



# EMPLOYMENT TRIBUNALS

**Claimant:** Mrs Caroline Angelow

**Respondent:** UK Atomic Energy Authority

**Heard at:** Reading **On: 16, 17, 18, 19 and 20  
September 2024**

**Before:** Employment Judge Gumbiti-Zimuto  
Members: Mr A Kapur and Mrs H Edwards

**Appearances**  
**For the Claimant:** In person  
**For the Respondent:** Mr G Graham, counsel

## JUDGMENT

The claimant and the comparator were not employed on like work.

### REASONS

[These reasons are provided pursuant to a request made at the hearing by the claimant pursuant to rule 62(3) of the Employment Tribunals Rules of Procedure 2013.]

1. In a claim form presented on 10 March 2022 the claimant made a complaint about equal pay.
2. The claimant gave evidence in support of her own case and the respondent relied on the evidence of Susan Poole and Martin Tinson. The Tribunal was also provided with a trial bundle with 728 pages of documents. Pages references refer to the trial bundle.

### The claim

3. The claimant was employed by the respondent from 29 March 2021 until 24 November 2022. The claim which she brings is a claim of equal pay. The comparator relied on is Martin Tinson (the comparator). The claims are based on like work and work of equal value. The respondent denies that the claimant did like work or work of equal value.

4. The parties agree that no job evaluation has rated the claimant's job as equivalent to that of the comparator.
5. At a case management hearing on the 28 November 2022, EJ Lewis directed that the first group of issues in the case will be determined at a hearing that has taken place before us over the past week.
6. The first group of issues are the questions: (1) were the claimant and Mr Tinson employed on like work? (2) Does the respondent in any event, and in any respect, make out the material factor defence set out at paragraph 5 of the Grounds of Resistance? The Tribunal has not addressed the second question in this judgment and after seeking clarification from the parties will produce a separate judgment as directed below at paragraphs 82-82.
7. The claimant commenced employment with the respondent on 29 March 2021. The claimant was employed in the role of Apprenticeship Coach/Assessor, which provides support to apprentices in non-engineering roles.
8. The respondent operates a grading system to categorise the roles undertaken by its staff.
9. The claimant's role was evaluated as a Level 3 role. The claimant's job description at the relevant time of her recruitment is at p688.
10. The comparator has since April 2021 been employed in the role of Early Careers Coach/Assessor (Engineering), a role which provides line management and support to engineering apprentices. The comparator's role was evaluated as a Level 4 role. The respondent says that the comparator is a qualified engineer. The comparator's job description at the relevant time is at p692.
11. Other than salary, the claimant was on terms and conditions that were the same as the comparator. Her salary was a £28,000 per year, reduced pro rata to £22,703 based on her part time-hours.

### **The claimant's position**

12. The roles that the claimant was and the comparator is employed in were newly created when they started. The roles sat in what the claimant refers to as the Early Careers Function and she provides an organisational chart in which the head of people development was Claire Davis, there were 2 Early Careers advisors, 2 Early Careers Assistants, 1 Early Careers Business Partner, and 2 Early Careers Coaches (p248). [Mrs Susan Poole who took over from Claire Davies when the claimant commenced employment does not recognise this structure and states that while it might have been the subject of discussion it was never adopted by the respondent.]
13. The claimant states that the roles were in three areas Early Careers

Advisor, Coach / Assessors and joint areas of work (p247).

14. The claimant states that the overall purpose and accountabilities in the individual job roles were set out in the job descriptions.
15. The claimant's case is that that the main responsibilities of the Apprentice Coach / Assessor were providing support, additional training, coaching and mentoring. Including, internal assessment, completion of competency and knowledge portfolios and preparation for gateway and final assessments. To monitor the progress and performance of apprentices, create effective working relationships with training providers to ensure delivery of the apprenticeship standard.
16. The essential skills, experience and competence required was significant knowledge of the early career sector and vocational qualifications, apprenticeship standards, assessment criteria, industry related qualifications to degree level or equivalent experience, CAVA or equivalent assessor qualifications.
17. The claimant says that the Coach/Assessors both had responsibility for completion of like work tasks, with the separation of supporting placements for engineering and supporting apprentice roles for professional support.
18. Both roles are accountable for building good working relationships with training providers to ensure delivery of the apprenticeship standard.
19. Part of the job responsibility is to ensure the training providers are providing the delivery service meeting the expected standards.
20. Both roles are to conduct regular progress reviews and support identified apprentices.
21. Both roles provide support with internal assessment of portfolios and in preparing for gateway and EPA.
22. The claimant provided technical support to apprentices requesting such support, for example she states that she provided support to a business administration apprentice with professional discussion for her presentation in preparation for her EPA that was to take place in the following week.
23. Further the claimant states that when a Business Administration apprentice was struggling with progression she addressed this with coaching and mentoring, addressing any issues of wellbeing and having ongoing open communication with both the apprentice and the college tutor.
24. The claimant says that on a fair consideration of the work that she actually did and the work that the comparator actually did that the roles were like work.

