



EMPLOYMENT TRIBUNALS

Claimant: Mrs Y Slaven

Respondent: Manchester University NHS Foundation Trust

Heard at: Manchester

On: 17 and 18 December 2018
17, 18, 21, 22, 23, 24, 25,
28, 29 and 31 January 2019
8 March 2019
13 March 2019
(in Chambers)

Before: Employment Judge Sherratt
Mr A G Barker
Ms V Worthington

REPRESENTATION:

Claimant: Mr S Lewinski, Counsel
Respondent: Mr J Boyd, Counsel

JUDGMENT

The determination of the Employment Tribunal in this stage 2 equal value hearing is set out in the right-hand box of the Scott Schedule in respect of each of the factual matters on which the parties could not agree.

REASONS

Introduction

1. The claimant was employed by a predecessor of the respondent from 13 October 1975 until 23 September 2011. The claimant started as a trainee Cardiac

Physiologist and was promoted to the position of Cardiac Investigations and Cardiology Administration Services Manager, holding this post for over 20 years.

2. The claimant has brought an equal pay claim for the purposes of which she compares herself with the respondent's Chief Clinical Respiratory Physiologist, and the respondent's Chief Clinical Perfusion Scientist.

3. The claimant and the comparators each completed a job description document using a pro forma prepared by Mr Steve Flather, the ACAS appointed independent expert. Mr Flather's document asked many questions and the claimant answered it over 95 pages, the physiologist answered it over 82 pages and the perfusionist over 97 pages.

4. The job description prepared by the claimant on Mr Flather's pro forma document was not the type of formal job description that might have been provided by her employer. She answered the questions asked however relevant they were to the job that she carried out.

5. There was prepared by the respondent a statement of disagreement setting out those aspects of the job description, as completed by the claimant, which were not agreed. A Scott Schedule was prepared showing them in tabular form.

6. The Scott Schedule is appended to this Judgment. It has in the first column the allegation number taken from the job description document. The second column is a summary of the claimant's position. The third column is a summary of the respondent's position. The fourth column is for reference to documents, although here it is blank. The final column gives the Tribunal's determination which will normally be either "C" or "R", showing whether we prefer the contentions of the claimant or the respondent, save where we consider it necessary to add a very few words.

7. In our judgment it is not proportionate for the Tribunal to give a reasoned judgment for each of the items in dispute set out in the lengthy schedule.

8. The respondent's position was updated by Mr Boyd in a version that he submitted on the final day of the hearing. As he had not provided his final document to Mr Lewinski, there is no one document where the final position of both sides is set out, but we have taken into account the final position on both sides and the oral submissions of counsel when we reached our conclusions.

The Evidence

9. The claimant produced a comprehensive witness statement and was cross examined extensively.

10. She called in addition to herself Dr David Bennett, Dr Kenneth Shearer, Dr Hai Shang Lee and Dr Nicholas Brooks. All of those doctors worked with the claimant.

11. Witnesses for the respondent who came to the Tribunal for cross examination were Andrea Arnold, Janet Fallon, Keith Pearce and Professor Simon Ray.

12. Witness statements were received from Judy Coombes and Eileen McLaggan who did not attend for medical reasons.

The Reference Period

13. The reference period for the purposes of the equal pay claim runs from 21 December 2005 until 21 December 2011, but as the claimant was absent from work from August 2009 onwards the answers that we give are in respect of the period to August 2009.

Discussion and Conclusions

14. Mr Boyd suggested that the Tribunal might reasonably consider three main aspects of the claimant's work, and that our conclusions on the questions of fact would flow from our general findings. The three areas he submits relate to clinical work, education/training and whether or not the claimant had sole responsibility for carrying out certain aspects of her job role.

15. Mr Lewinski did not seek to dissuade us from following this course.

16. In her job description document the claimant set out various percentages to indicate the time she spent on each aspect of the role.

17. Management and professional leadership of the entire Cardiac Physiology and Cardiology Administration Services in the Regional (Tertiary) Cardiothoracic Centre at the University Hospital of South Manchester was said to take 45% of her time in 2005, increasing to 50% in or around 2009.

18. Performing and supervising a range of complex specialist cardiac investigations on patients, including those required for scheduled and emergency patient care, clinical research, product registry and clinical trials took approximately 15% of the claimant's time in 2005 reducing to 5% in or around 2009.

19. The provision of expert advice, knowledge and teaching to undergraduate/postgraduate students, technicians/scientists, junior medical staff, nursing staff, managers and members of the lay public of the UK and internationally took 5% of her time.

20. Being Clinical Lead Consultant for training in Cardiac Physiology in the North West, developing formal and informal specialist training and delivering such training nationally and internationally took 5% of her time.

21. Acting as Lead Professional Adviser on all aspects of cardiac physiology, in tertiary, secondary and primary care and national opinion leader in Cardiac Physiology involved 5% of her time.

22. The development and implementation of short courses, seminars, workshops and conferences for both primary and secondary care, and for regional, national and international audiences took 5% of her time.

23. Management of the overall strategic direction/development of the Cardiac Physiology Services and the Cardiology Administration Service increased from 20 to 25% over the period from 2005 to 2009.

24. In his submissions Mr Boyd put forward the reasons why the Tribunal should not find that the claimant carried out clinical work in the reference period. According to him, prior to the reference period the claimant may have done some clinical work but by the time of it that clinical work would be sporadic at best and he submits why this proposition is supported:

- (1) The claimant was responsible for the delivery of the service which went through a period of exponential growth. In simple terms, who would have been carrying out all the necessary administration services underpinning this growth other than the claimant as manager of the service? What time would there have been for her to have carried out clinical work?
- (2) In the reference period the Cardiac Physiology Service was serviced by expert leads in the particular areas of cardiac physiology which involved research and training, non-invasive services and invasive services.
- (3) The respondent Trust has utilised electronic systems to capture clinical results. The claimant nowhere appeared on the databases.
- (4) The claimant was not provided with a film badge for her use in the Cath lab which would have measured her exposure to radiation. The fact that she did not have a film badge proves that she did not operate in the Cath lab with any frequency.
- (5) In April 2008 the Cardiac Physiology and Cardiology Administration moved to a new location on the ground floor of the new building and all that remained in the old building was the cardiac catheter laboratories. The claimant's office remained in the old building which was some distance from the new building, thus it is submitted any clinical work in the new department would, as a matter of common sense, be limited in so far as the claimant is concerned.
- (6) For all of the above reasons, the likelihood that the claimant was doing any significant quantity of hands-on clinical work in the reference period is unlikely.

25. In the submission of Mr Lewinski the claimant accepts that she was responsible for the delivery of the service and given that she claims that approximately 5% of her time was spent on cardiac investigations and 5% on giving expert medical advice, she accepts that this was a minor aspect of her role.

26. The claimant accepts that there were three principal Cardiac Physiologists answerable to her, but notwithstanding their introduction she would say that she still did some hands-on work although latterly following the move to the new block this would have been more likely to have been done in the Cath lab.

27. The claimant explains that she would not have appeared on the electronic records because any entries that she made were in the manuscript notes of the patient. The respondent's Professor Ray recollects seeing the claimant's handwriting in such notes.

28. The claimant did not use film badges in the Cath lab because she went in rarely and then only whilst radiation was not being used. She would be there more to interpret results than to see the x-rays being taken.

29. The claimant has produced evidence from witnesses.

30. Dr Bennett was assisted by the claimant in interpreting technical data and according to him she also carried out cardiac investigations herself.

31. Dr Shearer told us that the claimant was always available for discussion on clinical problem matters during the day and also she worked well into the early evening and was available for discussion of especially difficult problems. He would regularly discuss with the claimant test results that gave him cause for concern.

32. According to Dr Lee, he would often see the claimant in the Cath lab recovery area programming or interrogating a pacemaker and explaining to the patients what was happening as she went along. Dr Lee often saw the claimant in the Coronary Care Unit assisting the junior technicians when she would also interact with patients and their families.

33. According to Dr Brooks, he recalled numerous instances sitting in front of an echocardiography machine with the claimant looking at a recording and he would ask the claimant for a second opinion on matters. She was able to download and interpret the pacing data and to re-programme devices. He recalled seeing her standing over patients with the pacemaker programming device.

34. The respondent's witnesses were able to say that they did not see the claimant carrying out these activities but they had to accept that they did not know what the claimant was doing when she was not within their sight.

35. Having considered the competing submissions and on the basis of the evidence before us we find it more likely than not that the claimant was involved in the activities that she has set out as taking some 10% of her time by 2009 being 5% involved in cardiac investigations and 5% giving expert advice in matters medical.

36. Turning now to education and training, Mr Boyd submits that Andrea Arnold was employed from May 2004 as the Regional Cardiac Physiology Tutor, and he asks why would the claimant continue to be involved once Andrea Arnold had been appointed?

37. The claimant has given herself the title of Clinical Lead for Cardiac Physiology Education in the North West.

38. Andrea Arnold would carry out functions that were naturally part and parcel of the role of the Regional Cardiac Physiology Clinical Tutor, dealing with students and lecturers, and the claimant was not involved in the new BSc Course in Healthcare Science which began in September 2010 with the preparatory work having been done by Andrea Arnold. Andrea Arnold started in 2004 so by the commencement of the reference period in December 2005 she was "up and running".

39. Andrea Arnold was involved with the MSc programme. Keith Pearce was involved with the MSc programme. There was no formal PhD programme in place.

40. Whilst the claimant had overall responsibility for everything that went on in the department, having oversight of it, her day-to-day involvement was limited. For instance, she was not formally appointed as a mentor to students but it is not disputed by the respondent that the claimant may have had discussions with students in an informal manner from time to time.

41. When the claimant was absent from work for whatever reason, particularly from August 2009 to the end of the reference period, training issues continued notwithstanding her absence.

42. For the claimant Mr Lewinski refers to the evidence of Andrea Arnold which he submitted shifted significantly in cross examination where she made various concessions. Ms Arnold accepted that changes to courses could be made at any time and could be undertaken by the claimant or Dr Hick of Manchester Metropolitan University. She conceded that the claimant may have met with Dr Hick and discussed updating changes to courses on an annual basis at meetings Ms Arnold did not attend. She had to accept that the claimant may have been involved in liaising with external examiners and meeting with Dr Hick when she was not present. Ms Arnold had not mentioned the claimant's involvement in developing the foundation degree in Healthcare Science because it was not something she had been asked about. The claimant may have been involved in the accreditation of the MSc course with Dr Hick. The claimant may have worked with Helen Liggett in identifying future courses. The claimant was a go to person on such subjects.

43. Mr Lewinski reminded us of an email from Dr Verity Hick to Andrea Arnold, Keith Pearce and the claimant referring to her discussion about the cardiology units with the claimant on 10 March 2009, which involved a proposed timetable for the next few years, setting out the claimant's view that there was a need for an invasive cardiology type of unit and inviting Ms Arnold and Mr Pearce to put something together in relation to this so it could be put forward for approval by the University. Ms Arnold accepted she was simply not aware of the full extent of what the claimant had been doing.

44. As to attending conferences abroad, the claimant had stopped this although she continued to attend conferences in the UK, for instance a hearth rhythm UK national meeting in Bournemouth in 2006.

45. Mr Pearce was also cross examined on the claimant's activities in regard to training and he accepted that the claimant was present at the meeting in Bournemouth as a member of a panel answering questions from the audience.

46. On the basis of the evidence before us we find that the claimant's involvement in education and training decreased over the reference period, coinciding with the increasing involvement and responsibility taken by the clinical leads for education and training.

47. The claimant's mobility decreased over the reference period which led to the claimant attending fewer outside meetings and/or conferences.

48. There is no doubt that throughout the reference period the claimant maintained her involvement with Manchester Metropolitan University in general and with Dr Verity Hick in particular.

49. We conclude that she had little hands-on involvement with the BSc and/or MSc students with the involvement that she did have being occasional rather than there being any fixed relationship between the claimant and any of the students.

50. As to sole responsibility, the third area suggested by Mr Boyd, in his submission in a number of instances the claimant claims sole responsibility for carrying out certain aspects of her job role. The respondent submits that as a matter of common sense, and to some extent conceded by the claimant, other individuals would have been involved in the carrying out of those functions.

51. Mr Boyd refers us to the untested witness statement of Judy Coombes who, as regards Cardiac Physiology Services, did not accept that the claimant was solely responsible for the continuous planning, monitoring, analysis and assessment of all that was necessary for the Trust to meet its goals and objectives. While the claimant was Head of the Department she did not have sole responsibility. The claimant ignores the necessary presence and input from the consultants and others. Cardiac Physiology Services are very largely responsible to the strategy of the Trust and the needs of the Cardiology Department as determined by the Trust Board and the consultant body.

52. The respondent accepts that as the Manager of the Cardiac Physiology Service the claimant had overall responsibility for it, and in the words of Ms Arnold:

“Yvonne was the most senior Cardiac Physiologist at the Trust in the sense that she was the Head of Department. From a managerial perspective I would agree. However, from a clinical perspective I would not. Over the comparison period there were expert leads in place for the Cardiac Physiology specialisms; they and their teams did the clinical work day in, day out, maintaining their clinical skills. Yvonne was the manager.”

53. The respondent does not accept the claimant's case that by being at the top of the organisational structure she would have been the clinical “go to” person or that her job would have required a PhD level of knowledge.

54. For the claimant Mr Lewinski made comments in the schedule. Where for instance the claimant stated that she was accountable for all clinical governance issues relating to the Cardiac Physiology Service, Mr Lewinski submitted that she was responsible for clinical governance issues in relation to the service in her role.

55. As to the claimant being responsible for the long-term and day-to-day planning and organisation of the work of the Cardiac Physiology Service, Mr Lewinski submitted that whilst the claimant did have responsibility for the matters cited she never said that she had sole responsibility, accepting that others also had responsibility within their roles or remits.

56. On the basis of the evidence before us we find that the claimant was ultimately responsible for what went on within the department, but that as part of her role she was working with medical, nursing and administration staff who all had their own responsibilities in parallel with the claimant's responsibilities.

57. On a general level we find that the claimant worked long and hard for the respondent and took responsibility for a department which developed considerably in size as the medical science developed. The claimant ensured that the unit developed in size and capability to remained aligned with the developments in cardiac technology.

