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# it's our business

newspad of the Employee Share Ownership Centre

Z/Yen Group Limited t/a The ESOP Centre

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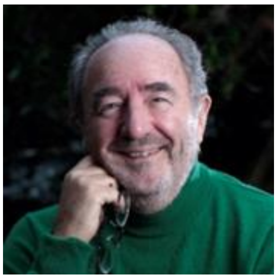
# WELCOME

## In this issue





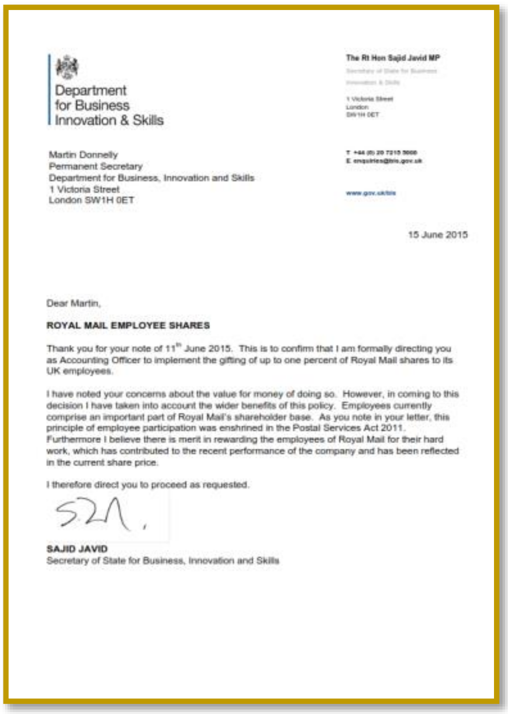
***From the life president***

*There is a major difference between the common market and ever closer union. Under Margaret Thatcher the market made great strides. She negotiated a rebate for the UK and arranged to appoint the ex-chairman of Boots the chemist, Lord Cockfield, to the role of Industry Commissioner in Brussels. He was so successful he became known as "the father of the single market".*

*By contrast ever closer union was not a matter of efficiency, it was a method of putting the European institutions effectively under French control.*

*Liz Truss has mainly in common with Mrs Thatcher the fact that she is a woman. What will matter to the Centre is what role Sajid Javid might play in future, even if the current Chancellor or Kwasi Kwarteng succeeds in the role. Sajid overrode officials to give extra shares to employees of Royal Mail. Let us hope common sense will guide the immediate post-Johnson administration.*

***Malcolm Hurlston CBE***



Department for Business Innovation & Skills

The Rt Hon Sajid Javid MP

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London
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Martin Donnelly
Permanent Secretary
Department for Business, Innovation and Skills
1 Victoria Street
London SW1H 0ET

www.gov.uk/bis

15 June 2015

Dear Martin,

**ROYAL MAIL EMPLOYEE SHARES**

Thank you for your note of 11th June 2015. This is to confirm that I am formally directing you as Accounting Officer to implement the gifting of up to one percent of Royal Mail shares to its UK employees.

I have noted your concerns about the value for money of doing so. However, in coming to this decision I have taken into account the wider benefits of this policy. Employees currently comprise an important part of Royal Mail's shareholder base. As you note in your letter, this principle of employee participation was enshrined in the Postal Services Act 2011. Furthermore I believe there is merit in rewarding the employees of Royal Mail for their hard work, which has contributed to the recent performance of the company and has been reflected in the current share price.

I therefore direct you to proceed as requested.

**SAJID JAVID**
Secretary of State for Business, Innovation and Skills

# Court delay frustrates Roadchef Esop beneficiaries

The High Court has yet to fix a date to hear the proposed agreement between **Roadchef** employee benefit trust (REBTL) and HMRC over whether and how the compensation pots of around 500 former Roadchef employee Esop participants should be taxed.

Roadchef ceo Mark Fox has told a Roadchef beneficiary that all the main players in the 24-year compensation battle saga were waiting for a court date to be confirmed. The proposed arrangement to settle the tax dispute needed to be 'blessed' by the court in order for the long-awaited distribution of the compensation pots to go ahead. REBTL still hoped that the court hearing could go ahead this year, he added.