**The respondent's position**

25. Susan Poole states that at the time that the claimant was employed the Early Careers team comprised of Susan Poole as head of the team, a graduate lead - Lauren Galtress (level 4), an Apprentice lead - Amy Furseman (level 4), Early Careers Coach/Assessor Martin Tinson (level 4) (the comparator), Apprenticeship Coach/Assessor – the claimant (level 3) and others not relevant in this case.
26. The claimant's role was to be responsible for having knowledge in apprenticeships to enable her to support and advise managers in finding suitable apprenticeship, the recruitment process, and how the apprenticeship works. The role is responsible for checking in on the apprentice progress, pastoral support, and ensuring the training company is delivering effectively.
27. The comparator's role of Early Careers Coach/Assessor (Engineering) is responsible for the Authority's engineering apprentices, including attraction, recruitment and selection of L3 apprentices, as well as line management of first year engineering apprentices. The role supports engineering apprentices with their technical portfolios and understanding of engineering within their workplaces and is responsible for supporting engineering apprentices all the way through to their final end point assessment and interview with the Institute of Engineering and Technology.
28. The Early Careers Coach/Assessor (Engineering) role also attracted a MPP (Market Premium Payment) which results in an additional £3,100 payment.
29. Following his application and interview, the comparator was not the first choice for the role, it was offered to a woman and it was only after the female candidate had refused the role was it offered to comparator.
30. During the claimant's grievance Susan Poole explained that she considered that the claimant and the comparator's roles were different. The comparator unlike the claimant was "*owning and directly managing the engineering apprentices as well as supporting them with technical write ups.*" The claimant's role was more about coordination and support for line managers who had apprentices in their teams.
31. The fundamental difference between the two roles is that the comparator uses his engineering experience and knowledge to carry out his role on a day to day basis. He needs to have the ability to deliver in a supportive pastoral role, but at the same time with the engineering background to be able to coach the young person on the technical aspects of their portfolio for work.
32. The claimant's role, on the other hand, was primarily to advise and support managers with understanding the applicable apprenticeship standards and

how to work with the tripartite agreements with the respondent's training providers, as well as liaising with apprentices in the form of pastoral care. The claimant's input in her role was of a different kind to that which the comparator provided. The claimant was not providing technical input. *"She might have had, for example, an apprentice practise their presentation with her, or help them align what they've done in the workplace with the apprenticeship standards, but the technical input wouldn't have been there."*

33. The claimant didn't need to be a technical guru in any way other than having knowledge in the apprenticeship standards, which all of the team has, and which comes with the territory of working in that area.
34. The comparator talks to managers in the workplace in the areas in which apprentices are doing their placements in relation to particular opportunities or modules that the comparator feels would make sense for the apprentice to do to build their knowledge in a particular area.
35. For apprentices, a large part of their apprenticeship is ensuring they have naturally occurring work that aligns with the relevant training standards and the comparator helps the engineering apprentices with achieving this.
36. The relevant local business areas would help the Professional Support apprentices (the claimant's apprentices) with achieving this as they have the expertise to support this. It wasn't the claimant's role to do so.
37. The Engineering apprentices and Professional Support apprentices are also managed and coordinated differently, which is reflected in another of the key differences between the comparator and the claimant's roles.
38. Engineering apprentices are managed within and by the Early Careers Team itself. While others in the team supported with line management, when issues arose it would be the comparator that stepped in and resolved them. The comparator, as Engineering Apprenticeship Coach, line manages all first-year apprentices.
39. The apprenticeship involves a tripartite relationship between the line manager, apprentice, and training provider. The comparator, as line manager, is part of that. The buck stops with The comparator. The buck didn't stop with the claimant. The comparator would meet with assessors from the training providers together with the apprentices as their line manager.
40. On the other hand the claimant may sometimes have gone along to such meetings with line managers for Professional Support apprentices, perhaps if something was going wrong or the manager was inexperienced, but it wasn't her job to regularly attend those meetings, whereas it was and is the comparator's job as a line manager.
41. The comparator, as Early Careers Coach/Assessor (Engineering), carries

out all recruitment of engineering apprentices. As part of this, he created the question forms for interviews and is responsible for checking the engineering competence of applicants, both of which he could only do with his engineering knowledge and background.

