest high quality deliverables with a focus on timely delivery which have had a significant impact on the management practices of both the EI practice and the wider enterprise solutions tower. In her management of the GBS MIS project, feedback from colleagues and customers attest to Clare’s value as a team member but her tenacity when working independently. Clare demonstrates a strong adherence to the CLEAR values providing leadership to her team and execution excellence to her customers (the claimant with the assistance of two people when working on the GBS MIS project).
67. Concluding that the overall rating of meets expectation Martin Slingsby noted that it had been an outstanding year’s performance from the claimant who had transformed the way that enterprise solutions operated through her development and delivery of the highly effective and efficient management information process. Clare has significant senior stakeholder buy in for deploying these processes across GBS but with the impending organisation changes this is currently on hold.
68. In 2014 the claimant’s appraisal was done by Mark Danaher.
69. In recording that the claimant met expectations it was noted that some of the year was spent on internal duties but this was specifically requested and played to Clare’s strengths and the needs of our business.
70. Under significant accomplishments the claimant established Big Data and Analytics operational reporting operating with L3 and L4 management. Provided global hourly reporting across B, D and A, something which had not been done to this level of detail before. It concludes noting that the claimant successfully set up architecture for development within the BBC data migration team including licence discussions with external companies.
71. We are only provided with the first page of the 2015 annual performance review by Martin Slingsby, which appears to be in a different format, and records that the claimant met all and exceeded some expectations. In 2016

Martin Slingsby noted that It had been an excellent year for Clare who had fully deserved her promotion to Senior Consultant.

72. The 2017 annual performance review was to have been carried out by Martin Slingsby but does not appear to have been completed given that the claimant left in 2017.
73. Turning now to comments from the claimant's fellow workers who may be above her, at the same level or a lower level :-

Anthony Ford on 10.2.16: Clare joined the programme and was assigned the Lorenzo services. Lorenzo being very different to all other services presented being a single database containing many ASR's. Clare took the requirement and owned it end to end. With very little need for guidance and certainly no rework or revalidation. Clare has used her extensive network to ensure her work is factually correct prior to issue resulting in very quick turnaround on all elements. Clare has shared knowledge, experience and findings without prompt or requests a pleasure to work with and a major asset to CSC.

Richard Carter on 15.2.16: Clare undertook a complex role on the Capita/TVL contract. The ownership of data management sat with the client who did not have the necessary skills to compete their activities. This meant that Claire had to manage deliverables and support the client while protecting CSC scope and supplies. She did this and showed good client skills while maintaining a good relationship with key stakeholders. In terms of workstyle Clare is self-starting and professional. Despite the programme being managed remotely – Clare was always available to answer questions or react to off the cuff requests. She did this in a supportive manner to both colleagues and clients. She maintained this professionalism even as the account and contract moved into dispute and litigation. I would have no hesitation in using Clare in future in complex political or commercial engagements. She is able to work with ambiguity which is a key skill. I would like to thank Clare for her excellent work and the support she gave the whole architecture community in a difficult circumstance.

Steven Hawkins on 26.2.16: I worked with Clare on the BBC account where she had a very difficult role/challenge in producing a data profiling and address matching solution based on vague requirements. I have provided feedback based on the CSC CLEAR Values as below.

Client Focused

On the BBC Clare was extremely client focused as the solution she was developing could only be successful by a deep understanding of the client's requirements for address matching, the address matching solution using Trillium software being a critical component of the overall solution. Clare performed admirably in attempting to gain the confidence of the experts within the BBC and took great pains to ensure they understood what was possible in the solution. Unfortunately, she and the

rest of the team were hindered by the lack of Requirements from the Capita team who stood by their mantra of “make it do what the current system does” when there was no documentation on what the current system did and no explanation from the experts. Claire was not daunted by this and endeavoured to provide demonstrations of the Trillium software to show the progress she was making in producing a well-defined solution. I believe she was getting there in winning over the Capita team to the new solution but ultimately forces outside of her control led to the whole project being discontinued.

Leadership

Clare demonstrated a deep knowledge and leadership in a complex subject area which probably should have had a team of people working on it from the start. She showed leadership in her engagement with senior management to ensure they understood the importance of what she was working on and encouraged their support to overcome some of the challenges faced with the client *Capita*.

Execution Excellence

At every turn Clare looked to demonstrate the benefits of the solutions she was designing and building and to ensure that this component was not forgotten about in the wider scope of the solution.

Aspiration

The Trillium software that Clare was using on the BBC account was unknown to anyone else in the B D and A group, so she singlehandedly took on the role of becoming the expert in this complex toolset, as I mentioned earlier it probably should have a team working with her on it such as the complexity of the coding required, during this time Clare also aspired to and became that expert, she did not limit herself to this however complex, she also engaged with the wider B, D and A team to learn and understand about our practice offerings with all their complexity also.

Results

I think we will were all frustrated by the lack of a result on the BBC account but political and economic forces outside of the team’s control prevented us from achieving the positive result that we knew we could achieve. Thanks to Claire for all her hard work and perseverance on the BBC account and support of myself and the rest of the team on a very difficult engagement. I wish her well in her new project and hope it is proving to be more satisfying.

Anthony Ford on 20.1.17: Leadership – Clare has driven teams from the lines of service and gained results beyond expectations. The quality of delivery is exceptional. Gaining an understanding of the products were

quick resulting in rapid deployment of solutions. Clare is a significant asset to CSC and this should be recognised at all levels.

Joan Raynard on 23.1.17: Clare was the Architect that designed the “IPM in a box” standalone application solution to give clients UI access to their data post-exiting from CSC and the RPA contract. We have been able to use Clare’s design to sell this to non- RPA clients and bring much needed revenue in.

Jeremy Evershed on 27.1.17: Clare has had a big challenge on the exit programme. Almost singlehandedly she has taken over Lorenzo through the BLOB issues and explained data problems to the production support team obtaining their agreement to fix the data issues. Additionally, Clare has picked up ownership of a variety of technical assistance notes and taken them through CSC and NHS reviews. The results of these should be coming to fruition in the next few months. Thank you for your patience and persistence.

Amy DeVilliers on 14.2.17: Clare has been invaluable to the data repatriation project this year. As well as assisting with multiple TAN’s and product solutions Clare has been asked to run with the most challenging of all, and the Lorenzo solution. Although the decision to move development work off shore to Chennai presented multiple challenges, Clare has driven much of the work to its conclusion. In addition, Clare has assisted with the UK developers sharing knowledge from previous development work in Chennai and test cycles here in the UK. Despite having no previous knowledge of the Lorenzo application Clare has upskilled and shared her knowledge of the system to allow complete testing and verification. The Lead Architect for the project has changed multiple times in the past year, something that could disrupt and delay progress, but Clare has taken it in her stride pushing forward to progress the project and achieve results. Also, earlier in this year we lost all members of our test team to redundancies, Clare’s willingness and ability to take over the test activities is what has kept this project moving forward the past six months. Clare has regular contact with the customers to answer questions or concerns as well as presenting findings from our test cycles. Although test analyst is not Clare’s primary role she has not only taken on the testing of the data extracts and extract tools but frequently demonstrates successful test results to the customer without which the project would not be able to progress. Clare’s work ethic is second to none, despite the fact I don’t always understand the technical aspects of her work. Clare goes over and above to ensure that I have a succinct clear summary of progress and timescales to complete which is invaluable for project planning and reporting to senior management. Clare is a great team player and I am happy and appreciative to have worked on a team with her over the past year.

From the claimant’s cross examination

74. It was stated:

- Data Architecture – I think it is broader than manipulating and migrating data. It is a lot more. Architect means that you design data solutions.
- Data Architect and Solution Architect are very similar.
- Business strategy – it has to do with business change.
- I was a Data Architect: how to design solutions to handle the data. It has to integrate with all other things in the project. My role as Data Architect was not in isolation from the work of others.
- Solution Architect is normally one of the most senior roles. A point of contact with the client – but you may need others with deeper levels of knowledge to give specialist or other data assistance.
- Big Data – you have to process it in a different fashion. The greater the data the greater the problem.
- When promoted to Senior Business Consultant backdated to 19 October 2015 I was the last person to become Senior Consultant. There had been a block on promotions for four or five years. I don't accept I had the least experience at that level.
- Mr Hawkins started in January 2001 as a Senior Consultant. From his CV he had experience in industry from 1982. He had management responsibility from 1993.
- Mr Hawkins' career spanned longer than mine. He's got more examples than me. I could have different examples.
- I didn't join as Product Manager but I had nine years at Hewlett Packard before CSC. In my degree I had a placement in a bank.
- Mr Higgins, as Software Engineer from 1983 to 1992, has got significant experience in the industry. He managed a team of five in 1997 – 2001 so he has management responsibility.
- June 2005 – October 2011 he was a Data Architect responsible for up to thirty-five staff. This was quite a bit of management responsibility.
- With regard to Mr Bowen he was a Project Manager from October 2000 to 2004 then from October 2004 to June 2005 he was a Senior Consultant and from November 2007 to January 2012 a Business Intelligence Consultant.
- In 2006 I was a Business Intelligence Consultant.

- I led different parts of solutions for example Trillium which was a technology Tim Bowen had no knowledge of. Trillium data profile mapping was not directed by anyone else. I fed into Mr Hawkins' team.
- Mr Bowen worked for a large public-sector body. I never did any of this.
- Information strategies – a separate strategic role which is very specialist
- In October/November 2015 Hawkins/Higgins and Bowen had more experience than me in certain areas but I had expertise they didn't possess. You need a broad level of expertise across the piece. We all went on big data and analytics training. Some would build up that expertise but you would gain expertise in a different area.
- I was expert in data migration primarily. I was designing data solutions as part of overall solution architecture.
- With regard to promotion Mr Slingsby was an advocate of mine. I had been trying for promotion for a number of years before. When I went for promotion there was no interview or presentation. I was just promoted when a role became available.
- Pre 2015 – I led technical data repatriation for a solution called Lorenzo. Three developers in India and one in the UK I managed. They all worked directly with NHS in Leeds.
- When data had to be repatriated to the NHS I *took over and changed* the initial design which was not fit for purpose.
- I was helping the Project Manager create the plan. Data was what the project was about. I was the data expert. I made changes to the design.
- I only worked with Mr Watts once. Mr Watts couldn't do the data. We had a crossover of similar skills. Watts probably couldn't step into my role and do it but with time he probably could do it.
- Watts helped me on one project – he assisted me not vice versa.
- Watts did governance and business strategy.
- Before promotion I was doing like work with all of them. The claims go back six years to April 2011. I was doing similar work before the six years. We always had elements of the same role going through.
- 2006 I don't know when Hawkins was doing the broadly similar role.
- Higgins I worked with him on the NHS account. He was a Solution Architect. I managed one workstream.
- On NHS we worked on data. Similar work.

