EMPLOYMENT TRIBUNALS

BETWEEN

Claimant **Respondents**
Mr T Savory and 58 Others AND
South Western Ambulance Service NHS Foundation Trust (1)
Vocare Limited (2)

JUDGMENT OF THE EMPLOYMENT TRIBUNAL

HELD AT Exeter **ON** 24 May 2017

EMPLOYMENT JUDGE N J Roper

Representation
For the Claimants: **Mr J Duffy of Counsel**
For the First Respondent: **Mr T Pitt-Payne of Counsel**
For the Second Respondent: **Mr M Fodder of Counsel**

RESERVED JUDGMENT

The judgment of the tribunal is that:
1. The claimants' claims were presented within the relevant time limits and are not out of time; and
2. The application to amend these proceedings and to add Unison as a claimant to pursue the collective consultation claims is allowed.

REASONS

1. This is the judgment following a Preliminary Hearing to determine three linked issues: (i) whether or not the claimants' claims were presented in time (with the exception of the claim of Mr Oliver Barnard which it is accepted has been brought in time); (ii) whether all of the claimants or potential claimants are covered by the required ACAS Early Conciliation certificate(s); and (iii) whether the tribunal has jurisdiction to hear the two collective claims for failure to consult.
2. No evidence was adduced to the tribunal today, although I was asked to consider a statement from Ms Kerry Baigent, a Regional Organiser from Unison, on behalf of Unison and the claimants. I can only attach limited weight to this because she was not here to be questioned on this evidence. I have also been assisted by the helpful submissions of Counsel, and there was an agreed bundle of relevant documents and authorities to which

the tribunal was referred. Effectively the relevant facts are not generally in dispute, and it is the interpretation of the complex legal provisions which fall to be determined.

3. There are currently 59 claimants in this claim. They were all employed by the first respondent the South Western Ambulance Service NHS Foundation Trust and were engaged in the provision of the "111" telephone service for the NHS in Devon. On 30 September 2016 the first respondent's contract for the provision of that service came to an end, and it was awarded to Devon Doctors Limited who by agreement immediately subcontracted it to Vocare Limited, which is now the second respondent to these claims. The first respondent accepted that there was a service provision change and that the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("the TUPE Regulations") applied. Devon Doctors Limited and the second respondent disputed that the TUPE Regulations applied. Some of the claimants were retained by the first respondent in other roles; some of the claimants were taken on under new contracts with the second respondent; and some were dismissed. The claimants were represented at all times by Unison which was recognised by the first respondent as an independent trade union for these purposes.
4. These proceedings were issued on 24 January 2017 by Unison on behalf of their members, the 59 individual claimants. There were three named respondents, with Devon Doctors Limited subsequently dismissed as the originally named second respondent on 19 May 2017. That is why the remaining respondents are now the first respondent the South Western Ambulance Service NHS Foundation Trust, and the second respondent Vocare Limited.
5. The particulars of claim specified the following claims: unfair dismissal; if appropriate the right to a statutory redundancy payment; wrongful dismissal; unlawful deduction from wages (including any accrued but unpaid holiday pay); and (in the case of Ms Angela Hookings only) pregnancy and maternity discrimination. Ms Hookings has now withdrawn these discrimination claims. Paragraphs 25 to 29 of the particulars of claim were under the heading "Collective Legal Claims" and specified claims on behalf of Unison for failure to inform and consult under TUPE Regulation 15, and for a protective award under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ("TULR(C)A")). I refer in this judgment to these last two claims as "the collective consultation claims".
6. The respondents entered responses under which all of the claims were resisted. If these claims proceed there will be a preliminary hearing in November 2017 to determine whether the TUPE Regulations apply and which of the respondents is potentially liable for the claims.
7. With the exception of Mr Oliver Barnard whose individual claim was brought in time (and in respect of which the respondents take no issue) the remaining 58 individual claimants proceeded as follows. Their effective date of termination was 1 October 2016. With the exception of the claims relating to entitlement to a statutory redundancy payment (which have a six month primary limitation period), the "normal" three month primary limitation period for their claims would have expired on 31 December 2016. They commenced the early conciliation ("EC") process on 22 November 2016 (Day A). The EC certificate was issued on 22 December 2016 (Day B). The claims were lodged on 24 January 2017. Unison was not named as a prospective claimant during the EC process, and does not have an EC certificate in respect of the collective consultation claims. Similarly Unison is not named as a claimant in these or any other proceedings against the respondents in respect of the collective consultation claims.
8. These facts are not in dispute between the parties, but what is in dispute is the effect of the relevant legal provisions. In addition Unison has made an application, both on its own behalf and on behalf of the claimants, to be added as an additional claimant in respect of the collective consultation claims. That application is opposed by the respondents.
9. The relevant law is as follows. Put simplistically, with effect from 6 May 2014 a prospective claimant must obtain an early conciliation certificate from ACAS, or have a valid exemption, before issuing employment tribunal proceedings.