58. The claimant, with her long service, maintained an overview of what went on within the department. We have referred above to the three clinical leads whose positions developed under the claimant. In our judgment their knowledge of their individual specialities would have overtaken the claimant's knowledge of those individual specialities at some time, but this does not detract from the claimant having sufficient knowledge of those individual specialities to have enabled her properly to manage the department.

59. The claimant called the evidence of four doctors with whom she worked. It appears to the Tribunal that these doctors were of the same generation as the claimant and that they had worked together for a long time. These doctors were happy to consult with the claimant in respect of matters medical having over the years developed trust and confidence in the claimant and her opinions.

60. By contrast the "next generation" of medical staff, as confirmed by Professor Ray, did not have such close involvement with the claimant and therefore did not look to her for guidance. They looked to the clinical leads.

61. When completing the job description document the claimant appears to have provided information on many of the things that she did throughout her career. The material was therefore historic in part rather than contemporaneous.

62. When reaching the conclusions that follow we have taken into account all of these factors.

63. Where the claimant has estimated the time spent by her carrying out various activities as a percentage, in our judgment the claimant's work varied from hour to

hour, from day to day and from week to week, so there must inevitably be some fluidity with regard to these figures.

Employment Judge Sherratt

19 March 2019

JUDGMENT AND REASONS SENT TO THE PARTIES ON

25 March 2019

FOR THE TRIBUNAL OFFICE

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JD reference / Allegation number	Claimant position	Respondent position	Document reference	Tribunal
Section 1 Subs 6 No. 1 [3]	C ws §1 – responsible for clinical governance issues in relation to the service in her role.	The Claimant was not accountable for the clinical governance of patients of the cardiac physiology service. Responsibility and accountability for clinical governance of patients rests with the Consultants.		R
Section 1 Subs 6 No. 3 [3]	As per C ws §2 – C plainly did have responsibility for matters cited. She never said that sole responsibility – others also had responsibility within their roles/remits.	The Claimant was not solely responsible for the continuous planning, monitoring, analysis and assessment of all that was necessary for the Trust to meet its goals and objectives in terms of cardiac physiology services		R
Section 1 Subs 6 No. 3 [3]	As per C ws §3 – C did have overall responsibility for this.	It is not accepted that the Claimant was responsible for the long-term and day to day planning and organisation of the research work in the department over the comparison period.		R
Section 1 Subs 6 No. 4 [3]	C’s position as per ws §4 was borne out ultimately by the evidence. This seemed to be a fundamental challenge by the R, relying significantly on Andrea Arnold’s (AA) evidence. The ET is referred to her XX at the start (end of the day) and then from the start of the next day. AA’s evidence shifted significantly, parts were withdrawn, and concessions made. For instance: While accepting that the C oversaw education as a manager, at first AA insisted that the C effectively dropped out of involvement with education, suggesting that C had no ongoing	(1) The Claimant did not hold a role for the Respondent as “Clinical Lead for Cardiac Physiology Education in the North West”. It is not accepted that in the comparison period the Claimant was Clinical Lead for Cardiac Physiology Education in the North West. (2) It is not accepted that throughout the comparison period the Claimant was responsible in her role for the Respondent of establishing and maintaining clinical elements of the Undergraduate, Masters and PhD programmes including course design, examination setting and marking and co-ordination of clinical placements and clinical assessments.		(1) R (2) C but her role diminished over the reference period. (3) R in the main although C maintained some involvement up to and including her meeting with Dr Hick on 10 March 2009.

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	<p>involvement with course development.</p> <p>AA particularly relied upon her assertion that while examiners came in annually, there was no review of course content as that only occurred every five years upon accreditation by the National School (of Healthcare Science).</p> <p>However, upon obtaining the National School's guidance, it became clear that changes could be made between accreditations to reflect the evolution of developments in the subject, and there was a procedure for this.</p> <p>AA then had to accept that changes to courses could be made at any time, and could be undertaken by the C or Dr Verity Hick.</p> <p>AA then had to accept that, contrary to her suggestion, the National School had not even been in existence at the time of the comparison period, so its process of accreditation could not be relevant.</p> <p>AA then conceded that the C may have met with Dr Hick and discussed updating changes to courses on an annual basis, and confirmed that she was not present at these meetings.</p> <p>AA also had to accept that C may have liaised with external examiners with Dr Hick.</p> <p>AA accepted that the C may have had various meetings with Dr Hick that she did not know about and of which she did not know the content.</p> <p>In short, AA's suggestion that the C</p>	<p>(3) It is not accepted that throughout the comparison period the Claimant had responsibility for establishing and maintaining clinical elements of the Undergraduate, Masters and PhD programmes including course design, examination setting and marking and co-ordination of clinical placements and clinical assessments.</p>		
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	<p>ceased to be someone that Dr Hick dealt with in terms of educational programmes was shown to be demonstrably wrong, as was the impression given by paras 25-28 of AA's was that C was simply not involved (or barely involved in education at all).</p> <p>AA said that she did not mention the C's involvement in developing the Foundation Degree in Healthcare Science (see pp355, 356, 361, 362) because "it was not something she was asked about".</p> <p>AA accepted that C may have been involved with Dr Hick in the accreditation of the MSc course - as p377 suggests. She accepted the significance of being on the MSc accreditation panel as opposed to just that of the BSc - as being at a higher specialist level.</p> <p>AA accepted that in identifying future courses with Helen Liggett (417, 418), the C was "being visionary for the future". She accepted that the C's advice was being sought and gratefully accepted by Ms Liggett, the lead for Healthcare Science for Greater Manchester Cardiac Network.</p> <p>AA accepted that the C was a go to person on such subjects.</p> <p>AA simply did not know about the C's meeting MSc validation meeting at the MMU on 25/06/08 (380) or the Heads of Dept meeting at the MMU on 10/07/08 (381) at which the C disseminated course plans and sought</p>			
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	<p>views. However, AA did accept that the C was <i>“leading the way on the educational side as far as Dr Hick concerned”</i> when taken to the email of Dr Hick of 11/03/09 [386] showing the C’s authoritative involvement in the development of MSc cardiology units. She also accepted that this showed new modules and developments being added to the course on a continuing basis. AA accepted that the C was involved in devising and dealing with the new planned programme of fast track specialist trainees (as per email of 22/04/09 at [460]. AA accepted that the C took an active role in organising teaching on the Echo educational course – when shown the email at 414. The emails of Jun/Jul 09 at [422-4] re sheep research show C taking the lead on whether this was something someone in her department would be involved in. The emails of Aug 09 [401 & 402] show the C engaging at the highest level in leading the MMU as to appropriate content for courses. AA accepted that this showed specialist knowledge, and more particularly, that the C continued as the “go to” person for the MMU in respect of such educational matters until the end of her time working. When asked why she had not referred</p>			
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	<p>to any of these matters in her statement, AA said that she simply had not been aware of the C's involvement. AA confirmed the contents of the C's ws at §§ 116 and 119 on educational matters.</p> <p>She confirmed that the Trust were the key providers for the region in cardiac physiology training for BSc and MSc, and that took trainees from inside and outside the region.</p> <p>In short, AA confirmed the factual matters that demonstrated the C to be, in practical terms, the Clinical Lead for Cardiac Physiology Education in the Northwest, exactly as she had said. Obviously, someone from the MMU, most likely Dr Hicks, was the academic lead.</p> <p>AA had denied this because she was simply not aware of the full extent of what the C had been doing. This was typical of the R's position on all issues.</p>			
<p>Section 1 Subs 8 No. 5 [3]</p>	<p>C ws §5. The C simply did do so. This was confirmed by her doctor witnesses (eg. Dr Lee). The R simply adopted its usual approach that if the witnesses it chose to call did not see the C undertaking such activity, it denied it ever happened.</p> <p>AA, for instance, accepted she did not know where the C was or what she was doing throughout the day, but would, for instance, only know the C was in her office if she walked past and saw her in there. There are no</p>	<p>It is not accepted that the Claimant worked on the Coronary Care Unit and hospital wards in the comparison period.</p>		<p>C did very occasional work but was never rostered.</p>

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	reliable conclusions to be drawn from that.			
Section 1 Subs 8 No. 6 [3]	C ws §6 The R's witnesses accepted that the C may well have undertaken such peer reviews, she was qualified to do so, and it was the sort of task someone in her position might be asked to do. They fact they might not have known what peer reviews the C actually undertook of course does not mean the C did not do them.	It is not accepted that 4 – 6 times per year in the comparison period the Claimant travelled to perform peer formal reviews and sit as an external member of interview panels as part of her role.		R but we accept claimant had carried out some peer reviews in the reference period.
Section 1 Subs 8 No. 7 [4]	C ws §7. See above – the C demonstrably did fulfil this role. She accepts she may not have attended MMU once per month (ws §7). On the evidence Dr Hick sometimes attended the Trust. However, none of the R's witnesses claimed to attend all MMU or Dr Hick meetings with the C, so they simply would not know.	As per section 6 above the Claimant did not hold a role for the Respondent as Clinical Lead for Cardiac Physiology Education in the North West. It is not accepted that in the comparison period the Claimant was Clinical Lead for Cardiac Physiology Education in the North West. It is not accepted that the Claimant travelled to Manchester Metropolitan University typically once per month over the comparison period.		R
Section 1 Subs 8 No. 8 [4]	C ws §8 – the C accepts she stopped attending conferences abroad, but maintains she continued to attend conferences in the UK. The R's witnesses saw her at conferences in the UK (eg. Pearce at the Bournemouth Echo conference), and had no evidential basis for challenging the C's account. AA accepts that the C may have gone to conferences and meetings in the UK that she (AA) did not attend – eg. British Society of Echo in Bournemouth; Heart Rhythm UK	In the comparison period it is not accepted that the Claimant travelled abroad for conferences or that throughout the comparison period she attended conferences in the UK with the frequency stipulated.		R

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	National Mtg (346). Significantly, AA agreed it was part of the C's role to attend conferences.			
Section 1 Subs 11 No. 9 [4]	C ws §9 – C's attendance at weekends reduced over the period, but still occurred. No evidential grounds for R to deny. Dr Shearer confirmed that he regularly saw C out of hours.	In the comparison period it is not accepted that once per month the Claimant came into the office at weekends.		R
Section 1 Subs 11 No. 9 [5]	C ws §10, §25 2 nd part C's doctor witnesses confirmed that the C was approached for advice, and confirmed the clinical duties C might be called upon to undertake, and that the C worked out of hours. C does not suggest that she had autonomy to make clinical decisions over the clinicians. She says she would offer advice and reprogramming assistance in the ordinary way. AA confirmed that the examples C gave for attending the hospital (C ws §10 and top box p5) were all credible and genuine reasons for doing so. AA confirmed she simply would not know if C was contacted out of hours or went in to the hospital. AA also confirmed that it was correct that not everybody had the skills to do device programming, but that the C was someone who could be contacted as having that skill.	(1) It is not accepted that approximately 3 times a month in the comparison period the Claimant received calls from the hospital or members of the team needing advice out of working hours. (2) It is not accepted that approximately once a month in the comparison period the Claimant attended the hospital out of hours to complete complex implanted pacemaker or implanted defibrillator evaluations. (3) The Claimant did not have autonomy of clinical decisions as described over the clinicians.		(1) R (2) R (3) R
Section 2: Mgt and profldr	C ws §11 The R has no rational basis for	It is not accepted that in the comparison period the Claimant spent as little as		R

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<p>No. 11 [5]</p>	<p>challenging this. The C's analysis is based on her assessment of the activities she undertook – which of course she was well placed to know about. The R's denial appears based, crudely, on, for instance, how much time the C spent in her office – see AA para 14. None of the R's witnesses actually knew how much time C spent in her office, or what she did there. The R ignores that many of the C's activities involved spending time in her office – eg: p5 - management and prof leadership - 45% in 2005, increasing to 50% in 2009; p20 – mgmt / develop't of strategy / service - 20-25%, increasing through period; p15 - expert advice to various - 5%; p16 - developing and leading training (as lead) - 5%; p18 - Lead adviser on card phys - 5%; p19 - development of short courses etc - 5%.</p>	<p>approximately 45% of her time, increasing to 50% around 2009, dealing with management and leadership of the service.</p>		
<p>Section 2: Mgt and prof ldr No. 12 [6]</p>	<p>C ws §12 – Of course, the C worked with consultants as to equipment to be purchased, and also with the finance team – the purchase of equipment was a cooperative effort. However, having liaised as she sets out, it was ultimately the C's decision what to purchase within the budget parameters. The R does not produce evid of anyone else ultimately making these specific decisions.</p>	<p>It is not accepted that in comparison period the Claimant took ultimate decisions as to purchase of equipment and clinical products, in particular medical devices such as pacemakers and ICDs. Input was needed from Consultants and also the finance team and the Respondent's purchasing department. The Claimant was an important component in decision-making but did not have ultimate say.</p>		<p>R</p>

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<p>Section 2: Mgt and prof ldr</p> <p>No number [7] OR No. 13 [8]</p>	<p>C ws §13 – explains the context of her role.</p> <p>AA and JF confirmed the difficulties within the team concerning recognition and accepting instructions from new team leaders – which resulted in increased continuous involvement from the C in managing the teams.</p> <p>It was confirmed that the C did have the right, and sometimes became involved, in staff deployment and rostering during the working day.</p>	<p>In the comparison period, day to day the Claimant did not organise the work and staff and staff redeployment.</p>		<p>R</p>
<p>Section 2: Perf and supervising range complex ...</p> <p>No. 14 [9]</p>	<p>C ws §14 - The C did apply a doctorate level of knowledge, in terms of her very long experience, her high level of knowledge across many fields (whereas most cardiac physiologists with an MSc tended to have specialist knowledge in only one area); her high level of expertise and experience in clinical, developmental, management and educational matters – ie. spanning all areas.</p> <p>None of the other cardiac physiologists demonstrated or utilised such a wide range of knowledge across so many work areas and specialisms. C was truly a specialist/leader in many fields – as confirmed by her doctor witnesses' evidence.</p>	<p>The Claimant did not apply in practice doctorate level knowledge.</p>		<p>R</p>
<p>Section 2: Perf and supervising range complex ...</p> <p>No. 15 [9-10]</p>	<p>C ws §15</p> <p>The R would appear to suggest that C had no clinical input/activity at all. This is simply not realistic, and again appears to reflect the stance that because some witnesses of the R did</p>	<p>It is not accepted that in 2005 – 2009 the Claimant spent as much as approximately 15% of her time performing and supervising a range of complex specialist cardiac investigations on patients as set out. It is not accepted that from 2009 to</p>		<p>C</p>

