



EMPLOYMENT TRIBUNALS

Claimants: Mr C Boyle and Others

Respondents: (R1) North Midlands Construction Plc
(R2) MB Groundbreaking Limited
(R3) Future Network Solutions Limited

Heard at: Nottingham **On:** Monday 4 September 2017

Before: Employment Judge Hutchinson (sitting alone)

Representatives

Claimants: Ms L Millin of Counsel
Respondent: Mr J Gidney of Counsel

JUDGMENT

The Employment Judge gave judgment as follows:-

1. The Employment Judge declares that the Claimants complaints that the Respondents have failed to comply with the requirements of regulations 13(2), 13(6) and 14 of the Transfer of Undertakings (Protection of Employment) Regulations 2006 are well founded.
2. He makes an order that the Respondents shall pay compensation to each of the Claimants in the sum of 13 weeks pay. The amount payable to each Claimant is as follows;

Gary Blunt	-	£10,374.00
<u>William Wallace</u>	-	£6,298.50.00
Peter Rushton	-	£6,368.93
Winston Pusey	-	£6,175.00
James Hedges	-	£6,781.58
Gary Emery	-	£8,465.99
Craig Boyle	-	£7,780.11
John James	-	£7,682.09
John Oldham	-	£5,831.02

Dennis Timson - £6,001.45

3. In respect of each of the Claimants the Employment Judge also gave judgment as follows:-

Gary Blunt

(i) The Claimant was unfairly dismissed and the second Respondent is ordered to pay compensation to the Claimant:-

Basic award	-	£5,568.00
Compensatory award	-	£2,697.84

(ii) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay compensation to the Claimant in the sum of £7,242.60.

(iii) The second Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £60.35.

William Wallace

(i) The Claimant was unfairly dismissed and the second Respondent is ordered to pay to the Claimant:-

Basic award	-	£12,296.00
Compensatory award	-	£4,341.52

(ii) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay damages to the Claimant in the sum of £4,536.00.

(iii) The second Respondent has failed to pay to the Claimant his holiday entitlement and is ordered to pay the Claimant the sum of £329.18.

Peter Rushton

(i) The Claimant was unfairly dismissed and the second Respondent is ordered to pay to the Claimant:-

Basic award	-	£12,296.00
Compensatory award	-	£5,163.72

(ii) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay damages to the Claimant in the sum of £4,639.44.

(iii) The second Respondent has not failed to pay the Claimant's holiday entitlement and that claim is dismissed.

Winston Pusey

(i) The Claimant was unfairly dismissed and the second Respondent is ordered to pay to the Claimant:-

Basic award	-	£12,296.00
Compensatory award	-	£3,084.88

(ii) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay damages to the Claimant in the sum of £3,794.88.

James Hedges

(i) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay damages to the Claimant in the sum of £415.66.

(ii) The second Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £220.00.

Gary Emery

(i) The Claimant was dismissed in breach of contract in respect of notice and the second Respondent is ordered to pay damages to the Claimant in the sum of £1,849.36.

(ii) The second Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £276.80.

Craig Boyle

(i) The Claimant was dismissed in breach of contract in respect of notice and the third Respondent is ordered to pay damages to the Claimant in the sum of £463.22.

(ii) The third Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £228.00.

John James

(i) The Claimant was dismissed in breach of contract in respect of notice and the third Respondent is ordered to pay damages to the Claimant in the sum of £491.63.

(ii) The third Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £419.93.

John Oldham

- (i) The Claimant was dismissed in breach of contract in respect of notice and the third Respondent is ordered to pay damages to the Claimant in the sum of £361.23.
- (ii) The third Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £171.00.

Dennis Timson

- (i) The Claimant was dismissed in breach of contract in respect of notice and the third Respondent is ordered to pay damages to the Claimant in the sum of £370.10.
- (ii) The third Respondent has failed to pay the Claimant's holiday entitlement and is ordered to pay the Claimant the sum of £171.00.

Tribunal Fees

4. The Claimants have paid fees in connection with this claim. In **R (on the application of Unison) v Lord Chancellor** [2017] UK SC 51 the Supreme Court decided that it was unlawful for Her Majesty's Courts and Tribunals Services (HMCTS) to charge fees of this nature. HMCTS has undertaken to repay such fees. In these circumstances I shall draw to the attention of HMCTS that this is a case in which fees have been paid and are therefore to be refunded to the Claimants. The details of the repayment scheme are a matter for HMCTS.