10. The relevant law relating to early conciliation ("EC") and EC certificates, and the jurisdiction of the Employment Tribunals to hear relevant proceedings, is as follows. Section 18 of the Employment Tribunals Act 1996 ("the ETA") defines "relevant proceedings" for these purposes. This includes in Subsection 18(1) of the ETA Employment Tribunal proceedings for the relevant claims now brought by the claimants and intended to be brought by Unison (including by virtue of TUPE Regulation 16(1)). Subsection 18A(1) of the ETA provides that: "Before a person ("the prospective claimant)" presents an application to institute relevant proceedings relating to any matter, the prospective claimant must provide to ACAS prescribed information, in the prescribed manner, about that matter." Subsection 18A(4) ETA provides: "If - (a) during the prescribed period the conciliation officer concludes that a settlement is not possible, or (b) the prescribed period expires without a settlement having been reached, the conciliation officer shall issue a certificate to that effect, in the prescribed manner, to the prospective claimant." Subsection 18A(8) ETA provides: "A person who is subject to the requirements in subsection (1) may not present an application to institute relevant proceedings without a certificate under subsection (4).
11. The prescriptive steps which must be taken in order to satisfy the EC requirements and to obtain an EC certificate are set out in the Schedule to the Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) Regulations 2014 ("the EC Regulations"). The EC Regulations also provide for limited prescribed exemptions which are set out in Regulation 3(1) (a) to (e). Neither the claimants nor Unison seek to rely on any exemption in this case.
12. With regard to the time limits, the first relevant statute is the Employment Rights Act 1996 ("the Act"). Section 111(2) of the Act provides that an employment tribunal shall not consider a complaint of unfair dismissal unless it is presented before the end of the period of three months beginning with the effective date of termination, or within such further period as the tribunal considers reasonable in a case where it is satisfied that it was not reasonably practicable for the complaint to be presented before the end of that period of three months.
13. Under subsections 23(2) and 23(4) of the Act these provisions are effectively replicated for unlawful deduction claims, and similarly these provisions are effectively replicated for breach of contract claims under Article 7(a) and (c) of the Employment Tribunals Extension of Jurisdiction (England and Wales) Order 1994. There are similar provisions for accrued holiday pay claims under Regulation 30(2) of the Working Time Regulations 1998.
14. These provisions are also replicated for the collective consultation claims by virtue of section 189(5) TULR(C)A and TUPE Regulation 15(12).
15. Section 207B of the Act provides: (1) This section applies where this Act provides for it to apply for the purposes of a provision of this Act (a "relevant provision"). But it does not apply to a dispute that is (or so much of a dispute as is) a relevant dispute for the purposes of section 207A. (2) In this section - (a) Day A is the day on which the complainant or applicant concerned complies with the requirement in subsection (1) of section 18A of the Employment Tribunals Act 1996 (requirement to contact ACAS before instituting proceedings) in relation to the matter in respect of which the proceedings are brought, and (b) Day B is the day on which the complainant or applicant concerned receives or, if earlier, is treated as receiving (by virtue of regulations made under subsection (11) of that section) the certificate issued under subsection (4) of that section. (3) In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted. (4) If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period. (5) Where an employment tribunal has power under this Act to extend a time limit set by a relevant provision, the power is exercisable in relation to the time limit as extended by this section.
16. I have been referred to and have considered the following cases, namely: Selkent Bus Co Ltd v Moore [1996] ICR 836; TGWU v Safeway Stores Ltd [2007] EAT; EBAY (UK)

