Reserved judgment

Between

Miss J Smith and others
(see schedule attached)

Claimants

and

Keeping Kids Company (in compulsory liquidation) (1)
Secretary of State for Business, Energy and Industrial Strategy (2)
Respondents

Heard at London South Employment Tribunal on 4 and 5 August, and in chambers on 31 August 2016 before Employment Judge Baron

Lay Members: **Ms B C Leverton and Ms B E Knight**

Representation:

Claimants: **See attached schedule**

First Respondent: **Daphne Romney QC**

Second Respondent: **Anna Lintner - Counsel**

JUDGMENT

It is the judgment of the Tribunal by a majority as follows:

1 The claim by Lindsay Burns (case number 2302888/2015) is dismissed following a withdrawal by the Claimant.

2 In respect of those of the Claimants whose names are marked with a '$' in the attached schedule:

It is declared that the complaints made under section 189 of the Trade Union & Labour Relations (Consolidation) Act 1992 are well-founded; and

A protective award is made and the First Respondent is ordered to pay remuneration for the period of 90 days from 5 August 2015.

3 The claims by the remaining Claimants in the attached schedule marked by a '#' are stayed.

REASONS

Introduction

1 The demise of Keeping Kids Company ('KKC'), and the making of a government grant to it, received much publicity in the latter part of 2015. KKC is a limited company as well as having been at the material time, at least, a registered charity. All its employees were dismissed on 5 August 2015. On 20 August 2015 an order was made for the compulsory winding up of the company following a petition for that purpose presented by the company on 12 August 2015 on the basis that the company was unable to pay its debts.

2 Claims have been presented to the Employment Tribunal by various employees. Most of the employees have obtained the leave of the court to pursue these proceedings and most of the employees have only claimed a protective award under section 189 of Trade Union & Labour Relations (Consolidation) Act 1992. This hearing was in respect of all but one of the employees who at the date of the hearing had obtained such leave.[1] Details of the Claimants and those representing them are set out on the attached schedule. There are also other claims before the Tribunal under different heads of jurisdiction by some of the employees of KKC which are not the subject of this hearing.

3 The Official Receiver was appointed as the liquidator of KKC and Miss Romney was instructed by the liquidator for this hearing. The Secretary of State for Business, Energy and Industrial Strategy had been joined as a party to these claims under rule 92 of the Employment Tribunals Rules of Procedure 2013 as there is the potential for any award falling on the National Insurance Fund. Miss Lintner represented the Secretary of State as custodian of the Fund.

4 Miss Ferber represented the employees set out in Part A of the Schedule. Mr Henry represented Miss Akinola as shown in Part B of the Schedule. Mr Weinstock and Mr Zika were present in person as shown in Part C of the Schedule. The Claimants listed in Part D of the Schedule did not attend the hearing and were not represented. We heard evidence from the following Claimants:

Richard Worsnop;
Sharon Lindsey;
Steven Field;
Chantell Smith;
Lindsey Burns;
Emmeley Raphael;
Stéfanie Pruski;

[1] The Tribunal was only informed on the day before the hearing that one other employee had obtained leave and it was not possible in practice to include that claim in this hearing.

Iyadunni Akinola;
Louis Weinstock;
Limor Tevet;
Alexander Zika.

5 We also read statements from each of Sarah Harvey and Leanne Jennings, but they did not attend the hearing.

6 We were supplied with a bundle of documents which, we understand, was far from complete. This was no doubt inevitable in the particular circumstances.

The facts

7 We make our findings of fact as set out below. As always, we can only make findings based upon the oral evidence and such documentary evidence as was provided to us. We note in particular that we did not have any evidence from any senior employee or any trustee/director of KKC. After an introduction we set out the facts in chronological order. We include some brief details of press reports and emails sent which we do not in the end consider to be of importance, but were relied upon by Miss Ferber in her closing submissions.

8 KKC operated in London, Bristol and Liverpool. None of these claims relates to the Liverpool operation. There are claims relating to London and Bristol. There are issues as to what aspects of those operations formed 'establishments' for the purposes of section 188(1) of the 1992 Act, and we deal with our findings on these points below rather than here.

9 KKC did not have any endowment and consequently, like many charities, operated at least principally on the basis of donations and grants. We understand that it also entered into some contracts with local authorities, and possibly other organisations, which provided some income. We did not receive detailed evidence but the general impression we received was that the charity had in the past been able to obtain substantial donations from high net worth individuals, as well as substantial corporate sponsorship, largely through the efforts of Camila Batmanghelidjh, its Chief Executive.

10 Financial difficulties became particularly acute in late 2014. We were shown an article from the Evening Standard of 22 September 2014. That article referred to there having been substantial funding from some named individuals, but that KKC could not continue beyond the end of the year without government funding.

11 We were not provided with details but it appears that financial support was provided by central government in the early part of 2015. A letter was prepared and sent by the Chairman, Alan Yentob, to a civil servant dated 19 May 2015 referring to a meeting to be held with Oliver Letwin and Ian Duncan Smith on the following day. The letter refers to the government having provided over £4M to KKC at the beginning of April in order to stabilise the charity.

12 A report was prepared for the Cabinet Office for the period of April and May 2015 and refers to it having been prepared 'as required by the terms of the grant contract.' The report must of course be referred to in order to see exactly what was said. There was reference to a condition of the grant being a cut of 10% in costs, the removal of services from Bristol, and the closure of the Urban Academy in London. The report said that there had been individual conversations with staff who might want to move on to reduce redundancy payments. There was a specific statement that KKC did not have the money to carry out a redundancy structure. It was stated there was a commitment to remove the education service in Bristol at the end of the then current term in July. There was a suggestion of the Urban Academy becoming a free school. Towards the end of the report there was a paragraph referring to the lack of sustainable funding, exacerbated by false media reports and the reluctance of philanthropists to donate as the general election was then pending.

13 The contents of the letter from Mr Yentob were more stark and we consider it to be one of the most important documents. Mr Yentob warned that KKC did not have sufficient funds to pay that month's salaries, nor pay its liabilities to HMRC. Mr Yentob said: 'We require immediate short term finding, together with a firm commitment to significant statutory support going forward if we are to avoid insolvency by the end of the week.' He said that KKC had already committed to a reduction in staff by one hundred, but that it would not be possible to cut fast and deep enough without immediate financial assistance. Mr Yentob said in the conclusion to the letter that unless there was a financial commitment by the government by 22 May 2015 then KKC would have to be declared insolvent. We do not know exactly what was meant by the reference to a commitment to reduce staff by one hundred. The letter referred to there being an enclosure containing details of the first set of staff releases. We cannot be certain what that document was, but there was a list in the bundle headed 'Bristol leavers by July 2015'.

14 We do not know what happened at the meeting of 20 May 2015. There were no documents made available to us. As mentioned, we did not hear any oral evidence on behalf of KKC. No insolvency procedure was commenced at the time.