42. The claimant, on the other hand, may have supported with interviews and sat in on interview panels for Professional Support apprentices, but she was never the hiring manager and was never there to provide technical input as the comparator did.
43. It is accepted by the respondent that there were some generic similarities between the roles. However the respondent states that the role that the claimant was hired for was intended to be a basic adviser role, supporting apprentices with pastoral care, helping to resolve any issues in their training provision, advising and supporting line managers in understanding how apprenticeships worked, and generally advising on apprenticeship standards, rather than being the overall lead or providing specific knowledge and subject matter experience in the Professional Support areas. This was in contrast to Amy Furseman and the comparator's roles. The comparator is required to provide subject matter expertise and guidance to the engineering apprentices.

### **The grievance**

44. The claimant submitted a grievance on 29 January 2022 challenging the job evaluation carried out on her role and that of the comparator. A grievance meeting followed.
45. The respondent in considering the grievance determined that
  - (a) the role of the claimant and that of her comparator had been evaluated correctly and fairly;
  - (b) the correct processes had been followed in terms of the job evaluation, a trade union member was present on the evaluation panel and the scores had subsequently been verified by an expert;
  - (c) the roles were not the same – there were a number of disparities between the two to explain and justify the difference in grading and pay, including but not limited to the level of line management undertaken by the comparator and the comparator's use of technical engineering knowledge and his input to the content of the engineering apprenticeship;
  - (d) the Market Premium Payment had been awarded correctly to the comparator's role as the comparator has engineering qualifications/skills that are utilised for 50% or more of his time in the role. Engineering qualifications/skills have been identified by the respondent as a scarcity area in which the respondent struggles to recruit and retain. As a result, the respondent introduced the MPP in 2013 in order to be able to increase the overall pay received by individuals who utilise these skills in their roles; and

- (e) there was no evidence of gender or role-based bias found in either the job adverts or job evaluation panel.
46. The claimant's grievance was not upheld. The claimant appealed the grievance outcome and as a result there was an appeal the outcome of which was the proposal that:
- (a) for the two existing job descriptions to be evaluated again by an external company, Korn Ferry, which the respondent uses for senior level job evaluations; and
  - (b) for the claimant and her comparator to have the opportunity to review their job descriptions (which has already been offered by their senior manager) so that they feel the job description accurately reflect their roles and then to have those job descriptions evaluated by Korn Ferry.
47. Although work was done to try and agree a revised job description no revised job description was finally agreed by the claimant and Susan Poole before the claimant's employment came to an end.
48. There was subsequently an evaluation of the two roles which resulted in the claimant's role being evaluated at level 3 and the comparator role at level 4.

## Law

49. The Equality Act 2010 at section 65 provides that 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.
50. 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.
51. So on a comparison of one person's work with another's for the purposes of section 65 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.
52. Section 65(2) and (3) EQA provides for the assessment of whether the work of an employee and her comparator is like work.
53. Analysis of section 65 EQA demonstrates that the following are the key factual determinations: (i) what work did the claimant do during the relevant period or periods? (ii) what work did her comparators do during periods relevant to the comparison? (iii) were there any differences between the work that they did? (iv) what was the frequency of the differences in practice? (v) what was the nature and extent of the differences?
54. Having regard to those factors, the two key questions in deciding whether an employee and a comparator are engaged in like work are: (i) is the

- work of the employee and her comparator the same or broadly similar? (ii) are any differences between their work of practical importance in relation to the terms of their work.
55. It is a two-stage process. Both stages concern the nature of the work done and the extent of similarity or difference. It is not a question of determining the value of the work, or how well it is performed.
56. At Stage 1 there is a broad assessment of the kind and nature of the work that is done, which can potentially include consideration of levels of responsibility and seniority. It is a broad assessment of the work actually done.
57. Stage 2 involves a consideration of any differences in the work between the employee and her comparator. It requires a more detailed and granular analysis of whether such differences as exist are of practical importance, as would generally be reflected in terms of employment.
58. The focus is on what the employees do in practice, rather than what they might be required to do under their contracts or job descriptions, although such documents may provide evidence of the work that is actually done.
59. The Equality Act 2010 Equal Pay Code of Practice issued by the EHRC: states that: There are two stages involved in determining 'like work'. The first question is whether the woman and her male comparator are employed in 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.
60. 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 difference of practical importance.
61. 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.