Ltd v Buzzeo UKEAT/0159/13/MC; Enterprise Liverpool Ltd v Jonas and Others UKEAT/0112/09/MC; Northamptonshire CC v Entwhistle [2010] IRLR 740 EAT; Kusnetsov v Royal Bank of Scotland [2017] EWCA Civ 43; Ullah v London Borough of Hounslow ET/2302599/2015; Fergusson v Combat Stress ET(S)/4105592/16; Booth v Pasta King UK Limited ET/14501231/2014; and Hardy vBalfour Beatty Group ET/1306954/2014. I have also been referred to relevant extracts from Harvey's Encyclopaedia of Employment Law, the relevant government booklets, and an extract from Hansard. I have also considered the following cases to which I was not directed by Counsel at the hearing: Mist v Derbyshire Hospitals NHS Trust UKEAT/0710/15; Science Warehouse v Mills UKEAT/0618/15; and Drake International Systems Ltd v Blue Arrow Limited UKEAT/0282/15.

17. Were the Claims Brought in Time?
18. In the first place I deal with the issue of whether the claimants' individual claims have been brought in time. The prima facie position is that unless the provisions of s 207B of the Act apply then all of the claims (with the exception of the redundancy payment claims) have been issued out of time. The difficulty is that the apparent effect of subsections 207B(3) and (4) is to give conflicting results.
19. The claimants' case is that section 207B(3) applies and is clear in its wording. It states "In working out when a time limit set by a relevant provision expires the period beginning with the day after Day A and ending with Day B is not to be counted." Accordingly the 30 day period from 23 November to 22 December 2016 between Day A and Day B is not to be counted. The "clock is stopped" for this period, and the limitation date is therefore extended by 30 days from 31 December 2016 to 30 January 2017 and the claims were lodged in time.
20. The claimants argue that this clear application is in accordance with the guidance in Harvey at paragraph 290, which confirms that this precise method of calculation applies to cases (like the present case) where the entire conciliation period occurs within the three month limitation period. Harvey confirms that claimants are not to be disadvantaged by the amount of time taken out of the limitation period when complying with the EC provisions. In addition, the respondents' contentions about section 207B(4) (set out below) are in respect of a provision which is only there to serve a particular purpose, namely where the claimant leaves it late in the limitation period to comply with the EC provisions, and then is always given at least one further month within which to issue proceedings. This approach is also said to be consistent with another persuasive text namely Tolley's Employment Law Service.
21. On the other hand the first respondent contends that the applicable provision in this case is section 207B(4). This is because the primary limitation date of 31 December 2016 falls within the period specified in section 207B(4). Section 207B(4) provides that: "If a time limit set by a relevant provision would (if not extended by this subsection) expire during the period beginning with Day A and ending one month after Day B, the time limit expires instead at the end of that period." That period began on 22 November 2016 (Day A) and ended one month after Day B, that is to say on 22 January 2017. The effect of section 207B(4) is therefore that the statutory limitation period was extended in this case from 31 December 2016 only until 22 January 2017. The claims were not issued until 24 January 2017 and were therefore issued out of time. It is argued that a proper construction of the time limit referred to in the first line of section 207B(4) means the primary limitation date (expiring in this case on 31 December 2016), and does not mean the primary limitation date as extended by the previous subsection 207B(3). The first respondent argues that the claimants' interpretation effectively treats subsections 207B(3) and 207B(4) as cumulative provisions and wrongly assumes that the effect of section 207B(3) is to be read into subsection 207B(4), and that subsection 207B(4) simply does not provide for this. Neither does it say that a claimant is entitled to rely on either of the two provisions, and to select the more favourable termination date.
22. The second respondent supports the first respondent's position. It also refers to an extract from Hansard and comments made by the then Parliamentary Under Secretary of State for Employment Relations (Jo Swinson) when discussing a proposed amendment

to extend the time limit for TULR(C)A claims from one month to six months after engaging in the EC process. I am asked to accept that because the Minister only referred to the contingency of allowing for a period of one month, and made no reference to claimants having the potential benefit of one month or any longer period under section 207B(3), that effectively it was Parliament's intention not to allow any such longer period. I am not persuaded by that argument not least because the debate did not deal directly with the point in question.