15 There had been a staff meeting on 6 May 2015 at which there was some discussion concerning funding, and the pending outcome of the general election. There was some mention of the possibility of voluntary redundancies but we are not able to make findings as to further details.

16 The next document is very significant, and again it is only possible to provide a relatively brief summary. It is a substantial document of 37 pages and is an application made to the government dated 12 June 2015 for a one-off grant of £3M to fund a restructuring of the charity.[2] The basis of the application was that KKC was to be restructured by the

[2] Referred to below as a 'business plan', because that is what it was.

third week of September 2015 to a level commensurate with a lower annual turnover. A significant element of the application was that the proposed government grant was to be matched by £3M from philanthropic donors.

17 Our attention was drawn to general comments about reduction in staff costs. There was on pages 7 and 8 of the document a 'projected income and expenditure model for 2016'. Among other proposals the document referred to the expenditure on the schools function being reduced to zero, the 'closure of all Bristol', redundancy for all Adventure Playground, Urban Academy and Heart Yard staff. As we understand it, the schools function involved placing a member of KKC staff in a school. The Adventure Playground, Urban Academy and Heart Yard projects were all in London.

18 There was a section in the document headed 'Change Process'. That stated that staff costs were to be reduced by 58%, being approximately 323 posts. Redundancy calculations had been made for all members of staff. It was stated that 'the legislation around redundancies requires that at this stage we cannot be specific about exactly which individual posts will be lost.' The redundancy process was to be completed by the third week in September, which was to allow the 'appointment of an employee consultation group, full statutory consultation period, and contingency for unexpected delays.'

19 It was proposed that a restructuring specialist be appointed to assist, and funds were included in the cash flow forecast for that purpose. We note from the forecast that just over £3M was to be incurred in September 2015 in redundancy payments, payment in lieu of notice, and accrued leave pay. The monthly staff costs were to reduce from over £1.8M in June 2015 to just over £516K in October 2015.[3]

20 We were referred to a report in the 'Third Sector' of 3 July 2015 which referred to financial support having been provided by successive governments since 2010, but that there was a report that the grant of £3M would not be provided unless Ms Batmanghelidjh stepped down, and that Ms Batmanghelidjh had told the *Today* programme that she considered it important to hand KKC over. The report also referred to there having to be a reduction in staffing levels, but it was reported that the KKC spokesman had said there were no plans at the time for such reduction.

21 There is then the first of various emails. On 3 July also Ms Batmanghelidjh sent a circular email to all members of KKC staff referring to rumours in the media, and said that nothing had been decided about restructuring, or the size of any grant. On 5 July she sent further email which told staff there were no formal arrangements for initiating redundancies, and that she was 'still hoping that we don't have to go down that route.' A further email was sent by Ms Batmanghelidjh on 16 July in her new capacity of President. She said that a grant of £3M

[3] The figure of £1.8M includes payments to those described as being self-employed.

had been agreed by the government, that a business plan was being generated, and when that had been done KKC would go to the staff for 'advice/discussion'. As appears below, the government had not by that date made a formal offer of a grant.

22 The issue as to payment of salaries for July 2015 then arose. On 27 July 2015 Ms Batmanghelidjh sent a further email saying that payment of salaries had been delayed 'due to miscommunication between banks'. There was a further email of the following day referring to 'exchanges between the government and the philanthropists and the trustees to be completed.' On the following day there was an email from the Manager of the Arches (being one of KKC's projects) in which she said that Ms Batmanghelidjh had told her that there had been an administrative error by the government.

23 The government made an offer of a grant in a letter of 29 July 2015. It was stated to be a one-off grant for the purposes of transformation and reorganisation in accordance with the plans submitted. Colin Whipp was to lead the reorganisation and have full operational and financial control. Ms Batmanghelidjh was not to be the Chief Executive Officer and was to become President without any powers to authorise expenditure. There was a further condition that monthly updates be provided to the Cabinet Office showing satisfactory progress, and a cumulative positive cash flow.

24 Later on 29 July 2015 Ms Batmanghelidjh sent an email to all staff saying that discussions between the government and philanthropists had been resolved, and that the salaries would be paid the following day. That is what occurred. The grant was received, and the July salaries were paid out of it.

25 It became known on 30 July 2015 that the Metropolitan Police were investigating allegations against KKC involving child safeguarding issues. Ms Batmanghelidjh sent an email to all staff saying that she had just become aware of the press reports, and said that it was an organised campaign against KKC. She sent two further emails on 2 August 2015, the latter of which said that it was increasingly difficult to raise funds as a result of the difficult wave of negative publicity.

26 On 3 August 2015 a letter was sent from the Cabinet Office stating that the grant agreement was terminated, and it made a 'demand [for] immediate repayment of the unspent grant of £2.1 million.' There was reference in the letter to an email sent by KKC to the Cabinet Office at 17:05 that day which we did not have. The letter of 3 August 2015 said that the email had confirmed that the grant could no longer be applied for the specified purpose, that there was a substantial reduction in the anticipated income as a result of the police investigation, and that it was likely that there would be an Insolvency Event as defined in the grant conditions. The letter from the Cabinet Office expressed significant concern as to whether the £900K spent on salaries had been spent in accordance with the agreed plan, but that is not an issue before this Tribunal.

27 Mr Yentob then sent an email to all employees on 5 August 2015 at 19:01 saying that all of KKC's centres must stop operating, and be locked and secured overnight and that KKC was closing. All employees were dismissed from that date.

28 To complete the picture we refer to the winding-up of KKC. A petition was presented to the Companies Court for that purpose by the directors/trustees under section 124 of the Insolvency Act 1986 supported by a witness statement made by Richard Handover. In paragraph 20 he referred to a critical part of the restructuring plan as having been the ability to raise substantial sums from leading supporters and other members of the public. The directors had concluded, he said, that that would not be possible in the anticipated timeframe, and that the high net worth donors had also taken that view. Having been advised of the position, the grant was withdrawn by the government. We have already recorded that the winding-up order was made on 20 August 2015.

