



# EMPLOYMENT TRIBUNALS

**Claimants:** Mr Sweeney & others (please see attached schedule)

**Respondent:** Stylex Auto Product Limited (in liquidation)

**Heard at:** Leeds Employment Tribunal by CVP

**On:** 28 January 2021

**Before:** Employment Judge Deeley (sitting alone)

## Appearances

### *For the claimants:*

- Mr Sweeney, Mr Ross and Ms Freear (representing themselves and the claimants referred to in the attached Schedules)

*For the respondent:* no attendance

## JUDGMENT - COLLECTIVE REDUNDANCY CONSULTATION CLAIM ONLY

1. The Tribunal declares that the complaint of the claimants that the respondent failed to comply with the requirements of s188 of the Trade Union & Labour Relations (Consolidation) Act 1992 is well-founded.
2. The Tribunal makes a protective award of 90 days' pay in respect of the Claimants named in the attached Schedule, who were dismissed as redundant with effect from the dates set out in the attached Schedule. The Tribunal orders the respondent to pay those claimants their remuneration for the protected period of 90 days beginning on 12 June 2020.
3. By way of clarification:
  - 3.1 further case management orders shall be issued in relation to any Additional Claims (see the Notes below);
  - 3.2 this Judgment only applies to the Claimants who are named in the Schedule;
  - 3.3 the claim brought by Mrs Rook (case reference 1800216/21) has been submitted outside of the Tribunal's time limits. A separate hearing will be held to determine whether the time limit should be extended to permit these claims to proceed.

## NOTES

### Claims

4. The Claimants to this claim were employed by the First Respondent, which went into administration on 12 June 2020. The First Respondent subsequently entered a creditors' voluntary liquidation with effect from 10 December 2020.
5. The First Respondent operated its business from its Scunthorpe premises. The First Respondent dismissed half of its staff due to redundancy on 12 June 2020. The remainder were made redundant between 19 June and 18 August 2020 without consultation. The initial time limit for submitting a claim to the Tribunal therefore expired on 17 November 2020 (subject to any extension of time under the ACAS early claim conciliation periods).

### ***Collective Redundancy Consultation claim (protective award)***

6. All of the claimants claimed that they were dismissed without any collective redundancy consultation. Each claimant claimed that they should be paid a '**protective award**' because of the respondent's failure to inform and consult on a collective basis regarding their redundancy, as required by s188 of the Trade Union and Labour Relations (Consolidation) Act 1992.

### ***Additional Claims***

7. Some of the Claimants may have submitted other claims to the Tribunal for additional payments, such as:
  - 7.1 unpaid wages and breach of contract;
  - 7.2 holiday pay;
  - 7.3 notice pay; and
  - 7.4 statutory redundancy pay.
8. I have referred to these claims as the "**Additional Claims**" in this judgment. A separate document containing case management orders has been sent to the claimants.

### **Useful information**

9. The reasons for this judgment were given to the parties orally during this hearing. Written reasons will not be provided unless a request was made by any party at the hearing or a written request is presented by any party within 14 days of the sending of this written record of the decision.
10. All judgments and any written reasons for the judgments are published, in full, online at <https://www.gov.uk/employment-tribunal-decisions> shortly after a copy has been sent to the claimants and respondents.

11. You can appeal to the Employment Appeal Tribunal if you think a legal mistake was made in an Employment Tribunal decision. There is more information here: <https://www.gov.uk/appeal-employment-appeal-tribunal>

## RECOUPMENT NOTICE

The following statement is given under Regulation 5 (2) (b) of the Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 ("the Regulations") (as amended) and advises the respondent of its duties under regulation 6, and of the effect of Regulations 7 and 8, of the Regulations.