23. There is no binding authority on this point. Three Employment Tribunal decisions at first instance are relevant. The first is Booth v Pasta King UK Limited ET/1401231/2014; the second is Hardy v Balfour Beatty Group Employment Ltd ET/1306954/2014; and the third is Ullah v London Borough of Hounslow ET/2302599/2015.

24. In Booth (in reply to the question as to whether a prospective claimant has the benefit of whichever is the later date, or whether subsection 207B(4) has precedence over subsection 207B(4)), EJ Davies concluded as follows: "4.5 - I accept that s207B is not explicit as to how subsections (3) and (4) interact. However in my view the proper construction is that the prospective claimant has the benefit of whichever is the longer time period under subsection (3) or subsection (4). The subsections operate cumulatively, not separately. The provision can and should be sensibly construed in that way as follows. 4.6 - There is nothing in section 207B expressly indicating that subsection (4) supersedes subsection (3) in cases where the primary time limit would ordinarily expire between the start of the early conciliation period and the period of one month after it. Accordingly, in my view, the starting point is subsection (3). That effectively stops the clock and adds the relevant number of days to the primary limitation period. 4.7 - We then come to subsection (4). It poses the question, would time expire within the period starting with Day A and ending with Day B plus one month extended by this subsection, i.e. by subsection (4)? The logical reading of that is that in a case where time would not expire within that period because of an extension under subsection (3), subsection (4) would not come into play. Furthermore, subsection (3) operates by altering the primary calculation of when time expires under the relevant provision. Accordingly when subsection 4 refers to the expiry of a "time limit set by a provision", it must refer to the time limit as calculated in accordance with subsection (3)."
25. The case of Hardy was not exactly on this point, but EJ Cocks decided similarly that the two subsections are applied cumulatively. Subsection 207B(3) was held to apply to add the days between Day A and Day B to Day B, and that section 207B(4) only applies in circumstances where subsection 207B(3) might otherwise disadvantage the claimant if he or she entered EC late in the primary limitation period. Similarly in Ullah, although this case again was not exactly on this point, EJ Baron considered the interplay between the two subsections and concluded: "The practice has therefore been to refer to the number of days between Day A and Day B and add them on when calculating the date for expiry of the limitation period. No difficulty arises with that approach provided that Day A is after the date of termination of employment." Neither Hardy nor Ullah can therefore be said to be inconsistent with the approach adopted in Booth.
26. I accept that these cases are not binding on this tribunal. I also accept that the statutory construction put forward by the respondents is at least arguable. Nonetheless I prefer the construction proposed on behalf of the claimants and as elegantly set out by EJ Davies in Booth as noted above. This is the approach generally adopted by Tribunals, and the other cases quoted are not inconsistent with it. Similarly, the textbooks quoted are not inconsistent with this approach. I also adopt the reasoning in Booth. In my judgment the claimants are entitled to rely on the extended limitation period as set out in section 207B(3) without that extended period being "trumped" by the alternative wording of section 207B(4). Accordingly I find that the extended limitation period for these claimants to bring these claims was 30 January 2017, and that the claims were lodged in time on 24 January 2017.
27. Unison's Application/The Collective Consultation Claims
28. I now turn to the remaining two issues which are interlinked, namely whether all the potential claimants are covered by EC certificates and whether Unison are permitted to

proceed with the collective consultation claims. In fact the parties agree that the 59 individual claimants are covered by their EC certificates. It is also accepted by the parties that Unison is the correct claimant for the collective consultation claims, and that effectively these cannot be brought by the individual claimants in circumstances where Unison was their recognised independent trade union. The remaining issue is therefore whether Unison should be allowed its application to amend these claims and to add itself as an additional independent claimant, in circumstances where (i) it is not covered by an EC certificate and (ii) it would prima facie be out of time if it sought to issue such proceedings now.