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	not see or know what the C did, they did not accept what she said. The C's doctors' evidence is cast iron corroboration of the C's continuing clinical input and activity.	the remainder of the comparison period the Claimant spent as much as approximately 5% of her time on the said activities.		
Section 2: Perf and supervising range complex ... No. 16 [10]	C ws §16 – The C did undertake the activities she refers to.	It is not accepted that over the comparison period the Claimant had up to date clinical skills to safely perform complex clinical investigations and procedures.		R
Section 2: Perf and supervising range complex ... No. 17 [10]	C ws §17 – the examples given by the C in her ws are clearly corroborated by the doctors she worked with – as per their evidence.	Save for possibly conducting an occasional pacemaker check, the Claimant did not perform and supervise clinical investigations/clinical examinations on patients or step in to help with procedures in the comparison period.		R but claimant may have stepped in to help with procedures.
Section 2: Perf and supervising range complex ... No. 18 [10] [13]	See C ws §§18, 10, 25 and the evid of her doctors' witnesses – eg: Brooks at §§8-14: advising re echo recordings and on reports provided by other physiologists; advising on pacing data; advising on programming devices; saw undertaking programming; saw undertaking echocardiograms. Bennett - §§5 – 10 Lee - §§5 – 13 Shearer - §§2, 3, 8 - 12 Various witnesses saw the C undertaking pacemaker checks and the R accepts this. However, AA states she never saw this in her ws (§16). This demonstrates the point – even on the R's case, simply because one of its witnesses did not see what the C did, did not mean it did not happen.	(1) Save for possibly conducting an occasional pacemaker check it is not accepted that in the comparison period the Claimant analysed clinical data and provided advice. (2) It is not accepted that over the comparison period the Claimant dealt with out of hours' queries or provided advice or assistance out of hours to cardiac physiologists, nurses or other staff at the Respondent.		(1) C (2) R

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	<p>R set great store by the fact that the C's name did not appear on the computer records as a second operator.</p> <p>The C confirmed that she did not go into these records to update with her name and she would not be recorded as primary operator.</p> <p>C said her name would appear in the patient's primary paper notes.</p> <p>The C's doctors corroborated this clearly by reference to what happened at the time – see, for eg, Dr Lee's oral evidence – very clear that C would not be added if simply coming to assist or give additional advice</p> <p>Dr Bennett's oral evidence – including: he could picture C's handwriting in written notes but she would not expect to be added to computer record.</p> <p>The R confirmed that no checks of paper records were made (where C's name would have appeared).</p> <p>Further store placed by the R on the fact that the C's name did not appear in film badge records. C explained that she did not have/use a film badge, and this was normal at the time for people who were simply visitors to the cath lab.</p> <p>This was clearly and categorically confirmed by the doctors' evidence she called – see their oral evidence.</p>			
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	C said she would simply don a green gown to attend the cath lab – some of the R's witnesses recalled this gown.			
Section 2: Perf and supervising range complex ... No. 19	C §19 C accepts that she was not clinically responsible for patients (the treating doctor's role), but maintains that she undertook the activities described re pacemakers, which is consistent with the evidence. She also maintained that she would discuss procedures with patients.	Making arrangements/taking decisions for future management of patients needing urgent clinical action and explaining the same to patients was not the Claimant's responsibility.		R
Section 2: Perf and supervising range complex ... No. 20 [14]	C ws §§20, 13 There was an issue of staff refusing to recognise and accept the authority of other staff as new team leaders. It took time for this situation to resolve, in some cases, only by the departure of the staff involved. This was confirmed by the R's witnesses, in particular Janet Fallon.	It is not accepted that from 2005 until towards the end of the comparison period the Team Leaders were only gradually becoming embedded in the cardiac physiology service.		R
Section 2: Perf and supervising range complex ... No. 21	On training see C ws §§21, 25, 26 R denies this, but the reality was that their witnesses simply did not <u>know</u> what training the C provided, but expressly accepted that the C might have provided the training she described (eg. taken through examples and accepted could have happened). The C was ideally placed to provide such training: she had a broad expertise across all areas, an established background in education and training, and was available to be approached by doctors, nurses,	Save for some theoretical teaching on the North West Echo Night School at the beginning of the comparison period it is not accepted that over the comparison period the Claimant trained cardiac physiologists. It is not accepted that over the comparison period the Claimant trained hospital doctors and GPs, nurses, physiotherapists and radiographers.		R

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	<p>physiotherapists etc who had training queries or needs. The C's evidence on this is also corroborated by the doctors' evidence she called.</p>			
<p>Section 2: Perf and supervising range complex ... No. 22 [11]</p>	<p>C ws §22 – R plainly misconstrues what C is saying. She explains that her strong clinical grounding in both sub-specialities of echocardiography and cardiac rhythm management facilitated her being able to continue to develop her knowledge and understanding of each service.</p>	<p>It is not accepted that a strong grounding in substantially historical clinical practice, and involvement in procuring equipment and writing detailed specifications, continually developed the Claimant's knowledge and understanding of echocardiography and cardiac rhythm management in place of hands-on clinical practice.</p>		R
<p>Section 2: Provision expert advice etc No. 23 [15]</p>	<p>As per C ws §23 But there wasn't! – C was the head of the cardiac physiology service. She was the most senior professional advisor to the Trust in cardiac physiology related issues and developments – as correctly recorded in her agreed job description [317]</p>	<p>It is not accepted that clinically there was no role within the cardiac physiology service above the Claimant's.</p>		C
<p>Section 2: Provision expert advice etc No. 24 [15]</p>	<p>C ws §24 She was. Corroborated by the doctors' evidence. C was not the only person who could give advice, of course.</p>	<p>The Claimant was not the "go to" person for issues and advice related to cardiac investigations/clinical matters in the comparison period.</p>		R save that C was to go to person for the doctors who gave evidence.
<p>Section 2: Provision expert advice etc No. 25 [15]</p>	<p>C ws §25 She did – already dealt with. The training examples given by C accepted as possible by R witnesses.</p>	<p>The Claimant did not provide teaching/training on investigations and equipment and did not provide out of hours support in the comparison period. The Claimant did not work on the wards in the comparison period.</p>		C but on an ad hoc basis. The claimant was not rostered to work on the wards.
<p>Section 2: Provision expert</p>	<p>C ws §26 – it was (as above) Accepted by R witnesses that may</p>	<p>Training was not provided to physiotherapists employed in cardiac</p>		C provided some training but only for R's physiotherapists.

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advice etc No. 26 [16]	well have been.	rehabilitation and chest medicine at the Respondent or other hospitals in the comparison period.		
Section 2: Clinical Lead consult for training etc No. 27 [16] [17]	C ws §27 This is precisely what the evidence displayed this aspect of the C's role to be (see reference to education aspects of role referred to above). The R was the leading clinical educator of cardiac physiologists in the NW, and the C led that from the front and as head of the organisation.	The Claimant did not hold a role for the Respondent as clinical lead consultant for training in cardiac physiology in the North West. It is not accepted that in the comparison period the Claimant was the designated lead consultant for cardiac physiology clinical education or that the Claimant had a pivotal role in the development of the cardiac physiology workforce in the comparison period.		R
Section 2: Clinical Lead consult for training etc No. 28 [17]	C ws §28 C explained that initially basic services were rolled out, then these were developed and extended with more specialist services being introduced, with ongoing training provided by the R for that. R's witnesses confirmed that. That continuing development occurred during the comparison period.	Save for echo the development of cardiac physiology services/workforce in district general hospitals did not take place in the comparison period.		R
Section 2: Clinical Lead consult for training etc No. 29 [16]	See training referred to by C at ws §§10, 21, 25, 26. §21 specifically sets out doc references to higher level training the C provided. R is simply not in a position to say these training activities did not take place. Doctors' evidence corroborate C's role in training – e.g. Brooks - §§20 – 22; Lee - §§19 - 21	It is not accepted that the Claimant spent 5% of her time/the approximate hours stipulated dealing with university-related courses/work or delivering specialist training nationally and internationally in the comparison period.		C
Section 2: Clinical Lead consult for	See points on education already made. C ws §30.	In the comparison period the Claimant was not responsible for establishing and		R

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<p>training etc No. 30 [16-17]</p>	<p>C plainly was responsible for est'g and maintaining the standards of the clinical elements of the Trust's programmes - evidenced by her interactions with Dr Hick and Dr Hick's reliance on her for that purpose. The evid shows C plainly did have overall responsibility for those matters. Further, docs show engagement between Dr Hick and C in respect of external assessors, supporting C's position. C did mentor students - this was accepted by AA in evidence. Further, see docs evidencing mentoring - mtgs diarised with students at 388-393; graduates mtgs at 398 & 400. There had been discussion of Pearce converting his research into a PhD, but he did not do so.</p>	<p>maintaining the standards of the clinical elements of the undergraduate, MSc and PhD programmes. She did not have responsibility/overall responsibility for the matters set out in respect of those programmes in the comparison period. It is not accepted that in the comparison period the Claimant attended annual meetings with the external assessors for the purposes specified. It is not accepted that in the comparison period the Claimant mentored BSc, MSc and PhD students or assisted them in the manner set out.</p>		
<p>Section 2: Clinical Lead consult for training etc No. 31 [18]</p>	<p>C ws §31 C accepts that course est'd prior to the period but sets out her continuing involvement with it. Andrea Fallon confirmed C continued to develop and teach on the course.</p>	<p>(1) The Claimant did not jointly found the "Introduction to Echocardiography" course in the comparison period. (2) It is not accepted that in the comparison period the Claimant had responsibility for the matters set out as regards the Introduction to Echocardiography course or that she was the clinical course leader and/or expert lecturer and/or taught on it as part of her role.</p>		<p>(1) C (2) R</p>
<p>Section 2: Clinical Lead consult for training etc</p>	<p>C ws §32 C clear evid that did this - R simply not in a position to say she did not.</p>	<p>It is not accepted that over the comparison period the Claimant lectured to Radiographers at Salford University studying for the Post-graduate Diploma in</p>		<p>C</p>

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No. 32 [18]		Medical Ultrasound.		
Section 2: Lead prof adviser etc No. 33 [18]	See C ws §33 – C gives detail as to her role and activities at a national level. The R’s other witnesses did not attend these meetings, nor were involved in those initiatives, so not in a position to contradict. R’s witnesses accepted C’s credentials, experience and reputation.	It is not accepted that the Claimant was professional lead adviser and national opinion leader in cardiac physiology over the comparison period.		R
Section 2: Lead prof adviser etc No. 34 [18]	C §34 – C gives clear evidence of peer reviews she undertook (although Belfast not during the period). R simply cannot contradict. Keith Pearce agreed these were activities C was capable of doing, and it would not surprise him for C to have been asked to undertake. He agreed that prestigious for the Trust, and that an important part of C’s role as a senior healthcare professional. He confirmed it would be normal for C to be asked to do peer reviews and that he imagined that the C would have sat as external member of interview panels.	(1) It is not accepted that in the comparison period the Claimant performed formal peer reviews of other cardiac physiology services or that she was required to do so as part of her role. (2) The Claimant was not required to sit as an external member of interview panels as part of her role. Although this was not a requirement of her job it would appear that in taking on such duties might reasonably be expected of a senior manager in the NHS.		(1) R – C may have carried out occasional peer reviews on an informal basis. (2) R – The claimant might have sat on interview panels.
Section 2: Develop and imp short courses No. 35 [19]	C ws §35 – C developed with Dr Ray.	The North West Echo Night School was a collaboration between the Claimant and one of the clinicians; the Claimant did not develop it on her own.		R
Section 2: Develop and imp short courses No. 36 [20]	C ws §36 – correct as above, but developed during the period.	The Claimant did not develop the Introduction to Echocardiography course in the comparison period.		R
Section 2:	C ws §37 – C states that did.	The Claimant did not develop the Cardiac		R

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Develop and imp short courses No. 37 [20]	She explained in evidence that it was a continuation of roll out of regional cath lab services. Described the training provided training being provided in the R's cath labs, with allocation to a cardiac physiologist who would work with them. Also involved completion of checklist of assessments including written element.	Monitoring in the Catheter Lab course in the comparison period.		
Section 2: Mgt overall strategic direction ... No. 38 [20]	C ws §38 C's analysis of her time fits with the other timing breakdowns she has provided.	It is not accepted that the Claimant spent such a small percentage of her time in the comparison period managing the service.		R
Section 2: Mgt overall strategic direction ... No. 39 [20]	It follows almost axiomatically that given the role she was in, the C was responsible for the matters set out at point 39 on p20.	The Claimant was not solely responsible for the continuous planning, monitoring, analysis and assessment of all that was necessary for the organisation to meet its goals and objectives in terms of cardiac physiology services.		R
Section 2: Mgt overall strategic direction ... No. 40 [20]	Cws §41 – C attended such meetings, but only infrequently. She never claimed to the contrary.	It is not accepted that the Claimant attended scientific meetings or trade exhibitions with any frequency in the comparison period.		R
Section 2: Mgt overall strategic direction ... No. 41 [21]	As C explained in evidence, this training scheme was developed through the period. C also developed a new specialist fast track training scheme – as per docs at 406, 407, 460, 436, 441 – although it appears this did not continue after C left work in 2009. The development of this scheme was confirmed by the R's witnesses.	The Claimant did not develop the “cardiac physiology fast track training scheme” in the comparison period.		C
Section 2: Mgt	C ws §42 – C did restructure the	There was no strategic development within		C – but the scheme was informal.

