



# EMPLOYMENT TRIBUNALS

Case Number 2501426/2017 & others

**BETWEEN**

*Claimant*

*Respondent*

**Mrs H Short (and others)**

**and**

**R1) Owen Pugh Holdings Limited  
(in administration)**

which also includes -

- a) Owen Pugh Holding Limited (the parent)
- b) Owen Pugh & Company Ltd
- c) Owen Pugh Civil Engineering Ltd
- d) HCS Drain Services Limited

**R2) Secretary of State for  
Business, Innovation and Skills**

## JUDGMENT

**Heard at: North Shields**

**On: 1 October 2018**

**Before: Employment Judge Shepherd**

**Members: Ms L Jackson  
Mr J Adams**

### *Appearances*

**For the Claimants: Mr A Crammond, Counsel, for Mr C Oliver  
Ms H Robinson for herself and nine others  
Mr P Morrow for himself and two others  
Mr T Keogan for Mr D Telford and three others  
Mr P Shelvin, Solicitor, for Mr D Atkinson and twenty-seven others**

**For all Respondents: No appearance**

## **JUDGMENT**

The unanimous judgment of the Tribunal is that:

1 The claimants' complaint that the first respondent failed to comply with the requirements of Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 is well founded and succeeds.

2 The first respondent is ordered to pay remuneration, calculated in accordance with section 190 of the Trade Union and Labour Relations (Consolidation) Act 1992, to all the claimants in these cases in respect of whom the claimant union was recognised by the respondent for collective bargaining for the protected period of 90 days from 9 October 2017 and, in respect of those claimants who received pay from the first respondent for working during that period, their awards are for the balance of the 90 days for which they were not paid.

3 The name of the lead claimant is amended to Helen Short who was an elected employee representative on behalf of these claimants.

6 The Employment Protection (Recoument of Jobseeker's Allowance and Income Support) Regulations 1996 apply. Regulation 6 imposes on the Respondent a duty to provide information to the Secretary of State. Regulation 7 postpones this award in order to enable the Secretary of State to serve a recoument notice under Regulation 8. The full effect of Regulation 6, 7 and 8 is set out in the annex to this judgment.

7. The claim of Mr C Oliver for breach of contract (failure to pay notice pay) is well-founded and succeeds and the first respondent is ordered to pay Mr Oliver the sum of £1,404.00.

**Employment Judge Shepherd**

**Date: 2 October 2018**

Note: Reasons for the judgment having been given orally at the hearing, written reasons will not be provided unless a request was made by either party at the hearing or a written request is presented by either party within 14 days of the sending of this written record of the decision.

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

## ***Multiple Schedule***

### ***Case Number Case Name***

2501426/2017	Mr Paul Morrow
2501433/2017	Mr David Telford
2501484/2017	Mr John Swinburn
2501561/2017	Mr Daniel Moss
2501570/2017	Mr Lee Robinson
2501596/2017	Mr Keith Shepherd
2501619/2017	Mrs Wendy Wilson

2501738/2017 Mrs Sara Chambers  
2500004/2018 Mrs Heather Robins  
2500005/2018 Mr Paul Cockburn  
2500006/2018 Mr Alan Park  
2500007/2018 Mrs Helen Short  
2500008/2018 Mrs Doreen Lynn  
2500009/2018 Ms Valerie Tailford  
2500010/2018 Mrs Andrea Pomery  
2500011/2018 Miss Louise Pomery  
2500012/2018 Mr Peter Davison  
2500013/2018 Ms Kate Appelgarth  
2500037/2018 Mr Colin Oliver  
2500286/2018 Mr David Atkinson  
2500287/2018 Mr Derek Prinn  
2500288/2018 Mr Richard Norris  
2500289/2018 Mr Lee Graham  
2500290/2018 Mr David Guest  
2500292/2018 Mr Cavanagh Trevor  
2500293/2018 Mr Darren Davidson  
2500294/2018 Mr Kris Abbott  
2500295/2018 Mr Dale Adamson  
2500296/2018 Mr Gary Bevan  
2500297/2018 Mr Richard Gallon  
2500298/2018 Mr John Knox  
2500299/2018 Mr Sean Scott  
2500300/2018 Mr Arthur Wheatly  
2500301/2018 Mr John Young  
2500302/2018 Mr David Atkinson  
2500303/2018 Mr Alan Tate  
2500304/2018 Mr Chris Telford  
2500305/2018 Mr Frank Walker  
2500306/2018 Mr Stephen Henderson  
2500307/2018 Mr Jeff Scott  
2500308/2018 Mr Robert Parfitt  
2500310/2018 Mr Michael Harm  
2500311/2018 Mr Darren Hays  
2500312/2018 Mr Andrew Held  
2500313/2018 Mr Frank Russell



**Claimant:** Mr P Morrow & others

**Respondent:** Secretary of State for Business, Energy & Industrial Strategy  
& Others

**ANNEX TO THE JUDGMENT  
(PROTECTIVE AWARDS)**

Recoupment of Benefits

The following particulars are given pursuant to the Employment Protection (Recoupment of Benefits) Regulations 1996, SI 1996 No 2349.

The respondent is under a duty to give the Secretary of State the following information in writing: (a) the name, address and National Insurance number of every employee to whom the protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.