- (1) The respondent is required to give to the Benefits Agency in writing: (a) the name, address and National Insurance number of every employee to whom the above protective award relates; and (b) the date of termination (or proposed termination) of the employment of each such employee.
- (2) The respondent is required to comply with paragraph (1) above within the period of 10 days commencing on the date on which the judgment was announced at the hearing, or, if it was not so announced, the date on which the judgment was sent to the parties.
- (3) No remuneration due to an employee under the protective award shall be paid to him until the Benefits Agency has (a) served on the respondent a notice ("a recoupment notice") to pay the whole or part of the award to the Benefits Agency or (b) informed the respondent in writing that no recoupment notice is to be served.
- (4) The sum due to the Benefits Agency under a recoupment notice shall be the lesser of: (i) the amount (less any tax or social security contributions which fall to be deducted by the respondent) accrued due to the employee in respect of so much of the protected period as falls before the date on which the Benefits Agency receives from the respondent the information mentioned at paragraph (1) above; and (ii) the amount paid by way of, or as on account of, Job Seeker's Allowance, Income-Related Support Allowance, Universal Credit or Income Support, to the employee for any period which coincides with any part of the protected period falling before the date mentioned at (i) above.
- (5) The sum due under the recoupment notice shall be paid forthwith to the Benefits Agency. The balance of the protective award shall then (subject to deduction of any tax or social security contributions) be paid to the employee.
- (6) The Benefits Agency shall serve a recoupment notice within the period of 21 days after the date mentioned at paragraph 4 (ii) above, or as soon as practicable thereafter.

(7) Payment by the respondent to the employee of the balance of the protective award (subject to deduction of any tax or social security contributions) is a complete discharge of the respondent in respect of any sum so paid.

(8) The sum claimed in a recoupment notice is due as a debt by the respondent to the Benefits Agency, whatever may have been paid to the employee and whether or not there is any dispute between the employee and the Benefits Agency as to the amount specified in the recoupment notice.

Employment Judge Deeley  
Date: 2 February 2021

## SCHEDULE OF CLAIMS SUBMITTED WITHIN THE TRIBUNAL'S TIME LIMITS

Claim reference	Name	Redundancy date
1804774/2020	Mr D Sweeney	12/06/2020
1804967/2020	Mr A Ross	12/06/2020
1805006/2020	Mrs A Freear	31/07/2020
1805010/2020	Mrs V How	12/06/2020
1805022/2020	Mr M Stoican	12/06/2020
1805025/2020	Mrs T Whitby	12/06/2020
1805126/2020	Mrs B Bogdanska	19/06/2020
1805127/2020	Mrs R Chelm	19/06/2020
1805130/2020	Mr N Dumitrescu	19/06/2020
1805131/2020	Miss A Elwell	12/06/2020
1805136/2020	Mrs S Lazauskiene	12/06/2020
1805137/2020	Mrs J May	12/06/2020
1805138/2020	Miss A Mazeikaite	30/06/2020
1805145/2020	Mrs H Archer-Gray	12/06/2020
1805147/2020	Mr P Clayton	12/06/2020
1805154/2020	Mrs A Klejnglas	12/06/2020
1805156/2020	Mrs C Markham	12/06/2020
1805164/2020	Miss A Mikrut	12/06/2020
1805168/2020	Mr G Horton	12/06/2020
1805169/2020	Mrs T Horton	12/06/2020
1805173/2020	Miss K Mroz	12/06/2020
1805181/2020	Mrs A Komaniecka	19/06/2020
1805182/2020	Mrs S Omazda	30/06/2020
1805197/2020	Mr S Doughty	18/08/2020
1805201/2020	Mrs J Kislowska	19/06/2020
1805205/2020	Miss R Stupuraite	19/06/2020
1805212/2020	Mrs H Greer	12/06/2020
1805217/2020	Mr S Davison	12/06/2020
1805236/2020	Mr A Palyanos	18/08/2020
1805284/2020	Mr A Lescauskas	19/06/2020
1805292/2020	Miss W Moskal	12/06/2020
1805296/2020	Mrs J Pieslak	12/06/2020
1805297/2020	Mrs M Poloniova	12/06/2020
1805299/2020	Mrs A Potapoviene	19/06/2020
1805307/2020	Miss I Silczak	12/06/2020
1805826/2020	Miss D Szapowal	12/06/2020
1805390/2020	Mrs D Thompson	12/06/2020
1805875/2020	Mrs S Pinder (deceased)	19/6/20

**SCHEDULE OF CLAIMS SUBMITTED AFTER THE EXPIRY OF THE TRIBUNAL'S TIME LIMITS**

<b>Claim reference</b>	<b>Name</b>	<b>Redundancy date</b>	<b>Time limit for start of ACAS ECC</b>	<b>Date of ACAS ECC</b>	<b>Claim submitted</b>
1800216/2021	Mrs L Rook	26/6/20	25/9/20	30/8/20-1/9/20	9/1/21