- I didn't work with Mr Watts. I think we have got a similar knowledge but he specialised in different things. I did some similar work to Watts. As to date the claimant was not able to say when she did similar work to Mr Watts. She worked on ops management. She worked with the leadership team. When doing the internal role she reported to Mr Slingsby and/or to Mr Knaresborough.
- In the internal role the claimant was the Solutions Architect who designed a solution with a view to selling the system to external clients.
- The claimant created a performance reporting dashboard that did not exist before. She developed a management report structure for internal purposes that might be sold to clients. Her idea was to get insightfulness from the data. Mr Watts assisted her once or twice in the project.
- The claimant did not work with Mr Bowen on any engagements. She was confident she could have helped him on projects because their skills were similar. They both trained on big data analytics. He worked in big data but she did not. You need knowledge and skills on big data. Our skills and experience crossed over. She could not give a date when she compared herself with Mr Bowen.
- Mr Hawkins did the appraisal in 2010.
- Looking at the job profile of Mr Hawkins from 2004 – 2009 he was Lead Reporting Architect, from 2009 a Project Development Manager and from 2009 to 2011 a Project Manager and Team Lead.
- The claimant was taken to the appraisal of Mr Hawkins which for 2010 which was carried out by Ryan Wall. This confirms he worked on the NHS account. He was said to be a model People Manager. The claimant accepted she was not managing people in 2010 and that Mr Hawkins was a mentor to her.
- In 2010 – 2011 the claimant's role involved data migration reporting. She was responsible for developing a solution.
- The claimant was taken to feedback on her provided by Steve Higgins in relation to the period April 10 to March 11 and the claimant said that she was not doing broadly similar work to Mr Higgins from April 2010 to March 2011.
- The claimant was taken to the CV of Mr Higgins and it was noted that between June 2005 and October 2011 Mr Higgins held the role of Data Architect and Technical Data Management with responsibility for as many as thirty-five development staff. The claimant accepted that she was one

of the thirty-five staff. The claimant accepted that from March 2010 to March 2011 she reported to Mr Higgins.

- The claimant accepted that in her 2010 performance summary it stated that she should consider people management. The claimant accepted the appraisal feedback conclusion that she was a strong contender for a recognised lead role in the team re-organisation. The claimant accepted she wasn't doing a people management role but she gave leadership to members of the team. This was not recognised officially.
- She accepted that Mr Hawkins was performing leadership roles from 2009 to 2012.
- The claimant accepted that her 2012 appraisal was done by Mr Hawkins. He was her People Manager not her Project Manager. At this time the claimant was working on the internal role. She referred to the reference to 270 employees. She worked with practice heads and across different groups to see where resources could be shared. She was involved in trying to place people into fee earning roles. They were regarded as "on the bench" if they were not assigned to client work. She did the report to ensure that it happened as infrequently as possible. At this time, she had no direct reports and did not carry out any appraisals. She was working to four Team Leaders helping them to manage the direct reports. She was assisting managers including Mr Slingsby. It was viewed as a critical role and she stepped up to the role above hers. She hadn't been promoted. No one else did the role.
- It is not accepted that in 2012 Mr Hawkins again appraised her.
- Looking at the appraisal of Mr Hawkins he was the Data Migration Lead. She noted where it was said that Steve managed the entire process with the resource pool he inherited when joining the project and that he was said to be a strong leader and team player setting a high standard of work habits which were followed by his team. Mr Hawkins reported to Fran Sweeney, the Project Manager.
- The claimant said that if she looked at her 2011 appraisal she was acting in a leadership capacity. The claimant said that at this time her role was in GBS reporting. She reported to Mr Knaresborough while Mr Hawkins was doing her appraisal. She was showing leadership. She thought that in May 2012 her role was comparable in that she was Ops Lead for Global Business Services. The person she took over from two grades above was Mark Lawson. She believes she took over his whole role managing profit and loss.

- Where people were on the bench she would talk to them to see when they would get roles and start billing. When she stepped into the role it was run on Excel Spreadsheets. She revolutionised the process.
- The claimant confirmed that her role and that of Mr Hawkins were comparable.
- From May to August 2012 Mr Hawkins was Project Manager for Royal Mail. The claimant said at this time she was project managing GBS – the solution to be used internally. It managed the 170 staff – the resources on the bench. She was assigned to bench resources but managed the project. Mr Watts and two others helped her.
- In the CSC programme relating to bench management she reported to Glyn Knaresborough. This was not outright managing of people but she developed the tool. Resources were people on the bench who were not otherwise booking time. If they were capable she would get them to do things for her. She asked them and they assisted. If they had said no she would have gone to Mr Slingsby. If Mr Watts had disagreed she would have gone to his manager. She was not his People Manager but she was a Project Manager on a small project. Bench management involved her helping at a strategic level.
- Internal roles she thought were as important as external roles and in her view comparable to client work. Although Mr Hawkins was managing the project team he was not necessarily managing the people on the team.
- Looking at the profile of Stephen Higgins with regard to data solutions the claimant would say it was more similar to her work when she was designing the applications dashboard in respect of which she was lead Architect. Perhaps she should have said that she created the dash board.
- Looking at the CV of Mr Higgins she could read what he had done but she thought what she did was broadly similar. They had the same job title but different specialist areas. Some people were People Managers and some were not but they would be at the same level. She knew Higgins was a Project Manager but didn't know if he was a People Manager.
- As to big data there might not always be work related to it. Any person doing big data could also do smaller data.
- A Data Architect and a Solution Architect can be one and the same. Someone can do both tasks.
- With reference to the CV of Mr Higgins as a Data/Solution Architect the claimant said she was also an Account Manager on applications. The Data and Solutions Architects could be at the same level. It would depend

on the project. They perform different roles but very similar. You couldn't do one without the other. A Solution Architect can offer and oversee the whole project for the client but might not know the right questions to ask.

- In 2013 Mr Hawkins appraised her. Appraisals are not normally done by a peer. Had the claimant been promoted by this time, it having been mentioned in 2011, Mr Hawkins would not have done her appraisal.
- The claimant recounted the success she had had with the management information board project she was working on with limited resources and managed the project and the team giving people instructions day to day. She was managing the project and the people who were helping her. There was a person above her, Kevin, on the bench. In managing the project the claimant was assigned tasks and deliverables. It would be the role of the person on the bench to carry out the work. If a person was needed to go onto a fee-paying job they would be let go. An internal project may take longer to complete but it was still important.
- The claimant thought most companies would say that revenue generation was more important than internal work but Mr Knaresborough asked her to do it. She was available at that time to do the project.
- As Operations reporting lead, she worked in a global team.
- The 2013 appraisal was carried out by Mark Danaher who commented "Clare has met expectations this year across all her KRA's. Some of the year was spent on internal duties but this was specifically requested and played to Clare's strengths and the needs of our business". He noted that the claimant had established BD & A operational reporting, operating with L3 and L4 management. Provided global hourly reporting across BD & A, something which had not been done to this level of detail before...Successfully, set up architecture for development within BBC Data Migration Team – including licence discussions with external companies.
- Mark Danaher was at the level of Mr Slingsby or above.
- She did work as a Solution Architect. It was a unique role within the company. None of her comparators performed this role within the company. They worked as Data or Solution Architects for clients. There were doing similar things to me in 2013/14.
- Turning to the BBC contract Mr Hawkins as Stream Lead managed eighteen people. She started on the project in September 2014 at the BBC. Mr Hawkins started after her, in November. When Mr Hawkins came she handed over all running of the project to him. She didn't have time to do it as she was on a workstream of her own. When running that

workstream no one fed into her area of work. It was her role for a couple of months before she handed over to Steve Hawkins. She had requested help and support. Steve's team of eighteen included her. Working on data quality was all consuming.

- The Solution Architect was Richard Carter and Steve Hawkins worked under him. She fed into Hawkins. She had no people management. In some areas she reported in to Mr Carter and she also worked with an equivalent at Capita. Hawkins also reported in to Carter.
- The claimant was asked about Mr Slingsby's paragraphs 48 and 49 concerning Mr Bowen being an expert in technical and business consultancy on data management solutions and strategies leading multi-million-pound client engagements and bids at CIO level from a big data solutions perspective. He rarely runs a team on a project although he has done so in the past. His role primarily involved running the project from a client engagement perspective. He will be the point of contact for the client to discuss and answer any technical queries. He will then pass on any matters to be actioned to the person leading the team working on the project. The claimant agreed that both of these paragraphs were true.
- The claimant said that she was the point of contact on BBC Licensing and all action matters.
- She accepted Mr Bowen did a number of bids. She was aware he did assist in putting bids together but she had been involved in bids. It depended on availability. Not everyone worked on the bids. It was a few years ago when she worked on a bid with Mr Slingsby, when she was on the bench and not out billing.
- In 2014/15 Mr Hawkins was her Assignment Manager and Project Manager also her People Manager so he did the appraisal. She used to cover for Steve Hawkins when he was on holiday. At that time, he was her People Manager not her peer.
- The claimant reminded us that Mr Carter was above Mr Hawkins in the BBC project. Mr Carter was a Solution Architect. The claimant reported to him. She had direct conversations with Mr Carter that Mr Hawkins was not involved in. It was more of a team than a hierarchical structure.
- As to responsibility for profit and loss the claimant accepted she was responsible for inputs to the spreadsheet which dealt with profit and loss.
- The comparators were not involved in her management information project.

- The claimant accepted that she had not had training to be a People Manager or to appraise and she never did anyone's appraisal but she did feedback for people when they requested it.
- The talent programme that she was selected for - the claimant accepted you could be at any level in the business and go on it. A lot of the people on the Talent Programme were leaders of functions. It was to develop top talent. It did not mean she was not a leader.
- The claimant agreed that attending the Greenhouse Development Programme did not show like work with her comparators.
- On the NHS contract on a day to day basis she managed people because she had managerial responsibility on some of the projects.
- The claimant accepted that Mr Slingsby could influence where she was posted and that Mr Slingsby thought very highly of her and she had no reason to believe he would put her on a project that would not progress her. It was sensible to put her on projects where her skills were most utilisable.
- The claimant managed a team of people in India. She assigned them day to day tasks. She had to make sure people had enough to do to complete the work. She was a Project not a People Manager. She accepted that in India the teams had their own Team Managers. They generally had meetings when the people in India were online. It was quite a technical role to deal with data architecture. This related to the Lorenzo project which was quite complicated. She worked with individuals in India. On the NHS project she reported into Mr Evershed. Mr Slingsby was her manager.
- In re-examination the claimant said that PL level was the level above leader, the level Mark Lawson was. It would be one level above where she was when she left. In doing the dashboard project she was motivating and working with the practice heads including Mr Slingsby and another three. She got people to work together across the tower. Reporting extended to all of the towers the dashboard gave an idea of how the business was performing.

From Mr Slingsby's supplementary questions and cross examination

75. It was stated:

- Mr Slingsby had ninety people to lead and direct. He was responsible for hiring and firing and profit and loss. He refuted the claimant's claim that she supervised one hundred and seventy employees. She did

management reporting to a high standard. Management reports prepared by the claimant were used to manage the business.