29. The facts and considerations in summary are these. The collective consultation claims can only be brought by Unison which was the recognised independent trade union on behalf of the 59 named claimants. Kerry Baigent says in paragraph 6 of her statement that: "I did not believe Unison was an individual claimant", and in paragraph 14 in her discussions with ACAS during the EC process: "I detailed the claims very carefully including the fact that there was a collective consultation claim." I am conscious that she was not called to give evidence and I can only give limited weight to her statement because she was not present to be questioned, but it does appear that the collective consultation claims were at least raised during the EC process.
30. In any event no EC certificate was obtained in the name of Unison, and Unison was not named as a claimant in these proceedings which were issued on 24 January 2017. Nonetheless paragraphs 25 to 29 of the particulars of claim made it clear that Unison intended to pursue the two collective consultation claims.
31. Unison has continued to represent the 59 claimants, and has now applied to amend these proceedings to be included as a separate claimant so as to pursue the collective consultation claims. That application was made at this hearing for the first time, some four months or so after the three month time limit for bringing such a claim had expired. The respondents oppose that application.
32. The respondents' objections put succinctly are these. This is not a mere relabelling of an existing claim. The provisions of section 18A(8) ETA are very clear and prevent any claim being presented without an EC certificate. This tribunal simply does not have jurisdiction to entertain any such claim because Unison has never obtained any such EC certificate. In addition, the application to amend is out of time, and no evidence has been adduced by Unison as to why it was not reasonably practicable to have presented the claim in time. Indeed, given that Unison presented a variety of different claims in time for 59 claimants, and the collective consultation claims were raised in the detailed particulars of claim, it is very difficult to see how it can be said that it was not reasonably practicable to have included the collective consultation claims in the name of Unison at the time of issue of these proceedings.
33. This is an application to amend an existing claim, albeit by adding a new claimant out of time and without an EC certificate. I have been referred to TGWU v Safeway Stores Ltd [2007] UKEAT 0092/07/0606 which is similar to this case in that the TGWU applied out of time to amend individual claims submitted on behalf of its members to include collective consultation claims in the name of the TGWU. Underhill J as he then was revisited the case law relating to amendment applications made out of time. The then existing case law had been reviewed in Selkent Bus Co Ltd v Moore [1996] ICR 836. He referred in paragraph 13 to the threefold categorisation of proposed amendments which alter existing claims or add new claims: (i) amendments which are merely designed to alter the basis of an existing claim, but without purporting to raise a new distinct head of complaint; (ii) amendments which add or substitute a new cause of action but one which is linked to, or arises out of the same facts as, the original claim; and (iii) amendments which add or substitute a wholly new claim or cause of action which is not connected to the original claim at all. This review of the authorities went on to conclude that there was no difficulty about time limits or absolute bar to allowing amendments out of time as regards categories (i) and (ii), but that for category (iii) the tribunal must consider whether the new claim is in time and, if not, whether time should be extended to permit it to be made. He went on to conclude in TGWU v Safeway Stores Ltd that the tribunal had a

discretion to allow the amendment notwithstanding that the claims were out of time and that in the particular circumstances of the case it was proper to allow the amendment.