Recoupment Regulations

5. I am satisfied that the Recoupment Regulations do not apply in any of these cases.

REASONS

Background to this Hearing

1. At a Preliminary Hearing on 10, 11 and 12 January 2017 I decided that the Claimants Emery, Hedges, Pusey, Rushton, Wallace and Blunt had transferred their employment from North Midlands Construction Plc to MB Groundbreaking Limited on 20 February 2015. These employees are known as the Staffordshire employees.

2. I also found that the Claimants Boyle, James, Oldham and Timson had transferred their employment on the same date to Future Network Solutions Limited. These are known as the Lincolnshire employees.

3. The second Respondents have appealed against that decision and the

hearing is before the Employment Appeal Tribunal later this year or early in 2018.

4. On 25 May 2017 I conducted a case management Preliminary Hearing at which the 3 remaining Respondents were present along with representatives for the Claimants. It was agreed that I should conduct a Remedy Hearing and determine all the claims including those against MB Groundbreaking Limited.

5. At a further hearing on 30 August 2017 after the appeal of MB Groundbreaking Limited had passed the first sift I dealt with an application to postpone the Remedy Hearing. On balance I decided not to postpone this hearing. The Claimants in this case were all dismissed in February 2015 and they have been waiting long enough for an outcome to their cases. Further, the second Respondents can apply if necessary for a stay in respect of the enforcement of the judgment to the County Court pending the outcome of the appeal. It also means that if there is any appeal against my remedy judgment that can also be brought before the Employment Appeal Tribunal at the same time.

6. I felt that, in view of the overriding objective, on balance the Remedy Hearing should go ahead.

7. The main matters that I would have to deal with at this Remedy Hearing were set out in the note to the telephone hearing of 25 May 2017 namely:-

7.1 What period should the compensation period be for the failure to consult?

7.2 When would the Claimants have been dismissed by MB Groundbreaking Ltd in any event?

7.3 How much holiday pay are the Claimants entitled to?

8. It is not in dispute that liability for any claims for unfair dismissal, holiday pay and notice pay rests in respect of the Shropshire Claimants with MB Groundbreaking Limited and in respect of the Lincolnshire Claimants with Future Network Solutions Limited.

9. Liability for the failure to inform and consult the Claimants pursuant to Regulation 13 of TUPE potentially falls on all the Respondents.

10. The second and third Respondents chose not to attend the hearing although I did have a statement from Michael Barrett of MB Groundbreaking Limited who said that they were appealing the judgment. He said that they were not aware of any obligation to inform and consult and in any event if the Shropshire Claimants had transferred they would have been made redundant with immediate effect. Further in any event on 15 May they gave notice to Carillion Telent to terminate the contract.

11. I have heard nothing at all from the third Respondents who have not appealed against the decision that I made following the Preliminary Hearing.

Evidence

12. I have already referred to the statement of Michael Barrett but I heard no further evidence from either the second or third Respondents and Mr Barrett did

not attend the hearing himself.

13. All the Claimants provided witness statements and I heard live evidence from Gary Blunt, William Wallace, John James and Craig Boyle. Although we discussed calling Mr Oldham to give evidence the parties decided it was not necessary to hear evidence from him.

14. I also heard evidence from the first Respondent's witness Sian O'Leary. Ms O'Leary was a junior and inexperienced HR Manager working for North Midlands Construction. She reported to an HR Director, Karen Morris.

15. There was an agreed bundle of documents and where I refer to page numbers it is from that bundle.

16. In respect of the Claimants, after the parties had been given time to agree matters there was no dispute as to their dates of employment and rates of pay and the amount of holiday pay they were due. This is with the exception of Mr Rushton who was claiming 4 days' holiday pay when the first Respondent said that he had actually taken 4 days holiday during that holiday year. I decided to accept the evidence of Ms O'Leary in respect of that. Mr Rushton was not in attendance to give evidence himself and I decided that he was not due any holiday pay.