- According to Mr Slingsby there were team leads in India for the Indian teams. He was not aware of any other management role for the claimant. She held an important role as a Data Analyst. She was sold to the NHS as a single role without management responsibility.
- In cross examination he confirmed there were team leaders in India and they were responsible for day to day management of the Indian teams. They would set up the calls to the people in the UK.
- He did not recognise the position of Principal Leader. In answer to the questions from the Tribunal Mr Slingsby accepted that a Principal Leader would have been someone at his level.
- When the claimant was promoted he prepared and created the role. The claimant did not have to apply and there was no interview. No one else was promoted at the same time as the claimant.
- When the claimant was promoted her work was the same before and after the promotion. He accepted that the claimant was performing work such that she should have been at the higher level. He was never critical of her.
- He was asked about the job description for senior consultant business in the bundle and he said it was an old one, that he was not aware of any other job description.
- It was a very generic document, at a high level. The claimant's level was dealing with data to provide reports.
- The four comparators were Senior Consultants. Mr Bowen was Senior Consultant: Business Strategy which was at the same level.
- Business Process Architecture is not in the role the claimant did for the respondent. It was not relevant to the internal role that she did.
- The salary bands were very wide and there will be people of multiple capabilities in the band. He would not expect them to have all of the thirty three matters mentioned on the job description but he would expect them to have potential.
- The claimant was gathering skills. The comparators had been ten to twenty years at the level they were but they did not have all of the skills on the job description. It was about developing skills and strategy

governance and solutions. A Data Architect can progress to a Solution Architect.

- He then went on to describe the salary bands as referred to above. If someone started at the level of Senior Consultant, at the entry point, then they would move up following annual appraisals although this depended on the money being available in the business.
- For him it was around the capability of the person being promoted. This was a male dominated profession and all the others were men at the time. There were people with experience at the top end. People with leading edge skills resided at the top end of the scale.
- In ten years there had been one person to whom they had made a counter offer when he threatened to leave – Mr Higgins.
- He was not aware of any monitoring of pay and from his perspective nothing was based on gender. He thought they followed a robust process in salary setting. It involved a salary range not a scale. Salaries were based on market value and value to the business.
- He accepted that the claimant came to the respondent with a decade of experience from a major company involving technical rather than strategic skills. Her CV was worked through. They were operational or doing roles. She was dealing with operational data. The comparators had strategic skills.
- Strategic skills involved shaping strategy, business change and information and data governance. If something was not strategic it was technical/operational, e.g. operational data, moving data and used interfaces. There was a huge difference in his view between a strategy for a solution and dealing with technical data.
- In the context of this case it was his view the comparators did the solutions, the architecture, the customer facing and business change. The claimant's role was around data. This solution was the thing the claimant could not do.
- The claimant's appraisals were then looked at in some detail. There was then discussion concerning the management information dash board where Mr Knaresborough wanted the claimant to continue with the role.
- The claimant took data from six or seven key sources and brought them all together into one report. It was a hands on/doing job and very valuable. It was not strategic, it was a data role. The work was of great value. The claimant had designed the programme.

- As Operations Manager of the team she was doing an excellent job.
- The claimant motivated numerous groups of people. There was a weekly meeting with the Practice Heads at which the claimant provided management information reports which they would use to make business decisions and deal with profit and loss etc. The claimant motivated him and no doubt the other Practice Heads. He accepted that she gave the Practice Leads accurate and timely information for management and profit and loss decisions and information on resources etc.
- This was a major contribution to the business. It was a relatively simple system. It was delivered excellently.
- He accepted that the claimant's role as manager of the tower was significant.
- It was put to him that it was evident that the claimant was satisfying the criteria of a Senior Consultant Business. Mr Slingsby said that she was not.
- The leadership training was about people with potential to move up roles like his. He was more than happy with the way in which the claimant was performing.
- 2015/2016 was a great year. The promotion was fully deserved. He was setting the claimant up to succeed from the bottom rung of the ladder. A newly promoted person would be upskilled and given the chance to succeed.
- The comparator on the NHS contract led thirty-five people. At the end of the contract all the heavy lifting had been done and they were working on part of the exit strategy which was fundamentally different.
- The claimant was doing a great job in the data stream.
- On the BBC contract he accepted data was critical to the solution. There were different levels of client engagement. Mr Carter understood the strategy and requirements. The claimant was very good at what she did but at a lower level. Richard Carter produced the solution. The claimant worked with Trillium software which deals with data. Her leadership involving working with senior management. Mr Hawkins was the Data Stream Lead. The claimant was showing leadership in delivering her tasks.
- Typically, data management was 25 to 30% of the resources on a project and critical to the overall project. He accepted the claimant was doing a great role as a Data Analyst.

- It was put to him that in his witness statement where he referred to the claimant working primarily on projects with the BBC and NHS where her tasks were that of a Data Analyst and Data Migration, she did not lead on the projects and didn't undertake a strategic role in respect of them. Mr Higgins led the project in respect of the NHS contract and the claimant worked in the team, Mr Hawkins was her Project Lead on the BBC contract. Her role on both these jobs was operational or what he called "doing roles". This was not to detract from her performance on those projects which was extremely good.
- He was not underplaying the significance of the claimant's work. The claimant was doing a great job as a Data Analyst.
- With regard to testing this was done at the end of the contract. It was a critical role at the end of the contract. The testing role goes hand in glove with the data role.
- Questions were then asked of Mr Slingsby with regard to the comparators.
- Looking at Mr Hawkins he accepted that in the BBC and NHS contracts the claimant was a Data Architect and not a Lead Data Architect. The claimant was not managing teams. She was not yet ready hence putting her on the leadership programme. A Data Architect would have more expertise and would evolve to become a Solution Architect. He would put a Solution Architect in a Data Architect role if necessary.
- The comparators could not perform the claimant's tasks as efficiently as the claimant. The comparators could not work with Trillium. The claimant was trained on it and they were not.
- Looking again at the job description it was a generic role description. It was far from perfect. They were looking for people who ticked some of the boxes. It was a mix of specific and generic matters, some broad headings. There was no specific reference to being a People Manager.
- In his view strategy and governance came under business consulting services – strategy and information governance. Mr Hawkins had expertise and was a Lead Report Architect. He had significant experience of leading large teams of which the claimant was a member. Whilst the claimant did critical things Steve Hawkins would lead and drive bigger teams.
- Mr Hawkins from his CV was said to be a Data Migrations Stream Lead from November 2013 to October 2015. Mr Slingsby did not know the reporting line for this job.

- When Mr Hawkins was said to be a Data Architect from March 2017 onwards Mr Slingsby said this was not essentially similar to the work of the claimant. Mr Hawkins had more responsibility for significant teams and overall solutions. He would not have given the claimant the lead on Network Rail as he did to Steve Hawkins.
- He played to the claimant's strengths in the BBC role and to the strengths of Mr Hawkins in the leadership role with Network Rail. She and Mr Hawkins were different. He would not have put her in a lead role as she did not have the skills and capabilities to perform the role that Mr Hawkins did.
- From October 2015 to March 2017 Steve's work was at a higher level, leading a team. He had a key leadership role.
- He was asked about his statement concerning Mr Hawkins to the effect that from his profile with the company Mr Hawkins had undertaken numerous roles within the business and thirty years of relevant industry experience before joining.
- In response to this Mr Slingsby said he recognised the claimant's potential. He placed her in a new role with a chance to grow to deal with team leadership and to be a Solution Architect. The claimant would not have been promoted without him.
- The markedly different point was that Steve Hawkins would lead the programmes and people. You could put fifteen people under him and he would lead them. The claimant worked for him on the BBC projects.
- Tim Bowen was a Senior Consultant in the Big Data and Analytics Practice.
- Mr Bowen worked on the Network Rail project from September 2016 to June 2017 as a Data Architect. There was a business-critical need for a Data Architect.
- He has Big Data Analytics experience with projects at Anglian Water, Virgin Trains, DHL and Whitbread.
- Tim Bowen joined CS as there was a huge hole in Data Analytics.
- The claimant's work was not similar to that of Mr Bowen. They used different technologies. Big Data was different from the NHS work done by the claimant. They were fundamentally different skills.

- Tim Bowen got in front of clients and was winning business. He had market leading skills. He would not put someone just out of training in front of a client.
- Stephen Higgins was a Solution Architect doing work including NHS Healthcare (Lorenzo – UK) and Network Rail.
- From March to August 2012 he was a Data/Solution Architect working on the NHS account in Solihull. He worked as the Lead Architect/Technical Development Manager.
- From September 2012 to November 2013 he was a Data/Solution Architect and in his role as CSC's Lead Migration Architect he travelled to the Netherlands where he had responsibility for delivering a generic data migration solution in connection with Lorenzo.
- From December 2013 to March 2014 he worked on the NHS account engaged with the Global Big Data Team as a Healthcare Data Consultant.
- His work was absolutely not similar to that of the claimant. It is apparent from his CV that Mr Higgins is a Technical and Solution Lead working on some massively complex projects. He had a totally different capability from the claimant. He was Solution Lead for Network Rail. Data was a part of this.
- He led on a complex data migration for Network Rail. The Network Rail and NHS projects both required the implementation of multimillion pound and highly complex business and data solutions for which he took the overall lead. These were complex and important roles. This is fundamentally different from the work of the claimant. He led, designed a massive business change component with a mass of complex information. That was what the solution was around.
- Data analysis/quality was critical. He had a different skillset from the claimant involving multimillion pound projects. He had a fundamentally different role/capability.

This is something the claimant would have got to in a number of years but her skills were not yet at that level.

- Christopher Watts joined CSC from PA Consulting where he was on a base salary of £52,000 plus a potential bonus entitlement of 40% of base salary. He joined the respondent on £62,000. He had highly desirable skills in information strategy, governance and business change. This particular expertise was reflected in the starting salary.

- Chris Watts sells in front of clients. He sells projects and delivers them as well.
 - His Big Data analytical skills are fundamentally different from those of the claimant.
 - His key tasks included business and technical consultancy and senior level client engagement on data management solutions and strategies. You cannot sell Big Data solutions without engaging at Chief Executive level.
 - On the subject of pay he was comfortable with the salaries paid to the individual consultants. The salary was based on median plus or minus 30% with the difference reflecting capability. The claimant would have gathered more capability as time went by. The others had fundamentally different roles as explained.
 - Looking at the Senior Consultant Job Description it is so generic and there are a huge amount of capabilities in the role.
 - He could not understand the claimant's shock at discovering the differentials. There is a ladder. When first promoted you are on the first few steps of the ladder. As years go on you go higher up the ladder in terms of capability and pay.
 - As to her salary, his hands were tied. The salary would be at the bottom of the range or 5% more than the previous salary.
 - Mr Watts came in from PA Consulting. He could see why someone from PA would be paid that amount.
76. In re-examination Mr Slingsby confirmed that Mr Watts was working in the London catchment area, within the M25, and thus was paid more than if he lived in, for instance, Sheffield. He confirmed that the median salary was based on market data. Whilst the median might move the plus or minus 30% did not.
77. In answer to questions from the Tribunal Mr Slingsby said that on the Network Rail project Mr Higgins was the overall solution architect and Mr Hawkins was the Data Stream Lead. These were two separate tasks. He thought they may both have reported in to a Programme Manager. The claimant was not a stream lead but an analyst. She was not on the Network Rail contract.
78. He thought Mr Higgins worked across all streams/solutions.
79. On the BBC contract Mr Hawkins led in to the Programme Manager. He was Head of Data Stream and the claimant was part of his team.