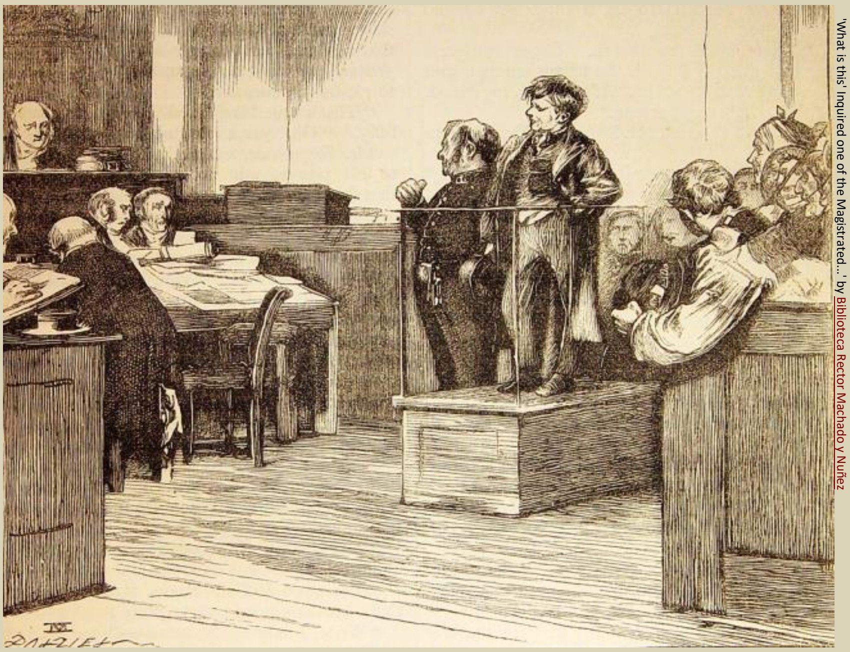
Newspad revealed in June that a deal between the trustee - REBTL - and HMRC over the tax issues had been reached in principle after years of deadlocked negotiations, but the delay in fixing a date for the High Court hearing has added to the frustration felt by the Esop beneficiaries who have yet to see a penny of their court-awarded compensation.

In 1995, Tim Ingram-Hill, then Roadchef chairman and director of Roadchef EBTL, authorised the *transfer* of 22m Roadchef employee Esop shares into a separate executive performance shares trust EBT2, of which he was an intermediary corporate trustee too. When Roadchef was sold in 1998 to Nikko, he exercised his options over the 22m Esop shares at 12.5p per share and sold them to Nikko at £1.31 each, making a gross profit of ***£26.8m***. Had the Roadchef Esop been allowed to operate as it should, more than 600 Roadchef employees (at that time) could have received five figure sums when the business was sold, said their legal adviser, Capital Law.

However, it was not until January 2014 that Mrs Justice Proudman ruled in the High Court that Mr Ingram-Hill had breached his fiduciary duty when he facilitated the transfer of the employees' Esop shares into the performance shares trust, which he controlled.

Esop Centre founder and life president Malcolm Hurlston CBE has characterised the Roadchef Esop compensation case as the fictional *Jarndyce v Jarndyce* (Charles Dickens) of our times.

Roadchef ceo Mark Fox: said: "*REBTL and HMRC have agreed a resolution in principle. This arrangement needs to be blessed by the courts and all parties are waiting for a court date to be confirmed. Beneficiaries will get representation in the process through beneficiary representatives from each cohort of beneficiary and, all being well, distributions can commence shortly after the court hearing. The latest update I have is that REBTL hope that this will be this year but they are dependent on receipt of a court hearing date. The process is very much in the final stages after a very long and drawn-out dispute between HMRC and REBTL and I am sure that the Trustee will contact all beneficiaries as soon as there is new information to share.*"



'What is this' Inquired one of the Magistrated...' by Biblioteca Rector Machado y Nuñez

# SIP boosted by inflation and frozen allowances

Frozen annual tax allowances, coupled with soaring price inflation, have combined to give the Share Incentive Plan (SIP) a tangible advantage over SAYE-Sharesave in the share scheme popularity stakes. Under SIP rules, employees can buy shares out of their salary ***before*** tax deductions come into play, but this is not the case for SAYE-Sharesave participants who pay their monthly contractual share option savings *after* tax has been deducted from their pay.