The law and submissions

29 Section 188 of Trade Union & Labour Relations (Consolidation) Act 1992 provides as follows:

> **188 Duty of employer to consult representatives**
> (1) Where an employer is proposing to dismiss as redundant 20 or more employees at one establishment within a period of 90 days or less, the employer shall consult about the dismissals all the persons who are appropriate representatives of any of the employees who may be affected by the proposed dismissals or may be affected by measures taken in connection with those dismissals.
> (1A) The consultation shall begin in good time and in any event--
> (a) where the employer is proposing to dismiss 100 or more employees as mentioned in subsection (1), at least 45 days, and
> (b) otherwise, at least 30 days,
> before the first of the dismissals takes effect.
> (1B) For the purposes of this section the appropriate representatives of any affected employees are-
> (a) if the employees are of a description in respect of which an independent trade union is recognised by their employer, representatives of the trade union, or
> (b) in any other case, whichever of the following employee representatives the employer chooses:-
> (i) employee representatives appointed or elected by the affected employees otherwise than for the purposes of this section, who (having regard to the purposes for and the method by which they were appointed or elected) have authority from those employees to receive information and to be consulted about the proposed dismissals on their behalf;
> (ii) employee representatives elected by the affected employees, for the purposes of this section, in an election satisfying the requirements of section 188A(1).
> (2) The consultation shall include consultation about ways of--
> (a) avoiding the dismissals,
> (b) reducing the numbers of employees to be dismissed, and
> (c) mitigating the consequences of the dismissals,
> and shall be undertaken by the employer with a view to reaching agreement with the appropriate representatives.

(3) In determining how many employees an employer is proposing to dismiss as redundant no account shall be taken of employees in respect of whose proposed dismissals consultation has already begun.
(4) For the purposes of the consultation the employer shall disclose in writing to the appropriate representatives--

(a) the reasons for his proposals,

(b) the numbers and descriptions of employees whom it is proposed to dismiss as redundant,

(c) the total number of employees of any such description employed by the employer at the establishment in question,

(d) the proposed method of selecting the employees who may be dismissed, . . .

(e) the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect . . .

(f) the proposed method of calculating the amount of any redundancy payments to be made (otherwise than in compliance with an obligation imposed by or by virtue of any enactment) to employees who may be dismissed

(g) the number of agency workers working temporarily for and under the supervision and direction of the employer,

(h) the parts of the employer's undertaking in which those agency workers are working, and

(i) the type of work those agency workers are carrying out.

(5) That information shall be given to each of the appropriate representatives by being delivered to them, or sent by post to an address notified by them to the employer, or (in the case of representatives of a trade union) sent by post to the union at the address of its head or main office.
(5A) The employer shall allow the appropriate representatives access to the affected employees and shall afford to those representatives such accommodation and other facilities as may be appropriate.
(6) . . .
(7) If in any case there are special circumstances which render it not reasonably practicable for the employer to comply with a requirement of subsection (1A), (2) or (4), the employer shall take all such steps towards compliance with that requirement as are reasonably practicable in those circumstances.
Where the decision leading to the proposed dismissals is that of a person controlling the employer (directly or indirectly), a failure on the part of that person to provide information to the employer shall not constitute special circumstances rendering it not reasonably practicable for the employer to comply with such a requirement.
(7A) Where--

(a) the employer has invited any of the affected employees to elect employee representatives, and

(b) the invitation was issued long enough before the time when the consultation is required by subsection (1A)(a) or (b) to begin to allow them to elect representatives by that time,

the employer shall be treated as complying with the requirements of this section in relation to those employees if he complies with those requirements as soon as is reasonably practicable after the election of the representatives.
(7B) If, after the employer has invited affected employees to elect representatives, the affected employees fail to do so within a reasonable time, he shall give to each affected employee the information set out in subsection (4).
(8) This section does not confer any rights on a trade union, a representative or an employee except as provided by sections 189 to 192 below.

30 Section 189 provides the Tribunal with jurisdiction and sets out the remedies available.

> **189 Complaint . . . and protective award**
> (1) Where an employer has failed to comply with a requirement of section 188 or section 188A, a complaint may be presented to an employment tribunal on that ground -
> (a) in the case of a failure relating to the election of employee representatives, by any of the affected employees or by any of the employees who have been dismissed as redundant;
> (b) in the case of any other failure relating to employee representatives, by any of the employee representatives to whom the failure related,
> (c) in the case of failure relating to representatives of a trade union, by the trade union, and
> (d) in any other case, by any of the affected employees or by any of the employees who have been dismissed as redundant.
> (1A) If on a complaint under subsection (1) a question arises as to whether or not any employee representative was an appropriate representative for the purposes of section 188, it shall be for the employer to show that the employee representative had the authority to represent the affected employees.
> (1B) On a complaint under subsection (1)(a) it shall be for the employer to show that the requirements in section 188A have been satisfied.
> (2) If the tribunal finds the complaint well-founded it shall make a declaration to that effect and may also make a protective award.
> (3) A protective award is an award in respect of one or more descriptions of employees-
> (a) who have been dismissed as redundant, or whom it is proposed to dismiss as redundant, and
> (b) in respect of whose dismissal or proposed dismissal the employer has failed to comply with a requirement of section 188,
> ordering the employer to pay remuneration for the protected period.
> (4) The protected period--
> (a) begins with the date on which the first of the dismissals to which the complaint relates takes effect, or the date of the award, whichever is the earlier, and
> (b) is of such length as the tribunal determines to be just and equitable in all the circumstances having regard to the seriousness of the employer's default in complying with any requirement of section 188;
> but shall not exceed 90 days . . ..
> (5) An employment tribunal shall not consider a complaint under this section unless it is presented to the tribunal--
> (a) before the date on which the last of the dismissals to which the complaint relates takes effect, or
> (b) during the period of three months beginning with the that date, or
> (c) where the tribunal is satisfied that it was not reasonably practicable for the complaint to be presented during the period of three months, within such further period as it considers reasonable.
> (6) If on a complaint under this section a question arises--
> (a) whether there were special circumstances which rendered it not reasonably practicable for the employer to comply with any requirement of section 188, or
> (b) whether he took all such steps towards compliance with that requirement as were reasonably practicable in those circumstances,
> it is for the employer to show that there were and that he did.

31 Miss Ferber made submissions first on behalf of those whom she represented. She was followed by Mr Henry on behalf of Ms Akinola. Miss Romney then made submissions on behalf of the Official Receiver

as liquidator of KKC, followed by Miss Lintner for the Secretary of State. Finally we heard from Mr Zika, who was the only litigant in person who attended the last day.

32 Miss Ferber first of all addressed the issue of 'establishment' in connection with the Bristol employees, and we make our findings of fact on that point elsewhere. She then turned to the application of the provisions of section 188. Miss Ferber (correctly) stated that it was agreed that there had not been any steps to appoint representatives, and that there had not been any consultation as required by the section.

33 During Miss Romney's submissions Miss Ferber clarified that it was her contention that consultation ought to have started during the period from 18 May to 12 June 2015. It was only after the duty to consult had arisen that the question of special circumstances for the purposes of section 188(7) arose. Miss Ferber addressed the issue of what constituted such special circumstances.

34 Miss Ferber pointed out that in the ET3 responses KKC had averred that the publicity surrounding the criminal investigation resulted in the trustees of KKC forming the opinion that obtaining funding from individuals was not likely to be possible, resulting in the government requesting the return of the balance of the grant. However, she said, Miss Romney had referred in her written submissions to 'the events of June-August 2015' as constituting special circumstances.