80. On the NHS contract Mr Higgins did some bid work and would have reported in to the Project Lead.
81. Mr Higgins when working on the NHS account did some bid work.
82. When working on the NHS project from December 2013 to March 2014 he reported to the Programme Manager.
83. When working as Data/Solution Architect from September 2012 to November 2013 he reported to the Programme Manager. He was leading a team of 35 people.
84. Where Anthony Ford had given feedback on the claimant in February 2016 stating that in connection with a part of the Lorenzo project "Clare took the requirement and owned it end to end", he thought this meant she took it from source data to how it was presented to the customer. This was in the context of data.
85. In relation to the NHS work the claimant led using the Trillium software. She had leadership of the task relating to data quality. When Clare was leading on the delivery of data quality there were no people working under her.
86. Comparing internal work for the respondent's own systems and working on external projects there was a need for internal processes for the business to work, but normally priority would be given to income earning projects for customers.
87. Steven Hawkins told us that he joined the respondent on 15 January 2001 initially as a Senior Professional with a starting salary of £50,000. When the claimant joined the respondent in June 2006 he was a Lead Reporting Architect on the NHS account and a staff manager for six individuals in a team of 15. When the claimant joined he was responsible for her induction. He was her staff manager and mentor.
88. They worked together on the BBC Project from 2014 to 2016. He led the project and the claimant was a member of his team. He was responsible for approximately 20 Technical Data Analysts and Data Migration Experts, with the claimant being one of them. He was the claimant's direct line manager and responsible for her appraisals. This responsibility continued until 2015 when the structure of the department was changed.
89. Comparing himself with the claimant, he managed large projects whereas the claimant did not. She did not have the experience or ability to do so at that time. They were at completely different stages in their careers. He was coming to the end of his career and had a lot of experience and skills. The claimant was much nearer to the start of her career but he was sure that she would develop the skills and experience to undertake the duties he now

undertook. In his view at the time they worked together the claimant was simply not capable of doing the work which he did and still did until his retirement.

From Mr Hawkins's Cross-examination

90. It was stated that:

- On the BBC project there was a Programme Manager. The claimant and the Data Architect would also take part in management when he was on holiday. There were no issues in the claimant's performance. At that time he was the claimant's People Manager.
- They had one-to-one meetings and he would rely on feedback from colleagues to inform the appraisal document.
- He did not accept that his comments on the claimant in his witness statement were dismissive. His CV went back to 1982. Earlier roles were summarised. He started work in 1973 and had ten years in different organisations before starting in computing. He had to understand and learn accounts and also manufacturing systems.
- The claimant came in as a junior member of the team. Her experience was viewed as valuable to help grow the Practice.
- As to Trillian software, this was a new language. With time and training he could have used it but he was trained in the 1980s.
- The claimant had newer skills and knowledge.
- As to his statement that he did not consider the work done by the claimant was comparable to that done by the comparators, he confirmed that in his view it was not. He used his experience and knowledge to understand problems. He reflected back on his years in manufacturing. In his view the claimant could not have had such reflections. He led a team of developers.
- He always gave the claimant credit for the work she did at the level at which she did it.
- Mr Bowen was not a member of their team in Network Rail. He was in a separate stream.
- In answering questions from the Tribunal Mr Hawkins said that Big Data related to volume and speed.

- From October 2011 to April 2012 he led a team moving data from version 11 to version 12 of Oracle.
- He acted as a practice customer on projects before they went live.
- From November 2013 to October 2015 at the BBC there were about 18 people. There were four leads including the claimant. There was no-one below the claimant in her team.
- Sometimes you might work on more than one project at a time. You might be leading on one and working in a lesser capacity on another.
- In 2012 he reported to Fran Sweeney. This was his first Oracle project. He had no previous experience with it. It was a very complex application.

Respondent's Submissions

91. Mr Moore for the respondent provided written submissions and addressed the Tribunal.
92. It is for the claimant to prove that she did the same or broadly similar work to the comparators. The test concerns the similarity of what was done and the similarity of the skill and knowledge required to do it.
93. The claimant and the comparators operate in a highly technical, complex and specialised area of IT which is fast paced and where particular skills and expertise can be at a premium. The respondent accepts that the claimant was highly skilled and a good performer but in his submission, she did not have the skills and/or experience of the comparators and as such did not work at their level on projects thus the claimant did not perform like work to the comparators.
94. In determining limb one, whether the claimant's work was the same as or if not the same broadly similar to that of the comparators it is not a question of whether or not the claimant could have done the work of the comparators or whether the work she performed was equally important or critical to the respondent. The Tribunal should concentrate on the work actually carried out by the claimant and the comparators and not merely the job description.
95. The job description mainly demonstrates the broad range of capabilities required which supports the respondent's position that employees assigned that job description can and do perform differing roles. The whole job has to be considered. The Tribunal needs to consider what the roles did not have in common; it is not a matter of merely considering the similarities.
96. In Mr Moore's submission limb one requires an assessment of the similarity of the nature of the work as opposed to the similarity of the tasks performed which is for limb two of the test. For limb one the Tribunal stands back and looks back at the nature of the job.

97. It is important for the claimant to clarify the roles she considers to be of like work with the comparators. This necessitates the claimant identifying the time period for which she claims she carried out like work with each comparator. It is therefore important to understand the actual jobs the Tribunal is being asked to compare.
98. The particulars of claim state that the claimant is claiming compensation for a period of six years covering her role as Consultant Technical, her initial role, and then Senior Consultant Business from October 2016. The claimant does not address in her evidence in chief when she claims to have commenced like work with each or any of the comparators and why she believes she commenced like work with any or each comparator at a particular point in time.
99. In cross examination when asked if she was saying she did like work with the comparators before April 2011 the claimant answered "yes, similar work". When asked when the like work started she said that they "always had elements of the same work".
100. When asked if she performed like work when compared with Mr Hawkins from 2006 she said yes but would need to look at the projects they worked on. In the submission of Mr Moore, the claimant was unable to provide answers to his questions.
101. In respect of Mr Higgins, the claimant said she was working on the NHS contract with him in 2010 and "it was similar work".
102. As for Mr Watts the claimant admitted she and he specialised in different things. The claimant specialised in data and Mr Watts specialised in business strategy and governance although the claimant's evidence was unclear she said that on a couple of occasions when working on her internal role (December 2011 to September 2014) she did like work with Mr Watts. What she described was on a couple of occasions Mr Watts assisted the claimant in her role. In his submission this is not like work.
103. In his submission the claimant has not advanced any work possible to be compared against the work carried out by Mr Watts. Her claim is so devoid of clarity that it is not possible to identify what the Tribunal is being asked to assess.
104. With regard to Mr Bowen the claimant's evidence is that he informed her during the redundancy process, in early 2017, as he was trying to get her on a project that their skills were similar but when asked to confirm when she did similar work of Mr Bowen the claimant was unable to give a date. The claimant therefore has not, in his submission, advanced any work possible to be compared with the work performed by Mr Bowen therefore it is not possible to understand what the Tribunal is being asked to assess.
105. The claimant was not re-examined on any of the dates when she said she performed like work with the comparators.

106. In respect of Mr Watts and Mr Bowen it is submitted that it is impossible to understand what job the Tribunal is being asked to find as being like work when compared to the work of the comparators.
107. In respect of Mr Bowen, the Tribunal needs the time frame so it can make the assessment required at limb one, assessing the similarity of the nature of the work taken as a whole. The Tribunal should look at the job as a whole not blocks of time and/or particular types of work or duties in isolation. In his submission in determining the test at limb one it is not a matter of picking out certain time frames from 2006 or 2010 and determining that there was broadly similar work on particular occasions. That is not the claimant's case and it would not be the correct legal analysis of such a claim as the Tribunal needs to consider the whole job and thus needs to know what it is comparing. In his submission at its highest the evidence before the Tribunal from the claimant is that she carried out like work with Mr Hawkins in 2006 and like work with Mr Higgins in 2010. In respect of Mr Watts and Mr Bowen there is no evidence of a time period from which an assessment can be made and therefore in his submission the claims should fail.
108. Before considering the respective roles, Mr Moore asked us to note that Mr Slingsby and Mr Hawkins were not challenged in cross examination as to the roles they say that the comparators performed and as such their evidence must be accepted by the Tribunal. It was put to the respondent's witnesses that the claimant performed similar work to that which they explained was performed by the comparators. Both Mr Slingsby and Mr Hawkins were very clear in their evidence that they rejected that proposition. For the claimant to succeed on the first limb of the test the Tribunal would have to find that the claimant did broadly similar work to the comparators when viewed against the evidence of Mr Slingsby and Mr Hawkins as to the roles performed by the comparators. In his submission based on the evidence the claimant's case falls well short of establishing that her work was like work.
109. Turning to the evidence in chief of the claimant the respondent submits that it is devoid of any comparative analysis of her role compared with the roles of the comparators apart from some passing observations. The claimant sets out what she did which in effect amounts to we had the same job title, I was doing work that was equally important and/or difficult but in his submission, that is not a like work case.
110. In respect of Mr Watts and Mr Bowen the claimant conceded she had little interaction with or visibility of their roles and work. Mr Slingsby is best placed to explain what his team did having allocated them to the various projects based on his knowledge of their expertise, skills and experience and the requirements of particular projects. Mr Slingsby told the Tribunal why he would not put the claimant in roles performed by the comparators as at that time she did not have the skills and knowledge to perform the roles.
111. When working in their teams the claimant had visibility of the roles performed by Mr Hawkins and Mr Higgins.