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overall strategic direction ... No. 42 [21]	secretaries arrangements/team, and did facilitate clinical placements.	the Respondent for the secretaries. There was no formal scheme design for clinical placements for the secretaries.		
Section 2: Mgt overall strategic direction ... No. 43 [21-22]	C ws §43 – These services required continued development during the period. C did introduce autonomic tilt table testing during the period. Dr Ray confirmed he thought it would have been around that time, and said it was plausible that the C wrote the protocol for that. Andrea Fallon confirmed that tilt table testing <i>was</i> introduced during the comparison period, as it was after they had moved downstairs.	The Claimant did not develop and introduce physiologist-led services in echo and exercise ECG testing in the comparison period.		C
Section 2: Mgt overall strategic direction ... No. 44 [22]	She did – see C ws §44 setting out detail. Confirmed by Dr Bennett at §6. AA accepted in XX that C might have done what was set out in her ws.	The Claimant did not work with industry in the development of a local protocol for remote pacemaker and ICD follow-up in the comparison period.		C
Section 2: Mgt overall strategic direction ... No. 45 [22]	C ws §45 – sets out the detail of this. AA accepted that it was possible that the C may have done what she says in her ws. It is notable that this aspect was included in the C’s approved job description from around the time (para 37, p318)	It is not accepted that the Claimant worked with the Greater Manchester Cardiac Network to facilitate roll-out of cardiac catheterisation services to local secondary care units in the comparison period.		C
Section 2: Mgt overall strategic direction ... No. 46 [22]?	See box above	It is not accepted that in the comparison period the Claimant worked with colleagues at district general hospitals to facilitate development of district general hospital pacemaker and ICD follow-up services.		C

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<p>Section 2: Mgt overall strategic direction ...</p>	<p>Already dealt with. Corroborated by doctors' evidence.</p>	<p>It is not accepted that the Claimant was approached for advice on clinical matters with any frequency in the comparison period. The Claimant was not the "go to" person for clinical issues in the comparison period.</p>		<p>C – but only in respect of the doctors who gave evidence.</p>
<p>Section 3: (a) typical edu quals ... No. 47 [27]</p>	<p>Accepted – this was not mandatory at the time, and C did not apply to join.</p>	<p>it is not accepted that the Claimant was a member of the Registration Council for Clinical Physiology throughout the comparison period.</p>		<p>R</p>
<p>Section 3: (a) typical edu quals ... No. 48 [27]</p>	<p>See C ws §48 This reflects the degree of complexity of the C's role and the level of knowledge, expertise and experience required across so many areas. It also reflected the C's experience and her overall level of qualification and expertise. C's role covered and required specialist knowledge across all specialisms of cardiac physiology, and across multiple fields of activity: education; management; clinical activity, in partic assisting with problems queries across all areas, and out of hours queries; strategic development; training; procurement. Others, by contrast, focused on one particular specialism of cardiac physiology – eg. devices or imaging – and did not cover the wide range of activities that the C did. While MSc's were required for the single specialists, it follows and is not surprising that the C's much more complex role would be considered to</p>	<p>PhD or equivalent level experience and knowledge is not required for the role. The clinical work undertaken by the cardiac physiologists is not PhD level. Attendance and participation in scientific meetings of professional bodies does not evidence that the clinical work of the cardiac physiologists is PhD level.</p>		<p>R</p>

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	require a greater experiential qualification assessed at PhD level. This was initially agreed in the job description provided by the C to Ms Coombes.			
Section 3: (b) typical experience reqd No. 49 [27]	see box above	The level of clinical and scientific knowledge was not PhD.		R
Section 3: (b) typical experience reqd No. 51 [28]	See C ws §§50 & 51 The required experience suggested reflects the actual role and what the C had done in the role.	Experience in working with multi-disciplinary project teams on major capital developments is not a pre-requisite to starting the job.		R
Section 3: (c) induct training reqd No.52 [28]	See C ws §52 – C did not undertake the inductions but devised and was responsible for them.	The Claimant did not do the local inductions for secretaries.		R
Section 3: (d) on-going +al training etc. No. 53 [28]	See C ws §53 – C was required to maintain a high level of skills and knowledge to undertake her multi-faceted role. Accepted she did not undertake the same level of clinical practice.	It is not accepted that over the comparison period the Claimant maintained and developed the same skills and knowledge required by cardiac physiologists.		R
Section 3: (d) on-going +al training etc. No. 54 [28]	See details set out at numbered paragraphs of s(d) of JD on p28.	It is not accepted that the Claimant undertook a great deal of specialist training and research over the comparison period.		R
Section 3: (d) on-going +al training etc. No. 55	See above	The Claimant did not have the role for the Respondent of Clinical Lead/Chief Clinical Examiner for Cardiac Physiology North West. It is not accepted that in the comparison period the Claimant was		R

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		Clinical Lead/Chief Clinical Examiner for Cardiac Physiology North West. The Claimant did not have responsibility for ensuring BSc and MSc courses, examinations and assessments remained relevant to current practice and that on graduation attendees were “fit for purpose” in the comparison period.		
Section 3: (d) on-going +al training etc. No. 56 [28]	See C ws §56 – attending such meetings allowed C to develop and maintain her specialist knowledge.	Attending medical industry meetings for presentations of new technologies did not mean that the Claimant had the highest level of understanding of latest available technologies and their applications.		R
Section 3: (d) on-going +al training etc. No. 57 [28]	See box above	Attending meetings with medical industry and/or principal clinical investigators about proposed research trials did not mean that the Claimant had the highest level of knowledge and understanding of current research in cardiology and its implications for cardiac physiology services.		R
Section 3: (d) on-going +al training etc. No. 58 [29]	Already dealt with. See C ws §58 re mentoring provided and further examples of giving advice. R is simply not in a position to dispute, but only put the C to proof.	It is not accepted that the Claimant mentored medical staff and advised on interpretation of complex data in the comparison period.		C may have mentored on an ad hoc basis and advised the doctors who gave evidence on questions including the interpretation of the complex data.
Section 3: (d) on-going +al training etc. No. 59 [29]	Already dealt with. Also see C ws §59 As accepted by AA, C did mentor students. It is accepted that Mr Pearce apparently did not complete a PhD.	It is not accepted that the Claimant mentored BSc and MSc students in the comparison period. The Claimant did not mentor PhD students over the comparison period and she was not required to have doctorate level knowledge.		R – but C provided ad hoc informal mentoring.
Section 3: (d) on-going +al training etc. No. 60 [29]	See C ws §60. C did visit such centres. Accepts that not regular.	It is not accepted that over the comparison period the Claimant regularly visited other cardiac centres.		R

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<p>Section 3: (d) on-going +al training etc. No. 61 [29]</p>	<p>C ws §61. It was accepted by R (Pearce) that C may or would have been asked to undertake such reviews.</p>	<p>It is not accepted that in the comparison period the Claimant was Cardiac Physiology Advisor to the British Cardiovascular Society in their formal assessment of cardiac centres on behalf of the Department of Health.</p>		<p>R</p>
<p>Section 3: (d) on-going +al training etc. No. 62 [29]</p>	<p>agreed</p>	<p>Trust mandatory training courses are not specialist training.</p>		<p>R</p>
<p>Section 3: (d) on-going +al training etc. No. 63 [29]</p>	<p>C ws §63 – C did have such a high level of knowledge, and notably across multiple specialisms. This was confirmed by the specialist doctor witnesses who were in a position to judge – see: Brooks at §7; Bennett at §§3 & 4. As Dr Bennett said in evidence: <i>“I would say her knowledge at that time was second to none in echocardiography, ambulatory electrocardiography, electrocardiography, and signal average electrocardiography.”</i></p>	<p>The Claimant’s job title and where it sat did not mean that she had the highest level of knowledge and/or understanding of cardiac physiology.</p>		<p>R</p>
<p>Section 3 (e) any other knowledge reqd No. 64 [29]</p>	<p>She was within the cardiac physiology service (which did not include doctors) C ws §64</p>	<p>The Claimant was not the most senior cardiac professional within the Respondent in the comparison period.</p>		<p>C managed the service including the three cardiac leads. Without defining the terms this question is not capable of a further answer.</p>
<p>Section 3 (e) any other knowledge reqd No. 65 [30]</p>	<p>R is simply not in a position to make that assertion. See C’s ws §65 for details of the procedures she undertook (ref’g to point 65 on p30) – C accepts she did not do 2nd and 3rd bullet points during the period.</p>	<p>The Claimant was not required to have the highest level of knowledge of the biological sciences and other areas in order to contribute to the clinical services and to manage the cardiac physiology team. Save for possibly conducting an occasional pacemaker check, over the comparison</p>		<p>R</p>

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	R's' witnesses accepted the C may have done the things she said.	period the Claimant did not contribute to the clinical services by undertaking the investigations set out.		
Section 3 (e) any other knowledge reqd No. 66 [30]	Already dealt with. C did need this in her most senior and multi-faceted role. For example she needed this level of knowledge to: - advise at the level she did – ie. advising on problematic procedures, or where further specialist input was needed; - provide the training she did; - develop the educational programmes - assist and advise other Trusts or on regional or national policy initiatives; - deal knowledgeably with all the practitioners in her dept and the issues that arose; - contribute effectively to the development of the service; - deal with the equipment and purchase and issues arising.	Over the comparison period it was not essential for the Claimant to have the highest level of knowledge of cardiac physiology practice.		R
Section 3 (e) any other knowledge reqd No. 67 [30]	C ws §67 – needed to have some knowledge of this although only undertook the most minor repairs.	The Claimant was not required to have knowledge of maintaining and repairing equipment and she did not maintain and repair equipment.		R
Section 3 (e) any other knowledge reqd No. 68 [30]	See above, also C ws §68	The Claimant may have conducted an occasional pacemaker check only in the comparison period. It is not accepted that the Claimant performed, analysed and interpreted highly complex tests/the complete range of highly complex physiology data or prepared reports on investigations and make recommendations for outcome in the comparison period.		R save where the doctors who have given evidence consulted the claimant.

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Section 3 (e) any other knowledge reqd No. 69 [31]	See C ws §69	The Claimant did not train Trust cardiac physiology staff in the comparison period		R
Section 3 (f): skills reqd ... No. 70 [31]	As before. Also see C ws §70 setting out analysis undertaken. Corroborated by doctors.	<i>Analytical:</i> the Claimant did not analyse complex data from echocardiograms over the comparison period. The Claimant did not perform echocardiograms in the comparison period.		R
No. 71 [31]	C ws §71 – sets out C’s interactions with sick and anxious patients. The R overlooks entirely C’s interactions by telephone.	<i>Caring:</i> in the comparison period the Claimant possibly carried out only the occasional pacemaker check and it is not accepted that she came into contact with sick and anxious patients with any frequency.		R
No. 72 [31]	C ws §72 R is simply not in a position to contradict.	<i>Coaching:</i> in the comparison period the Claimant possibly carried out only the occasional pacemaker check and it is not accepted she encouraged patients to walk on a treadmill for exercise ECG tests over that period.		R
No. 73 [31]	C ws §73 – C gives examples which the R cannot contradict.	<i>Communication:</i> it is not accepted that over the comparison period the Claimant explained procedures to patients and explained complex data to non-specialist doctors.		C – on occasion but not regularly.
No. 74 [31]	C ws §74 explains contact. There was no full-time receptionist as confirmed by the R’s witnesses.	<i>Customer service:</i> reception staff greeted patients into the department, not the Claimant.		C – very infrequently and in the old premises only after the move.
No. 75 [31]	C’s was the first office by reception. C ws §75 – C worked on systems with data analyst Geoff Corner.	<i>Information Technology:</i> it is not accepted that the Claimant developed a system for follow-up of pacemaker and ICD patients in		C – but not solely responsible.

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<p>No. 76 [31]</p> <p>No. 77 [31]</p>	<p>C ws §76 It was accepted by the R's witnesses that deliveries were made to the corridor outside the C's room, and that she might occasionally have moved boxes. The suggestion she was not fit enough to do so was pure assumption and fatuous. It was accepted that the C might have moved patients as described (assisting on to bed, for instance).</p> <p>project management matters - already dealt with (C ws §§ 35, 41)</p>	<p>the comparison period.</p> <p><i>Physical:</i> it is not accepted that the Claimant moved patients and moved boxes in the comparison period.</p> <p><i>Project management:</i> (1) The Claimant did not develop the fast track training scheme or educational system for cardiac physiology in the North West in the comparison period. (2) The North West Echo Night School was a collaboration between the Claimant and a clinician; the Claimant did not develop this on her own.</p>		<p>Patients no, boxes yes but infrequently.</p> <p>(1) C involved in development but scheme did not proceed. (2) R</p>
<p>Section 4 Decn making etc. (a) precedent & practice</p> <p>No. 78 [32]</p> <p>No. 79 [32]</p> <p>No.79 [33]</p>	<p>It is to be noted that there is no dispute that C only had 2 appraisals, and that C was never assessed or supervised re the clinical aspect of her role.</p> <p>C ws §78 C explains the managerial decisions that she would take in Ms Coombes' absence. C explains that she gave clinical input as to the need to transfer patients. It would be the ultimate responsibility of the on call registrar who would usually follow C's advice. C ws §79 As already stated, C was a go to person for advice. It was accepted by the R's witnesses</p>	<p>The number of appraisals the Claimant had did not denote autonomy in her role as suggested.</p> <p>The Claimant was not Ms Coombes' deputy. The Claimant did not take managerial decisions in Ms Coombes absence which related to sections/departments other than her own. The Claimant had no responsibility to make decisions about transfer of patients.</p> <p>In the comparison period the Claimant was not the "go to" person for clinical queries and advice. It is not accepted that in the comparison period it was not unusual for consultant assistance to be unavailable and</p>		<p>The number of appraisals was a matter for the claimant's manager not the claimant.</p> <p>R</p> <p>R – again save for the doctors who gave evidence.</p>