**claimant's submissions**

62. The claimant relied on the argument that the roles and responsibilities on the original JD showed that the two roles were comparable. The roles



were both in the Early Careers Team, they had the same skill utilisation percentages, in circumstances where the respondent used a career framework data base that ensured that consistent language was used in drafting the job descriptions: both roles were in career family of professional support.

63. The claimant challenged the respondent's contention that there were real differences in the roles because the comparator owned and directly managed apprentices and supported them with technical write ups. The claimant put to Susan Poole that engineering apprentices management was carried out across the Early Careers Team by people with no previous knowledge or experience of engineering. The HR department was involved in the recruitment of engineering apprentices. Elissa Turner carried out communication and coordination in respect of placements and arranged for external training. (In response Susan Poole had in fact pushed back on all these challenges or alternatively restated her evidence in her witness statement.)
64. The claimant relied on the fact that in the period from April 2021 to September 2021 there was no line management of apprentices by the comparator.
65. The claimant put to Susan Poole that while it is said by the respondent that the comparator did different work to the claimant – this was not established by an analysis of the job description because this showed that both roles support apprentices by providing technical support; reviewing portfolio content and the claimant relies on the statement of overall purpose of the roles and accountabilities which she says are essentially the same with differences of no practical importance.
66. The claimant states that the comparator had limited direct engagement with level 3 apprentices and little contact with level 4 or level 6 apprentices. She pointed out that the first-year apprentices were in college full time.
67. The claimant pointed out that portfolios were signed off by engineers responsible for engineering apprentices on placements.
68. The comparator did not provide any safeguarding training as stated on the JD nor was he qualified to give such training, he was simply given safeguarding training.
69. The claimant pointed out that the revised job description showed that the role remained in the career family of professional support. That it was accepted that there was no assessment carried out and that the reference to assessment was removed the revised job description. There was no internal assessment of the portfolios and the comparator accepted that this was limited to providing guidance and support on the apprentice portfolio before external assessment. All this the claimant says was the same for her role.

70. The claimant pointed out deficiency in the application of the Hay Methodology as the respondent requires: the panel was 2 people not the 3 usually required and there was no evidence that the panel had been properly trained.
71. The claimant suggested that the respondent applied the MPP to the engineering role but they did not show that it met the respondent's own agreed criteria which required it to have a substantial majority of the scarce skill being applied in the role and the claimant pointed out that 40% was not a substantial majority.
72. The claimant concludes that the Equality Act 2010 makes it unlawful for direct and indirect pay discrimination between men and women. The claim is for like work. The work is the same or broadly similar it involves similar tasks, which require similar knowledge and skills and any differences in the work are not of any practical importance.

### **The respondent's submissions**

73. The claimant was not performing a similar function to the comparator they were both supporting apprentices but the roles vastly different.
74. The respondent relied on five differences:
- (i) that there was unchallenged evidence from Susan Poole, who when questioned by the claimant was never challenged on the contention that the claimant was not providing technical input- the evidence does not allow for a conclusion that in any sense that what Susan Poole was saying was wrong on this. Therefore Susan Poole must be right in what she is saying.
  - (ii) In respect of the Job descriptions- the original or the updated job descriptions- there are significant differences- the claimants role is to support others- there is a difference in the comparator role. Importantly differences at p688 para 4 and 5 – these passages are missing in the claimant's job description.
  - (iii) Job evaluations- while conceding that valuable points raised about the deficiencies in the process- the evaluation did not involve coming to watch the claimant and comparator do their job, however it is more than a blunt instrument- not because of the scores as such that is important but the gulf between the claimant's score and the comparators score. When have 1<sup>st</sup> evaluation was carried out there was a wide gulf in the evaluation between the claimant and comparator role, that gulf widened when evaluated by Korn Ferry – independent experts who were both women. The gulf between roles demonstrates that there are practical differences between the two roles that are important.
  - (iv) [Amy Furseman] After the grievance appeal it fell to the claimant and Susan Poole. They could not agree a job description because they

could not agree on claimant's post's relationship to Amy Furseman. The respondent states that the other differences in the draft job description were of little importance. In her witness statement Susan Poole at para 43 states that Amy Furseman was an issue for the claimant- the claimant was there to liaise between others including a senior careers advisor (Amy Furseman) - the claimant in her evidence just denied that she knew who Amy Furseman was. The respondent says that this dovetails with Susan Poole's suggestion that the claimant wanted a wider role than she was given with more autonomy and not to liaise with Amy Furseman.