For many years, this distinction hasn't mattered a great deal because, hitherto, UK price inflation has been low and because personal tax allowances were indexed annually to keep up with modest rises in annual prices. Now the tax landscape is completely different – as much bigger pay rises already take hundreds of thousands more employees into the 40 percent tax band via a process called *fiscal drag*. Pay rises, particularly in sectors like construction and financial services have been substantial, in order to try and keep up with annual consumer price rises which, according to *Citi Bank*, could top a stratospheric ***18 percent***, or even more, by January next year.

Before he resigned, former chancellor Rishi Sunak froze all personal tax allowances until 2026, ensuring that, within the next two years, a large number of middle-earning employees will be dragged into the higher tax charge bands too, even if they receive average pay rises of, say, seven percent per year, well below the rate of price increases. As runaway inflation emboldens employees and/or their unions to demand ever higher pay rises, there could be many more than one million extra employees finding themselves suddenly in the higher tax band charge bands before the end of the current fiscal year next April.

A profitable way for employees to preserve part of their pay rises from higher tax rates therefore is to join a workplace SIP, or to increase their existing *partnership share* buying arrangements to the permitted limit, which is either £1,800 pa, or ten percent of their income for the tax year, whichever is lower. Income from £12,571 up to £50,270 is taxed at only 20 percent, but every pound of income on top of that is taxed at 40 percent– twice as much - up to a limit of £150,000 when it starts to incur the higher rate of 45 percent. *So an employee earning £55,000 pa can save **£360** per year in Income Tax by using his/her SIP partnership share buying allowance to the limit.*

Participating employees *may* be able to buy more shares too in SIP schemes, using the dividends they receive from free, partnership or matching shares (*but only if the employer's scheme allows it).* This would reduce their Income Tax liability further, especially if their current pay makes them hover between the lower tax band of 20 percent and the 40 percent higher rate.

Separately, they can receive from their employer up to £3,600 of free shares in any tax year and employees can receive up to two free matching shares for each partnership share they buy. However, SIP shares must be held for a minimum five years before they qualify for the full tax relief and that fact will deter some employees from investing in SIP.

At the recent Esop Centre members' *webclave*, participants heard that the use of SIP matching and partnership shares remained strong, but the number of companies offering free share awards had fallen back. However, companies did provide Covid related free share awards, which were not reflected in the official statistics, as some companies chose to offer them under the conditional awards umbrella, i.e. outside SIP rules, *in order to have a shorter vesting period*. This phenomenon amplified the Centre's message to the government – *reform the tax-advantaged SIP now in order to release the evident pent-up demand for it.*

Meanwhile, lower share prices in year 20/21 meant more SAYE schemes were underwater, a fact reflected by the low number of employees (only 80,000) *exercising* options in that fiscal year. The number of employees *granted* new SAYE options in 2021 increased significantly due to perceived low option price offers after employees exited their previous plans, now underwater, in order to join new ones.

## Minister thanks Centre for its proposals on CSOP reform

Treasury Economic Secretary Richard Fuller confirmed that senior Treasury officials were studying the Centre's proposals on how the Company Share Option Plan (CSOP) could be reformed. Mr Fuller wrote to Centre executive chairman, Prof Michael Mainelli, London's next Lord Mayor, thanking him for sending members' reform ideas. The minister said: "*Thank you for your letter of June 23 to the former Chancellor of the Exchequer about changes to the Company Share Option Plan (CSOP). I am replying as the minister responsible for this policy area. As you are aware, at Budget 2020, the government launched a review of the Enterprise Management Incentive (EMI) scheme, which the government concluded at Spring Statement remains effective and appropriately targeted. I note that you contributed to this review and we thank you for your input.*

*"You are right that the review has been expanded to consider if the other discretionary tax-advantaged share scheme, Company Share Option Plan, should be reformed to support companies as they grow beyond the scope of EMI.*

"In particular, I note the three changes you have suggested to consider within this review, including the options limit; the holding period; and the share classes. Your insights have been shared with my officials for further consideration," added Mr Fuller.