112. The claimant effectively withdrew her claims against Mr Bowen and Mr Watts under cross examination conceding both were experts in their field which was big data solutions in the case of Mr Bowen and IT strategy and governance in the case of Mr Watts. The claimant was an expert in data and this is what she did when working on client projects.
113. Mr Slingsby was clear in evidence that the claimant did not perform a strategic role on any project that being the role with overall responsibility for a particular area of project which would involve liaising with senior people at the client company, ensuring the teams performed the work, liaising with the client on the progress of the project, dealing with business strategy, business change and governance of information and data. This is at a higher level within the project than the claimant was working at.
114. Mr Slingsby explained that the claimant had an operational role, a doing role, dealing with data. She was operational. The comparators performed a strategic function. Whilst the respondent accepts that the claimant's work was complex the claimant, unlike the comparators, did not lead on complex projects.
115. If one steps back and looks at the nature of the work undertaken and the skill and knowledge required by the claimant and the comparators over the time period the work undertaken was not broadly similar. The claimant was not managing any teams, was not leading projects, was not performing a strategic role and was not doing bids.
116. It is clear, he submits, from the evidence that Mr Hawkins and Mr Higgins had management responsibility on contracts throughout the entire comparison period which the claimant did not have. The claimant's definition of management was that she asked people to assist her. In reality, she asked them to assist and if they had not she would have gone to their manager. The claimant did not have the ability to take disciplinary action and did not carry out appraisals. She had no people management responsibilities and had not been trained for it. Mr Hawkins clearly did have such responsibilities.
117. As to experience Mr Hawkins and Mr Higgins had industry experience from 1982 and 1983 respectively whereas the claimant commenced in the industry in 1997. Mr Hawkins was the claimant's mentor and her appraiser. On her second project with the respondent she worked in a team led by Mr Higgins.
118. Mr Moore then set out in tabular form the roles undertaken by the comparators and the claimant taken from the job profiles in the bundle with reference to the period of time the claimant was engaged on various roles. Looking at the table in his submission it is clear that the comparators were not performing broadly similar work but were operating at levels above the claimant.
119. When the claimant started with the respondent she was inducted by Mr Hawkins. From 2010 to 2011 she worked on a project managed by Mr Higgins and was one of 35 in his team. She clearly was not performing like work when compared with him. The claimant conceded in cross examination

she did not perform like work with Mr Higgins on the NHS account. Mr Hawkins managed an element of the NHS project whilst being the claimant's mentor and her People Manager carrying out her appraisals.

120. The claimant was not willing to concede she was not performing similar work with Mr Hawkins at this time. Mr Moore submits that the claimant's evidence is not credible. He was her mentor and People Manager and his own appraisals set out the nature of his work and the management responsibilities he had.
121. The claimant worked on internal roles from December 2011 to September 2014 which were unique roles pulling data from various applications into a report to be provided to senior management. In the view of Mr Slingsby this was "a doing role, operational, not strategic like the others". It involved the claimant dealing with data. When doing this work the claimant had no management responsibility. The respondent accepts that the claimant motivated people, including people senior to her, but that does not come in any reasonable understanding of the term "being responsible for management".
122. The evidence of Mr Slingsby was that the claimant provided a management information tool dealing with the work of approximately 200 people and this was a valuable and excellent job but relatively simple compared with the work of the comparators who were developing solutions of a scale vastly more complex such as Mr Higgins developing a solution involving tens of thousands of users in the NHS.
123. When asked by the Tribunal if the other comparators were doing matters of equal complexity to that of the claimant Mr Slingsby said they were not explaining that the comparators worked on projects with hundreds of thousands of users that were more complex. He was not challenged in cross examination on this point.
124. The claimant was performing an internal management reporting role which was not at all similar to working on an IT project with a client. The claimant accepted in cross examination that no one was doing anything like the role she was performing which in his submission is an acceptance that it was not like work.
125. In the submission of Mr Moore, the internal roles performed by the claimant were in no way similar to any role undertaken by the comparators thus it was not broadly similar work.
126. If more senior employees fed information to the claimant that does not amount to management. Senior consultants would assist if they were not on client duties but when billable work became available they would be assigned to it. The claimant accepted that revenue generating work was seen as more important by the company.
127. In respect of the internal work the claimant gave evidence that she took over the role of Mr Lawson who was a "PL". No one was clear as to what a PL

was or where it stood in the hierarchy of the respondent but Mr Slingsby accepted that Mr Lawson was at his level. The claimant accepted her knowledge of his role came from a four-week handover and a description on Linked In. Mr Lawson was not called to the Tribunal. According to Mr Slingsby the claimant had taken on an element of Mr Lawson's role not the whole of it. Mr Lawson was not a comparator. He was not doing work that was broadly similar and because according to Mr Slingsby, who had worked with him on other matters, he was dealing with sales strategy, solution strategy, pipeline development and a 15 – 20 million pound bid to Royal Mail Group.

128. When working on the BBC project the claimant was led by Mr Hawkins as part of a team and this was clearly not like work. The claimant was reporting to Mr Hawkins who was responsible for her including her annual appraisal.
129. On the Network Rail project Mr Hawkins was Solution Lead/Technical Manager which was not broadly similar to the role of the claimant especially considering the skills and knowledge needed to perform the role.
130. When promoted to Senior Consultant Business Mr Slingsby explained that there are a broad range of capabilities and skills within the role. The claimant's evidence, it is submitted, supports the view of the claimant that people had certain specialist areas and would be assigned to projects accordingly.
131. Mr Slingsby gave evidence that the claimant started at the bottom of the ladder of Senior Consultant Business in terms of her capability and this was reflected in her pay. In industry it is extremely common to have varying levels of skills and capabilities within a job role especially when it is as technical as the work carried out by the respondent.
132. When working on the NHS contract Mr Slingsby told the Tribunal that Ms Hampson was in the role of Data Analyst/Data Migration with no management responsibility in a project developed and managed by Mr Higgins. According to Mr Slingsby the claimant made enhancements to the overall solution that had already been put in place. It was an operational role and did not involve defining the strategy of the project or the solution and seeing it through to the end. It was amending an existing solution to bring the contract to an end.
133. The respondent accepts that the claimant did lead but only in respect of data quality and with no management responsibility. This was a much smaller project than that worked on by the comparators. It was not broadly similar as they led on large, more complex projects requiring people management of numerous people and engagement with client staff at a very senior level.
134. The claimant said there was a Project Leader, Anthony Ford, and a Programme Manager, Jeremy Evershed, above her in the project. All the comparators were, in Mr Moore's submission, regularly Project Leaders.
135. Mr Moore submits that we are to consider the role and the context of the overall role the claimant is asking us to consider. In respect of Mr Hawkins

looking at their respective roles since 2006 and in respect of Mr Higgins from 2010.

136. In conclusion following a general consideration of both the work done by the claimant and the comparators and the knowledge and skill required to do it it is clear that the claimant did not perform work that was the same or broadly similar to the work done by the comparators.
137. If the claimant satisfies limb one of the test then the Tribunal will move on to limb two to consider whether such differences as there are between their work are not a practical importance in relation to the terms of their work and will have regard to:
 - (a) the frequency with which differences between their work occur in practice; and
 - (b) the nature and extent of the differences.
138. At this stage the respondent submits that the emphasis is not on the nature of the actual job but on the differences in the actual tasks and duties that they respectively performed. In this regard the respondent relies on the differences between the work of the claimant and the comparators set out already in the submissions in support of its position that there are differences of practical importance between the work done by the claimant and the work done by each comparator and that the differences were of practical importance in relation to the terms and conditions of employment subject to the following observations.
139. Responsibility is a relevant factor at this stage and it is clear from the various job profiles of the claimant and the comparators that they clearly have more responsibility than the claimant. They also had differing levels of skills required to perform their duties to that of the claimant.
140. The comparators performed strategic roles whereas the claimant did not. For example, Mr Higgins was a key person on the Network Rail project.
141. The claimant accepted in cross examination that Mr Watts was an expert in strategy and governance. He performed a strategic role and formulated strategies for large complex organisations.
142. Mr Bowen was an expert in big data and performed as lead on such projects whereas the claimant did not. The claimant accepted she did not put bids together whereas Mr Bowen did and worked on large and important bids.
143. The comparators frequently were leaders of projects whereas the claimant was not. The comparators had management responsibility for projects whereas the claimant did not.
144. The respondent accepts that the claimant led on an element of the NHS project from 2015 but this was much smaller and less complex than the projects the comparators led on and the claimant only led in respect of data.

Her role was operational not strategic. In any event, the respondent submits, how the claimant might have undertaken lead roles from late 2015 to mid-2017, eighteen months at the most, whereas the time frame the Tribunal is being asked to consider against Mr Hawkins's eleven years or 132 months.

145. Even if the lead roles were considered broadly similar, which the respondent does not accept, the frequency with which the comparators performed such tasks was for a far greater period than the claimant.
146. They led on multi million pound bids and the claimant did not.
147. Mr Hawkins had people management responsibility whereas the claimant did not.
148. The claimant for a large part of the period of comparison performed an internal management reporting role. The comparators did not. The differences between her duties and those of the comparators were large and the occasions when they existed occurred frequently.
149. Should the Tribunal find that the claimant was performing like work with any of the comparators the material factor defence will fall to be considered. The factor need only be material in a causative sense. It is sufficient for the factor to be the cause of the difference.
150. Mr Slingsby and Mr Hawkins were not challenged in cross-examination as to the roles, skills and experience they say the comparators had or performed and as such their evidence must be accepted. As such all the evidence of the expertise of the comparators referred to below, went unchallenged. It was the claimant's case that the respondent was under selling her role or duties not that it was exaggerating those of the comparators.
151. The factors put forward by the respondent include the same reasons as to why the work is not broadly similar and why there are differences between the tasks that are of practical importance in determining pay. The material factors relied on relate to differing duties, responsibilities, skills and experience in respect of all the comparators with the reasons being set out in relation to each of the comparators.
152. Mr Hawkins has extensive experience in industry back to 1982. He is an expert People Manager and Project Leader: roles that the claimant did not perform. He appraised the claimant and managed her on certain projects. He managed a team of people including the claimant on large complex projects which the claimant did not and could not. He led on multi-million-pound bids which the claimant could not and did not.
153. Mr Hawkins, according to Mr Slingsby, operated at a strategic level. Such skills are highly desirable and attract the higher rate of pay. The claimant did not act at that level.

154. With regard to Mr Bowen he was an expert in big data solutions whereas the claimant was not. She went on a training course in 2016 to learn more about it and thereafter did not work in this field. Mr Bowen led big data consultancy and advisory projects, the claimant did not have such skills and experience.
155. Mr Bowen led on multi-million-pound client engagements at CIO level from a big data solutions perspective. This involved highly complex bids. The claimant could not and did not do this.
156. The uncontested evidence of Mr Slingsby was that Mr Bowen had to be paid a premium because of his skills and to attract him to join the respondent given his pay in his previous employment. According to Mr Slingsby the respondent had identified an important knowledge gap in big data and Mr Bowen filled it. Mr Bowen ran projects from a client engagement perspective, dealt with the client and passed the work on to people on the project to perform it. The claimant did not have those skills. Mr Bowen operated at a strategic level and had particular expertise. Such skills are highly desirable and attract the high rate of pay. The claimant did not operate at that level.
157. Mr Higgins has extensive experience in the industry back to 1983. He led technical teams to implement complex, large scale solutions and strategies that he had designed including the NHS project where the claimant worked as a member of this team. He led the extremely complex and important Network Rail project which the claimant could not have done.
158. He was given a pay increase when he threatened to leave as he was so important to the respondent's Network Rail contract. The consequences to the respondent of it not being completed would have been costly. According to Mr Slingsby it would have cost the respondent millions of pounds and this puts into context the skills and experience of Mr Higgins when compared to the claimant.
159. Mr Higgins led on multi-million pound bids whereas the claimant did not and could not. He operated at a higher level with such skills as would attract the higher rate of pay. The claimant did not operate at this level.
160. Mr Watts has highly desirable skills in information strategy, governance and business change according to unchallenged evidence. The claimant admitted he had such skills and that she did not. He formulated information strategies for large complex organisations. The claimant did not and could not do this.
161. Mr Watts led teams to implement the solutions and strategies. He led on multi-million-pound bids. The claimant did not and could not do this.
162. The geographical location of Mr Watts in Surrey affected his pay as also did his particular areas of expertise and skills.