35 Miss Ferber then took the Tribunal through at least some of the documents evidencing the difficulties which faced KCC from September 2014 onwards. She referred to the newspaper article mentioned above. There was then the staff meeting of 6 May 2015 and the report to the Cabinet Office of 18 May 2015. Miss Ferber submitted that the reference to a 'lack of sustainable funding' had nothing to do with any criminal investigation. She submitted that it was difficult to believe that restructuring proposals were not being formulated by that date.

36 Miss Ferber then referred to the grant application of 12 June 2015 saying that it was a key document. By that date, she said, there were clear formulated proposals which triggered the consultation obligation. There were two possible outcomes: the one being the offering of a grant resulting in the restructuring taking place; the other being a refusal of the grant in which case KCC would have had to close.

37 Miss Ferber then took us through various documents which she said were either disingenuous, fantasy, or a lie. They included the statement and email of 3 July 2015, the emails of 16, 27, 28 and 29 July 2015. Miss Ferber then referred to the email of 30 July 2015 from Ms Batmanghelidjh to all KKC staff in which reference was made to the police investigation, followed up by the emails of 2 August 2015. The police investigation, Miss Ferber said, was not apparently the source of any sudden crisis. The reference in the second email was to a 'wave of negative publicity'. To complete the factual picture Miss Ferber then

referred to the letter of 3 August 2015 withdrawing the grant, and the email from Alan Yentob of 5 August 2015.

38 In summary, Miss Ferber said that the police investigation was not significant by contrast with the financial problems which had been ongoing throughout 2015. The duty to consult had arisen by 12 June 2015 and the lack of money to fund the procedure was not a good reason not to consult. An award of 90 days' pay was appropriate in the light of the lack of any consultation, there not having been any good reason for not consulting, and the provision of misleading information to the staff.

39 Mr Henry made brief submissions for Ms Akinola. He adopted the submissions of Miss Ferber. He made the point that it was apparent by mid-June 2015 that there were going to have to be some redundancies. At that stage KKC could have taken the first step in the process by arranging for the election of employee representatives.

40 In response to the references made by Miss Ferber in her submissions to emails which it was said were misleading, Miss Romney emphasised that this was not a case of unfair dismissal where questions of fairness and reasonableness need to be considered. It was a case, she said, of applying the statute to the facts as found by the Tribunal. The Tribunal should not be concerned with issues such as good employer / employee relations. She further (correctly) pointed out that the making of a protective award was not to compensate the employees, but to punish the employer.

41 Miss Romney addressed the provisions of section 188(1) and the phrase 'proposing to dismiss'. We were referred to *Kelly v. The Helsey Group* [2013] IRLR 514 upholding the principle in *MSF v. Refuge Assurance* [2002] IRLR 324. The relevant paragraph from the headnote of the former case is as follows:

> Section 188 creates no obligation to consult earlier than the point at which the employer "is proposing to dismiss" 20 or more employees at one establishment within a period of 90 days or less. It would distort the words of the section "is proposing to dismiss" to make it akin to the Directive's "is contemplating". Adopting the view of Lord Justice Glidewell in *R v British Coal Corporation ex parte Vardy*, "proposes" relates to a state of mind which is much more certain and further along the decision-making process than "contemplates". The most fitting dictionary definition of the word "propose" is "to lay before another or others as something which one offers to do or wishes to be done", a stage later than "contemplation", the ordinary meaning of which is "having a view, taking into account as a contingency", reflecting a relatively early stage in the decision process.

42 Miss Romney also referred to the obligation in subsection (1) as being consultation about 'the dismissals' and submitted that KKC was not in a position to know what dismissals were to be proposed until the outcome of the application for a grant had been received. There were two possibilities. The first was that if no grant were approved then the likelihood was that KKC would have had to close completely. The second was that the grant was approved and so the 'business plan' as set out in the grant application of 12 June 2015 could be put into effect.

That plan referred to redundancies as taking effect by September 2015, and therefore there would have been plenty of time to carry out the required consultation within the 45 days referred to in subsection (1A). What derailed the plan was what occurred on 30 July 2015 resulting in circumstances in which KKC could not comply with the conditions of the grant. Miss Romney submitted that the obligation to consult only arose on receipt of the grant offer on 29 July 2015.

43 Miss Romney submitted that before that date there was nothing specific about which there could have been any consultations. There was the possibility of all the staff being made redundant, which is what did occur, but that was only a possibility until it was decided that KKC had to be closed completely. On the other hand, it was not possible for there to be consultations concerning only the redundancies mentioned in the restructuring plan until the grant application had been approved and outside funding confirmed. Miss Ferber's submissions, she said, as to when the duty arose were wrong.

44 Miss Romney submitted that if the redundancies were to be made in September 2015 then it was only necessary to comply with section 188 for the consultations to commence 46 days beforehand.

45 Miss Romney then submitted that there was a clear intent to comply with the statutory requirements, but those plans were derailed by the events of 30 July 2015 and that special circumstances thus arose within the meaning of subsection (7). If private donors could not be found to provide funding then KKC would not have been able to comply with the conditions of the grant and therefore the funds had to be returned. This was a classic case, she said, within the exception in *The Bakers' Union v. Clarks of Hove Ltd* [1978] IRLR 366 CA:

> Accordingly it seems to me that the Industrial Tribunal approached the matter in precisely the correct way. They distilled the problem which they had to decide down to its essence, and they asked themselves this question: Do these circumstances, which undoubtedly caused the summary dismissal and the failure to consult the union as required by s.99, amount to special circumstances; and they went on, again correctly, as it seems to me, to point out that insolvency simpliciter is neutral, it is not on its own a special circumstance. Whether it is or is not will depend upon the causes of the insolvency. They define 'special' as being something out of the ordinary run of events, such as, for example, a general trading boycott - that is the passage which I have already read. Here, again, I think they were right.[4]

46 In the alternative, Miss Romney submitted that there was substantial mitigation. This was not a case where the employer had simply ignored its statutory obligations. Steps had been taken to seek to set up a properly managed restructuring, including proper consultations about proposed redundancies.

47 Miss Lintner stated that her role on behalf of the Secretary of State was to adopt a neutral position in respect of the merits of the claims, but was to assist the Tribunal by making submissions on the law. That she did in

[4] Per Geoffrey Lane LJ at paragraph 17

a clear skeleton argument which was supplemented by some oral submissions.

48 Miss Lintner emphasised the importance of ascertaining what was an 'establishment' and referred the Tribunal to *USDAW v. WW Realisation 1 Ltd* [2015] IRLR 577 CJEU (the 'Woolworths case'), *Athinaiki Chartopoiia AE v Panagiotidis* [2007] IRLR 284 ECJ, and the *MSF* authority mentioned above. She pointed out that an employee who was employed in an establishment with less than 20 employees does not enjoy the protection of the legislation, even if other employees do have that benefit. She reminded the Tribunal that there must be at least 20 employees and volunteers or self-employed individuals do not count.[5] The Tribunal must be careful on the evidence as to whether the requirement for there to have been 20 employees was met.

