



# EMPLOYMENT TRIBUNALS

**Claimants:** Mr D Reed & Others (See Schedule)

**Respondent:** WRW Construction Ltd (In administration)

## JUDGMENT

The judgment of the Tribunal is that:

1. The claims are all well-founded in that the Respondent failed to comply with its statutory collective consultation obligations under Section 188 of the Trade Union and Labour Relations (Consolidation) Act 1992 before proposed redundancy dismissals took effect at each of its establishment at Cardiff and Llanelli in respect of the whole workforce employed at each establishment.
2. Under Section 189(1)(d), (2), (3) and (4), the Tribunal makes a protective award in respect of the Claimants named in the schedule and the Respondent is ordered to pay remuneration to each claimant for a protected period of 90 days beginning on 13 July 2021.
3. The Employment Protection (Recoupment of Jobseeker's Allowance and Income Support) Regulations 1996 apply to these awards.

## REASONS

1. By claim forms presented on 22 October 2021, the claimants claimed a protective award in respect of breach of the collective consultation requirements. No response resisting the claims was presented by the Respondent.
2. On the information provided, the Tribunal makes the following findings.
3. The Respondent carried on business as a construction contractor and employing over 20 employees (including the claimants) at each of its Cardiff and Llanelli locations.
4. There was no trade union recognised for collective bargaining, consultation or negotiation with the workforce.

5. The employees were notified on 7 July 2021 that the Respondent was ceasing trading due to financial difficulties [255] and were informed on 13 July 2021 that administrators had been appointed, that the Respondent had entered administration on 12 July 2021 and that their employment was terminated on appointment.
6. 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. The dismissals of the whole workforce were put into effect at once.
7. In these circumstances, the 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 13 July 2021.
8. The Respondent is advised of the provisions of Regulation 5 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:
  - a. the name, address and national insurance number of every employee to whom the award relates; and
  - b. the date of termination of the employment of each such employee.
9. The 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 Brace

Date: 30 September 2022

JUDGMENT SENT TO THE PARTIES ON

5 October 2022

FOR THE TRIBUNAL OFFICE

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**Schedule of Claims**

<b>Case Number</b>	<b>Claimant</b>
1601659/2021	Mr David Reed
1601661/2021	Mr David Ashley Phillips-Lewis
1601662/2021	Miss Glesni Jones
1601663/2021	Mr Joshua Kilbride
1601664/2021	Mr Kevin Davies
1601665/2021	Mr Michael Ogden
1601666/2021	Mr Michael Smith
1601667/2021	Mr Neil Melhuish
1601668/2021	Mr Nicholas Hopkins
1601669/2021	Mr Nigel Starbuck
1601670/2021	Mr Oliver Waagenes
1601671/2021	Mr Robert Fenn
1601672/2021	Mr Robert Morgan
1601673/2021	Mr Shay Smallman
1601674/2021	Mr Sidney David Jones
1601675/2021	Mr Tomasz Magiera
2414177/2021	Mr Alex Dakin