



EMPLOYMENT TRIBUNALS

Claimants: Mr A Abdalla & 92 others (see schedule)
Respondents: (1) Total Polyfilm Limited (in administration)
(2) The Secretary of State for Business Energy and Industrial Strategy

AT A HEARING BY TELEPHONE CONFERENCE CALL

Heard at: Leeds **On:** 6th April 2020
Before: Employment Judge Lancaster

Representation

Claimants: Ms N Toner, solicitor
Respondents: (1) Did not attend, as previously notified
(2) Did not attend, as previously notified, and relied upon written Submissions

JUDGMENT

1. The complaints that the First Respondent has failed to comply with the requirements of sections 188 and/or 188A of the Trade Union and Labour Relations (Consolidation) Act 1992 are well founded.
2. Each Claimant is entitled to a protective award for a period of 90 days from 18th September 2019.

REASONS

1. Both Respondents have given consent to this hearing being conducted by a judge sitting alone, without members.
2. The Claimants were all employed at either Brighouse or Preston (see attached schedule). At each of these establishments the First Respondent dismissed more than 20 employees within a period of 90 days or less.
3. In respect of all those employees dismissed with immediate effect on 18th September 2019 there was no effective collective consultation.
4. Similarly in respect of the Claimants Butterworth and Murphy who were dismissed between 18th and 24th September 2019, there was no effective consultation.
5. In respect of the 9 further Claimants who were retained for short periods after 24th September, I accept the unchallenged evidence in the witness statement of Mr Utley

Case: 1807432/2019 & others (see Schedule)

that he was wholly unaware of any meeting with any elected representatives chosen from the remaining 10 retained employees (of whom he was one) ever having taken place as alleged in the ET3 on 24th September 2019. I find therefore, on balance, that no such meeting in fact happened.

6. There is therefore an issue as to whether any representatives purportedly appointed after the commencement of administration on 18th September 2019 were in fact appropriate representatives with authority to represent any of the employees.
7. The First Respondent has failed to show (under section 189 1(A) of the 1992 Act) that any such representatives were appropriately elected, and the tribunal therefore has jurisdiction to hear the complaints of those individual Claimants who were retained after 24th September 2019.
8. There is no reason in these circumstances why the period of the protective awards should be less than 90 days.

EMPLOYMENT JU DGE LANCASTER

DATE 6th April 2020

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Case: 1807432/2019 & others (see
Schedule)

Case Number	Claimant Name
1807432/2019	Mr A Abdalla
1807433/2019	Mr C Aigbomian
1807434/2019	Miss C Arrowsmith
1807435/2019	Miss D Bailey
1807436/2019	Mrs C Banks
1807437/2019	Mr C Bateman
1807438/2019	Mr J Beevers
1807439/2019	Mr P Bell
1807440/2019	Mr J Binns
1807441/2019	Mr M Bourefis
1807442/2019	Mr P Bourke
1807443/2019	Mr H Britton
1807444/2019	Mr D Brown
1807445/2019	Miss M Burnett
1807446/2019	Mr G Butterworth
1807447/2019	Mr S Cairns
1807448/2019	Mr J Callaghan
1807449/2019	Mr D Carr
1807450/2019	Mr G Clarke
1807451/2019	Mrs D Clay
1807452/2019	Mr S Clay
1807453/2019	Mr I Clitheroe
1807454/2019	Mr I Creaghan
1807455/2019	Mr N Dargavel
1807456/2019	Mr S Dawson
1807457/2019	Mr G Duke
1807458/2019	Mr L Ellis
1807459/2019	Mr M Evans
1807460/2019	Mr F Fabian
1807461/2019	Mr J Fletcher
1807462/2019	Mr A Ford
1807463/2019	Miss S Foreman
1807464/2019	Mr P Gallagher
1807465/2019	Mr M Garbarz
1807466/2019	Ms A Golecka
1807467/2019	Mr M Gudajczyk
1807468/2019	Mr B Hargreaves
1807469/2019	Mr D Harrison
1807470/2019	Mrs M Harrison
1807471/2019	Miss D Healey
1807472/2019	Ms J Hemingway
1807473/2019	Mr C Hogg
1807474/2019	Mr J Hunte
1807475/2019	Mr G Jones
1807476/2019	Mr A Jones
1807477/2019	Mrs R Kidman
1807478/2019	Mr K Kruk
1807479/2019	Mr C Leigh

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1807480/2019	Mr A Leonard
1807481/2019	Mr J Lucas Novo
1807482/2019	Mr P Mallinson
1807483/2019	Mr A Maragh
1807484/2019	Mr D Mason
1807485/2019	Mr J Maude
1807486/2019	Mr P Mazurek
1807487/2019	Mr A Mehmood
1807488/2019	Mr R Melling
1807489/2019	Mr G Millar
1807490/2019	Mr J Moore
1807491/2019	Mr D Moore
1807492/2019	Mr D Moran
1807493/2019	Mr J Morris
1807494/2019	Mrs L Murphy
1807495/2019	Ms L Murphy
1807496/2019	Mr D Nastyn
1807497/2019	Mr N Oliver
1807498/2019	Mr I Price
1807499/2019	Mr S Quinn
1807500/2019	Ms A Scaramuzza
1807501/2019	Mr J Seller
1807502/2019	Ms L Shallcross
1807503/2019	Mr J Sharples
1807504/2019	Mr T Sixsmith
1807505/2019	Mr J Stafford
1807506/2019	Mr A Sullivan
1807507/2019	Mr M Swiatek
1807508/2019	Mr D Swift
1807509/2019	Mr M Szewczyk
1807510/2019	Mr D Szewczyk
1807511/2019	Mr T Tabor
1807512/2019	Mr G Taylor
1807513/2019	Mr J Thompson-Fowler
1807514/2019	Mr K Thorpe
1807515/2019	Mr G Trufit
1807516/2019	Miss L Turner
1807517/2019	Mr G Uttley
1807518/2019	Mr A Walker
1807519/2019	Miss R White
1807520/2019	Mrs C Whitehead
1807521/2019	Mr S Whitehead
1807522/2019	Miss B Whitfield
1807523/2019	Mr R Windross
1807524/2019	Ms G Yardley