Relevant Facts

17. As I found in my original judgment following the Preliminary Hearing the first Respondents undertook work for a joint venture which will be referred to as Carillion Telent ("CT") in 2 regions. In Shropshire they undertook a type of work known as BAU Civils from 2011 and BDUK work from 2013. In Lincolnshire they undertook BDUK work only from 2011.

18. All the Claimants were employed by the first Respondent.

19. The Shropshire Claimants were Messrs Emery, Hedges, Pusey, Rushton, Wallace and Blunt and the Lincolnshire Claimants were Messrs Boyle, James, Oldham and Timson.

20. Again, as I described in the judgment and reasons at the Preliminary Hearing the first Respondents had considerable problems both with the contract in Shropshire and the one in Lincolnshire and had made CT aware of those problems. At no stage did they inform the Claimants of any such problems.

21. The first Respondent's decided to give 4 weeks' notice of termination of the contract on 23 January 2015 which brought the contract to an end with effect from 20 February 2015. The letter from the first Respondent referred to "numerous meetings and issues highlighted over the past 6 months have not resulted in any compromise or mutual way forward".

22. The first Respondent's did not inform the Claimants about giving notice of termination and the effect that it would have upon them. They did not invite their employees to elect representatives so that they could comply with their obligation to consult with their employees.

23. I have seen in the bundle an exchange of correspondence between

Tony Eblett of CT and Geoff Poyser of the first Respondent's about the termination (pages 12 and 13).

24. The first Respondent's did nothing then until 5 February. There is an e-mail from Alison Walker, Contracts and Finance Director of the first Respondent's to Richard Newton and John Rawlinson asking them to supply HR with details of the employees that might be eligible for TUPE across to the contractor taking over NMC's work in Shropshire and Lincolnshire.

25. Following this Sian O'Leary then became involved in the process. She wrote to CT on 6 February 2015 (page 15) saying that she believed that the TUPE Regulations applied and that their employees assigned to the contracts were entitled to transfer to the new contractor. Mr Sedmen on behalf of CT replied the same day to say that in their opinion in this instance TUPE did not apply (page 16).

26. Ms O'Leary sent a further letter then to CT on 9 February 2015 (pages 17-18) reiterating the first Respondent's position. She asked for employee liability information from CT as required under TUPE. She also wanted CT to confirm whether it envisaged taking any measures following the transfer to enable them to consult with the affected employees. It can be seen from the documentation that the first Respondent's did not provide any information to their workers and employees prior to 13 February 2016.

27. On 13 February 2016 Ms O'Leary held meetings in the morning at Telford (the pre-prepared minutes are at pages 23-24) and at Grantham in the afternoon at 1 pm (the pre-prepared minutes of that are at pages 21 and 22).

28. I am satisfied that the meetings were short and probably shorter than the time specified in the notes. It can be seen from the notes that there was no element which could amount to consultation. There was an explanation that with effect from 20 February 2015 they were not going to continue with their contract with CT. An explanation was given of what TUPE means and the Claimants were told this was the "start of your consultation period".

29. Ms O'Leary simply told the employees/workers that the first Respondent's had given notice to terminate the contract and that this was part of a "consultation". The note said:

"All employees who work solely on this contract are formally in scope for transfer to the other organisation that will be taking over the contract. We are unsure at the moment who this may be but as soon as we know we will give you an update."

30. She did not tell the employees about the position that CT had taken i.e. that TUPE did not apply in these circumstances. There was no consultation on that day and no consultation after it. There was no election of employee representatives or any opportunity to do so.

31. There was a further e-mail exchange where Mr Blunt asked whether there was any further information at page 25 on 16 February 2015 but no further information was provided. The staff were simply told that they would cease to be employees of North Midlands Construction Plc at 20 February. I have then seen

the e-mail exchanges between Ms O'Leary and Mr Blunt between 17 and 19 February. It can be seen that Mr Blunt spoke to CT himself (page 42) and it was they who informed him that the new suppliers had no intention of taking anyone on under TUPE and that CT would not be "TUPEing anyone in". His e-mail of 17 February makes clear how anxious the men were that they were not being provided with any information as to what the consequences of the position were.