34. That case is very similar to the current case before this tribunal. Were it not for the absent EC certificate, it would be my judgment be appropriate to exercise discretion to allow the amendment to add Unison as a new claimant even though the claim was out of time. The application seems to me to fall into the second category of amendments, namely (ii) amendments which add or substitute a new cause of action but one which is linked to, or arises out of the same facts as, the original claim. That is because the claim was always considered from the outset, and was specifically included in the detailed particulars of claim. The absence of Unison as an individual claimant appears to have been only an oversight. There is no prejudice to either respondent because they were on notice of the collective consultation claims from the very outset of proceedings in the particulars of claim. The delay is only a matter of four months and will have no adverse affect to the cogency of the evidence, and it is still possible to have a fair trial of the issues relating to the collective consultation claims. To disallow the application for amendment would have the greater injustice to 59 claimants who would be deprived of the collective consultation claims merely because Unison failed to name itself as an additional claimant. It would be prejudicial to the 59 claimants and Unison to refuse the amendment, whereas to refuse it would at the same time be a windfall to the respondents.
35. My initial conclusion is therefore to exercise discretion to allow the late amendment and to allow Unison to be added as an additional claimant to pursue the collective consultation claims. There is however the added complication that Unison does not have an EC certificate and on the face of section 18A(8) ETA is not permitted to pursue such a claim.
36. There does not appear to be any appellate authority on whether a late amendment should be permitted in these circumstances. There is however recent EAT authority on whether a claimant should be allowed to amend a claim out of time to join a new respondent where an EC certificate has not been obtained against that respondent. In Mist v Derbyshire Hospitals NHS Trust UKEAT/0710/15 HHJ Eady QC found that the approach to be adopted by the Employment Tribunal was as laid down in Selkent. The fact that the application was to add a claim out of time would not be determinative, neither would any failure of explanation for the delay. The paramount consideration was the relative injustice and hardship in refusing or granting an amendment. Secondly, the claimant in that case was not required to undertake EC to include a claim against the new party because she was no longer a "prospective claimant". In addition that approach was consistent with Rule 34 of the Employment Tribunal Rules of Procedure which concerns the additional substitution of parties in Employment Tribunal proceedings without any reference to any further EC requirements. It also gives effect to the overriding objective by allowing the Employment Tribunal to deal with the case before it in a proportionate manner, avoiding unnecessary formality, seeking flexibility in the proceedings, and avoiding delay and expense.
37. HHJ Eady QC reached a similar conclusion in Science Warehouse v Mills UKEAT/0618/15, where the claimant was allowed to include a new claim for victimisation after presentation of the claim without having been able to raise that matter during the EC process. The power to amend was held to have fallen within the Employment Tribunal's residual power to permit applications to amend and the obligation to obtain an EC certificate related only to prospective and not existing claimants.
38. Langstaff P as he then was reached a similar conclusion in Drake International Systems Ltd v Blue Arrow Limited UKEAT/0282/15, when dealing with the relatively common problem following a service provision change where the claimant was not clear about the true the identity of the transferor who was not named correctly in the EC process or subsequent proceedings. The following passage is relevant: "Since a reference to ACAS in respect of possible early conciliation was required only before relevant proceedings were instituted, in respect of a prospective claimant and a prospective respondent, and since on the facts relevant proceedings had been instituted the claimant was no longer prospective, such a reference was not required. Nor was Rule 34 of the Employment

Tribunal Rules, which provided a discretion to make an amendment, ultra vires the statute. Moreover, it provided a discretion as to making amendment, to be exercised in line with the overriding objective: whereas it might well be envisaged that an Employment Judge might decline permission if the proposed substituted respondent was completely independent of the existing respondent, and there was little if any connection on the facts between them, that did not apply in the present case."

39. Bearing in mind all of the above my conclusion is as follows. Although there appears to be no direct appellate authority on the point, once proceedings have been issued the ability to allow amendment and additional parties is governed by Rule 34 of the Employment Tribunals Rules of Procedure and the application of the Selkent and related principles. The cases of Mist v Derbyshire Hospitals NHS Trust, Science Warehouse v Mills and Drake International Systems Ltd v Blue Arrow Limited are all EAT authority for the proposition that additional respondents can be added without EC certificates against them by applying these principles. I recognise that in each of those cases the claimant was no longer a "prospective claimant", and in this case Unison is a prospective claimant, but by analogy I find that s18A(8) ETA is not a statutory bar to the addition of another party in current proceedings. Rule 34 permits this, and it is not ultra vires the ETA in this respect (Drake International Systems Ltd v Blue Arrow Limited).
40. Unison's application to allow the late amendment is therefore to be determined under Rule 34 and the Selkent and related principles. The fact that the application was to add a claim out of time would not be determinative, neither would any failure of explanation for the delay. The paramount consideration was the relative injustice and hardship in refusing or granting an amendment.
41. In this case Unison engaged in the EC process with ACAS and referred to the collective consultation claims during that process. In addition it was clear on the face of the particulars of claim from the outset that Unison intended to pursue the pleaded collective consultation claims. Both respondents were therefore aware of the collective consultation claims and the pleaded basis for them from the commencement of these proceedings. The application to amend has been made out of time, but the delay was only four months and the matters relating to the treatment of the claimants by the respondents will remain to be litigated in the context of the individual claims in any event. The cogency of the evidence will not be affected by the late amendment. The fact that it is an application to add the claim out of time is not determinative, neither is any failure of explanation for the delay. The delay will have no adverse affect on the cogency of the evidence, and it is still possible to have a fair trial of the issues relating to the collective consultation claims.
42. The paramount consideration is to consider the relative injustice and hardship in refusing or granting the amendment. To disallow the application for amendment would have the greater injustice to 59 claimants who would be deprived of the collective consultation claims merely because Unison failed to name itself as an additional claimant. It would be prejudicial to the 59 claimants and Unison to refuse the amendment, whereas to refuse it would at the same time amount to a windfall to the respondents. The respondents remain able to pursue their defence to the claims as pleaded.
43. In conclusion therefore I exercise my discretion to allow the application by Unison to add itself as a further claimant so as to pursue the pleaded collective consultation claims.