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<p>No. 80 [33]</p>	<p>that there would be situations where consultants would not be available – eg. if one was undertaking private practice elsewhere, another was away, and the other was undertaking a clinical activity.</p> <p>C ws §80 & JD at pp20-22 (Right hand column) give examples of typical questions C could be asked on a daily basis.</p> <p>The doctors confirm C was approached for clinical guidance. R’s witnesses accepted the questions at pp20-22 were the sorts of questions C might be asked.</p>	<p>that due to the seniority of her role the Claimant could not seek professional assistance within the Respondent.</p> <p>It is not accepted that in the comparison period the Claimant gave clinical guidance to team members on a daily basis. It is not accepted that in the comparison period the Claimant could be bombarded daily with questions related to clinical matters from cardiac physiologists, doctors on the wards and consultant cardiologists.</p>		<p>R</p>
<p>No. 81 [33]</p>	<p>C ws §81 – C was the most senior cardiac physiologist/person in the cardiac physiology dept. Although her duties were not comparable to the Chief Nurse, her seniority within the dept was on a par by analogy.</p>	<p>(1) In the comparison period the Claimant was not the most senior cardiac physiologist in the Respondent.</p> <p>(2) The Claimant’s role was not comparable to that of The Chief Nurse.</p>		<p>This depends on what is meant by most senior.</p>
<p>No. 82 [33]</p>	<p>The C’s reputation as an experienced cardiac physiologist was demonstrated on the evidence and ack’d by the R’s witnesses.</p>	<p>It is not accepted that in the comparison period the Claimant was considered one of the most experienced cardiac physiologists in the UK.</p>		<p>R</p>
<p>Section 4 (b) variety and complex. of probs</p> <p>No. 83 [33]</p> <p>No. 84 [34]</p>	<p>Agreed and not asserted to the contrary.</p> <p>as above.</p>	<p>Emergency work was not carried out at WCH in the comparison period. There were no administration/secretarial staff at WCH in the comparison period.</p> <p>The Claimant was not the most senior cardiac physiologist at the Respondent in the comparison period.</p>		<p>R</p> <p>See above</p>

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No. 85 [34]	As confirmed by the C's evidence and the doctors' evidence, she did. - range of investigations set out at p34 (point 85)	Save for possibly carrying out an occasional pacemaker check the Claimant did not undertake the investigations in the comparison period.	R
No. 86 [34]	Broadly correct, although some tests carried out at WCH (as per C ws §86)	In the comparison period administration services were not provided at sites other than WYH.	R
No. 87 [34]	She was – already dealt with. (see C ws §§87, 4, 27-34)	The Claimant was not Lead Cardiac Physiologist for Clinical Education of Cardiac Physiologists in the North West for the Respondent. It is not accepted that the Claimant was the Lead Cardiac Physiologist for Clinical Education of Cardiac Physiologists in the North West. In the comparison period the Claimant was not responsible for all elements of cardiac physiology embedded in undergraduate, masters and doctorate programmes provided by MMU at the university, at the research and training facility at the Respondent and at hospitals around the region providing clinical placements in support of the courses.	R
No. 88 [34]	As already stated, C did deliver training (see C ws §§ 4, 8, 21, 23-26, 29, 41, 54, 69)	In the comparison period whilst the Claimant as the manager had ultimate responsibility for training staff within her remit she did not deliver the training.	R save that C may have delivered occasional training sessions.
No. 89 [35]	As already stated. (see C ws §§ 58, 68, 70, 73)	It is not accepted that in the comparison period the Claimant was interpreting highly complex clinical data and making clinical decisions on a daily basis.	R
No. 90 [35]	C did deal with these matters – C ws §90. These matters were dealt with in	It is not accepted that in the comparison period the Claimant had to deal with a wide	R

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<p>No. 91 [35]</p>	<p>conjunction with AA, KP and Dr Hicks as described.</p> <p>C ws §91 - It was not the C's responsibility to make ultimate clinical decisions, but she did assist and advise where there was a divergence of opinion - eg. where not clear from wave forms on monitor whether device working properly, or over whether an exercise test should be performed. Not daily, but several times a week. Corroborated by doctors.</p>	<p>range of issues relating to undergraduate and postgraduate education including problems with course validation, exam pass marks, lecturers not turning up, accommodation problems etc.</p> <p>The Claimant did not have responsibility to make ultimate clinical decisions where there was a divergence of opinion between a Consultant and a cardiac physiologist. It is not accepted that in the comparison period the Claimant provided clinical advice on a daily basis.</p>		<p>R</p>
<p>No. 92</p>	<p>Secretary restructure undertaken as per C ws §42.</p>	<p>Save for Trust mandatory and local induction there was no formal education and training for secretaries.</p>		<p>R</p>
<p>No. 93</p>	<p>C ws §93 - requiring education reached required standards was absolutely one of the C's responsibilities given her position as head of department and lead for education.</p>	<p>The Claimant was not responsible for ensuring formal clinical education of all cardiac physiologists in the North West reached required standards</p>		<p>R</p>
<p>Section 4 (c): No. 94 [35] No. 95 [35]</p>	<p>As above C - ws §91 - not the C's clinical decision but she gave her input.</p> <p>C ws §95 As already stated she did, particularly</p>	<p>The Claimant did not have responsibility to make ultimate clinical decisions where there was a divergence of opinion between clinicians and cardiac physiologists and did not make such decisions on a daily basis in the comparison period.</p> <p>The Claimant did not have the highest level of specialist knowledge in the comparison period. Putting forward reasons for</p>		<p>R</p> <p>R</p>

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<p>No. 96 [35]</p>	<p>across such a range of specialisms. To challenge consultant medical staff known as leaders in their field on cardiac physiology matters does of course require specialist knowledge.</p> <p>As stated, she was in the dept.</p>	<p>interpretation does not require the highest level of specialist knowledge.</p> <p>The Claimant was not at the most senior level in cardiac physiology in the Respondent or the NHS.</p>		<p>R – medical staff were above the claimant.</p>
<p>Section 4(d): creativity, analysis etc.</p> <p>No.97 [35]</p> <p>No.98 [35]</p> <p>No.99 [35]</p>	<p>As stated, she did, and developed the new fast track specialist training scheme.</p> <p>C ws §98. C did not introduce or devise this schme during the period, but did develop it during the period. R simply cannot contradict this.</p> <p>AA confirmed that changes were made to the “treat and return” service during the period, but confirmed that she did not manage the treat and return provision but only dealt with the patients, so could not make further comment.</p> <p>Complex problems – as stated.</p>	<p>The Claimant did not develop the fast track training scheme in the comparison period.</p> <p>The Claimant did not develop the fast track day pacing service in the comparison period.</p> <p>It is not accepted that the Claimant was solving complex clinical problems in the comparison period.</p>		<p>C</p> <p>C</p> <p>R</p>
<p>Section 5(a): L’ship and superv. received (a) teamwork</p> <p>No.100 [36]</p>	<p>C ws §100 – maintains did give second opinion on data that appeared life threatening or serious. AA agreed that it was something that would possibly happen. Agreed that it made sense to talk through and good team work to get second opinion in such situations. Agreed that times that:</p>	<p>It is not accepted that in the comparison period cardiac physiologists would bring ECG data to the Claimant if it appeared very life threatening which the Claimant would then assess and communicate with ward staff.</p>		<p>R</p>

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	leads aren't on wards – they could be doing a clinical list; and consultant not on ward (rarely on ward); and C fairly reliably in her room and more easily interrupted. Made sense to user her as a resource to run concerning ECG reading past her.			
Section 5(b): l'ship and superv. No. 101 [36]	C ws §101 C did not physically sign off, but managed, had oversight and could make changes as agreed by Ms Fallon. C gives reasons why might make changes (eg. extra staff needing to be allocated to cath lab) in ws.	It is not accepted that in the comparison period the Claimant signed off the monthly on-call and weekly duty rosters. As a necessary part of the role the roster manager did have the experience to determine and re-prioritise staff. Changes to the roster for staff absence were made by the roster manager, not the Claimant, as the Claimant was not in work early enough. It is not accepted that re-prioritisation of staff and services in the event of cancellation of procedure lists arose with the frequency stipulated.		R
No. 102 [37]	C says she did as above. (C ws §§10, 25)	It is not accepted that in the comparison period the Claimant received out of hours calls for assistance or that she attended the hospital to provide assistance.		C but very rarely
No. 103 [37]	C dealt with secretaries as above (point 42 – restructure, clinical induction)	There was no formal post basic training or career development within the Respondent for secretaries.		R
Section 6: Acct'ability and respon. -Care of ors No. 104 [38]	C was responsible as lead of the dept for patients in the dept's care. She never suggested "autonomously".	The Claimant was not autonomously responsible for care of all patients undergoing cardiac investigation.		R
Section 6: (ii)	C ws §105 – C maintains that she did,	The Claimant did not develop/implement		C

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<p>implem clin care progs and (iii) assess clin care needs etc.</p> <p>No. 105 [39]</p> <p>No. 106 [39]</p>	<p>and R is not in position to contradict.</p> <p>As above, this was initiated prior, but developed during the period.</p>	<p>remote pacemaker/ICD monitoring in the comparison period.</p> <p>The Claimant did not develop and implement the fast track day pacing service in the comparison period</p>		<p>C</p>
<p>Section 6 (iv) involv in reg'n inspection, q.a. of facils / services</p> <p>No. 107 [40]</p> <p>No. 108 [40]</p>	<p>C ws §107</p> <p>The R simply does not know what peer reviews the C did or was asked to do.</p> <p>Mr Pearce expressly agreed that this was the sort of task asked of and undertaken by senior health professionals at the C's level, and he had done the same.</p>	<p>It is not accepted that the Claimant was commissioned by the BCS to perform formal peer reviews of the cardiology services at tertiary centres in the comparison period. The Claimant did not conduct any peer reviews as part of her duties in her role at the Respondent; voluntarily conducting peer reviews of other centres was not considered by the Respondent as integral to the Claimant's role.</p> <p>It is not accepted that in the comparison period the Claimant was commissioned directly by NHS Trusts from around the UK to perform similar reviews.</p>		<p>R</p> <p>R</p>
<p>Section 6: (v) direct involvt in prov'n clin advice etc. and (vi) direct deliv of a clin tech service</p> <p>No. 109 [40]</p> <p>No. 110 [40]</p>	<p>C maintains she was, as above – although this reduced (as she has described) after the move to the new heart centre.</p> <p>See C ws §110 – she maintains she did, particularly in relation to devices. It was recognised by the doctors and the</p>	<p>Save for possibly carrying out an occasional pacemaker check, it is not accepted that in the comparison period the Claimant was involved in direct patient care, performing complex investigations and advising patients as described.</p> <p>It is not accepted that in the comparison period the Claimant had as much clinical knowledge as the Consultant Cardiologists</p>		<p>R</p> <p>R</p>

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	R's witnesses that the C was a device specialist.	and senior cardiac physiologists		
Section 6: Financial resources / budgets No. 111 [44]	See C ws §111 C did not make such decisions on her own, and agrees she collaborated with others. Nevertheless, the C negotiated the deals and this was part of her role. Also C's responsibility to inform Finance Manager of info for budgeting.	Identifying efficiency savings and purchasing decisions was done in conjunction with the Consultants and other staff. Purchase of stock and equipment near its "use by date" was not an initiative of the Claimant. Equipment suppliers offer these deals to larger centres, but Consultant input and co-operation was required to implement them at the Respondent. Projections for future activity as requested at the annual budget setting meetings required a collaborative response from the cardiology team; the information was not determined solely by the Claimant.		R
Section 6: Organ'n and planning No. 112 [46] No. 113 [46] No. 114 [46] No. 115 [46]	C ws §112 – C was responsible and had oversight and some involvement – as above. C ws §113 – C maintains she did. R witnesses simply did not know what her involvement was. C ws §114 – C maintains she did. AA accepted in evidence that the C may well have delivered training to other professionals, and accepted that the C may have been involved in delivering/devising courses she simply did not know about (see various doc references to training – e.g. 334, 335, 336, 340, 350, 354, 364) C ws §115 – C maintains she did	The Claimant did not organise and plan the on-call rota in the comparison period. It is not accepted that in the comparison period the Claimant planned and resolved difficulties in the transport of patients for fast track pacemaker implantation. It is not accepted that in the comparison period the Claimant arranged 4 – 6 courses per year related to cardiology regionally and nationally with other professionals. It is not accepted that once every 3 months in the comparison period the Claimant arranged conferences with heads of cardiac physiology departments via the Cardiac Networks over the years of establishing new cardiac services in the North West		R C R – particularly in period leading up to 2009. R

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<p>No. 116 [47]</p>	<p>arrange conferences with heads of cardiac physiology depts.</p> <p>AA said she did not know about these meetings, but also accepted she would not expect to know or go to such meetings - e.g. mtg of 10/07/08 (p381).</p> <p>C ws §116 - C maintains she did plan and organise variety of courses. Worked closely with Dr Hick - which seemed to be accepted by the R's witnesses in evidence, although they of course denied knowledge of what C's meetings with Dr Hick were about.</p>	<p>from 2000 onwards.</p> <p>Save for the collaborative work the Claimant did with a Trust clinician in developing and implementing the North West Echo Night School, it is not accepted that over the comparison period the Claimant planned and organised a variety of courses in cardiac physiology which required her to determine course objectives and course content, devise course programmes, source contributors and agree honorarium and arrange meetings and accommodation.</p>		<p>C</p>
<p>No. 117 [46-47]</p>	<p>C ws §117 - C did work with the MMU in respect of content and validation of courses. That is plain from the evidence showing the C's interaction with Dr Hick - eg. 377, 380, 401.</p> <p>The R's witnesses appeared simply not to know about these matters although they were clearly evidenced.</p>	<p>It is not accepted that in the comparison period the Claimant co-ordinated with the senior lecturers and the Deputy Dean at MMU and ensured that the delivery and content of the BSc and MSc degree courses in Clinical Physiology were appropriate for the qualifications and that she supported them through validation. Quality assurance was not the Claimant's responsibility. It is not accepted that in the comparison period the Claimant was the professional body moderator for MMU.</p>		<p>C</p>
<p>No. 118 [47]</p>	<p>C ws §118 - C sets out in her statement what her involvement was in such matters. The R's witnesses simply weren't involved to know, but accepted the C may well have been (e.g. Pearce).</p>	<p>It is not accepted that in the comparison period the Claimant co-ordinated the training required for multi-centre drug studies by acting as lead adviser to the drug company which involved delegates from across Europe being trained on courses she organised in the North West</p>		<p>R</p>

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No. 119 [47]	C ws §119 – C explains what her role in funding (local funding) was, and also her responsibility to ensure that course provided was appropriate in respect of clinical elements.	Heart Centre.		R
No. 120 [47]	C ws§120 – as above – re remote follow up service – C was responsible for this – for the planning, development and organising.	Quality assurance of courses and student funding were not the Claimant’s responsibility.		C
No. 121 [48]	C ws §121 – as above – C developed and introduced new specialist scheme (which did not proceed).	In the comparison period the Claimant was not responsible for the introduction of the remote pacemaker/ICD follow-up service and she did not manage the project.		R
No. 122 [48]	C ws §122 – C maintains she did work with Anita McNabb to develop this. R does not have evid to the contrary.	The Claimant did not manage the fast track training scheme for cardiac physiologists’ project in the comparison period.		C
No. 123 [48-49]	C ws §123 – C gives evidence of attending Dept of Health for meetings and attending conference calls in respect of national developments of echocardiogram policy due to skills shortage. Worked alongside Prof Roger Boyle – the health tsar.	The Claimant was not responsible for the introduction of the stress echo service in the comparison period.		R – C possibly a consultee for DoH rather than a consultant.
No. 124 [49]	The R’s witnesses knew of Prof Boyle, but simply did not know of C’s work on this.	It is not accepted that in the comparison period the Claimant was a consultant on behalf of the Department of Health.		C
No. 125 [49]	C ws §124 – C says did work on this – relies on evid of meetings at Etrop Grange working on a relevant project team – see pp 332, 337. R cannot contradict.	Save for district general hospital echo, it is not accepted that in the comparison period the Claimant worked on project teams determining long term strategy for cardiac physiology and administration services in the North West as part of her role.		C
	C ws §125 – C refers to her high level	It is not accepted that in the comparison period the Claimant worked on project teams at MMU determining long term strategy for the education of cardiac physiologists.		