## The Old Lady voices recession fears

The Bank of England warned the UK would fall into recession during Q4 this year as it raised base interest rates from 1.25 to 1.75 percent in a bid to curb soaring prices. It expects the economy to shrink in the final three months of this year and keep shrinking until the end of 2023. That would make it the longest downturn since the 2008 financial crisis. It blamed the slump largely on rising gas prices following Russia's invasion of Ukraine, warning a typical energy bill would hit £3,600 pa in October and *£4,200 pa* by January, so that an average household would then be paying £350 a month on energy bills. *Energy consultant Auxilione claimed later that typical annual energy bills could reach **£6,500** by April next year*. The Bank said this sharp rise in energy bills, which are set to be at least three times more than a year ago, would drive consumer price inflation (CPI) to 13 percent its highest level for 42 years.

*This worrying development is almost certain to reduce the capacity of some employee shareholders to continue to contribute to their SAYE-Sharesave schemes, or to continue buying partnership shares in the Share Incentive Plan (SIP).*

"Bank of England / Threadneedle St." by Images George Rex is licensed under CC BY-SA 2.0.

The economic outlook for the UK and the rest of the world had "deteriorated materially", said the BoE. It told banks to keep more money in rainy day funds to ensure they can weather any storm. The Bank's comments came in its latest Financial Stability Report. International forecasters such as the IMF and OECD said the UK was more susceptible to recession and persistently high inflation than other Western countries, all of which are grappling with energy and commodity market shocks. Starting a year from now, UK banks will be required to set aside a sum equal to two percent of their assets as a buffer, as opposed to the normal one percent.

# The Old Lady voices recession fears

Leading insolvency and re-structuring consultants Begbies Traynor estimated that almost 600,000 UK businesses were in “financial distress” – many of them *zombies,* who hitherto could just about cover their borrowing interest bills on artificial life support, but not much else, but who now faced much higher repayment bills.

The government announced a package of measures to help households with the rising cost of living. However, some called for more support for families. The average energy bill was just £1,400 a year in October 2021.

*More than one in ten adults stopped contributing to their company pension, or are planning to stop because their incomes have been squeezed by the cost of living crisis. About five percent of adults have ended contributions into their pension pots to save money and a further six percent were thinking about pausing contributions and nine percent more may consider doing so, according to an Opinium survey of 2,000 adults commissioned by *Canada Life*, the insurance and financial services group. About eight in ten working adults had a pension in April 2020, up from fewer than five in ten in 2012 before the automatic enrolment scheme kicked in.

*Several think-tanks forecast that inflation would soar even higher - to “astronomical” levels next year, forcing the BoE to raise interest rates yet again and for longer than previously expected. The National Institute of Economic and Social Research (NIESR) agreed that there would be a recession which would last into next year and hit millions of the most vulnerable households, reported *The Guardian.* NIESR said gas price rises and the escalating cost of food would send consumer price inflation (CPI) to 11 percent before the end of the year while the retail prices index (RPI), which includes housing costs and which is used to set rail fares and student loans repayments, was expected to hit ***17.7*** percent on an annual basis.

*Throughout the first half of this year, only 13 IPOs went ahead in London, raising only $150m, chicken feed compared to previous years. As financial deals dried up, major bankers like Goldman Sachs more than halved their staff bonus payments in the first six months of the year.

*Average basic pay fell further behind the rising cost of living, according the latest official data. While average wages rose 4.7 percent between April and June, the rise was left behind by consumer price rises, which are motoring. As a result, the "real value" of pay fell, on average, by three percent, said the Office for National Statistics (ONS). Production line employees are not maintaining their living standards as they are much less likely to receive bonuses than financial services and construction industry employees. Household budgets are being hit by soaring energy bills as well as higher food and fuel costs. The rise in prices fuelled the UK inflation rate to a 40-year high. Annual UK consumer price inflation increased to ***10.1*** percent in July, reaching double digits for the first time since 1982, piling more pressure on the BoE to act more decisively, perhaps by increasing its headline policy rate by another 50 basis points in its next meeting this month. Meanwhile, the less publicised UK Retail Price Index (RPI), which includes housing costs, rose to ***12.3*** percent in July from 11.8 percent in June, to reach its highest level since March 1981, said the ONS.

The gap between pay growth and inflation is the biggest since records began more than 20 years ago. Darren Morgan, director of economic statistics at the ONS said the "real value" of pay was continuing to fall. "*Excluding bonuses, it is still dropping faster than at any time since comparable records began in 2001*," he said. Private sector wages grew by almost six percent on average, while those working in the public sector saw average pay growth of a mere 1.8 percent.