32. Ms O'Leary was unable to persuade CT that the employees should be transferred under TUPE. The position CT took is set out in the letter from Jacqueline Palmer, HR Manager for CT, on 18 February 2015. It was that, "the servicing of this work is so fragmented that nothing which can be properly determined as a service provision change will take place" (page 43). Ms O'Leary then wrote to the staff on 20 February (page 48). The letter referred to their "consultation meetings on 13th February". It still did not tell their employees about the position taken by CT concerning the transfer. It informed them that their employment with the first Respondent ended that day and that they should report for work the following Monday and advised them to contact Mr Sedman at CT.

33. Contact with Mr Sedman proved fruitless for the Claimants who were left in a situation where they were available to work but had no one to work for. Mr Blunt then wrote on 23 February 2015 to Karen Morris at the first Respondent's (page 65) about the position with regard to the termination of his employment. Ms O'Leary replied on 4 March 2015 (pages 73-74). Only now did she fully inform Mr Blunt of what the position had been.

34. Mr Barrett in his witness statement on behalf of MB Groundbreaking Limited says that he was not aware of a potential TUPE transfer and therefore of his obligation to inform and consult. Frankly, that is no excuse. Mr Barrett has been in the construction industry for many years and should have been put on notice by taking on work with CT that TUPE issues might apply. I am satisfied that he would have known of the issue but decided to do nothing about it because he did not want to have the employees of the first Respondent's transferred to him and his company.

The Law Relating to Failure to Inform and Consult

35. As Mr Gidney rightly pointed out the relevant provisions of the Transfer of Undertakings (Protection of Employment) Regulations 2006 are set out in Appendix 1 to his submissions.

The salient parts are:

"13. Duty to inform and consult representatives.

(2) Long enough before a relevant transfer to enable the employer of any affected employees to consult the appropriate representatives of any affected employees, the employer shall inform those representatives of:-

(a) the fact that the transfer is to take place, the date or proposed date of the transfer and the reasons for it;

(b) the legal, economic and social implications of the transfer for any affected employees;

(c) the measures which he envisages he will, in connection with the transfer, take in relation to any affected employees or, if he envisages that no measures will be taken, that fact;

(d) if the employer is the transferor, the measures in connection with the transfer, which he envisages the transferee will take in relation to any affected employees who will become employees of the transferee after the transfer by virtue of Regulation 4 or, if he envisages that no measures will be so taken, that fact.

(4) The transferee shall give the transferor such information at such time as will enable the transferor to perform the duty imposed on him by virtue of paragraph (2)(d).

(6) An employer of an affected employee envisages that he will take measures in relation to an affected employee, in connection with the relevant transfer, shall consult the appropriate representatives of that employee with a view to seeking their agreement to the intended measures.

(9) If in any case there are special circumstances which render it not reasonably practicable for an employer to perform the duty imposed on him by any of the paragraphs (2) to (7), he shall take all such steps toward performing that duty as are reasonably practicable in the circumstances.

15. Failure to inform or consult.

(1) Where an employer has failed to comply with the requirement of Regulation 13 or Regulation 14, a complaint may be presented to an Employment Tribunal on that ground...

(2) If on a complaint under paragraph (1) a question arises whether or not it was reasonably practicable for an employer to perform a particular duty or as to what steps he took toward performing it, it shall be for him to show:-

(a) that there were special circumstances which rendered it not reasonably practicable for him to perform the duty;

(b) that he took all such steps towards the performance as were reasonably practicable in those circumstances.

(7) Where the Tribunal finds a complaint against a transferee under paragraph (1) well founded it shall make a declaration to that effect and may order the transferee to pay appropriate compensation to such descriptions of affected employees as may be specified in the award.

(8) Where the Tribunal finds a complaint against a transferor under paragraph (1) well founded it shall make a declaration to that

effect and may:-

(a) order the transferor, subject to paragraph (9), to pay appropriate compensation to such descriptions of affected employees as may be specified in the award; or

(b) if the complaint is that the transferor did not perform the duty mentioned in paragraph (5) and the transferor (after giving due notice) shows the fact so mentioned, order the transferee to pay appropriate compensation to such descriptions of affected employees as may be specified in the award.

(9) The transferee shall be jointly and severally liable with the transferor in respect of compensation payable under sub paragraph (8)(a) or paragraph (11).