49 Miss Lintner set out uncontroversial points about the obligations to consult with recognised unions, or to appoint and consult with employee representatives. She then referred to the timing of consultation and the phrase 'in good time', mentioning *Amicus v. Nissan Motor Manufacturing (UK) Ltd* [2005] ALL ER (D) 128 and *TGWU v. Ledbury Preserves (1928) Ltd* [1985] IRLR 412. Reference was made to *GEC Ferranti Defence Systems Ltd v. MSF* [1993] IRLR 101 in connection with the information to be supplied.

50 Miss Lintner turned to the question of special circumstances for the purposes of section 188(7) and referred to *Clarks of Hove* and also *UCATT v. H Rooke & Son Ltd* [1978] 204 for the proposition that the test is an objective one. The burden, she said, is on KKC to show that there were special circumstances, and also that they took such steps towards compliance as were reasonably practicable in the circumstances.

51 Finally, Miss Lintner referred to the issue of remedy. She pointed out that the making of a protective award is a matter for the discretion of the Tribunal, but that where there was no consultation, and in the absence of any mitigating factors the normal consequence would be an award of 90 days' pay – *GMB v. Susie Radin Ltd* [2004] IRLR 400.

Discussion and conclusion

52 It is not in dispute that each of the Claimants was dismissed in circumstances which amount to redundancy. It is not necessary to set out the definition of redundancy. It is further not in dispute that KKC did not go through the consultation process referred to in section 189 of the 1992 Act. We start by making the uncontroversial point that in the circumstances it was the individual employees who had the right to make the complaint to the Tribunal in accordance with section 189 of the 1992 Act. Mr Henry submitted that any award would cover all those of the same description by virtue of section 189(3). We disagree. In *Independent Insurance Co Ltd (in provisional liquidation) v Aspinall*

[5] That is material as there are seven individuals who are not accepted by the Respondents as employees. I held a hearing on that matter and am currently preparing the judgment.

[2011] ICR 1234 the Employment Appeal Tribunal it was made clear that any award in these circumstances was for the benefit of the individual claimant(s) and not a class of employees. The relevant part of the headnote is as follows:

> *Held* , . . . , that sections 188, 188A and 189 of the Trade Union and Labour Relations (Consolidation) Act 1992 conferred representative rights on trade unions and elected representatives only; that where there was no recognised trade union or elected representative the employer's obligation to consult was fulfilled by consultation with each individual employee, but there was nothing in the legislation to suggest that an individual could be considered to represent other employees in similar circumstances where he had not been elected to do so; and that it would be wholly anomalous if an individual claimant employee, without notice to the employer or other employees in respect of whom he owed no duties and had no authority to act, could make a claim for a protective award on behalf of those others, while a trade union was unable to make a claim in respect of members who were not represented but were similarly affected.

53 An issue arose at the conclusion of submissions concerning those of the Claimants who had not attended this hearing and were not represented. The position of KKC, said Miss Romney, was that their claims should fail as each of the Claimants was put to proof of his or her entitlement. Where no evidence was given then such claims had to fail. After discussion with counsel we concluded that that would not in the circumstances necessarily be just, and taking into account the overriding objective what we would do was to make case management orders in respect of those cases if we had concluded that in any of the cases before us a protective award was to be made.

Establishments

54 As mentioned above we make further findings of fact on this point having taken into account the material authorities and submissions. The fact finding exercise is not straightforward simply because of the absence of reliable documentary evidence. Miss Romney provided a helpful schedule setting out her understanding of the different establishments and whether or not there were 20 or more employees at each establishment.[6]

55 Subject to one point, there is no dispute that each of the venues from which KKC operated in London was an establishment with 20 or more employees for the purpose of section 188(1). The one point concerns Lindsay Burns who was working at a school from January 2015 onwards. Her claim was withdrawn by Miss Ferber during her closing submissions.

56 We heard evidence from Richard Worsnop, Steven Field, Chantell Smith, and Sharon Lindsey concerning the Bristol operations of KKC. We also had witness statements from Sarah Harvey and Leanne Jennings. The schedule mentioned several different venues or functions in Bristol, together possibly with representation in schools. It was not argued that collectively they constituted one establishment.

[6] B96

57 The first site was 'The Island'. We did not have the personnel or any similar records of KKC. We only had the evidence of the four witnesses mentioned. It is not possible for us to make a finding as to precisely how many employees were based at The Island. We do not accept that we have to do so. On a balance of probabilities based on the oral evidence of those witnesses, we find that there were 20 or more employees at The Island forming an establishment for the purposes of section 188(1).

58 The second venue in question is Treetops. The specific evidence of Ms Lindsey was that there were in excess of 20 staff based at Treetops, and she had counted 31 individuals, although not all had been working there at the same time. It was the key managerial site or head office for the Bristol operation. Again, based on a balance of probabilities, we find that that establishment had 20 or more employees at the relevant time.

59 Steven Field was in a special position in Bristol. He was a Security Guard who moved among the various of the KKC sites in Bristol. His evidence was given by telephone and he did not hear the evidence of any other witnesses, nor the questions put to them in cross-examination. In his oral evidence, after saying that he moved among sites, he said that he spent quite a bit of time at Treetops and also The Island. We have found that there were at least 20 employees at each of those sites. It would be anachronistic and unfair if Mr Field were not entitled to any protective award simply because he was peripatetic between two 'qualifying' sites. We include him with the Treetops employees as being the head office in Bristol.

Entitlement to a remedy

60 We now turn to the substance of the matter. We can deal with one point quickly. We do not accept that the contents of the emails from Ms Batmanghelidjh to the staff to which Miss Ferber referred during her submissions have any relevance to the question as to whether there has been a breach of section 188.

61 We look at the provisions of section 188. Subsection (1) contains the conditions under which the obligation arises. Subsection (1A) then sets out when the provisions as to the time of that consultation. We note in passing that the requirement in the statute as enacted that the consultations shall 'begin at the earliest opportunity' is now 'begin in good time', and we return to that below. Then subsection (2) sets out what the consultation shall include. Subsection (4) augments that provision by setting out the requirement for the employer to disclose certain matters in writing to the representatives.

62 We consider the authorities to which we were referred in chronological order. The *Ledbury Preserves* case does not assist. This case was heard under the provisions of section 99 of the Employment Protection Act 1975. Redundancy notices were sent out only half an hour after proposals had been put to the union. The process was a sham.

63 *GEC Ferranti* is a little more useful, although the point there was at what date the consultation which did take place actually commenced. The

conclusion was that the statutory period for consultation could not begin to run until sufficient information had been disclosed to enable meaningful consultation to take place, and that was a question specific to the facts and circumstances in each case.