*The minimum wage in the UK should rise to £15 an hour "as soon as possible", said the TUC. This rate should apply to employees of all ages instead of the current lower rate for under-23s, it said. The minimum UK wage is £9.50 an hour for employees over the age of 23 and £9.18 for 21 and 22 year olds. Young employees aged 18 to 20 are paid at £6.83 an hour.

*The UK workforce is now two million fewer - six percent - than it was pre-pandemic, estimated investment giant BlackRock, which blamed labour shortages on: Brexit, older employees retiring early during the pandemic and a big rise in the number of long-term sick - including the many *Long Covid* cases.

*Average UK pay during the three months to May was up 6.2 percent, with private sector pay rising 7.2 percent, but public sector pay was up by only 1.2 percent said the ONS. Yet seasonally adjusted average

## The Old Lady voices recession fears

weekly UK earnings in the public sector were £579 in January this year, compared to £536 in the private sector, added ONS.

*Surging inflation led interest payments on UK government debt to hit ***£19.4bn*** in June, the highest amount on record. It pushed net government borrowing *(the difference between spending and tax income)* for the month to £22.9bn, up £4.1bn from a year earlier.

*Still singing in the rain, however, were employee shareholders who work for global oil and gas giants, because dividend pay-outs in the second quarter of this year soared by more than a record 11 percent. BP, British Gas owner Centrica and Shell were among those who announced huge profits, bigger dividends and share buy-back programmes. For example, Shell's Share Plan Account (SPA) is a special nominee share account set up to hold shares received from Shell employee share plans. It allows employees to hold their shares securely without the need to set up their own brokerage accounts. Employees can continue to use it even if they leave Shell. Dividends are automatically reinvested into Shell shares in employee SPAs each time a dividend is paid.

# MOVERS & SHAKERS

***Computershare:** has a new employee share plan app, EquateMobile 3.0, on the market. With a modern interface and easy navigation, EquateMobile is designed to "take the participant experience to the next level".

*Centre member **Cytec** announced that **Shervin Binesh** would be joining as its new commercial director early this month. Shervin has 20 years' experience in financial services, working in London, Singapore, and Jersey in senior client and intermediary facing roles in the corporate and equity incentives industries. Latterly, he has been director of corporate services at Centre member **Sanne**. He will focus on the continued growth of the business, retaining and developing strategic partnerships and deploying Cytec's tech-led solutions across multiple jurisdictions. Cytec's focus will continue to be on delivering strong growth through commercial-led initiatives, while supporting clients in driving best practice and improving efficiencies for day-to-day activities. Ceo Nick Chinn said "Having known Shervin for many years, I am delighted that he will be joining us at Cytec. His experience and knowledge of our industry brings great additional strength to our business and I look forward to seeing him drive the company onward." Shervin said: "I have always been a huge fan of Cytec and I am delighted to be joining the senior management team at such an exciting time." **Michelle Carter** and **Sandra de Sousa** remain the Centre's main contacts at Sanne.

*Meanwhile, on August 4, **Apex Group** announced the close of its acquisition of **Sanne Group**. The addition of Sanne brings another 2,500 people to Apex and adds six new locations in Denmark, Japan, Serbia, South Africa, Spain and Sweden. Apex Group now operates from over 80 offices in more than 40 markets worldwide, with over 10,000 employees; and adds further depth of product and experience in serving the closed-ended Private Equity, Private Debt, Capital Markets, Loan Agency, and Real Assets markets, as well as expanded geographic footprint in the US, central Europe, Africa and APAC. Sanne's clients will now benefit from access to the Group's single-source solution, including services such as ESG Rating, Reporting & Advisory and Digital Banking, offered globally and delivered locally by experienced teams. This is the latest – and largest - in a series of 31 successfully completed global acquisitions for Apex including the recent additions of MMC Group, ASX-listed Mainstream Group and the announced acquisition of Maitland.