Claimant's submissions

163. Mr Pinder for the claimant confirmed that the claimant had not abandoned any part of her case or any allegation relating to any of the comparators. He

agreed that it was for the claimant to establish whether or not her work was the same as or, if not the same, broadly similar to that of any of the comparators looking at the test set out in Section 65 of the Equality Act. The claimant accepts that this issue is essentially a question of fact for the Tribunal the burden resting on the claimant. If the Tribunal concludes that at any relevant time the claimant was undertaking like work to one or more of the comparators then under Section 69 of the Equality Act it is for the respondent to establish that any pay disparity was for reasons not related to the claimant's gender.

164. There are two reference periods to be considered. Until the date of promotion in October 2015 the claimant was employed as a Consultant Technical and states that no later than 10 July 2011 (six years before she left the respondent) she was employed on like work to all of her comparators though the comparison with Mr Bowen can only start in February 2014 when he joined the respondent on a salary higher than the claimant. The claimant was employed as a Consultant but states that she actually undertook like work to her comparators despite the different job title and different terms and conditions.
165. From her promotion in October 2015 the claimant became a Business Consultant Senior and in his submission, it has not been disputed that the named comparators undertook any different role for the respondent by way of a different job title. All were Senior Consultants. Mr Slingsby confirmed that the comparators were considered within a selection pool as part of the redundancy selection process in 2017. The claimant accepts this as correct on the basis that they were employed in the same work role regularly working together on the same projects and were subject to the same job description.
166. Accepting that for some time the claimant was appraised by one of her comparators, Mr Hawkins, the claimant's case is predicated on the basis that her job title and contract terms did not match her work so that the status of the person conducting the appraisal does not of itself answer the like work question. The absence of people management activity on the part of the claimant is not relevant to the like work test and there was no suggestion that the other comparators did it. Further, it is not mentioned in the job description as an essential (or otherwise) part of the work role of Business Consultant Senior.
167. The claimant's case is that as a Consultant she was in fact doing like work with the comparators and in his submission, it is open to the Tribunal to reach a conclusion on this point referable to any part of the claimant's employment which in the relevant six-year period was:
 - (a) March 2010 – October 2011, the claimant was employed as a Strategic Operations Specialist undertaking work as a Data Quality Reporting Lead.

(b) November 2011 – April 2013, the claimant worked as a Strategic Operations Specialist but undertaking work as GBS Operation Lead for the Enterprise Solutions Group;

(c) April 2013 – September 2013, the claimant continued in the same role but undertaking lead work on B, D and A Consulting and delivery operations, in fact the role was Reporting Lead;

(d) September 2013 – End of 2015, the claimant worked on the BBC project undertaking work on data quality and profiling lead, Data Migration Technical Lead and B, D and A work;

(e) In early 2016 – July 2017, the claimant undertook work in her promoted role as a Senior Consultant Business undertaking repatriation and associated other tasks and also continuing with B, D and A operation report work.

168. Mr Pinder then referred to the document prepared by Mr Slingsby in relation to the claimant's promotion quoting from it as set out above at paragraph 45.
169. The claimant referred in evidence to the fact that she was undertaking more than one job. Consider what Mr Slingsby says to understand what the claimant had been doing and his view of her going back to 2012 as set out in her appraisals.
170. In the claimant's submission the starting point for consideration of work done is to reflect upon the work activities of the claimant and her comparators. The Tribunal was never referred by the respondent to the job description for the comparator role and that performed by the claimant after 2015. The claimant submits this was for an obvious reason in that it is a document which highlights the fact that the claimant's work tasks were those of a Senior Consultant Business certainly from October 2015 and the claimant submits prior to that. The Tribunal has no other statement of expectation in terms of the work required in the role and it was never explained by Mr Slingsby or Mr Hawkins. The claimant will question how the respondent can seriously challenge her status reference like work after October 2015 bearing in mind the promotion to do what in practice is the same work role.
171. The Tribunal should review the claimant's evidence in relation to each work area looking in particular at her CV and the evidence of the feedback from colleagues and in the appraisals. Also see the claimant's witness statement for relevant materials. The Tribunal should read the words written by executives from directors to senior managers and rarely it is submitted has there been a more consistent and positive statement about a worker than is said about this claimant over many years.
172. Focussing on what the claimant was doing in her NHS role she was a Data Expert as were the comparators. She was an experienced Executive and cannot agree with the analysis of her work expressed by Mr Slingsby. The Tribunal should focus upon the work of the claimant and her comparators to see what was done. Was the work the same or if not broadly similar? In

considering this the Tribunal should not be too pedantic focussing on the words “broadly similar” which should be interpreted to give effect to the importance of ensuring that labels (including job titles) and some differences should not defeat a claim. The first point for the Tribunal to address is whether the work is the same and if not, then the Tribunal should go on to consider whether the work is broadly similar.

173. As to the internal work allocated to the claimant the Tribunal should consider the evidence in the appraisals as well as the comments of Mr Slingsby in the promotion paper. The work went well beyond simple management reporting of data. The claimant was identified in the Spring of 2012 and as working at PL (senior to BCS) level and ensuring through her considerable skill to help the business deliver projects. This goes well beyond management reporting. Mr Slingsby in the appraisal for 2012 agreed the claimant was a cast iron candidate for promotion but there was an embargo on promotions. In the submission of the claimant a reasonable conclusion is that Mr Slingsby had himself by that time concluded that her work role justified the position of leader that she would satisfy the job description for that role.
174. The claimant moved to BBC work during which time she was promoted and she continued to undertake the internal work referred to by Mr Slingsby and confirmed that the claimant was not interviewed for promotion and that she continued in the very same work the next day. The work undertaken by the claimant matched the job description and was the most senior level confirmed by extensive feedback.
175. The claimant returned to the NHS contract and also continued to undertake B, D and A operational work. The claimant’s role was at the highest level including leadership, motivation, devising and delivery of practical business solutions, dealing with clients and stakeholders, dealing with off shore workers and many other matters. Though the claimant was a data expert it did not detract from the breadth of her skills and performance. Indeed, the comparators were identified as essentially data experts in their own way which reflected the work they did.
176. The job description envisages undertaking various duties including as members of a team. The respondent operated a matrix management system rather than rigid management structure, Mr Slingsby accepted that people carried out a variety of work roles and undertook tasks when they were allocated to a particular project via Mr Slingsby playing to the skills of the employees concerned and reflecting his knowledge of what each person might do on a particular project. The Tribunal should break down what the claimant did when allocated a data related role but she also did much more and ticked almost every box of the job description.
177. The claimant was the only female in the work group at senior level and was by considerable margin the lowest paid. The claimant submits that the evidence from the respondent gives the impression of devising pay levels and policy based entirely upon a subjective basis and justifying the differential by reference to an unfair analysis of the claimant’s work and an insulting and unfair analysis of her work history. The claimant was being treated as the

junior staff member having been held back for several years from promotion and then being rewarded with a small increase in pay which created a significant differential. A younger worker (but still experienced) brings different skills to the table and this claimant had already delivered high levels of activity. She had worked for the respondent for about a decade by the time of her promotion but her earlier years of work with Hewlett Packard is in essence disregarded by the respondent.

178. As to the comparators the claimant accepts that they do not do exactly the same work tasks but it would be for the Tribunal to decide if it is in essence the same work or broadly similar. The complexity of the tasks carried out cannot defeat the claim. The workers deliver different tasks either internally or externally using skills required from the job description but reflecting their innovation and drive.
179. Looking at the NHS and BBC contracts two of the comparators undertook work on the project as well namely Mr Hawkins and Mr Higgins.
180. Three of the comparators were on the team contributing to Network Rail.
181. The claimant did internal work for about two years but submits that this work contributed directly to the respondent with Mr Knaresborough stating that the work of the claimant has had a significant impact on our ability to deliver successful projects undermining the comments of Mr Jones. This internal work involved communication and the motivation of others and the delivery of a solution devised by the claimant meeting the needs of the internal customers and it showed high level communication skills. It involved work with data. Whilst not being with external clients work on internal projects was just as important as external projects as conceded by Mr Slingsby.
182. None of the comparators have ever done exactly the same work tasks within each of the projects allocated to them by Mr Slingsby. This is the nature of the work and the group involved in carrying it out. They are all colleagues and all skilled executives. The work history of the four comparators involved client activity, leadership, reporting, project/stream management, dealing with co-workers, dealing with off shore workers, applying clear values and importantly working with data. In the claimant's submission the comparators undertook work which was either the same or broadly similar to her work and it involved the same type of tasks and skills and after October 2015 they were subject to a common contractual job description.
183. The Tribunal must think about any difference between the work done by the claimant and that done by the comparators and if so, whether those differences were of practical importance in relation to the terms and conditions of employment. They did not mirror each other in all respects every working day but the claimant submits the Tribunal must take into account the job family and the group. It is not a straightforward work role analysis but the differences were such that taken as a whole the claimant states that the data and project work was essentially a common and consistent enterprise. The differences were occasional for what were always bespoke projects but never enough to undermine a sensible view that the claimant and her comparators

were undertaking the same or broadly similar work and therefore that is like work.

184. As to the second limb of the test the factors relied upon by the respondent will only be material if the Tribunal accepts that it is significant and relevant such as to explain the difference between the pay of the claimant and the pay of the comparators.
185. The first point relied on by the respondent is that of the parties undertaking differing duties. Whilst this would have been considered under the heading of whether the parties were undertaking like work the respondent also advances the differing duties to justify the differential by way of a material factor. It will be for the Tribunal to consider whether this approach is correct in terms of the statute because if the Tribunal has decided that the parties were not, in essence, undertaking differing duties it would be difficult to envisage circumstances when a contrary decision would be reached when considering the material factor point. The claimant does accept that within particular projects viewed at any one time there can be different tasks performed but they are all duties which the claimant states were covered by her and her comparators but were not a matter of significant difference or such as to justify the difference in pay. Certainly, they do not explain the difference. The claimant and her comparators were sometimes colleagues but essentially always delivering the same work duties.
186. As to the issue of responsibilities relied upon by the respondent, the work task and responsibility was not determined by the title of the employee but rather by the decision of Mr Slingsby on a project by project basis in the way in which he allocated the teams to the projects. At the BBC the claimant's work role was identified as critical and involving beginning to end responsibility being an expert in that particular area. The claimant submits that in her internal work she had the responsibility of dealing with the senior management team in taking on a task previously led by a manager two levels above her. Feedback confirmed the claimant would take on all tasks and go beyond what was strictly required of her in terms of activity and responsibility.
187. In the submission of the claimant she had considerable responsibility on all of her work and certainly any difference to her comparators was minor and never sufficient to be material. Arguably in any respect it exceeded the comparators as Mr Slingsby continued to use the claimant on the internal work even when she was allocated to other projects.
188. As to skills and experience the claimant disputes that her skills and experience were less than those of her comparators. A judgment of skills is reasonably assessed by looking at what was said by those who worked with the claimant in the appraisals and feedback. The claimant's skills are reflected in the allocation of tasks by Mr Slingsby. Although Mr Hawkins could go back to 1973 what is important is relevant experience and after several years of work at high level surely the only judgment and experience can be to reflect upon what skills have been acquired at the point of consideration and how they are delivered. The claimant submits that her skills and experience

at least matched her comparators and disputes that this issue could constitute a material factor to justify any pay differential.

