



EMPLOYMENT TRIBUNALS

Claimants: J Bird & others (see attached Schedule 1)

Respondents: (1) Rutherford Cancer Care Limited (in Compulsory Liquidation)

(2) Rutherford Health Plc (in Compulsory Liquidation)

(3) Rutherford Diagnostics Limited (in Compulsory Liquidation)

JUDGMENT ON LIABILITY

(pursuant to rule 21 Employment Tribunal Rules of Procedure 2013)

1. The claims by the Claimants listed in the Schedule attached ("Schedule 1") against the Respondents listed in that schedule under section 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 ('the Act') for failure to comply with section 188 and section 188A of the Act are well-founded and succeed.
2. At the Remedy Hearing on **18 September 2023**, the Tribunal shall consider whether to make a protective award within the meaning of section 189(3) of the Act in the case of any of the Claimants and if so the length of any such award.

REASONS

1. By individual claim forms presented on various dates, the Claimants brought claims for a protective award under s.188 and s.189 Trade Union and Labour Relations (Consolidation) Act 1992 ('Protective Award') in respect of breach of the collective consultation requirements.

2. As the Respondent companies were in administration, all claims were stayed by the Employment Tribunal, pending the Claimants obtaining permission to proceed with their claims from the High Court.
3. By various orders, dated 4th November 2022, the High Court granted the Claimants permission to proceed with their claims in the Employment Tribunal.
4. The Liquidators were appointed on 3rd February 2023. A protective draft response was put in on 14th February 2023, along with an application to extend time.
5. A Preliminary Case Management Hearing took place before Employment Judge Franey on 17th February 2023. At this hearing the Liquidators were given permission to submit an amended response by 17th March 2023.
6. On 17th March 2023, the Liquidators wrote to the Tribunal attaching an amended Response. In that Response the Liquidators conceded liability in respect of the claims but reserved the right to make submissions in respect of the length of the protected period.
7. The Liquidators' concessions are enough in themselves for a default judgment to be given in this case. However, as the Secretary of State is an interested party, the Tribunal has nonetheless gone on to consider whether the Claimants have established their claims for a protected award.
8. As a result of the above concessions, and as a result of the HR1 forms (forwarded to the Tribunal on behalf of the Claimants), the Tribunal is satisfied:-
 - a. That each of the Claimants was employed by the particular Respondent as set out in Schedule 1 at the site / establishment therein identified.
 - b. That the relevant Respondent employed over 20 employees at each site (per Schedule 1).

- c. That the relevant Respondent proposed to and/or dismissed as redundant 20 or more employees at the site / establishment identified in Schedule 1.
- d. That there were no appropriate representatives within the meaning of section 188(1B)(a) or (b) at any of the sites.
- e. That the relevant Respondent each failed to comply with its statutory obligations under section 188A of the Act (relating to the election of appropriate representatives).
- f. That the relevant Respondent each failed to comply with its statutory collective consultation obligations under section 188 of the Act at the establishments in respect of the workforce employed there.

Employment Judge Sweeney

Date: 5 September 2023

SCHEDULE 1

Number	Multiple	Claimant	Employer	Site employed at	Number of employees employed at site, and made redundant, by relevant employer, according to HR1
1	Kettle (3312689/2022)	Zoe Kettle	Rutherford Cancer Care Limited	Shinfield	28
2	Kettle (3312690/2022)	Camilla Sweeney	Rutherford Health Plc	Newport	22
3	Bryson (3312691/2022)	Emily May Bryson	Rutherford Cancer Care Limited	Shinfield, Reading	28
4	Bryson (3312692/2022)	David Cattaneo	Rutherford Cancer Care Limited	Shinfield, Reading	28
5	Bryson (3312693/2022)	Helen Kathleen Cooper	Rutherford Cancer Care Limited	Shinfield, Reading	28
6	Bryson (3312694/2022)	Brandon Denver Flandorp	Rutherford Cancer Care Limited	Shinfield, Reading	28
7	Bryson (3312695/2022)	Benjamin William Goldsmith	Rutherford Cancer Care Limited	Shinfield, Reading	28
8	Bryson (3312696/2022)	Ali Hussein	Rutherford Cancer Care Limited	Shinfield, Reading	28
9	Bryson (3312697/2022)	Sophie Louise Main	Rutherford Cancer Care Limited	Shinfield, Reading	28
10	Bryson (3312698/2022)	Emily Joy Orton	Rutherford Cancer Care Limited	Shinfield, Reading	28
11	Bryson (3312699/2022)	Kirsty Janet Sidaway	Rutherford Cancer Care Limited	Shinfield, Reading	28
12	Bryson (3312700/2022)	Thembelimle Nia Muyirimi	Rutherford Cancer Care Limited	Shinfield, Reading	28
13	Ballard-Heap (1601361/2022)	Annie Ballard-Heap	Rutherford Cancer Care Limited	Newport	49
14	Ballard-Heap (1601362/2022)	Kapungwe Chabu	Rutherford Cancer Care Limited	Newport	49