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	work with Dr Hick determining what was needed for MSc course and PhD course – as evidenced by corres at 386, 400, 402.			
Section 6: Prep'n of policies and procedures No. 126a [49] No. 126b [50]	As above – C says she did.	(1)The Claimant did not develop a policy for fast track training of cardiac physiologists; or (2)for the fast track day pacemaker service in the comparison period.		(1) C (2) R
No. 127 [51]	C ws §127 – C maintains she did – provides detail in ws. She does not say she was autonomous on this, working with a relevant cardiologist.	(1)The Claimant did not develop policies for “physiologist-led” services in Transthoracic Echocardiography and Exercise Tolerance Testing in the comparison period. (2)The Claimant was not autonomous in writing local policies.		(1) C – but worked with another. (2)R
No. 128 [51]	Already referred to – cf. project at Dept of Health in London, working with Prof Boyle.	It is not accepted that in the comparison period the Claimant developed and established national policies for Echo services across the NHS via a Department of Health project team.		R
No. 129 [51] No. 130 [51]	C ws §129 explains how they could – by local policies being adopted by other networks and so developing nationally.	The Cardiac Network did not set national policy.		R
No. 131 [52]	Cws §129 – C explains how did have autonomy and ultimate responsibility for writing polices re cardiac physiology practice at the Respondent. This is what one would expect of someone in her senior position.	The Claimant did not have autonomous responsibility for writing and developing policies relating to cardiac physiology practice at the Respondent.		R

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No. 132(a) [52]	The remote follow up and tilt table testing already dealt with – as confirmed by the R’s witnesses re the latter, C did deal with this, and it was during the period.	The Claimant did not develop the Respondent’s policy for remote pacemaker patient follow up and physiologist-led exercise ECG and autonomic function tilt table testing in the comparison period.		C
No. 132(b) [53]	C was involved re “limited” or “screening” echocardiogram – although did not proceed as set out in job description.	It is not accepted that in the comparison period the Claimant was involved as described as regards a “limited” or “screening” echocardiogram.		C
No. 133 [53]	C ws §133 – C maintains she did. The detail of 133 at p53 was put to the R’s witnesses (AA) – who accepted C might have done this.	It is not accepted that over the comparison period the Claimant was a leading educator in cardiac physiology.		R
No. 134 [54]	as above	It is not accepted that in the comparison period the Claimant developed a policy for the scope of practice of a new role “Cardiac Physiology Assistant Practitioner” which was adopted across the NHS via the Cardiac Networks.		
No. 135 [56]	C ws §135 – C maintains she did do this, and it was consistent and commensurate with her role and the role of the Trust as a leading Trust and educator in cardiac physiology. This is something else that the C did that the R’s selected witnesses simply did not know about.	The Claimant did not develop a policy for fast track training of cardiac physiologists in the comparison period.		C
No. 135 [56]	C ws §135 – C maintains she did do this, and it was consistent and commensurate with her role and the role of the Trust as a leading Trust and educator in cardiac physiology. This is something else that the C did that the R’s selected witnesses simply did not know about.	It is not accepted that the Claimant was required as part of her role to propose changes to policies and procedures external to the Respondent.		R
Section 6: of advice	C ws §136 – C was sole lead of the Dept ultimately responsible for leading the service.	The Claimant was not sole lead expert for cardiac physiology within the Respondent over the comparison period. It is not		R

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No. 136 [56]		The C was plainly nationally recognised, as confirmed by the doctors' evidence.	accepted that over the comparison period the Claimant was recognised as one of the UK's leading experts in cardiac physiology.		
Section provision of advice No. 137 [56]	6:	C ws §137 – C did provide her advice, knowledge and assistance for this. R has no evid to the contrary.	ii) It is not accepted that in the comparison period the Claimant acted as a consultant trainer and assessor for clinical trials conducted in centres in the UK and Europe		R
Section provision of advice No. 138 [56]	6:	C ws §138 – it was, because Dr's approached C for advice and she gave it – a fitting mentoring role for head of dept.	iii) it was not the Claimant's role to advise doctors of all grades both within the Respondent and outside of it, on career choices.		R
Section provision of advice No. 139 [56]	6:	C ws §139 – C maintains she did – ws sets out circumstances	v) It is not accepted that in the comparison period the Claimant worked with anaesthetists and nursing teams as described.		C
Section provision of advice No. 140 [56]	6:	C ws §140 – she did – as per ws, egl discussions with Helen Liggett and meetings at Gateway House, Stockport. (Example diary entry at 330)	vi) it is not accepted that in the comparison period the Claimant acted as a consultant with the Department of Health developing a National Diagnostics Programme or that she advised the Department of Health via the Cardiac Network as described.		C
Section provision of advice No. 141 [57]	6:	As above – C undertook reviews around the UK.	vii) It is not accepted that in the comparison period the Claimant was called by the Respondent to review cardiac physiology services around the UK to inform proposals for service development and/or to assist with staff issues.		R
Section provision of advice No. 142 [57]	6:	C ws §142 – C gives specific examples of this.	ix) It is not accepted that in the comparison period the Claimant advised GPs on choice of equipment for primary care cardiac diagnostics, training needs of practice nurses and access to training updates on interpretation of cardiac		C

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		diagnostics for GPs.		
Section 6: provision of advice No. 143 [57]	dealt with above – Pearce confirmed this may have happened.	x) it is not accepted that as part of her role the Claimant acted as an external expert on panels for cardiac physiology interviews at other hospitals 2 – 3 times a year in the comparison period		R
Section 6: provision of advice No. 144 [57]	dealt with above – peer reviews	xi) It is not accepted that in the comparison period the Claimant worked on behalf of the SCST and the BSC as an expert adviser for Department of Health-sanctioned reviews of cardiac centres		R
Section 6: provision of advice No. 145 [57]	Agreed that C had input from colleagues, but then she made the necessary decisions – C ws §145.	It is not accepted that the Claimant made choices about equipment without input from colleagues within the Respondent.		R
Section 6: quality No. 146 [58]	Agreed, but C was responsible for admin service provided via Wythenshawe.	There were no Cardiology Admin staff at WCH in the comparison period and the Claimant had no responsibility for the matters set out as regards cardiology admin staff at WCH in the comparison period.		R
Section 6: quality No. 147 [58] No. 148 [58]	C ws §147 – C explains she is referring to the introduction of an informal internal clinical audit programme	i) All services are required to participate in the Respondent’s audit programme. It was a Trust programme and not the Claimant’s initiative. The Claimant did not implement in the comparison period an additional audit programme following introduction of Cardiac Physiologist-led echo reporting.		R
Section 6: quality No. 149 [59]	C ws §149 – C was responsible for putting the content into the action plans.	5 yearly action plans were a requirement of the Trust Board, with all managers expected to contribute. It was a Trust programme and not the Claimant’s initiative.		R
Section 6: quality No. 150(a) [59] No. 150(b) [60]	C ws §150 C developed throughout the period as per her statement, establishing and developing services and appropriate	It is not accepted that in the comparison period the Claimant was involved in establishing the District General Hospital Catheter Laboratory Service in the North		C but continuing to work on matters started before the reference period.

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No. 150(c)[60-61]	training.	West via a Cardiac Network project team/was co-opted by the Greater Manchester Cardiac Network as the senior cardiac physiology adviser for development of District General Hospital catheter laboratory services in the North West or that she devised a training programme upon which she taught theory.		
Section 6: quality No. 151 [62]	dealt with. C ws §151 - C would arrange for locums if insufficient staffing.	In the comparison period the Claimant did not roster staff.		R
Section 6: quality No. 152 [62]	dealt with - the C did do this	It is not accepted that in the comparison period as part of her role the Claimant had to discuss, value and plan options for "best practice" for cardiac physiology at other NHS hospitals and Higher Education Institutes as an external adviser.		C
Section 6: quality No. 153	agreed - but C gave clinical input	The clinicians have ultimate responsibility for clinical decisions, not the Claimant.		R
Section 6: quality No. 149	agreed, as above.	5 yearly action plans were a requirement of the Trust Board, with all managers expected to contribute. It was a Trust programme and not the Claimant's initiative.		R
Section 6: quality No.154	?	Save for self-study and line manager reporting the Claimant did not work autonomously with the Consultant team in the matters set out.		Not understood
Section 6: staff No.155 [64]	She was - as above	It is not accepted that over the comparison period the Claimant was professional lead for cardiac physiology.		C
Section 6: staff No. 156 [64]	C ws 156 - C worked autonomously to devise plans which were then rolled out with assistance of Directorate mgr and HR.	Plans for staff retention required input/approval from the Directorate Manager and HR; the Claimant was not autonomous in developing staff retention plans.		R
Section 6: training	The C did - as above	(1) It is not accepted that in the comparison		(1) R

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mentoring teaching No.157 (a+b) [64]		<p>period the Claimant had significant responsibility for delivering training and teaching.</p> <p>(2)The Claimant was not lead cardiac physiology professional at the Respondent and she did not work autonomously as regards teaching/training.</p> <p>(3)Whilst the Claimant had overall responsibility as the department manager, in the comparison period save for some theoretical teaching on the North West Echo Night School at the beginning of the comparison period she did not organise and deliver training.</p>		<p>(2) C</p> <p>(3) R</p>
Section 6: training mentoring teaching No.158(a) [64]	as above	Save for mandatory and local induction there was no formal education and training programme for secretarial staff within the Respondent.		R
Section 6: training mentoring teaching No.159 [64]	as above	Training/mentorship to physiotherapists working in cardiac rehab was not provided in the comparison period.		C
Section 6: training mentoring teaching No. 160 [64]	as above & see C §160 – C gives examples The R’s witnesses accepted such training may have happened.	It is not accepted that in the comparison period the Claimant identified the training needs of individuals and staff groups outside cardiac physiology in the Respondent		R
Section 6: training mentoring teaching No. 161 [65]	as above	The Claimant did not develop the fast track training scheme for cardiac physiology and associated elements in the comparison period.		R
Section 6: training mentoring teaching	The C did do this – as above and as per subparagraphs in her ws §162	In the comparison period the Claimant did not originate the development of the North West Heart Centre as the clinical training		R

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<p>No. 162 (a-e) [66]</p>		<p>centre for cardiac physiology in the North West. The Respondent was not the clinical training centre for cardiac physiology for the North West. The Claimant did not lecture on the specialist clinical blocks held in each year of the 4 year BSc course over the comparison period, she did not source other specialist lecturers from around the UK, she did not provide in-house training placements or assist the Regional Clinical Cardiac Physiology Tutor in identifying clinical placements in other cardiac departments in the North West over the comparison period.</p>		
<p>Section 6: training mentoring teaching No. 163 (a-d) [67]</p>	<p>As above. While the C was not the senior clinical examiner, she did maintain and develop the courses and have lead responsibility.</p>	<p>In the comparison period the Claimant did not develop and have responsibility for the clinical components of the BSc and MSc degrees in conjunction with MMU and match clinical training to the requirements of the HEI external validators or professional body. In the comparison period the Claimant was not responsible for formulating periodic assessments, writing and marking and second marking exam papers and final year dissertations. The Claimant was not the senior clinical examiner for the courses in the comparison period. The Claimant did not have responsibility for quality and consistency of all examiners completing practical and theory assessments across each year of courses.</p>		<p>Claimant did liaise with MMU at high level. Andrea Arnold did the work on the ground.</p>
<p>Section 6: training mentoring teaching No. 164(a-b) [67-68]</p>	<p>See C §164 – KP did not complete PhD, but C was responsible for overseeing and supporting him.</p>	<p>It is not accepted that in the comparison period the Claimant developed a framework for a PhD programme. The Claimant did not mentor the postgraduate undertaking a PhD in Cardiac Physiology in the comparison period.</p>		<p>R</p>

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Section 6: training mentoring teaching No. 165 [68]	As above.	Development and instigation of the North West Echo Night School was a collaboration between the Claimant and a Trust clinician; the Claimant did not do this herself. The Claimant lectured on the theory and assisted with assessments at the beginning of the comparison period.		R
Section 6: training mentoring teaching No. 166 [68]	C ws §166 – there was sufficient development to allow a one off event, but this did not roll out before C’s departure.	The Claimant did not develop a cardiac rhythm night school in the comparison period; there has never been a cardiac rhythm night school at the Respondent.		C developed the idea but it did not pass trial.
Section 6: training mentoring teaching No. 167 [68]	as above – see more detail at C ws §167	There was no formal training scheme within the Respondent for secretaries.		R
Section 6: training mentoring teaching No. 168(a-d) [69]	C did provide training as above and as at §168. The C’s various training activities were accepted by the R’s witnesses as something she may well have done.	It is not accepted that over the comparison period the Claimant trained a wide range of healthcare professionals around the UK, senior clinicians and managers at national conferences and trainees on the BSc and MSc courses, or that over the comparison period the Claimant provided training for medical industry on clinical requirements for echo and device follow up services which generated income for the Trust.		R
Section 6: training mentoring teaching No. 169 [69]	She did - as above	In the comparison period it is not accepted that the Claimant taught Electrocardiography practice and interpretation to GPs and practice nurses and provided clinical placements for the nurses to observe and practice ECG techniques.		C
Section 6: training mentoring teaching	agreed – but C continued to develop in the period.	The Claimant did not instigate the “Basic Course in Echocardiography” in the comparison period		R