Martin Schnaier, ceo of Sanne Group said: "*The strong performance in the first half of 2022 is testament to Sanne's strengths and market reputation as we have seen record levels of new business wins and organic growth return to our targeted double-digit levels. It also reflects the qualities recognised by Apex Group in acquiring the business and it should ensure that this*

# MOVERS & SHAKERS

*transformational combination creates a leading, end-to-end service provider to the alternative assets market, with unmatched capabilities and scale. As we now look forward to joining Apex Group, we are confident in the benefits that this deal should bring for our clients and our people across the globe."*

***JP Morgan** completed acquisition of Centre member **Global Shares**, on August 11. Companies and employees will benefit from Global Shares' share plan services, as well as JP Morgan's suite of wealth management, executive financial services and other banking products and services. Founded in 2005, Global Shares has a client base of approximately 650 ranging from early-stage start-ups to mature multinational public corporations. The firm has nearly $200 billion in assets under administration across over 800,000 corporate employee participants. It operates with a team of more than 600 staff and is headquartered in Cork with 20 locations in Europe, the Middle East & Africa, North America, and Asia Pacific.

Global Shares' Martin Osborne-Shaw said *"The sky is now the limit! After the celebrations on August 11 to mark the closure of the deal, we are all excited to be part of the JPM&C family."*

# NEW BOOKS & GUIDES

## Co-ownership & capitalism

A new book by Corey Rosen and his long-time colleague and bestselling business author John Case: ***Ownership: Reinventing Capitalism, Companies, and Who Owns What***, published by Berrett-Kohler, will be launched on September 13. It is available for pre-order on Amazon and other online sites. The book is written for a general audience, stating: *"Wages are stagnant, wealth inequality is growing, and social trust is eroding. There are endless debates about what to do, but one key factor is inexplicably left out: who owns the companies that drive the economy. More conventional forms of ownership restrict the fruits of capitalism to a few: an ownership group, investors on Wall Street, or private equity firms. The book makes the case that employee ownership helps workers build wealth, creates stronger companies, and makes for a fairer, more stable society. This book takes a deep dive into where employee ownership came from, how it works now, and what needs to be done to expand it. As the many examples in the book show, it's an idea whose popularity is growing all over the world—and one that all sides of the political spectrum support."* Corey Rosen, founder National Center for Employee Ownership (NCEO). Contact: CRosen@nceo.org www.nceo.org Tel: +1 510-208-1314.

## Taxing Restricted Stock Units

In the open section of her monthly report, Nicola Ross Martin announced a new guide to taxing Restricted Stock Units. This is a topic that, like the taxation of Employment Related Securities, continues to create blind spots for many advisers. At the same time it appears that few of those who receive these types of share award have much idea how they are taxed. She hopes that the guide will help to defog some brain cells.

# Webinar reports

***Focussing on provider, tax and trust issues featured in recent editions of *newspad,* the Centre's fifth Esop Sofa *newspad* review webinar included panellists **Cathy Wears**, of counsel (employee incentives tax) at **CMS** and **Tom Hicks**, an accountant and executive director of employee incentives at **Fiduchi**, for in-depth comment. The webinar was chaired by **Global Shares'** Darren Smith, who kicked off by mentioning the mini boom in free share awards by companies who had wanted to reward their employees for their co-operation and loyalty during the pandemic. Cathy said that if the SIP rules were reassessed, that might encourage the issue of more free shares. There were a lot of secondary sales involving private companies wanting to cash out and their executives expected an annual drip feed of equity.

Tom said that the most radical proposal which had emerged from the Centre's recent webclave on the reform of tax-advantaged share schemes was that of installing employee share scheme auto-enrolment at the workplace. Cathy said that the auto enrolment idea had legs. In addition, she said that reducing the minimum period of holding SIP shares, to retain the tax advantages, from five to three years was a 'no-brainer'. She backed another proposal – to allow so-called *bad* share plan leavers to be re-classified as *semi good* leavers, in order for them to keep at least some of the tax benefits. Cathy was more hesitant however about the suggestion that a *Look Back* facility could be installed in SAYE-Sharesave in the case of employee options deep under water, because to allow options re-pricing would be 'complicated' and would raise the question of who would be the arbiter in that situation, as HMRC would not do it.

Tom said he didn't think that using the SIP had done anything fundamental towards helping to alleviate the cost of living crisis. However, one company Fiduchi had been working with had released share awards to *all* its employees – as a big *thank you* to staff for all their efforts during the pandemic and its aftermath, though the tax implications of that for employees were part of the world we lived in. Darren said that the SIP was getting good buy-in from higher rate taxpayer employees who wanted to reduce their tax bills. Cathy said that the share options based Enterprise Management Incentive (EMI) was very much the *go to* plan for smaller companies, but sadly a number of companies when told that they couldn't use it for one reason or another, usually because the rules excluded them, said that they wouldn't seriously consider using another tax-advantaged share scheme. Tom reminded his audience that Sharesave was still popular with employees because they knew that even if their options stayed under water, they could always get their savings back.