64 The brief summary report of *Amicus* does not assist. The simple point is that the statute does not require consultation to be at the earliest opportunity, and the question of 'in good time' had been properly considered by the Tribunal.

65 That brings us to the important decision in *Refuge Assurance*. Much of the judgment in that case is taken up with the issue as to whether the domestic legislation could be read so as to comply with the Directive, and the Employment Appeal Tribunal held that it could not be read or construed in that manner. The test adopted by the Tribunal at first instance on the facts of that case was approved by the Employment Appeal Tribunal. That test was:

> We find that proposing to dismiss means more than a mere contemplation of, or consideration of, dismissal during the formulation and adoption of a business plan but is something less than a final decision.

66 A further paragraph cited by the EAT with approval is as follows:

> There is no duty to consult with the trade union until, at the very earliest, the board of directors has given its approval to the proposal. Until that point in time the management has been formulating business plans to put to the board. This is so even where the board of directors has given its approval for the merger discussions to go ahead.

67 Although not specifically referred to it, we note the following passage from the judgment:

> **23 In good** time**?**
> As will be seen, the statute creates no obligation to consult earlier than the point at which the employer 'is proposing to dismiss' the appropriate number at one establishment within the specified period or less - s.188(1). The consultation is required to be 'about the dismissals' and to be with those who represent employees 'who may be so dismissed'. Subsection (1A) requires that the consultation 'shall begin in good time' and, where the employer is 'proposing to dismiss 100 or more', at least 90 days before 'the first of the dismissals takes effect'. The consultation has to include ways of avoiding the dismissals (subsection (2)) and disclosure is required to be made by the employer *in writing* as to the aspects of his proposals as set out in subsection (4).

68 We have looked at the facts better to understand the findings, although we acknowledge of course that each case depends on its own facts. In brief there was a plan to merge two insurance companies. By 8 August 1996 the boards of the two companies had agreed terms. There was a press announcement of which the union was informed beforehand. One aspect of the agreed terms was that one head office would close. The Tribunal found that the duty to consult the staff affected by the closure of that office arose at that time, and that on the particular facts the consultation had then commenced in good time.

69 The second group of employees affected were field staff. An integration steering group was formed to oversee proposals for the merger. On 29 January 1997 the plans prepared by that group were approved in

principle by the merged board. The Tribunal held that it was then that the duty to consult arose, and on the facts the consultation which then began on 18 February 1997 were held in good time. The same timing applied to a group of administrative staff.

70 I regret that it has not been possible for there to be a unanimous decision on each relevant point, and I am in the unfortunate position of not being able to agree with my lay colleagues in some respects.

71 We agree that as far as the Bristol based employees, and those involved in the Adventure Playground, Urban Academy and Heart Yard in London were concerned, the plan had by 12 June 2015 at the latest reached such a stage as to fall within the 'proposing to dismiss' category. That was clearly stated in the grant application of that date. On the evidence we find, and we do not think that it was in any way contentious, that it is obvious that if the grant for which application had been made, or something along similar lines had not been provided, then KKC would have had to enter into administration or some other insolvency procedure forthwith, inevitably involving the redundancy of all, or nearly all, of the staff.

72 The lay members and I part company at this stage as to when the obligation to consult arose, and whether KKC was in breach of that obligation. We are, however, unanimous in not accepting the submission of Miss Romney that all that is necessary is to ascertain the date of the first proposed redundancy, and then count back for 46 days. If that were correct then the provisions of the statute that the consultation must 'begin in good time and in any event . . . at least 45 days before the first of the dismissals takes effect' would be partly deprived of effect. The phrase 'in good time' would be superfluous. On the other hand, the obligation is not that there must be consultation at the earliest opportunity.

73 The lay members noted that Mr Yentob's letter of 19 May told government that KKC would be insolvent before the end of the week without help. They took into account the fact that staff were not paid on time in May, June or July. The lay members took particular note of the fact that proposals were set out as definite at least by the 12 June application to government for funding. In particular, they noted the following comments within that application:

> The charity finds itself in a position this year where previous levels of funding are not materialising.
> The charity must restructure to a level that can be supported by a lower annual turnover.
> Kids Company does not have sufficient cash reserves to fund the restructure.
> Restructure would be completed by September 2015.
> Continuing as we are is not an option: we have not received sufficient income this year to continue operating at our current scale.
> Staff costs will be reduced by 58% - approximately 323 posts.

74 The lay members therefore considered that redundancies were inevitable, at the latest by 12 June if not before. The business plan which accompanied the grant application, as approved by the Trustees, is akin in the *Refuge Assurance* case to the board approving the proposals. The business plan formed a sufficiently firm proposal to satisfy S188 (1) and (4) TULRCA 1992 and thus trigger the obligation to consult, in that any or all of the employees may be affected, but a minimum of 58% of the employees would be made redundant. If KKC were successful in its application for government funding, staff costs would be reduced by 58%, equating to approximately 323 posts. If it were not successful in its application for government funding, KKC would be insolvent and all posts would go. By June at the latest there was no option which did not involve significant numbers of redundancies, triggering the statutory obligation. The unforeseen police investigation at the end of July was not relevant to this fact.

75 The lay members considered that KKC should have commenced work on its obligations regarding consultation promptly after 12 June at the latest. Indeed, it could be argued that for consultation to meet the requirement to be 'meaningful' this was already too late. In any case, the lay members did not consider that the law permitted KKC to delay consultation on the grounds that it did not know the exact names of the 323 individuals who would be affected if it were to be successful in obtaining government funding. The consultation as set out in section 188(2) would revolve around the identified percentage, being 58% of the workforce. The choice by that stage was stark. Whatever happened, there would be redundancies for a number between approximately 323 and the total staff (understood to be around 600).

76 There was in any case no guarantee that KKC could remain solvent even with government funding - the document on 12 June was a plan but not one which was guaranteed success. For example, it relied heavily on matched funding (which had increasingly been very difficult to obtain, long before any police investigation), and KKC allegedly used some of the government grant to pay staff salaries in July, a purpose for which the funding was not intended and which was referred to in the funding withdrawal letter. So the plan was in any case by no means guaranteed to succeed.

77 On that basis the events at the end of July which precipitated the demise of KKC were irrelevant and did not form a special circumstance for the purpose of subsection (7). The consultation should have commenced earlier. The events at the end of July may have prevented further consultation taking place, but that did not affect the pre-existing breach.

78 As far as remedy is concerned, the lay members conclude that the affected employees are entitled to a declaration, and also that it is appropriate to make a protective award. That award is to be of 90 days' pay, following the *Susie Radin* guidance. No satisfactory reason has been shown as to why there should be any lesser award.