- (v) In her witness statement Susan Poole para 36- this case not about gender. The role was created with neutral intent evaluated as such and with MPP included and the role offered to a woman. The case is not about sex.
75. The respondent contends that the Material factor defence is made out the respondent relies on the contention that the comparators role was all about engineering and that this was not the case with the claimant.
76. For the engineering role, the successful applicant in the first instance was a female applicant. However, she then withdrew from the process, advising that she had accepted another role as an engineer elsewhere in UKAEA. Had she been offered the role and accepted it, she would have started on exactly the same salary as the comparator did, including the MPP. The fact that comparator is a man had no bearing or impact on the grade or level of pay for the role.

### **Conclusions**

77. The Tribunal considered all the evidence produced much of which was not contested. We concluded that the claimant has not been able to make out her case.
78. The claimant did not have line management responsibilities as the comparator did. There was a difference in what he did and what she did in this respect. That difference was in our view a significant part of the comparator's role. The line management of apprentices is a matter of importance and significance. It is a matter which would be continuing throughout the first year of the apprenticeship. The fact that the comparator did not have any line management responsibilities in his first six months in our view is likely to have been because the start of his employment was April 2021 and the new cohort of Apprentices came in September 2021.
79. The claimant did not have the same level of technical input that the comparator had in respect of the engagement with the apprentices. While the Tribunal is willing to accept the notion that in respect of professional support the claimant could theoretically have given a technical input to the apprentices in a manner comparable to the comparator, that she was in fact doing so was not established by the evidence we heard. The evidence we

heard was that the technical input made by the comparator permeated all aspects of his engagement with the students so that the utilisation percentages of 40% Technical and Professional could in fact rightly be considered a higher figure as it was in the revised job evaluation where it was assessed at 60%.

80. The claimant did not have the ownership of the recruitment of apprentices - re professional support, in the manner that the comparator had in respect of the recruitment of apprentices - re engineering. The comparators role as the hiring manger was a matter of significance that distinguishes the comparator's role with that of the claimant.
81. For these reasons the conclusion of the Tribunal is that the claimant and the comparators roles are not like work.
82. It was not clear whether it was necessary for us to go on to consider the material factor defence. It has now been clarified that it is necessary for us to conclude our consideration of that defence. We have considered the matter to a limited extent: had we considered the matter fully it is our preliminary view that the material factor defence applied only in respect of the MPP element of the comparator's pay and not to any other difference. A separate judgment will be given on the question of the material factor defence after the parties have had an opportunity to provide the Tribunal with written submissions, if any parties wishes to provide further written submissions that must do so by **4 October 2024**.
83. The Tribunal will reconvene on the 7 October 2024 to consider any further submissions on material factor defence. The parties are not to attend. Written Judgment and reason on the material factor defence will be provided as soon as possible after that date.

---

Employment Judge Gumbiti-Zimuto  
Date: 25 September 2024

Sent to the parties on: 30/09/2024

For the Tribunals Office

**Public access to employment tribunal decisions:**

All judgments and reasons for the judgments are published, in full, online at [www.gov.uk/employment-tribunal-decisions](http://www.gov.uk/employment-tribunal-decisions) shortly after a copy has been sent to the Claimant(s) and Respondent(s) in a case.

**Recording and Transcription**

Please note that if a Tribunal hearing has been recorded you may request a transcript of the recording, for which a charge may be payable. If a transcript is produced it will not include any oral judgment or reasons given at the hearing. The transcript will not be checked, approved or

verified by a judge. There is more information in the joint Presidential Practice Direction on the Recording and Transcription of Hearings, and accompanying Guidance, which can be found here: <https://www.judiciary.uk/guidance-and-resources/employment-rules-and-legislation-practice-directions/>