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No. 170 [69]				
Section 6: training mentoring teaching No. 171 [69]	She did – as above	In the comparison period the Claimant did not teach resting ECG and exercise ECG practise and interpretation for physiotherapists working in cardiac rehab and those working on the wards where patients were undergoing ECG monitoring.		C
Section 6: training mentoring teaching No. 172 [70]	She did – as above (see §160)	In the comparison period it is not accepted that the Claimant evaluated clinical training as provided to other healthcare professionals such as ECG training for ward nurses.		C
Section 6: tools / equipt / materials No. 173 [70]	C did have authority up to £90 – details as per C ws §173	In the comparison period high value call off orders were authorised at the outset by the Director of Finance and the Claimant was then authorised to call off products against that previously authorised order. £90,000 was not a ceiling limit above which formal tender processes were required and below which they were not. The Claimant did not have personal sign off authority up to £90,000. The Claimant did not have sole responsibility for establishing framework agreements for purchases in her department.		R
Section 6: tools / equipt / materials No. 174 [70]	C ws §174 – C did have such authority in situations set out in statement (where needed for urgent patient treatment)	The Claimant did not have authority to make sole purchasing decisions as described. In the absence of the Directorate Manager other lines of authority were available and it is not accepted that 2 – 3 times a year over the comparison period the Claimant took sole decisions on purchases in the absence of the Directorate Manager.		R
Section 6: tools / equipt / materials	C did install some updates and do minor repairs – as above and as per p70 of Job Description.	The Claimant as head of department had ultimate responsibility for ensuring electrical safety checking on all cardiac test		R

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No. 175 [70]		equipment following purchase and prior to use and thereafter annually, but the Claimant did not do that work. The Claimant did not perform minor repairs to equipment; it is not accepted that the examples given amount to minor repairs. The Claimant did not maintain and install equipment or software updates to equipment.		
Section 6: tools / equipt / materials No. 176 [71]	C was responsible as suggested and did some ordering herself as per C ws §176.	In the comparison period the Claimant as head of department had ultimate responsibility for ordering, controlling and maintaining stock and supplies but she did not do that work.		R
Section 7: rel'ships / contacts (1) cardiac phys teams etc. No. 177 [72]	as above	It is not accepted that over the comparison period the Claimant worked on the wards.		C does not claim to have worked on the wards on a routine basis.
Section 7: rel'ships / contacts (1) cardiac phys teams etc. No. 178 [72]	as above	It is not accepted that over the comparison period the Claimant had the frequency of contact stipulated.		C
Section 7: rel'ships / contacts (1) cardiac phys teams etc. No. 179 [72]	as above	It is not accepted that in the comparison period the Claimant had the level/type of contact stipulated as regards clinical matters or reassuring staff following a patient death or training in cardiac physiology or use of equipment.		R
Section 7: rel'ships /	as above	It is not accepted that in the comparison period the Claimant worked on the wards.		R - C not rostered to work on wards.

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contacts (2) wider cardiology team No. 180 [72]				
Section 7: rel'ships / contacts (2) wider cardiology team No. 181 [72]	C was §181 – C advised and gave guidance on cardiac physiology clinical matters and procedures as per detail in her ws. This was normal and proper.	It was not the Claimant's role to advise junior doctors, Consultants, radiographers and nurses on the performance of their functions and she had no responsibility for the same. It is not accepted that the Claimant advised junior doctors, Consultants, radiographers and nurses on the performance of their functions.		R
Section 7: rel'ships / contacts (2) wider cardiology team No. 182 [72]	C did – as above and also ws §182	It is not accepted that in the comparison period the Claimant had the level/type of contact stipulated as regards interpretation of data/clinical matters, patient complaints, organisational issues or changes for example adding new clinics or changing working practices.		R
Section 7: rel'ships / contacts (5) IT No number [73]	C ws heading 5) IT C worked collaboratively with IT team to develop systems as detailed.	In the comparison period the Claimant did not design new IT systems. Input as to local requirements only could be provided by the Claimant; the Claimant was not a systems designer/developer.		R
Section 7: rel'ships / contacts (7) R+D team No number [73]	C received the alerts from the Clinical Risk Team	The research and development team do not deal with matters such as potential equipment failures, for example problems with implanted pacemakers. The research and development team do not deal with MHRA alerts. It is not accepted that once a month the Claimant had contact with the research and development team about such equipment problems.		R
Section 7: rel'ships / contacts (7) R+D team		Presenting clinical audit/research data at cardiology clinical audit meetings and other directorate meetings is not presenting to the research and		R

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No number [73]		development team. Presenting clinical audit data is not research and development. It is not accepted that over the comparison period the Claimant had the level/type of contact stipulated as regards the research and development team.		
Section 7: rel'ships / contacts (9) Mgt team at WCH No number [74]	C stands by the frequency – there is no evidence to contradict	It is not accepted that in the comparison period the Claimant attended meetings at WCH with any frequency		R
Section 7: rel'ships / contacts (11) patients / families No number [74-75]	as above – C did have this contact.	It is not accepted that in the comparison period the Claimant had daily contact with patients and families, face to face, on the phone, on the ward, in the department or at patients' homes.		R
Section 7: rel'ships / contacts (11) patients / families No number [74]	as above – C did have such contact	It is not accepted that in the comparison period the Claimant discussed and explained procedures and test results, reasons for various investigations and their outcome and instructed patients on the use of devices for home monitoring.		R – save in respect of the post implant patients checked by the claimant.
Section 7: rel'ships / contacts (11) patients / families No number [74]	as above – C did this	It is not accepted that in the comparison period the Claimant carried out pacemaker checks with any frequency.		R
Section 7: rel'ships / contacts (11) patients / families No number [74]	as above – C was the or a go to person	The Claimant was not the “go to” person for advice on data interpretation or re-programming pacemakers. It is not accepted that in the comparison period junior staff went to the Claimant for advice on data interpretation or re-programming		R – save for the doctors who gave evidence.

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		pacemakers with any frequency.		
Section 7: rel'ships / contacts (11) patients / families No number [74]	as above – and as per C's heading no. 11) – C gave advice and made recommendations although did not actually admit.	It was not the Claimant's responsibility to determine whether patients needed urgent treatment and it not accepted that the Claimant made those determinations. In the comparison period the Claimant had no authority to arrange for a patient's admittance to hospital and it is not accepted that she did so.		R
Section 7: rel'ships / contacts (11) patients / families No number [75]		It is not accepted that over the comparison period the cardiology secretaries would transfer calls to the Claimant from patients who were upsetting them or disturbing their work with any frequency.		R
Section 7: rel'ships / contacts (12) medical students No number [75]	contact could be for this long, but was approximately once per month.	It is not accepted that approximately once a month in the comparison period the Claimant had contact for 2 – 3 hours with medical students attending for tutorials.		R
Section 7: rel'ships / contacts (12) medical students No number [75]	as above – the C did this	It is not accepted that in the comparison period the Claimant lectured to medical students or mentored medical students.		R
Section 7: rel'ships / contacts (13) non- clinical staff No number [75A]	as above – C did have such contact, possibly by telephone	It is not accepted that over the comparison period the Claimant had the frequency of contact with managers from other hospitals around the UK, lecturers from MMU and Salford University, complaints officers, commissioners, IT or the Coroner's office		C: 4-6 calls a day in total of this nature does not appear unreasonable.
Section 7: rel'ships / contacts (13) non- clinical staff	as above	It is not accepted that in the comparison period the Claimant was a consultant with the Department of Health.		R

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No number [75]				
Section 7: rel'ships / contacts (13) non- clinical staff No number [75]	C does not say she gave presentations to all these people – she gives examples of the forms of interaction she had.	It is not accepted that in the comparison period the Claimant gave presentations/lectures and department tours to non-clinical staff as set out. It is not accepted that in the comparison period the Claimant gave presentations to procurement staff and cardiology secretaries.		The number of matters mentioned in the question makes it impossible to answer with precision.
Section 7: rel'ships / contacts (14) suppliers No number [75A]	as above	The Claimant did not order the supplies in the comparison period		C gave instruction as to what should be ordered.
Section 7: rel'ships / contacts (14) suppliers No number [75A]	see C's para 14) – C was involved with decision making over training, but did not deliver this herself.	It is not accepted that the Claimant arranged the post-sales product training for pacemakers and ICDs in the comparison period.		C
Section 7: rel'ships / contacts (15) other depts and hospitals No number [76]	C maintains this – see her para 15)	The district general hospital catheter laboratory developments were not within the comparison period and it is not accepted that the Claimant had contact with other hospital staff 4 – 6 times per week over the comparison period.		R
Section 7: rel'ships / contacts (15) other depts and hospitals No number [76]	C maintains this – see her para 15)	It is not accepted that over the comparison period the Claimant had any frequency of contact with mortuary technicians or pathologists from within the Respondent and from other hospitals in the North West enquiring about removal and disposal of implanted pacemakers/ICD post mortem.		R
Section 7:	as above – C does not specify that this	It is not accepted that in the comparison		R

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rel'ships / contacts (16) higher education institutes, snr lecturers No number [76]	contact was all by meeting	period the Claimant had the frequency of contact via meetings at MMU/Salford University and the Respondent.		
Section 7: rel'ships / contacts (16) other depts and hospitals No number [76]	as above - C maintains this	It is not accepted that in the comparison period the Claimant designed courses for cardiac physiology mandatory and post basic education, reviewed exam results and advised on degree awards		R - this seems to be above and beyond the claimant's involvement with MMU.
Section 7: rel'ships / contacts (17) Gtr Mcr Cardiac Network No number [77]	C maintains that she did and that s17 of the JD at p77 is accurate. Frequency included meetings and telephone calls.	It is not accepted that as part of her role the Claimant was co-opted by the Greater Manchester Cardiac Network to advise on cardiac catheterisation services and pacemaker/ICD follow up and staffing, estates and equipment and training for cath lab roll out in the comparison period, or that she had the frequency of meetings at Gateway House, at other hospitals in the region and at conference centres and hotels in the North West and around the UK.		C
Section 7: rel'ships / contacts (18) DoH, Civil Servants and Heart Tsar No number [77]	This is approximate - see s18) of C's ws.	It is not accepted that 2 - 3 times a year over the comparison period the Claimant had professional relationship/contact with the Department of Health, Civil Servants and the Heart Tsar.		C
Section 7: rel'ships / contacts (18) DoH, Civil	as above - she did.	It is not accepted that in the comparison period the Claimant, as part of an "expert" group, examined proposals for training Assistant Practitioners.		C but not for the duration of the relevance period.

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Servants and Heart Tsar No number [77]				
Section 8: Physiscal demands and co-ordination: carrying No number [78]	as above - the C did sometimes do this	<i>Carrying</i> - Moving boxes of equipment/supplies was dealt with by other staff in the department or the porters, not the Claimant.		C
Section 8: Physiscal demands and co-ordination: constrained / awkward position No number [78]	C maintains - an occasional occurrence.	<i>Constrained/awkward position</i> - the Claimant did not perform echocardiograms in the comparison period. It is not accepted that in the comparison period the Claimant was on the wards checking pacemakers such as to be constrained by equipment. It is not accepted that in the comparison period the Claimant would be so constrained in the event that she conducted an occasional pacemaker check in the cath lab recovery area.		R
Section 8: Physiscal demands and co-ordination: driving No number [79]	Driving frequency includes for any reason.	<i>Driving</i> - it is not accepted that in the comparison period the Claimant drove with the frequency stipulated to WCH or to courses or to the University, to see suppliers or to visit other hospitals. There was no emergency on-call at WCH and it is not accepted that in the comparison period the Claimant travelled between WCH and WYH to support out of hours staff participating in emergency on-call and to travel to other hospitals.		R
Section 8: Physiscal demands and co-ordination: lifting	She did - as above (and see C's heading <u>Lifting</u>)	<i>Lifting</i> - it is not accepted that in the comparison period the Claimant lifted and transferred patients and lifted equipment		R

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No number [79]				
Section 8: Physical demands and co-ordination: manual dexterity and use of tools No number [79]	C undertook these activities but may have been less than daily.	<i>Manual dexterity & use of tools</i> - it is not accepted that in the comparison period the Claimant carried out pacemaker/ICD evaluations and positioned ECG electrodes on a daily basis. It is not accepted that in the comparison period the Claimant used fine tools and screwdrivers to undertake minor repairs to technical equipment. The Claimant did not perform echocardiograms in the comparison period and did not use ultrasound transducers.		R
Section 8: Physical demands and co-ordination: smell No number [79]	JD maintained	<i>Smell</i> - it is not accepted that in the comparison period the Claimant encountered unpleasant smells from patients 1 - 2 times a week whilst performing tests on inpatients and outpatients. The Claimant may have carried out an occasional pacemaker check only the in the comparison period.		R
Section 8: Physical demands and co-ordination: standing No number [79]	JD maintained	<i>Standing</i> - it is not accepted that in the comparison period the Claimant was required to stand to check pacemakers with the frequencies stipulated.		R
Section 8: Physical demands and co-ordination: touch No number [80]	JD maintained	<i>Touch</i> - it is not accepted that in the comparison period the Claimant performed investigations and provided patient reassurance with the frequencies stipulated.		R
Section 8: Physical demands and co-ordination: visual	JD maintained	<i>Visual</i> - it is not accepted that in the comparison period the Claimant visualised clinical data to check devices on a daily basis.		R