79 I take a different view. Because it is necessary for me to go through the various elements of the statutory scheme and refer to different establishments, my reasoning is lengthier than that of the lay members. That does not of course mean that it should be accorded any greater respect.

80 I remind myself that the issues before us relate to the dismissals effected on 5 August 2015, as opposed to those planned for September 2015, but noting that the matter has to be considered against the background of that plan. I consider first the general body of the redundancies as opposed to those specifically identified in the grant application. As submitted by Miss Romney, this case simply involves the interpretation of section 188, and we are not concerned with the law and authorities relating to unfair dismissal. I first address the point about 'proposing to dismiss' in subsection (1).

81 The section is based on the premise that there are specific dismissals being proposed about which there is to be consultation. Subsection (1) refers to 'the dismissals', and subsection (2) provides that the consultation shall (*inter alia*) be about ways of 'avoiding the dismissals'. Further, subsection (4) sets out specific details of the information to be supplied in connection with any consultation. That information includes the number and description of employees whom it is proposed to dismiss, the establishments involved, and the method of selection. Thus those, or descriptions of those, to be the subject of 'the dismissals' must have been identified, at least on a provisional basis.

82 In my judgment KKC could not have known with sufficient certainty what redundancies were to be proposed until the outcome of the grant application was known to enable the information required by subsection (4) to be provided. The grant may have been refused completely, or conditions as to more extensive redundancies may have been imposed, or the application may have been successful in accordance with its terms. The third event is what occurred, but it is my view that until 29 July 2015 KKC was not in a position to make a decision as to which employees it was proposing to dismiss. Although the cases differ on the facts, the position is akin to the field staff in the *Refuge Assurance* case where the obligation to consult did not arise until the board had approved the proposals. In that case there was a condition precedent of board approval. In this case the condition precedent was the approval of the government to the making of the grant, and it was the government which held the purse strings. My conclusion therefore is that the obligation under subsection (1) arose on 29 July 2015 and not before that date. The obligation was then to consult in good time.

83 The next issue is whether there were special circumstances for the purposes of subsection (7) rendering it not reasonably practicable to comply with the statutory obligations otherwise applicable. In my judgment there were such circumstances. KKC had prepared in some detail for the appropriate consultation to take place if the funding were provided. The scheme set out in the grant application had been costed

and a consultant had been at least provisionally engaged. What then occurred could not have been predicted and was out of the ordinary. While of course *Clark's of Hove* makes it clear that insolvency by itself is not sufficient, it was also recognised that there could be exceptions. The example given there of the cause of the insolvency was a general trading boycott. My view of the facts as far as we know them is that the proximate cause of the commencement of the insolvency procedure, and the dismissals, was the release of information that the police were investigating allegations of abuse. That resulted in private donors withdrawing the promised support, and thus the withdrawal also of the grant.

84 Miss Ferber submitted with some force that it was the longstanding financial problems which were the cause of the insolvency, and not the police investigation. The financial position was of course the background to what occurred, and if there had not been financial problems then there would not have been an insolvency. That goes without saying. However, what we are considering here is the mechanics of section 188. My view of the matter is that the financial problems created the necessity for the restructuring plan to be drawn up, which required funding to put into effect. If the restructuring plan had continued then all the evidence is that the Respondent would have sought to comply with its statutory obligations. The funding then failed because of the police investigation, precipitating the winding-up petition.

85 My conclusion is therefore that there were special circumstances within section 188(7). I also conclude that there were on the particular facts no reasonably practicable steps which KKC could have taken after 31 July 2015. It became apparent that KKC was insolvent, and more particularly that that insolvency could not be remedied as planned. I therefore conclude that KKC was not in breach of its obligations under section 188.

86 If I am wrong on that point then it is necessary to consider the question of a remedy. Section 189 provides that the Tribunal shall make a declaration and may make a protective award. I would therefore have made a declaration as to the breach of section 188. However I would not have made any protective award. I remind myself that the making of a protective award is a punitive step. My view of the position which prevailed in 2015 in summary is as follows. There had clearly been financial difficulties for some time. It appears that there had been continuing support from the government during the first half of 2015. During that time the trustees/directors put together a proper business plan for the purpose of reorganising KKC and putting it on a more sound financial footing. The plan was costed and a timetable set out. That in my view was an entirely responsible course of action, and in particular the plan would have enabled KKC to comply with its statutory obligations. The scheme was blown off course by an entirely unforeseeable event. In those circumstances I do not consider that it would have been appropriate to make a protective award as a punishment of the employer.

87 So far I have been considering the general body of KKC employees and not those employed at the establishments identified in the business plan as to be closed in any event. Insofar as it is appropriate to use the facts of *Refuge Assurance* as analogous, my conclusion is that those establishments are akin to the head office which was to be closed, and that by 12 June 2015 the 'proposing to dismiss' condition in section 188(1) had been satisfied.

88 The next question therefore is whether KKC was under the obligation in subsection (1A), or was excused from it by virtue of the provisions of subsection (7). I will not rehearse again what Miss Romney said amounted to special circumstances. What I have to decide is whether it was necessary for KKC to have commenced consultations in respect of the employees at these establishments earlier than 31 July 2015 when the special circumstances arose. That depends upon the interpretation of subsection (1A). The original formulation of the consultation obligation as having to begin 'at the earliest opportunity' has been changed to 'in good time'. I agree that, subject to resources, it would have been practicable for consultation to commence in relation to the establishments now under consideration during, say, the latter half of June 2015. I consider that that is the wrong way of looking at the matter. The plan was to effect dismissals after consultation had taken place. There is no reason to suppose that there would not have been proper consultation concerning such dismissals, but that is not what occurred. What occurred was that in fact the earlier and 'different' dismissals were forced on KKC. It is those dismissals with which this claim is concerned, and not the putative September dismissals.

89 My conclusion as to the employees at these establishments is the same as the general body of employees. I consider that subsection (7) equally applies, and again if I am wrong, I would not have made any protective award.