(11) Where the Tribunal finds a complaint under paragraph (10) well founded it shall order the transferor or transferee as applicable to pay the complainant the amount of compensation which it finds is due to him.

16. Failure to inform or consult:-

Supplemental

(3) "Appropriate compensation" in Regulation 15 means such sum not exceeding 13 weeks' pay for the employee in question as the Tribunal considers just and equitable having regard to the seriousness of the failure of the employer to comply with his duty."

36. Mr Gidney referred me to a number of cases namely:-

- **Alamo Group (Europe) Limited v Tucker** [2003] ICR 829
- **Susie Radin Limited v GMB** [2004] IRLR 400
- **Todd v Strain** [2011] IRLR 11
- **Cable Realisations v GMB Northern**[2010] IRL 42
- **Sweetin v Coral Racing** [2006] IRLR 252
- **EC Commission v Portuguese Republic** [2004] ECR 1-9387 ECJ

37. Mr Gidney described to me the principles that I have to apply in this case. In particular he said:-

(i) The obligation to consult is not an absolute one. If there are "special circumstances" which render it impracticable for the employer to comply with the statutory obligations in full, then it is sufficient that he does what is reasonably practicable in the circumstances towards full compliance.

(ii) If by force of circumstance an employer is prevented from fully complying with his duty to consult, then he must nevertheless do as much as circumstances allow.

(iii) Where the complaint is well founded, the Tribunal may award compensation to be paid to the affected employees by the transferor or by

the transferee where it is found that transferee has failed to provide the requisite information in the requisite time and the transferor has given due notice to the transferee.

(iv) Where the transferee fails to inform or consult in accordance with Regulation 13, it and not the transferor will be liable for the default.

(v) The purpose of the award is not to compensate the employees for loss they have suffered but to provide a sanction for breach by the employer of the obligation to inform and consult. I have a wide discretion and should focus on the seriousness of the employer's default. The proper approach is that where there has been no consultation I start at the maximum period and reduce it only if there are mitigating circumstances.

(vi) It is wrong in principle to award maximum compensation in circumstances where some (although inadequate) information has been given and the measures requiring consultation were of very limited significance. Where there has been some attempt to consult, it is not to apply the maximum. Starting at the maximum and discounting for mitigation is only appropriate where there has been no consultation. That approach should not be mechanically applied in cases where there have been some information given or some consultation.

(vii) Liability under Regulation 15 for failure by the transferor to consult before the transfer does not itself transfer to the transferee employer. Whilst the liability for any award would be joint and several, if the transferee has been informed and is a party to the claim the Tribunal can apportion any compensation between the Respondents.

(viii) In fixing compensation the approach should be punitive not compensatory. Where there has been a failure to consult the Tribunal should fix the award by starting with a maximum only decreasing it if the employer established mitigation. However, where there has been an element of consultation this rule of starting at a maximum does not apply and the Tribunal should use its wider discretion. A maximum award is appropriate where there has been a complete failure both to inform and consult. The amount of the award should reflect the nature and extent of the employer's default.

(ix) The duty to provide information is freestanding from the duty to consult. The duty to consult only arises if the employer of an affected employee envisages that he will take measures in relation to the transfer.

(x) Regulation 13(9) provides a defence for failing to comply with the duties to inform and consult if there are "special circumstances" which render it not reasonably practicable to do so. Such steps that are reasonably practicable in the circumstances should be taken.

My Conclusions

38. I do not accept that the first Respondent's did all that it could reasonably do to inform and consult with the transferring employees. They were aware for months of difficulties with the contract as is referred to in the notice of termination of the contract. They gave just 4 weeks notice on 23 January. That was their choice to give such a short period. They then took no steps to inform and consult

with their employees until they arranged a meeting with them one week before the termination of the contract ie on 13 February 2015, some 3 weeks after they had given notice. I am satisfied that in this case there were no "special circumstances" which rendered it impractical to comply with its statutory obligations.

39. The first Respondent's were aware from 6 February 2015 of the position of CT regarding the transfer of the employees. That had been reaffirmed on 9 February 2015 and the first Respondent's were well aware of the position that had been firmly taken. It can be seen from the minutes of the meeting that this information was not passed on to the employees. They were simply told that their contract was going to be brought to an end as at 20 February 2015 and that North Midland Construction would not continue to employ them.