15	Ballard-Heap (1601363/2022)	Katie Jayne Evans	Rutherford Cancer Care Limited	Newport	49
16	Ballard-Heap (1601364/2022)	Misbah El- Sayed Rass	Rutherford Cancer Care Limited	Newport	49
17	Ballard-Heap (1601365/2022)	Lauren Marie Evans	Rutherford Cancer Care Limited	Newport	49
18	Ballard-Heap (1601366/2022)	Daniel Humphray	Rutherford Cancer Care Limited	Newport	49
19	Ballard-Heap (1601367/2022)	Theodore Luke Oliver	Rutherford Cancer Care Limited	Newport	49
20	Ballard-Heap (1601368/2022)	Kerry Amy Owen	Rutherford Cancer Care Limited	Newport	49
21	Ballard-Heap (1601369/2022)	Natalia Rudd	Rutherford Cancer Care Limited	Newport	49
22	Ballard-Heap (1601370/2022)	Carl John Sweeney	Rutherford Cancer Care Limited	Newport	49
23	Bennett (2501642/2022)	Christopher John Bennett	Rutherford Cancer Care Limited	Northumberland	27
24	Bennett (2501643/2022)	Helen Louise Bridges	Rutherford Cancer Care Limited	Northumberland	27
25	Bennett (2501644/2022)	Lisa Huthart	Rutherford Cancer Care Limited	Northumberland	27
26	Bennett (2501645/2022)	Celia Lesley Miller	Rutherford Cancer Care Limited	Northumberland	27
27	Bennett (2501646/2022)	Claire Elizabeth Morris	Rutherford Cancer Care Limited	Northumberland	27
28	Bennett (2501647/2022)	Ann Louise Patrick	Rutherford Cancer Care Limited	Northumberland	27
29	Bennett (2501648/2022)	Elizabeth Helen Porteous	Rutherford Cancer Care Limited	Northumberland	27
30	Bennett (2501649/2022)	Laura Jayne Richardson	Rutherford Cancer Care Limited	Northumberland	27
31	Bennett (2501650/2022)	Andrew Charles Sawyer	Rutherford Cancer Care Limited	Northumberland	27
32	Bennett (2501651/2022)	Rebecca Simmons	Rutherford Cancer Care Limited	Northumberland	27

33	Bennett (2501652/2022)	Kimberley Topham	Rutherford Cancer Care Limited	Northumberland	27
34	Bennett (2501653/2022)	Kimberley Anne Wardle	Rutherford Cancer Care Limited	Northumberland	27
35	Bird (248605/2022)	Jenni Bird	Rutherford Cancer Care Limited	Liverpool	30
36	Bird (248606/2022)	Samantha Victoria Brown	Rutherford Cancer Care Limited	Liverpool	30
37	Bird (248607/2022)	Grace Gale- Smith	Rutherford Cancer Care Limited	Liverpool	30
38	Bird (248608/2022)	Zoey Gray	Rutherford Cancer Care Limited	Liverpool	30
39	Bird (248609/2022)	Kelly Marie Lau	Rutherford Cancer Care Limited	Liverpool	30
40	Bird (248615/2022)	Heather Martin	Rutherford Cancer Care Limited	Liverpool	30
41	Bird (248611/2022)	Jill McKenna	Rutherford Cancer Care Limited	Liverpool	30
42	Bird (248612/2022)	Angela Morgan	Rutherford Cancer Care Limited	Liverpool	30
43	Bird (248613/2022)	James William Tallon	Rutherford Cancer Care Limited	Liverpool	30
44	Bird (248614/2022)	Jessica Mary Thomas	Rutherford Cancer Care Limited	Liverpool	30
45	Harwood (1403189/2022)	Rachel Katherine Harwood	Rutherford Diagnostics Limited	Taunton	26
46	Harwood (1403190/2022)	Sheena Anne Jones	Rutherford Diagnostics Limited	Taunton	26
47	Harwood (1403191/2022)	Paul Miles	Rutherford Diagnostics Limited	Taunton	26
48	Harwood (1403192/2022)	Alison Reed	Rutherford Diagnostics Limited	Taunton	26
49	Harwood (1403193/2022)	Joanne Karen Shepherd	Rutherford Diagnostics Limited	Taunton	26
50	Harwood (1403194/2022)	Malcolm Edward Stewart	Rutherford Diagnostics Limited	Taunton	26

51	Harwood (1403195/2022)	Marianne Sweeney	Rutherford Diagnostics Limited	Taunton	26
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