189. As regards market forces there was no documentary evidence available. The Tribunal is entitled to draw upon the facts and the lack of transparency involved in the fixing of pay for the claimant and the others when concluding that there is an inference that the differential was discriminatory and that the respondent's reward system was not free from gender bias.
190. In conclusion the claimant invites the Tribunal to resolve the claim in her favour.

The Relevant Law

191. We have set out section 65 of the Equality Act 2010 on pages 2 and 3 of this Judgment and we have also set out section 69.
192. The Equality and Human Rights Commission issued a Code of Practice on Equal Pay in 2011. The purpose of the Code is to help employers, advisers, trade union representatives, Human Resources Departments and others who need to understand and apply the law on equal pay, and to assist courts and Tribunals when interpreting the law. It is a statutory Code issued by the Commission under section 14 of the Equality Act 2006. Tribunals considering an equal pay claim are obliged to take into account any part of the Code that appears relevant to the proceedings.
193. Paragraph 34 of the Code reminds us that a woman can claim equal pay and other contract terms with a male comparator doing work that is the same or broadly similar, provided that where there are any differences in the work these are not of practical importance (known as "like work").
194. Paragraph 35 deals with like work and states:
- "There are two questions to ask when determining 'like work'. The first question is whether the woman and her male comparator are employed on work that is the same or of a broadly similar nature. This involves a general consideration of the work and the knowledge and skills needed to do it.
- If the woman shows that the work is broadly similar, the second question is whether any differences between her work and that done by her comparator are of practical importance having regard to:
- The frequency with which any differences occur in practice; and
 - The nature and extent of those differences."
195. At paragraph 36 it states:

"It is for the employer to show that there are differences of practical importance in the work actually performed. Differences such as additional duties, level of responsibility, skills, the time at which work is done, qualifications, training and physical effort could be of practical importance.

A difference in workload does not itself preclude a like work comparison, unless the increased workload represents a difference in responsibility or other differences of practical importance.”

196. The Code gives examples of “like work”:

“Like work comparisons that have succeeded in the particular circumstances of the case include:

- Male and female drivers where the men were more likely to work at weekends.
- A woman cook preparing lunches for directors and a male chef cooking breakfast, lunch and tea for employees.
- Male and female supermarket employees who perform similar tasks, requiring similar skill levels, although the men may lift heavier objects from time to time.
- Male and female laboratory assistants where the man spent some time on the shop floor.

The differences were not found to be of practical importance in relation to their pay.”

197. At paragraph 37 it states:

“A detailed examination of the nature and extent of the differences and how often they arise in practice is required. A contractual obligation on a man to do additional duties is not sufficient, it is what happens in practice that counts.

Example: A woman working as a primary school administrator claimed equal pay with a male secondary school administrator. The courts found they were not doing like work. Although the work was broadly similar, the latter role carried greater financial and managerial responsibilities and was in a much larger school. The primary school administrator had more routine, term-time tasks, while the secondary school administrator’s work was year round and more strategic. These differences were considered to be of practical importance so the equal pay claim for like work failed.

However, where men but not women were obliged under their contracts to transfer to different duties and work compulsory overtime this did not amount to a difference of practical importance because the flexibility was not used in practice.”

198. The Code of Practice deals with the material factor defence and at paragraph 75 it states: once a woman has shown that she is doing equal work with a male comparator, the equality clause will take effect unless her employer can prove that the difference in pay or other contractual terms is due to a material factor which does not itself discriminate against her either directly or indirectly because of her sex.

76: The employer must identify the fact(s) and prove:

- It is the real reason for the difference in pay and not a sham or pretence;
- It is causative of the difference in pay between the woman and her comparator;
- It is material that is, significant and relevant, and
- It does not involve direct or indirect sex discrimination.

77. Personal differences between the workers concerned such as experience and qualifications may be material factors. Other examples of possible material factors are geographical differences, for example London Weighting.

78. Whether the defence is made out will depend on the specific circumstances in each case.

79. If the material factor accounts for only part of the variation in pay, the woman is entitled to a pay increase to the extent that the defence is not made out.

80. To be a valid defence, the material factor must not be directly discriminatory and if it is indirectly discriminatory, the difference in terms must be justified.

199. The parties have provided us with various cases.

200. **Capper Bass Ltd v Lawton [1977] 2 All ER 11** is the case concerning the woman cook and the male chef referred to in the Code of Practice. It was held that in determining whether work done by women was of a broadly similar nature to that done by men a Tribunal was bound to bring a broad judgment to the solution of the question. The expression “broadly similar nature” necessarily implied that there were differences between the work done by the women and that done by the men and a Tribunal was not entitled to find that work was not of a similar nature merely because of insubstantial differences. Similarly, once it had been established that work was of a broadly similar nature the Tribunal in determining whether the differences were of practical importance in relation to terms and conditions of employment was bound to disregard trivial differences or differences which were unlikely in the real world to be reflected in the terms and conditions of employment. Accordingly, the only differences which would prevent work which was of a broadly similar nature from being “like work” were differences which in practice would be reflected in terms and conditions of employment.

201. **S A Waddington v Leicester Council for Voluntary Services [1977] IRLR 32**, a case in the Employment Appeal Tribunal, held that:

“There are two stages. First looking at it generally, is the work which she does and the work which he does of the same or of a broadly similar nature? Second, if it is work of a broadly similar nature, are the differences between

the things she does and the things does of practical importance in relation to terms and conditions of employment? It is the work that the employees concerned actually do that fall to be compared and not what the contract of employment requires them to do except to the extent that it is done in practice. An obligation to supervise, to take responsibility or to control, if it is discharged, is something that falls within the words ‘the things she does and the things he does’ and properly to be taken into account.”

202. **Eaton Limited v Nuttall [1977] IRLR 71** is a case in the Employment Appeal Tribunal where it was held that:

“In considering whether there is like work though the most important point is what the man does and what the woman does, the circumstances in which they do it should not be disregarded. One of the circumstances properly to be taken into account is the degree of responsibility involved in carrying out the job. A factor such as responsibility may be decisive where it can be seen to put one employee into a different grade from another with whom comparisons are being made. For example, two bookkeepers working side by side doing so far as actions are concerned almost identical work where, on an examination of the importance of the work done, it could be seen that one was a senior bookkeeper and the other a junior bookkeeper. Such distinctions between two employees are often easy to spot in practice but difficult to distinguish only in terms of what each of them does. In that kind of case the existence of the factor of responsibility might be crucial.”

203. **Maidment and Hardacre v Cooper & Co (Birmingham) Limited [1978] IRLR 462** holds that:

“In applying the test of ‘like work’ it is not permissible to ignore some part of the work which the man actually does on the ground that his pay includes an additional element in respect of that work which can be discounted for equal pay purposes.”

204. The House of Lords in **Glasgow City Council v Marshal & others [2000] ICR 196** held that:

“The equality clause was not intended to operate where no sex discrimination was involved; but, where the employer established that a disparity in pay was not due to the difference of sex but to some other factor material in the causative sense, he was not obliged to establish that there was a good reason for the disparity.”

205. The most recent case referred to was that of **Christie & others v John E Haith Limited [2003] IRLR 670**, a decision of the Employment Appeal Tribunal. It was held that the Employment Tribunal did not err in dismissing the applicants’ equal value complaints on grounds that the physical effort and unpleasantness involved in the work of their male comparators was a genuine material difference accounting for the differential in pay. In accordance with the decision of the EAT in **Davies v McCartneys**, the mere fact that a particular factor may be relevant in the evaluation exercise to determine the question of equal value is no ground for excluding it as a defence which may be relied on by the employer and may be taken into account by the Tribunal in

considering whether the employer's pay differential is justified or not on grounds other than sex. Contrary to the submission on behalf of the applicants, there is no rational basis for limiting the principle laid down in **Davies v McCartneys** to cases where there had not actually been a determination of equal value taking into account the factors in question. On the contrary, the principle of the act and the clear thrust of the authorities on this defence is that it should not be so limited what would be a very artificial way. In the present case the Tribunal made a clear finding that there was a factor which was a genuine material difference to explain the pay differential and that this was not based on the sex of the employees concerned.

Discussion and Conclusions

206. Did the claimant perform like work when compared to Mr Hawkins, Mr Higgins, Mr Bowen and/or Mr Watts?
207. In his submissions on behalf of the claimant Mr Pinder suggests that in the relevant six year period we should look at:-
- a. March 2010 – October 2011, the claimant was employed as a Strategic Operations Specialist undertaking work as a Data Quality Reporting Lead;
 - b. From November 2011 – April 2013, the claimant worked as a Strategic Operations Specialist but undertaking work as a GBS operation lead for the enterprise solutions group.
 - c. From April 2013 – September 2013, the claimant continued in the same role but undertaking lead work on B, D and A consulting and delivery operations, in fact the role was Reporting Lead.
 - d. From September 2013 – (about) end of 2015, the claimant worked on the BBC project undertaking work on data quality and profiling lead, and Data Migration Technical Lead and B, D and A work.
 - e. From early 2016 – July 2017, the claimant then undertook work in her promoted role as a Senior Business Consultant, undertaking repatriation and associated other tasks (see feedback), and continuing with B, D and A operation report work.
208. In respect of the first period the claimant's witness statement does not give any specific details of the roles she carried out from March 2010 to October 2011 other than saying she undertook quite a lot of work involving NHS data issues. Neither does the claimant provide information in her witness statement as to what the comparators did in the period. Her CV indicates that she reported to the Data Migration Design Manager within the data migration team and that manager was Mr Higgins.
209. Based on the evidence provided we cannot be satisfied that the claimant performed like work with any of the comparators from March 2010 to October 2011.