40. I am not satisfied that Mr Blunt was an elected Representative. Whatever his solicitor said in a letter of 1 September 2017 Mr Blunt was very clear to me and I accept that he was not an elected Representative. No election took place and there was no time to carry out one. He was simply the senior employee who was acting as a messenger and trying to get information for his colleagues.

41. No steps were taken to proactively identify appropriate representatives.

42. I do not accept that the first Respondent's did their best to keep the Claimants informed about the transfer. It can be seen that Mr Blunt continually chased for information but was not provided with any. At no stage did the first Respondent's give any clarity as to the steps it was taking to find out more information.

43. It could be seen from the e-mail at page 42 that it was Mr Blunt who obtained the information from CT that the new contractors had no intention of taking on any of the staff. This was not information that was provided by the first Respondent's.

44. Even by 19 February, the day before the transfer Mr Blunt was raising his concerns that he had still not received any form of letter or anything setting out the position. None of the Claimants received anything at all until 20 February when they were told to contact CT about their continued employment.

45. I am satisfied also that the second and third Respondents simply decided to ignore the Claimants and their duties towards them. CT was aware of the position of the Claimants and also did not pass on any information that was provided to them by the first Respondents.

46. I am satisfied that all the Respondents should be jointly and severally liable for the failure to consult and inform. They are all jointly responsible for the lack of consultation with the Claimants. In my view there was no consultation at all. There was no attempt to consult with employees, some of whom had served the first respondent for 20 years. I am satisfied that this is a case where I should exercise my discretion in the appropriate way and the maximum award of 13 weeks should be made.

Claims of Unfair Dismissal

47. All employees who had two years' service are entitled to awards of unfair dismissal because they were dismissed unfairly in connection with the transfer.

So far as the Lincolnshire Claimants are concerned none of these have two years' service but I have to deal in connection with the Shropshire Claimants as to how long they would have been employed by MB Groundbreaking Limited had they been transferred. I do not accept Mr Barrett's evidence. He made a statement in support of his contentions but declined to attend the hearing to be cross examined. I do not believe that he would have been able to dismiss the Claimants on or around 20 February 2015 or at least start the process at that time. I have seen and accept though that he only continued to work on the Shropshire contract for a period of 3 months and gave notice terminating his contract with CT on 15 May 2015 (pages 75-76). I do not know whether the employees would have continued to work after that time on these contracts. I am satisfied that it would be entirely speculative for me to do so. I am satisfied that the Shropshire employees would have been given notice at that time and that their losses should be limited to that period of 3 months.

Relevant Information so Far as the Claimants' Other Claims are as Follows:-

Gary Blunt

Date of birth	-	20 June 1977
Age at EDT	-	37
Number of years continuous employment	-	12
Gross contractual weekly pay	-	£798.00
Net weekly pay	-	£603.55
Date of dismissal (EDT)	-	20 February 2015
Date new employment commenced	-	9 March 2015

Basic award – 12 x £464 - £5,568.00

Compensatory award

Loss from 20 February to 9 March 2015		
£603.55	-	Net weekly pay
£78.84	-	Car allowance
£39.90	-	Pension contribution
£2.02	-	Cost of replacement life insurance
Total Loss	-	£724.31 per week x 2 - £1,448.62
Claimant's loss from 10 March 2015 to 15 May 2015		
£84.95 (difference between net weekly pay) x 9	-	£764.55
Difference between pension contributions between 10 March and 15 May	-	£32.65
Total loss	-	£2,247.84
Loss of statutory rights	-	£450.00
Total compensatory award -		£2,697.84
Notice pay	-	12 x £603.55 - £7,242.60
Holiday pay	-	0.5 days at £120.71 per day - £60.35

William Wallace

Date of birth	-	22 September 1960
Age at EDT	-	54
Number of years continuous employment	-	20
Gross contractual weekly pay	-	£484.50
Net weekly pay	-	£378.00
Date of dismissal (EDT)	-	20 February 2015