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No number [80]				
Section 8: Physical demands and co-ordination: others sit	JD maintained	<i>Others sit</i> – the Claimant did not perform echo studies in the comparison period		R
No number [80]				
Section 8: Physical demands and co-ordination: others bend kneel sit crouch	JD maintained	<i>Others – bend, kneel, stretch and crouch</i> – it is not accepted that 5 days a week in the comparison period the Claimant bent, knelt, stretched and crouched for the purposes of carrying out clinical work as stipulated.		R
No number [80]				
Section 8: Physical demands and co-ordination: bodily fluids	JD maintained save C did not have contact with semen.	<i>Bodily fluids</i> – it is not accepted that in the comparison period the Claimant personally dealt with patient faeces, urine and semen. Any contact with blood from pacemaker or other wounds would be rare given that the Claimant possibly conducted an occasional pacemaker check only in the comparison period.		R
No number [80-81]				
Section 8: Physical demands and co-ordination: sensory	JD maintained	<i>Sensory</i> - other than possibly carrying out an occasional pacemaker check the Claimant did not perform tests in the comparison period. The Claimant did not work in close proximity with the Cardiologists in the catheter laboratories in the comparison period.		R
No number [81]				
Section 9: Mental demands: memory	JD maintained	<i>Memory</i> – in the comparison period the Claimant may possibly have carried out an occasional pacemaker check only. The Claimant was not daily carrying out clinical tests, interventions and investigations,		R
No number [81]				

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		examining and assessing patients, analysing or reporting on cardiac investigations or reviewing test data in the comparison period. It is not accepted that over the comparison period the Claimant was providing specialist advice and analysing/solving clinical problems for other healthcare professionals locally and nationally. It is not accepted that over the comparison period the Claimant was teaching, training and assessing including compiling exam questions and marking		
Section 9: Mental demands: alertness and concentration No number [81-82]	JD maintained	As above		?
Section 9: Mental demands: deadlines No number [82-83]	JD maintained	<i>Deadlines</i> – the Claimant was not subject to deadlines for completion of course programmes, lectures, exam questions and marking in the comparison period. It is not accepted that the Claimant completed research analyses and reports in the comparison period.		R
Section 9: Mental demands: interruptions No number [83]	JD maintained	<i>Interruptions</i> – in the comparison period the Claimant was not the “go to” person for clinical queries, assistance and advice. It is not accepted that in the comparison period the Claimant was interrupted with any frequency by cardiac physiologists seeking advice and/or assistance regarding patient treatment/investigation including all cardiac physiology procedures.		R save in respect of interruptions from the doctors who gave evidence.
Section 9: Mental demands: interruptions	JD maintained	It is not accepted that in the comparison period the Claimant received the frequency of interruptions from doctors enquiring		R

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No number [83]		about patients waiting for tests. It is not accepted that in the comparison period the Claimant received daily interruptions from doctors seeking urgent advice as regards interpreting reports on tests.		
Section 10 – Working location & emotional demands: working location No number [85]	C would reduce 10 for University off site work to 5% and add 5% to non hands-on clinical work at WYH.	<i>Working location</i> – in the comparison period the Claimant spent more than 80% of her time in the CIU office. In the comparison period the Claimant spent less than 5% of her time in the WCH office and less than 5% of her time in CIU, wards, outpatient departments at WYH and WCH. She spent less than 10% of her time at external sites, universities, other hospitals, meetings rooms, lecture theatres etc.		R – C’s external visits reduced in the relevance period.
Section 10 – Working location & emotional demands: working environment; dirt No number [85]	JD maintained	<i>Working environment: dirt</i> – it is not accepted that in the comparison period the Claimant was required to deal with the issues stipulated with the frequency stipulated. Save for possibly carrying out an occasional pacemaker check the Claimant did not undertake clinical work with patients in the comparison period.		R
Section 10 – Working location & emotional demands: working environment; infection No number [86]	JD maintained	<i>Working environment: infection</i> – save for possibly carrying out an occasional pacemaker check it is not accepted that in the comparison period the Claimant undertook clinical work with patients. It is not accepted that in the comparison period the Claimant had any frequency of contact with patients.		R
Section 10 – Working location & emotional demands: working	JD maintained	<i>Working environment: odours</i> – in the comparison period the Claimant did not visit the wards to perform patient tests.		R

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environment; odours				
No number [87]				
Section 10 - Working location & emotional demands: working environment; toxic elements	JD maintained	<i>Working environment: toxic elements</i> - the Claimant did not work in the cardiac catheter laboratories in the comparison period such as to be exposed to x-rays or the matters set out. Decision as to implantable device rests with the doctor not the cardiac physiologist; such decision would be made before the commencement of the procedure.		R
No number [87]				
Section 10 - Working location & emotional demands: working environment; waste	JD maintained	<i>Working environment: waste</i> - it is not accepted that in the comparison period the Claimant was required to deal with human waste with the frequency stipulated or that she personally dealt with it. Save for possibly carrying out an occasional pacemaker check the Claimant did not undertake clinical work with patients in the comparison period.		R
No number [88]				
Section 10 - Working location & emotional demands: anti- social behaviour	JD maintained	<i>Anti-social behaviour</i> - it is not the Claimant's role to advise patients as to DVLA requirements. The Claimant may possibly have carried out the occasional pacemaker check only in the comparison period; it is not accepted that in that period the Claimant performed cardiac investigations. Prisoners are accompanied at all times by prison officers and it is not accepted that the Claimant was exposed to challenging behaviour from prisoners amounting to antisocial behaviour in the comparison period.		R
No number [88]				
Section 10 - Working location	JD maintained	<i>Emotional attachment</i> - the Claimant did not get involved in caring for patients;		R

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<p>& emotional demands: emotional attachment</p> <p>No number [88-89]</p>		<p>cardiac physiologists perform diagnostic investigations and tests and assist with procedures. They do not communicate life changing events to patients. Save for possibly carrying out an occasional pacemaker check the Claimant did not undertake clinical work with patients in the comparison period. It is not accepted that in the comparison period the Claimant visited the mortuary to switch off devices or engaged with patients and their families when prognosis was poor.</p>		
<p>Section 10 – Working location & emotional demands: mental / verbal abuse</p> <p>No number [89]</p>	<p>JD maintained</p>	<p><i>Mental/verbal abuse</i> – save for possibly carrying out an occasional pacemaker check it is not accepted that in the comparison period the Claimant undertook clinical work with patients and it is not accepted that she dealt with drunk patients, patients’ relatives or prisoners.</p>		<p>R</p>
<p>Section 10 – Working location & emotional demands: physical threats</p> <p>No number [89]</p>	<p>JD maintained</p>	<p><i>Physical threats</i> – save for possibly carrying out an occasional pacemaker check it is not accepted that in the comparison period the Claimant undertook clinical work with patients and interacted with patients/relatives.</p>		<p>R</p>
<p>Section 10 – Working location & emotional demands: work pressure / deadlines</p> <p>No number [89-90]</p>	<p>JD maintained</p>	<p><i>Work pressure/deadlines</i> – it is not accepted that in the comparison period the Claimant would daily be called for clinical assistance by the cardiac physiologists nor that she was involved in caring for patients. Save for possibly carrying out an occasional pacemaker check it is not accepted that in the comparison period the Claimant undertook clinical work with patients; in the comparison period the Claimant was not the “go to” person for clinical queries</p>		<p>It is not possible to say that the claimant did not have deadlines. Out of hours calls would have tailed off over the reference period. C does not claim to have negotiated formal overtime working.</p>

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		and issues. It is not accepted that in the comparison period the Claimant received calls in the night and at weekends because the on-call physiologist did not have the skills. It is not accepted that in the comparison period the Claimant negotiated with secretaries to work overtime following the imposition of the 18 week period.	
Section 10 – Working location & emotional demands: other stressful situations No number [90]	JD maintained	<i>Other stressful situations</i> – save for possibly carrying out an occasional pacemaker check it is not accepted that in the comparison period the Claimant undertook clinical work with patients. The Claimant did not draw up the policy for cardiac physiologist-led exercise tolerance testing in the comparison period. The Consultants have ultimate responsibility for clinical decisions not the Claimant.	R
Section 11 – Any other significant aspects: quality of care No number [91]	JD maintained – it was	<i>Quality of care</i> 7) It was not part of the Claimant’s role responsibilities to act as independent assessor for cardiac physiology services in other Trusts as required by the BCS, the SCST and the Department of Health. It is not accepted that in the comparison period the Claimant was independent assessor for the BCS, the SCST and the Department of Health	R
Section 11 – Any other significant aspects: information resources No number [91]	may have been 2 to 3 times per week	<i>Information Resources</i> 3) It is not accepted that over the comparison period the Claimant was producing daily reports based on interpretation of complex cardiac data produced by others. In the comparison period the Claimant may have carried out an occasional pacemaker check only.	R

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<p>Section 11 – Any other significant aspects: computer software</p> <p>No number [91-92]</p>	<p>JD maintained – C did undertake echo activity. She does not mean to imply she is a computer programmer – she worked with in house and third party programmers.</p>	<p>With regard to the use of computer software:</p> <p>1) the said calculation was not produced from inputting customised equations; the equipment produces the calculations from measurements taken by the cardiac physiologists. The Claimant did not undertake Echo in the comparison period.</p> <p>2) the Claimant collated monthly activity data. The Claimant did not undertake Echo in the comparison period.</p> <p>3) the Claimant did not install software updates on specialist equipment</p> <p>6) the Claimant did not design follow up programmes. She had input into the development of programmes/databases for cardiology but she did not develop them.</p>		<p>R</p>
<p>Section 11 – Any other significant aspects: R+D</p> <p>No number [92-93]</p>	<p>C refers to Research and Development section in her ws. The surveys were not part of Trust audits, but simply part of C's normal activity as head of the service.</p> <p>agreed – sometimes the C designed the audits – sometimes she managed audits required by others.</p> <p>C did participate in such activities, but may have been less than 5% of her time.</p>	<p><i>Research & development</i></p> <p>1) It is not accepted that once or twice a year the Claimant designed and implemented patient satisfaction surveys for each section of cardiac physiology and analysed and collated the results. It is not accepted that over the comparison period the Claimant regularly managed surveys required as part of clinical research studies.</p> <p>2) the Claimant was responsible for the audits but she did not carry them out.</p> <p>3) it is not accepted that in the comparison period the Claimant participated in R&D, clinical trials and that she spent 5% of her</p>		<p>R</p> <p>R</p> <p>R</p>

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	<p>JD maintained – as above. Some student work undertaken did amount to research and development work.</p> <p>JD maintained</p>	<p>time on such activities. It is not accepted that in the comparison period the Claimant participated in completion of investigations. It is not accepted that in the comparison period the Claimant participated in trials of high tech medical equipment prior to launch to the market.</p> <p>4) the Claimant was not the Respondent’s clinical lead for undergraduate and postgraduate cardiac physiology training in the North West. It is not accepted that in the comparison period the Claimant was clinical lead for undergraduate and postgraduate cardiac physiology training in the North West. It is not accepted that the Claimant carried out research and development which was not part of a formal research programme; the Claimant carried out audits of data. It is not accepted that in the comparison period the Claimant was supervisor and mentor for BSc and MSc students and that she proposed research ideas and assisted students in design of research protocols for final year projects for the BSc and for MSc dissertations, or that in the comparison period she was lead examiner with the responsibilities set out. It is not accepted that the matters referred to represent research and development work.</p> <p>5) it is not accepted that in the comparison period the Claimant carried out research/development which was part of a formal research programme. It is not accepted that completion of feasibility studies and determination of costs and</p>	<p>R</p> <p>R</p>	
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	<p>Accepted save for final sentence – C did download software herself on to devices.</p> <p>JD maintained as to 7) As to 8) C accepts that did not initiate/develop R & D programmes as she was not employed as a research scientist.</p>	<p>logistics amounts to carrying out research/development and/or participating in research/development projects. It is not accepted that in the comparison period the Claimant undertook clinical investigations as part of the studies.</p> <p>6) it is not accepted that in the comparison period the Claimant carried out daily quality control of her own equipment and that 2 – 3 times a year she undertook equipment testing or adaptation. The Claimant did not download software onto implanted devices in the comparison period.</p> <p>7) & 8) It is not accepted that around twice a year over the comparison period the Claimant co-ordinated/implemented and initiated/developed R&D programmes/activities.</p>	<p>R</p> <p>R</p>	
<p>Section 11 – Any other significant aspects: freedom to act</p> <p>No number [93-94]</p>	<p>C did perform tasks set out with autonomy and not under instruction.</p> <p>as above – this was a consultative process in which C made the final selection. JD maintained – this relates to clinical physiology procedures.</p> <p>JD maintained – as above. The local standard developed by the C was as part of the training programme for DGH physiologists.</p>	<p><i>Freedom to Act</i></p> <p>1) the Claimant did not have clinical autonomy over the matters set out</p> <p>2) device selection was not the Claimant’s responsibility.</p> <p>3) ensuring a patient’s treatment is in line with their presenting clinical condition was not the Claimant’s responsibility.</p> <p>5) (1) Save for possibly carrying out an occasional pacemaker check the Claimant did not undertake clinical work on patients in the comparison period and it is not accepted that the Claimant had to make the said decisions once or twice a week.</p>	<p>R</p> <p>R</p> <p>R</p> <p>R</p>	

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	<p>JD maintained – as above.</p> <p>C disagrees – see point 9) on at end of her ws. C had to work with suppliers to develop offers that sat within local and national Standing Financial instructions. SFI's which were prone to change required interpretation.</p> <p>JD maintained</p> <p>These targets may have been prior to comparison period save for targets for ECG reports to primary care and attainment of competency in fast track training scheme which were within the period, as were completion of cath lab training for DGH cardiac physiologists.</p>	<p>(2) It is not accepted that the Claimant developed a local standard for invasive cardiovascular monitoring during coronary interventions and device implementation in the comparison period.</p> <p>7) save for carrying out the occasional pacemaker check the Claimant did not undertake cardiac investigations and interventions in the comparison period. It is not accepted that in the comparison period the Claimant was involved in developing national standards in cardiac physiology.</p> <p>9) local standing financial instructions did not need interpreting; the financial limits of the Claimant's authority were clear.</p> <p>11) the Claimant could not make decisions in this regard without the approval of the Directorate Manager. The Claimant could not make any decisions which detrimentally affected the required emergency on-call service</p> <p>12) save for pacemaker follow-up, roll out of the various physiologist-led services did not take place in the comparison period. Withdrawal of cardiac physiologists from pressure monitoring in cardiac theatres and CITU did not take place in the comparison period. The fast track pacemaker service was not implemented in the comparison period.</p>	<p>C</p> <p>R</p> <p>R</p> <p>R</p>	<p>Unable to understand this multi-facetted question.</p>
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