



Misco UK Protective Award Claims FAQ's

This document is intended to provide brief guidance on Protective Award claims for ex-employees.

1. What is a Protective Award?

An award of up to 90 days' gross pay per affected employee made as a result of an employer's failure to comply with their legal duty to collectively inform and consult its workforce/workforce representatives when it proposes to make redundant 20 or more employees at one establishment (workplace).

It is not the same as claims for notice pay or redundancy pay – it is a claim for additional compensation for the lack of advance notice and redundancy consultation.

2. Am I eligible to bring a Protective Award claim?

Yes, if you are one of 20 or more employees made redundant by your employer or its administrators, without consultation, or without sufficient consultation.

Unlike an unfair dismissal claim, such a statutory right is not conditional on your length of service. Provided you were made redundant, you are eligible to make a claim.

3. When must the claim be brought?

A claim must be made to an Employment Tribunal within 3 months (less a day) from the date you were made redundant, subject to any extension of time that might be granted for completing ACAS Early Conciliation within that primary period.

4. If I am successful, what am I likely to recover?

The maximum award that an Employment Tribunal can make is 90 days' gross pay per employee. In cases where no consultation has taken place, 90 days' pay is often awarded. Where there has been some consultation or there were special or mitigating circumstances as to

why consultation couldn't take place, awards commonly range between 28 and 56 days' pay. However, where the company is insolvent it is likely that only a proportion of this can actually be recovered (see 5 below).

5. What if my employer is bust?

If you were made redundant because your employer became insolvent, the Insolvency Service can pay the Protective Award compensation out of the National Insurance Fund. However, the amount payable is limited to a maximum of 8 weeks' gross pay (capped at £489 per week), less amounts already paid by the government for wages owed. However, you must first secure an Employment Tribunal judgment and send this to the Insolvency Service to claim payment.

6. How can Morrish Solicitors LLP help me?

We have vast experience in bringing multiple Protective Award claims. We recently represented 260 ex-CityLink employees, who were each awarded 90 days' pay, see links:

[BBC News](#)

[ITV News](#)

We have also had success in other large protective award claims such as Phones4u, Turners Fine Foods, Paperlinx, Austin Reed and others are ongoing.

We can prepare the claims in detail, collate documents and compile bundles. Witness evidence and legal submissions will need to be completed and there is a great deal of administration involved in the process. These claims are often defended by the company and/or the administrators and a Tribunal hearing might be needed. If the claims succeed, we can then liaise with the Insolvency Service to secure payments from the National Insurance Fund. We only make a charge for these services at the end of the case, from compensation recovered.

7. What if I am a member of a Trade Union or part of a bargaining unit?

If you are a trade union member you must contact your union and seek their support in pursuing a claim for a Protective Award. Trade union membership is by far the best way of funding these types of claim, as legal assistance is usually a benefit of membership.

If trade unions operate within the company, we also need to check whether you are part of a bargaining unit for which a trade union is recognised. If so, you might not need to bring a claim yourself, however you should seek advice because the rules are complex.

If you would like to submit a potential claim, please [complete our online Protective Award questionnaire](#).

If you have any questions, please email us at info@morrishsolitors.com

You should note that there is a general time limit of 3 months (less one day) from the date of the act complained of to bring most types of claims in the Employment Tribunals (ETs), subject to any extension by way of use of the ACAS Early Conciliation process. In a protective award claim ET proceedings must be commenced within 3 months (less one day) from the date of dismissal.

We are unable to give you more detailed advice about time limits at this stage but you should have regard to the time limit. At this stage, we cannot take any responsibility for lodging any claim within that time limit – you have responsibility for doing so.