Basic award – 26.5 x £464.00 - **£12,296.00**

Compensatory award

Net wages 12 x £378.00	-	£4,536.00
Pension loss at £3.46 per week x 12	-	£41.52
Income received	-	£686.00
Net loss to 15 May 2015	-	£3,891.52
Loss of statutory rights	-	£450.00

Total compensatory award - **£4,341.52**

Notice pay - 12 x £378.00 - **£4,536.00**

Holiday pay - 3.5 days at £94.05 per day - **£329.18**

Peter Rushton

Date of birth	-	14 March 1964
Age at EDT	-	50
Number of years continuous employment	-	20
Gross contractual weekly pay	-	£498.91
Net weekly pay	-	£386.62
Date of dismissal (EDT)	-	20 February 2015

Basic award – 26.5 x £464.00 - **£12,296.00**

Compensatory award

Net wages 12 x £386.62	-	£4,639.44
Pension 12 x £6.19	-	£74.28
Loss to 15 May 2015	-	£4,713.72

Loss of statutory rights - £450.00

Total compensatory award - **£5,163.72**

Notice pay - 12 x £386.62 - **£4,639.44**

Holiday pay - none owed

Winston Pusey

Date of birth	-	29 June 1960
---------------	---	--------------

Age at EDT	-	54
Number of years continuous employment	-	20
Gross contractual weekly pay	-	£475.00
Net weekly pay	-	£316.24
Date of dismissal (EDT)	-	20 February 2015

Basic award – 26.5 x £464.00 - **£12,296.00**

Compensatory award

Loss of net pay 12 x £316.24	-	£3,794.88
Pension 12 x £10	-	£120.00

Less income earned between 6 April 2015 and 15 May 2015, 4 x £320.00 - £1280.00

Net loss of earnings - £2,634.88

Loss of statutory rights - £450.00

Total compensatory award - **£3,084.88**

Notice pay - 12 x £316.24 - **£3,794.88**

Holiday pay - 1.5 days at £94.68 per day - **£142.02**

James Hedges

Start date	-	29 July 2014
Gross weekly pay	-	£521.76
Net weekly pay	-	£415.66

Notice pay - one week - **£415.66**

Holiday pay - 2 days x £110.00 per day - **£220.00**

Gary Emery

Start date	-	29 July 2014
Gross weekly pay	-	£651.23
Net weekly pay	-	£462.34

Notice pay - 4 weeks x £462.34 - **£1,849.36**

Holiday pay - 2 days x £138.40 - **£276.80**

Craig Boyle

Start date	-	26 August 2014
Gross weekly pay	-	£598.47
Net weekly pay	-	£463.22

Notice pay - one week - **£463.22**

Holiday pay - 2 days x £114.00 - **£228.00**

John James

Start date	-	29 September 2014
Gross weekly pay	-	£590.93
Net weekly pay	-	£491.63
Notice pay	-	one week x £491.63- £491.63
Holiday pay	-	3.5 days x £119.98 - £419.93

John Oldham

Start date	-	26 August 2014
Gross weekly pay	-	£448.54
Net weekly pay	-	£361.23
Notice pay	-	one week - £361.23
Holiday pay	-	2 days x £85.50 - £171.00

Dennis Timson

Start date	-	26 August 2014
Gross weekly pay	-	£461.65
Net weekly pay	-	£370.16
Notice pay	-	one week - £370.16
Holiday pay	-	2 days x £85.50 - £171.00

Recoupment Regulations

48. None of the Claimants who claim compensation for unfair dismissal have applied for or obtained any benefits and the Recoupment Regulations do not apply to them or their compensation they are entitled to.

Tribunal Fees

49. The Claimants have paid fees in connection with these claims. In R (on the application of Unison) v Lord Chancellor [2017] UK SC 51 the Supreme Court decided that it was unlawful for Her Majesty's Courts and Tribunals Service (HMCTS) to charge fees of this nature. HMCTS has undertaken to repay such fees. In these circumstances I shall draw to the attention of HMCTS that this is a case in which fees have been paid and are therefore to be refunded to the Claimants. The details of the repayment scheme are a matter for HMCTS.

Employment Judge Hutchinson

Date 16 January 2018

JUDGMENT SENT TO THE PARTIES ON
16 January 2018

.....
FOR THE TRIBUNAL OFFICE