That information shall be given within 10 days, commencing on the day on which the Tribunal announced its judgment at the hearing. If the Tribunal did not announce its judgment at the hearing, the information shall be given within the period of 10 days, commencing on the day on which the relevant judgment was sent to the parties. In any case in which it is not reasonably practicable for the respondent to do so within those times, then the information shall be given as soon as reasonably practicable thereafter.

No part of the remuneration due to an employee under the protective award is payable until either (a) the Secretary of State has served a notice (called a Recoupment Notice) on the respondent to pay the whole or part thereof to the Secretary of State or (b) the Secretary of State has notified the respondent in writing that no such notice is to be served.

This is without prejudice to the right of an employee to present a complaint to an Employment Tribunal of the employer's failure to pay remuneration under a protective award.

If the Secretary of State has served a Recoupment Notice on the respondent, the sum claimed in the Recoupment Notice in relation to each employee will be whichever is the less of:

- (a) the amount (less any tax or social security contributions which fall to be deducted therefrom by the employer) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Secretary of State receives from the employer the information referred to above; OR
- (b) (i) the amount paid by way of or paid as on account of jobseeker's allowance, income-related employment and support allowance or income support to the employee for any period which coincides with any part of the protected period falling before the date described in (a) above; or

- (ii) in the case of an award to an award of universal credit for any period ("the UC period") which coincides with any part of the period to which the prescribed element is attributable, any amount paid by way of or in satisfaction of the award of universal credit for the UC period that would not have been paid if the person's earned income for that period was the same as immediately before the period to which the prescribed element is attributable.



The sum claimed in the Recoupment Notice will be payable forthwith to the Secretary of State. The balance of the remuneration under the protective award is then payable to the employee, subject to the deduction of any tax or social security contributions.

A Recoupment Notice must be served within the period of 21 days after the Secretary of State has received from the respondent the above-mentioned information required to be given by the respondent to the Secretary of State or as soon as practicable thereafter.

After paying the balance of the remuneration (less tax and social security contributions) to the employee, the respondent will not be further liable to the employee. However, the sum claimed in a Recoupment Notice is due from the respondent as a debt to the Secretary of State, whatever may have been paid to the employee, and regardless of any dispute between the employee and the Secretary of State as to the amount specified in the Recoupment Notice.

## NOTICE

### THE EMPLOYMENT TRIBUNALS (INTEREST) ORDER 1990

Tribunal case number(s): 2500037/2018

Name of case(s): **Mr C Oliver** v **Owen Pugh and Company Ltd**

The Employment Tribunals (Interest) Order 1990 provides that sums of money payable as a result of a judgment of an Employment Tribunal (excluding sums representing costs or expenses), shall carry interest where the full amount is not paid within 14 days after the day that the document containing the tribunal's written judgment is recorded as having been sent to parties. That day is known as "*the relevant decision day*". The date from which interest starts to accrue is called "*the calculation day*" and is the day immediately following the relevant decision day.

The rate of interest payable is that specified in section 17 of the Judgments Act 1838 on the relevant decision day. This is known as "the stipulated rate of interest" and the rate applicable in your case is set out below.

The following information in respect of this case is provided by the Secretary of the Tribunals in accordance with the requirements of Article 12 of the Order:-

"the relevant decision day" is: **25 October 2018**

"the calculation day" is: **26 October 2018**

"the stipulated rate of interest" is: **8%**

MISS K FEATHERSTONE  
For the Employment Tribunal Office

## INTEREST ON TRIBUNAL AWARDS

### GUIDANCE NOTE

1. This guidance note should be read in conjunction with the booklet, 'The Judgment' which can be found on our website at [www.gov.uk/government/collections/employment-tribunal-forms](http://www.gov.uk/government/collections/employment-tribunal-forms)

If you do not have access to the internet, paper copies can be obtained by telephoning the tribunal office dealing with the claim.

2. The Employment Tribunals (Interest) Order 1990 provides for interest to be paid on employment tribunal awards (excluding sums representing costs or expenses) if they remain wholly or partly unpaid more than 14 days after the date on which the Tribunal's judgment is recorded as having been sent to the parties, which is known as "the relevant decision day".

3. The date from which interest starts to accrue is the day immediately following the relevant decision day and is called "the calculation day". The dates of both the relevant decision day and the calculation day that apply in your case are recorded on the Notice attached to the judgment. If you have received a judgment and subsequently request reasons (see 'The Judgment' booklet) the date of the relevant judgment day will remain unchanged.

4. "Interest" means simple interest accruing from day to day on such part of the sum of money awarded by the tribunal for the time being remaining unpaid. Interest does not accrue on deductions such as Tax and/or National Insurance Contributions that are to be paid to the appropriate authorities. Neither does interest accrue on any sums which the Secretary of State has claimed in a recoupment notice (see 'The Judgment' booklet).

5. Where the sum awarded is varied upon a review of the judgment by the Employment Tribunal or upon appeal to the Employment Appeal Tribunal or a higher appellate court, then interest will accrue in the same way (from "the calculation day"), but on the award as varied by the higher court and not on the sum originally awarded by the Tribunal.

6. 'The Judgment' booklet explains how employment tribunal awards are enforced. The interest element of an award is enforced in the same way.