210. In the second period from November 2011 to April 2013 the claimant's CV shows her as doing the internal role for the respondent with particular reference to designing the dashboard for operational financial reporting. The comparators were not involved in this task. They were working on client projects.
211. The Employment Judge, noting that the claimant's internal role was different from the external consulting role of her comparators and noting the claimant's statement, set out in paragraph 39 above, that it was from September 2013 that she regarded herself as undertaking work which reflected the tasks and skills required of a Senior Business Consultant, finds that the claimant was not carrying out like work with her senior consultant comparators in the second period to April 2013. The judge notes that this is not a claim based on work rated as equivalent or work of equal value in which case the view of Mr Slingsby that internal work for the respondent could be of equivalent value to external client work would have been very relevant.
212. The two non-legal members find that in the period from November 2011 to April 2013 the claimant was doing like work with comparators Hawkins and Higgins where they all worked to identify a solution to a problem, whether that problem was internal or external, using data. They refer to the claimant's 2013 annual appraisal noting the view of Martin Slingsby that the claimant on a weekly basis held the attention of and influenced the senior management team. Her communication was outstanding. They would not be in the strong position they were in without her hard work and commitment and significant ability. Her role contributed to the success of the practice by ensuring targets were accurately measured. Her role managing the management information system has allowed her to affect the practice most significantly. The team could not have delivered without her involvement.
213. Also taken from the appraisal they find it significant that it was noted that Clare had transformed the way that Enterprise Solutions operated through her development and delivery of highly effective and efficient management information processes. She was a cast iron candidate for promotion but with all promotions banned this was not forthcoming. At current performance levels Clare will be put forward for promotion at the next available promotion round.
214. It is these matters that lead the non-legal members to conclude that the claimant was doing like work with comparators Hawkins and Higgins who were basically working on client projects dealing with data notwithstanding any management responsibilities that they may have carried out in the period.
215. In the third period from April to September 2013 the claimant was doing further internal work and the Judge again takes the view, for the same reasons as for the second period, that this work was not like work.

216. The non-legal members make the same finding, for the same reasons, that the claimant was doing like work with Higgins and Hawkins who were working as Data Solution Architects in the third period.
217. In the fourth period from September 2013 to the end of 2015 when the claimant was working on the BBC contract we have set out at paragraphs 48 and 49 the claimant's position that she started on the BBC project in September 2013 before Mr Hawkins who started in November. When he came she handed over the running of the project to him and he managed eighteen people. There was no one feeding into the claimant's area of work.
218. Given that the claimant was working alone on data and that Mr Hawkins was a Stream Lead managing a team of eighteen including the claimant, the Employment Judge finds that the claimant was not doing like work with Mr Hawkins or indeed any of the other comparators in relation to the period from September 2013 to the end of 2015.
219. The non-legal members take the view that Mr Hawkins was the Data Migration Stream Lead and both he and the claimant were looking at finding solutions through data. They find that the claimant was engaged on like work with Mr Hawkins.
220. In their judgment Mr Higgins was also doing essentially the same and therefore like work with the claimant in the fourth period by providing solutions based on data.
221. The fifth period from early 2016 – July 2017 follows the claimant's promotion to Senior Consultant Business on 16 November but with effect from 19 October 2015. As set out above at paragraph 52 she was at the time of her promotion working on the NHS contract and she continued with that contract for the NHS until her employment ended.
222. The claimant was promoted to Senior Consultant Business with effect from 19 October 2015. The job description referred to at paragraph 44 was a broad description of the work of a senior consultant.
223. On the basis that the claimant and all her comparators were working to the same job description as senior consultants the non-legal members find that they were all doing work that was the same or broadly similar from 19 October 2015 and so they were employed to do like work.
224. The Employment Judge notes that the claimant did not take issue with the evidence of Mr Slingsby and Mr Hawkins as to the nature of the work done by the comparators and how it differed from the work of the claimant including things like managing people, managing staff and projects, dealing with big data, leading on multi-million pound engagements, putting bids together, leading teams of twenty or more people and having skills relating to information strategies and business. The Employment Judge finds that these amounted to significant differences between the work of the claimant and the work of the comparators.

225. The Employment Judge finds that the claimant, having been promoted to senior level in October 2015, but still working on the same contract, had not by the time her employment ended by reason of redundancy in July 2017 been called upon at the senior consultant level to carry out the tasks undertaken by the comparators described in the previous paragraph. In his judgment the claimant was not performing like work with the comparators in the final period.
226. Having reached the conclusions, by a majority in each case, that the claimant was doing work that was broadly similar to comparators Hawkins and Higgins from November 2011 and to all of the comparators from the time of her promotion in October 2015 until her employment ended we must consider where there were any differences between the work done by the claimant and the work done by each comparator and if so, were they of practical importance having regard to the frequency with which any differences occur in practice and the nature and extent of those differences.
227. We shall look at the respondent's submissions regarding the alleged differences.
228. The respondent submits that responsibility is a relevant factor with the comparators having more responsibility than the claimant.
229. The job description for Senior Consultant Business envisages a senior consultant serving as a business resource on a team or as a team leader for other business consultants. They might lead a team of 4-6 company resources, in their area of expertise, to the conclusion of project phase.
230. Mr Slingsby puts together the best team for the particular job with senior consultants sometimes leading, and sometimes being led by, other senior consultants. The level of responsibility held by each senior consultant must therefore vary from time to time and from contract to contract.
231. The claimant had responsibility for leading the ad hoc team of people tasked by her in relation to the dashboard project and led on an element of the NHS project in respect of data from 2015.
232. The non-legal members find that the difference in levels of responsibility, in relation to the managing of projects and teams between the claimant and her comparators are not of practical importance in relation to the terms of their work.
233. Noting that Mr Slingsby and Mr Hawkins were not cross-examined as to the roles they say were performed by the comparators the Employment Judge finds that the levels of responsibility exercised by the comparators in relation to the managing of teams and projects whilst acting as senior consultants over many years was of practical importance in relation to the terms of their work.
234. The respondent submits that the comparators had differing levels of skills required to perform their duties to the claimant.

235. We go back to the job description for Senior Consultant Business set out above at paragraph 44, looking in particular at “Develops and demonstrates specialised knowledge and skills in at least one business consulting discipline...” and conclude that each person carrying out the role is required to have specialised knowledge and skills in at least one business consulting discipline. The job role and the way in which the respondent carries out its business envisages different consultants with different specialised knowledge and skills so that the respondent can offer a complete service to clients over various disciplines. The claimant was the only consultant, before and after promotion, who had developed and demonstrated specialised knowledge and skills in the use of Trillium Software and was the only person to develop the dashboard system.
236. In our judgment the claimant and her comparators all had high levels of skill in their individual specialist business consulting discipline rather than having differing levels of skill and we do not find these differences to be of practical importance in relation to the terms of their work.
237. It is submitted by the respondent that all the comparators performed strategic roles whereas the claimant did not.
238. The respondent submits that Mr Higgins had a strategic role on the Network Rail project. Mr Watts was an expert in strategy and governance and performed a strategic role and formulated strategies for large complex organisations. Mr Bowen was the expert in big data and led on such projects. He put bids together.
239. We have noted the claimant’s strategic role in relation to the design and implementation of the information dashboard and that she was the respondent’s key person in respect of the Trillium software as she was the only person with skills and expertise in it. For these reasons we find that in these two matters the claimant also performed strategic roles and thus we conclude that the differences between their work are not of practical importance in relation to the terms of their work.
240. The respondent submits that the comparators frequently performed the role of leader and had management responsibility on projects whereas the claimant did not.
241. With regard to leadership and management responsibility the claimant managed the team who worked on the dashboard project and led on an element of the NHS project from 2015. The claimant did not have the opportunity to lead or manage other teams or projects before her employment ended.
242. By reason of their years of service in the senior role we accept that the comparators will have inevitably gained more experience than the claimant as project managers and leaders but the senior consultant job description provides for serving as a business resource on the team or as a team leader for other business consultants. The comparators therefore could be required to work as a leader or a team member. In the comparison period following her

promotion this is what the claimant did. In our judgment the differences are not of practical importance in relation to the terms of their work.

243. With reference to bids the claimant accepted that she did not put bids together whereas Mr Bowen was involved in work on bids. We have not been provided with any evidence as to the frequency with which Mr Bowen was involved in bids and what practical importance the preparation of bids had in relation to his terms and conditions of employment particularly as there is no reference in the job description to the preparation of bids. We do not accept, from the evidence, that bid preparation is of practical importance in relation to the terms of their work.
244. With reference to people management Mr Hawkins did have people management responsibility throughout the comparison period. The claimant had not been given responsibility for people management. People management does not appear in the senior consultant job description. We have not received any evidence as to the frequency with which Mr Hawkins carried out people management or how it was of practical importance in relation to the terms of his work. Again, we do not accept that this was a difference of practical importance in relation to the terms of their work.
245. It is submitted by the respondent that for a large part of the claimant's period of comparison she was performing an internal management reporting role and the comparators did not perform anything akin to it.
246. This relates mainly to the period before the claimant was promoted when she was working on the dashboard rather than with clients. The internal role, which involved working with a team, was an important one providing essential management information that no one had provided before in that format. We note that Mr Slingsby accepted that internal work could be as valuable as work for clients.
247. The non-legal members found equal work was being done by the claimant for a period prior to her promotion and that work on the dashboard was equal work. Where a consultant or senior consultant is working on data they are carrying out part of their role in "contributing to the design and delivery of business solutions" and as such the non-legal members do not find that such differences between their work are of practical importance.
248. Turning now to the defence of material factor set out in section 69 of the Equality Act, the respondent relies on differing duties, responsibilities, skills and experience in respect of all the comparators and individual factors in respect of Mr Higgins and Mr Watts. The respondent submits that these factors are material factors which are not the difference of sex.
249. The unchallenged evidence of the differing duties, responsibilities, skills and experience of the comparators is described above
250. The claimant came to the respondent with relevant experience from her work with HP between 1998 and 2006 and gained further experience with the respondent in the consultant role from 2006 to 2015 and thereafter as a senior

consultant. She carried out the duties and had the responsibilities, skills and experience described above.

251. In the judgment of the non-legal members the respondent must have felt that the claimant had sufficient appropriate and relevant experience to warrant her promotion to senior consultant in 2015. The claimant carried out the duties allocated to her. The claimant had specialised skills and knowledge in respect of Trillium and the dashboard and showed strategic skills in relation to the dashboard. She managed the dashboard team and also managed part of the NHS project. In their judgement the factors put forward by the respondent are not “material” for the purposes of section 69 and so the defence must fail in respect of these factors.
252. In the judgment of the Employment Judge the unchallenged evidence of the respondent’s witnesses shows that the comparators, by reason of their years of service had greater experience, particularly at senior consultant level, than the claimant, that they carried out further and different duties from the claimant and took more and/or greater responsibility for the management of teams and projects. The Employment Judge finds that these factors are “material” for the purposes of section 69 and that they do not amount to direct sex discrimination.
253. In our judgment the £10,000 increase in pay given to Mr Higgins in 2015 when he threatened to leave is a factor that is “material” and is not related to sex.
254. In our judgment with regard to Mr Watts any pay supplement for living in Surrey rather than Warrington or Sheffield could be a material factor for the purposes of section 69 but the respondent has not provided any evidence as to what element of his pay on appointment related to geographical location so we cannot find anything that amounts to a material factor in respect of the salary differential between him and the claimant.

Remedy

255. The parties are invited to seek to agree the question of remedy between themselves. If matters cannot be agreed the claimant shall apply for a Remedy Hearing with a time estimate.

Employment Judge Sherratt

22 January 2020

JUDGMENT AND REASONS SENT TO THE PARTIES ON

24 January 2020

FOR THE TRIBUNAL OFFICE

[JE]