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Employment Judge N J Roper

Dated: 6 June 2017

Judgment sent to Parties on 9 June 2017

For the Tribunal

	Case no.	**Claimant**
1.	1400119/2017	Mr T Savory
2.	1400120/2017	Mr J Baker
3.	1400121/2017	Mrs C Bale
4.	1400122/2017	Mrs K Ballard
5.	1400123/2017	Mr O Barnard
6.	1400124/2017	Mrs S Barry
7.	1400125/2017	Ms W Bartlett
8.	1400126/2017	Mr M Beavis
9.	1400127/2017	Mrs R Bennett
10.	1400128/2017	Mrs S Boardman
11.	1400129/2017	Mrs J Boland
12.	1400130/2017	Mr M Brimacombe
13.	1400131/2017	Mrs K Buss
14.	1400132/2017	Mrs J Cable
15.	1400133/2017	Mr N Chapman
16.	1400134/2017	Miss A Correia
17.	1400135/2017	Mrs H Douglas
18.	1400136/2017	Mrs K Doyle
19.	1400137/2017	Ms G Durham
20.	1400138/2017	Mrs J Gowing
21.	1400139/2017	Mr S Gubb
22.	1400140/2017	Mrs M Guest
23.	1400141/2017	Miss A Hookings
24.	1400142/2017	Mr A Hillman
25.	1400143/2017	Miss R Hunt
26.	1400144/2017	Mr A Johnson
27.	1400145/2017	Mrs D Kahana
28.	1400146/2017	Mr D Kirby
29.	1400147/2017	Mrs C Kyle
30.	1400148/2017	Ms A Lesniewska
31.	1400149/2017	Ms J Lowenthal
32.	1400150/2017	Mr B Matthews
33.	1400151/2017	Mrs J McCann
34.	1400152/2017	Mr D Moffatt
35.	1400153/2017	Mr R Mortimer
36.	1400154/2017	Mr P O'Shea
37.	1400155/2017	Miss A Page
38.	1400156/2017	Mrs C Perkins
39.	1400157/2017	Mrs A Piercy
40.	1400158/2017	Mrs C Pilkington
41.	1400159/2017	Mr R Prior
42.	1400160/2017	Miss J Pritchard
43.	1400161/2017	Mr G Reed
44.	1400162/2017	Ms P Rosewell

45.	1400163/2017	Mr D Savicevic
46.	1400165/2017	Mrs A Simmonds
47.	1400166/2017	Mrs T Stanton
48.	1400167/2017	Mr M Sullivan
49.	1400168/2017	Miss A Taplin
50.	1400169/2017	Ms C Taylor
51.	1400170/2017	Mrs C Townsend
52.	1400171/2017	Mrs S Warner
53.	1400172/2017	Mrs K Weir
54.	1400173/2017	Mrs L Weir
55.	1400174/2017	Mr M White
56.	1400175/2017	Mrs E Wilding-Webb
57.	1400176/2017	Miss H Williams
58.	1400177/2017	Miss K Wills
59.	1400178/2017	Mrs D Woodes