



# EMPLOYMENT TRIBUNALS

**Claimants:** Mr G Roberts & others (See Schedule)

**Respondents:**

1. Calderprint Limited (in administration)
2. The Secretary of State for Business, Energy and Industrial Strategy

## JUDGMENT

Employment Tribunals Rules of Procedure 2013, Rule 21

**The respondent not having presented a response to the claims, and on the information before the Judge,**

**The judgment of the Tribunal is that:**

1. The claimants' complaints under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 (the 1992 Act) of a failure by the first respondent to comply with the requirements of section 188 of the 1992 Act are well-founded.
2. The Tribunal orders the first respondent by way of protective award under section 189(3) of the 1992 Act to pay to the claimants a payment equivalent to remuneration for the period of 90 days beginning on 24 May 2019.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.
4. This judgment does not affect the following complaints which are proceeding against the first respondent:
  - 4.1. Mr C Dixon (case number 2406432/19) – complaint of unlawful deduction from wages;
  - 4.2. Mrs T Roberts (case number 2406161/19) – complaint of breach of contract in relation to failure to give notice of termination of employment;
  - 4.3. Mr A Brown (case number 2410798/19) – complaint of unfair dismissal.

## **REASONS**

1. The claimants claimed a protective award in respect of breaches of the collective consultation requirements under the 1992 Act. No response was presented to the claims by the first respondent.
2. The first respondent is in administration and the administrators have given consent for these claims to proceed.
3. The second respondent takes part in these proceedings as a statutory guarantor pursuant to Part XII of the Employment Rights Act 1996.
4. On a full consideration of the file of proceedings it was possible to issue this Judgment under Rule 21 in respect of the claims for protective awards without a hearing. Code P under the case number above reflects this. Three of the claimants have other outstanding complaints which are not affected by this judgment.
5. On the information provided, the Tribunal makes the following findings.
6. The first respondent employed over 20 employees at each of two sites where the claimants were employed: the Bradwood Works, or Dunnockshaw site, on Manchester Road in Burnley, and the Gertrude Street site in Nelson. There was no trade union recognised for collective bargaining, consultation or negotiation with the workforce at either site.
7. The employees were all told at a meeting on 24 May 2019 by administrators that the first respondent was closing down and they were all being made redundant with immediate effect. The company went into administration on that date.
8. There was no proper warning or notice given to or consultation with the workforce. No employee representatives had been elected or appointed for any such consultation within Section 188A of the 1992 Act.
9. In these circumstances, the first respondent is in breach of the duty under Section 188 of the 1992 Act and the Tribunal makes an award under Section 189 in favour of the claimants for the maximum protected period of 90 days commencing on 24 May 2019.
10. The first respondent is advised of the provisions of Regulation 6 of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996, such that, within 10 days of the decision in these proceedings being promulgated or as soon as is reasonably practicable, the first respondent must comply with the provisions of Regulation 6 of the 1996 Regulations and, in particular, must supply to the Secretary of State the following information in writing:
  - 10.1. the name, address and national insurance number of every employee to whom the award relates; and

10.2. the date of termination of the employment of each such employee.

11. The first respondent will not be required to make any payment under the protective awards made until it has received a recoupment notice from the Secretary of State or notification that the Secretary of State does not intend to serve a recoupment notice having regard to the provisions of Regulation 7(2). The Secretary of State must normally serve such recoupment notice or notification on the employer within 21 days of receipt of the required information from the first respondent.

Employment Judge Slater

Date: 19 May 2020

JUDGMENT SENT TO THE PARTIES ON  
17 June 2020

FOR THE TRIBUNAL OFFICE

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**Mr G Roberts and others v Calderprint Limited  
Schedule of claimants**

Case No.	Name of claimant
2405930/2019	Mr G Roberts
2405931/2019	Mrs S Roberts
2405978/2019	Mr A Stevenson
2405986/2019	Mr A Ditta
2406023/2019	Mr G Ince
2406031/2019	Mr L Saunt
2406045/2019	Mr D Holden
2406091/2019	Ms D Haley
2406142/2019	Ms T Howarth
2406161/2019	Mrs T Roberts
2406184/2019	Mr J Cunningham
2406193/2019	Mr P Metcalfe
2406199/2019	Mr K Ware
2406203/2019	Mrs N Chadwick
2406212/2019	Mrs C Kelly
2406216/2019	Mrs L Ripley
2406381/2019	Mrs J Clarkson

Case Numbers 2405930/2019 & others  
(See Schedule)  
Code P

2406432/2019	Mr C Dixon
2406461/2019	Mr P Thomson
2410012/2019	Mr J Campbell
2410051/2019	Mr N Fort
2410466/2019	Mr L Bancroft
2410742/2019	Mr J S Ormerod
2410798/2019	Mr A Brown
2411007/2019	Mr S Wilkinson
2411463/2019	Mr P Hargreaves
2411464/2019	Mr A Airey
2411465/2019	Mr D Airey
2411466/2019	Mr D Breare
2411467/2019	Mr I Ford
2411468/2019	Mr D Halliday
2411469/2019	Mrs A Higginson
2411470/2019	Mr B Kelly
2411471/2019	Mr H Lord
2411472/2019	Mr A McLeod
2411473/2019	Mr P Morgan
2411474/2019	Mr G Robinson
2411475/2019	Mr M Rukin
2411476/2019	Mr S Schofield
2411477/2019	Mr J Taylor
2411478/2019	Mr I Ticehurst
2411479/2019	Mr S Townend
2411480/2019	Mr A Whittaker
2411481/2019	Mrs C Winfield
2411482/2019	Mrs C Cirino
2411483/2019	Mrs L Greenwood
2411484/2019	Mrs S Groszewski
2411485/2019	Mr S Haydock
2411486/2019	Mr M Kandemir
2411487/2019	Mr S Lawrence
2411488/2019	Mr G Manners
2411489/2019	Mr C Ripley
2411490/2019	Mr M Ripley
2411491/2019	Mr P Maguire
2411492/2019	Mr M Atherton
2413426/2019	Mrs B A Wignall
2413599/2019	Mr S Howarth

**Claimants:** Mr P Hargreaves & others

**Respondents:** Calderprint Ltd (in administration)  
The Secretary of State For Business, Energy & Industrial  
**Strategy**

**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 the refrom 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 employee entitled 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 on account 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.