Employment Judge Baron
18 November 2016

Judgment sent to the parties on

and entered in the Register

for the Tribunal Office

Schedule of Claimants

Part A	**Represented by Miss Ferber**	
#	2303486/2015	Mr Lee Anderson
#	2303487/2015	Mr Aidel Hanovitch
#	2303488/2015	Mr Alex Whitton
#	2303489/2015	Mr Alice McDermott
#	2303490/2015	Mr Andrea Asare
#	2303491/2015	Mr Andreia Nunes
#	2303492/2015	Mr Andrew Williams
#	2303493/2015	Mr Ashia Redhead
#	2303494/2015	Mr Benedetta Frasca Doria
#	2303495/2015	Mr Carlton Cameron
#	2303496/2015	Mr Catherine Webb
#	2303497/2015	Mr Colin Okomi
#	2303498/2015	Mr David Inns
#	2303499/2015	Mr David James
#	2303500/2015	Mr Dr Theokritos Papadopoulos
#	2303501/2015	Mr Edy Mpisaunga
#	2303502/2015	Mr Emily May
#	2303503/2015	Mr Emma Fox
#	2303504/2015	Mr Ercan Timur Hassan
#	2303505/2015	Mr Eujenny Isaac-George
#	2303506/2015	Mr Grace Robinson
#	2303507/2015	Mr Helen Ruszcynski
#	2303508/2015	Mr Helen Winter
#	2303509/2015	Mr Ibrahim Mohammed
#	2303510/2015	Mr Jeffrey Wotherspoon
#	2303511/2015	Mr Jessica Barsley
#	2303512/2015	Mr Justyna Parada
#	2303513/2015	Mr Karolina Holstein-Beck

#	2303514/2015	Mr Lanre Hameed
#	2303515/2015	Mr Larysa Farthing
#	2303517/2015	Mr Leon McLeod
#	2303518/2015	Mr Leonidas Kastis
$	2303519/2015	Mr Limor Tevet
#	2303520/2015	Mr Linda Callaghan
#	2303521/2015	Mr Malcolm Henry
#	2303522/2015	Mr Martyne Bennett
#	2303523/2015	Mr Milos Djordjevic
#	2303524/2015	Mr Natalie Dawn Hayes
#	2303525/2015	Mr Nick Greaves
#	2303526/2015	Mr Nikolas Sarras
#	2303527/2015	Mr Nils Bendle
#	2303528/2015	Mr Onaghise Omorogbe
#	2303529/2015	Mr Paul Akpoguma
#	2303530/2015	Mr Pavlo Terletsky
#	2303531/2015	Mr Petula Storey
#	2303532/2015	Mr Rene Butler
#	2303533/2015	Mr Ricky Whittington
#	2303534/2015	Mr Robert Kpodo
#	2303535/2015	Mr Sharon Lees
#	2303536/2015	Mr Shila Hussain
$	2303537/2015	Mr Stefanie Pruski
#	2303538/2015	Mr Stuart Henderson
#	2303539/2015	Mr Susanna Clare Ford
#	2303540/2015	Mr Waldemar Kuras
#	2303541/2015	Mr Wayne Samuel
#	2303542/2015	Mr Winston Thomas
#	2303543/2015	Mr Zoe Weston
#	2303544/2015	Mr Simon Warman
#	2303545/2015	Mr Joanna Oldfield

#	2303546/2015	Mr Melita Rova
#	2303547/2015	Mr Eva Szabo
#	2303548/2015	Mr Dean Bent
#	2303549/2015	Mr Bhavisha Patel
#	2303550/2015	Mr Anne-Marie Louise Frake
#	2303551/2015	Mr Vicky White
$	2303552/2015	Mr Sarah Harvey
$	2303553/2015	Mr Chantell Smith
$	2303554/2015	Mr Steven Mark Field
#	2303555/2015	Mr Finian Neary
$	2303556/2015	Mr Sharon Lindsey
#	2303557/2015	Mr Joan Barrett
#	2303558/2015	Mr Sally Easton
#	2303559/2015	Mr Rachel Lindars
#	2303560/2015	Mr Hayley Griffiths
#	2303561/2015	Mr Jane Ivall
#	2303562/2015	Mr Charlotte Farrell
#	2303563/2015	Mr Peter Callis
#	2303564/2015	Mr Jenny van Dyk
#	2303565/2015	Mr Nadine Bourne
#	2303566/2015	Mr Gregory Henry
#	2303567/2015	Mr Jessica van Delft
#	2303568/2015	Mr Farjana Ferdous
$	2303569/2015	Mr Leanne Jennings
#	2303570/2015	Mr David Ruiz Lopez
#	2303571/2015	Mr Rachel Elizabeth Awudu
#	2303572/2015	Mr Ashely Moore
#	2303573/2015	Mr Audrey West
#	2303574/2015	Mr Stuart Smith
#	2303575/2015	Mr Dorothea Dowell
#	2303576/2015	Mr Paola Andrea Londono

#	2303577/2015	Mr Farid Bourbrouk
#	2303578/2015	Mr Juliana Guddat
#	2303579/2015	Mr Naomi Fitzpatrick
$	2303580/2015	Mr Richard Worsnop
#	2303581/2015	Mr Winston Adams
#	2303582/2015	Mr Marilynn Figueira
#	2303583/2015	Mr Neville Gustave
#	2303584/2015	Mr Martin Hunte
#	2303585/2015	Mr Chloe Joseph
#	2303586/2015	Mr Aisha Thompson
#	2303587/2015	Mr Dorothy Crick
#	2303588/2015	Mr Nana-Ama Afrifah
$	2303589/2015	Mr Emmeley Raphael
#	2302881/2015	Miss Jodie Smith
#	2302882/2015	Ms Davina Cracknell
#	2302884/2015	Miss Karen Stenning
#	2302885/2015	Miss Holly Lieberson
#	2302886/2015	Mr Elie Levy
Claim withdrawn	2302888/2015	Miss Lindsay Burns
#	2302889/2015	Miss Sally Beveridge
#	2302890/2015	Mr Felix BowersBrown
#	2302891/2015	Miss Dannyella Glasgow
#	2302893/2015	Mr Sam Howard
#	2302894/2015	Ms Sharon Rowland
#	2302895/2015	Miss Eliza Turner
#	2302896/2015	Miss Eloise Dale
#	2302897/2015	Mr Danny Hames
#	2302898/2015	Ms Lisa Moodie
#	2302899/2015	Miss Natalie Akkad
#	2302901/2015	Miss Julianna Katona

#	2302902/2015	Mr Simon Arnold
#	2302903/2015	Miss Kira Montague
#	2302904/2015	Mrs Octavia McCoy
#	2302905/2015	Mrs Joshica Parmar
#	2302906/2015	Miss Hayley Basnett
#	2302907/2015	Mr Christopher Williams
#	2302908/2015	Mr Dhairya Patel
#	2302909/2015	Ms Yasmine Hussein
#	2302910/2015	Mr Nicholas Hilton
#	2302911/2015	Mr Leonardo Perez
#	2302912/2015	Miss Maria Nieto
#	2302914/2015	Mr David Amoabeng
#	2302626/2015	Miss Larissa Howells
#	3303451/2015	Mr Nigel Langford
Part B	**Represented by Mr Henry**	
$	3303483/2015	Miss Iyadunni Akinola
Part C	**Claimants in person**	
$	2302880/2015	Mr Louis Weinstock
$	2302900/2015	Mr A Zika
Part D	**Claimants who were not present nor represented**	
#	2302887/2015	Ms Evelyn Baron
#	2302892/2015	Miss Rebecca Lever
#	2302906/2015	Miss Hayley Basnett
#	2302913/2015	Mr Adam Arian