Travers Smith

Host of the Esop Centre British Isles Employee Share Plan Symposium

TRAVERS SMITH

***Regulator**: Jersey Information Commissioner **Paul Vane** never hands over his boarding card when duty free shopping staff at airports request it, because he suspects that the cards hold far more information about the air travellers than they realise. *"Legally, duty free staff don't need your boarding card when you make a purchase, whatever they may tell you,"* Mr Vane told a **Z/Yen FS Club** webinar, which focussed on his role as a regulator, what that means for both businesses and individuals and how important data protection is for all of us. At the outset, an audience vox pop revealed that almost one fifth of his sophisticated listeners believed, wrongly, that the Information Commissioner was a government department which regulates the private sector when, in fact, it was an independent public authority which regulates info rights law – and only 75 percent got that right. International data transfers and in particular

## Webinar reports

compliance with the General Data Protection Regulation (GDPR) was a hot topic which he discussed regularly with the Jersey FS sector, but it was too early to tell how effective it was. GDPR was not necessarily the gold standard for the future as south east Asia had a different version, so whether we went with GDPR or another system would depend upon who we traded with, added Paul. Another hot topic he had to engage with was the thorny question of the adequacy of Jersey based financial services vis-à-vis the European Commission because Brussels had proved reluctant to award Adequacy status to UK FS post Brexit.

It was absolutely vital, he said, that he listened to the public, when they thought they were being treated unfairly. His top tip to the public was *read the small print* – even though people were often confronted by long-winded legalistic documents when buying big ticket items or services. Regarding the march of AI, which included facial recognition cameras *et al*, it was imperative that regulators such as himself stepped up their monitoring of AI's expanding field of activities, he added.

Paul's keynote speech at the Centre/STEP Jersey Esops and trustees conference of May 13 2022, can be read in the Long Finance Pamphleteers' blog: Data protection regulation: emerging threats & opportunities.

Mr Vane heads up the 20-strong Jersey Office of the Information Commissioner (JOIC) and is responsible for strategic planning and ensuring that office operations meet its strategic goals. He promotes awareness of the Data Protection (Jersey) Law 2018, its principles and the obligations upon controllers and processors as well as the rights of individuals. A key element in his role is to ensure that the office is perceived to be helpful, supportive and informative, while enforcing the law where necessary. Part of his role is to create a greater awareness of Jersey and data protection in Jersey within the international community. Paul leads JOIC's external relations, dealing with representatives from businesses, governments and NGOs, both locally and internationally. The webinar was chaired by Charlotte Dawber-Ashley, who is manager of the FS Club.

# UK CORNER

## Ban bonuses for water company execs, say Lib-Dems

Water company bosses should be banned from giving themselves bonuses until they fix their leaky pipes, the Liberal Democrats demanded. New statistics uncovered by the party found that England's water and sewage company bosses awarded themselves *£27m* in bonuses over the past two years. Analysis of Companies House records by the party found that top executives at England's water and sewage companies were paid £48m in 2020 and 2021, including £27.6m in bonuses, benefits and incentives. This is despite reports that they allow 2.4bn litres of water to be leaked in England every day.

Hosepipe bans were imposed on millions of people, with ministers asking water companies to put more in place. Despite these dry conditions and more predicted in coming years due to the climate emergency, water companies have pledged only to halve leaks by 2050. Lib Dems believe a freeze on bonuses could focus minds and accelerate this target. Their rural affairs spokesperson, Tim Farron, said: "*It is outrageous that whilst millions of people suffer from hosepipe bans, water company execs reward themselves with these bonuses despite not even bothering to fix leaks. It begs the question - what have they done to deserve these bonuses? These are the very same execs who let their* *companies pump raw sewage into our rivers."* Only 14 percent of England's rivers are in a good ecological state due to a chemical cocktail of sewage, agricultural waste and plastic pollution, the parliamentary environmental audit committee found. Yet, the UK's biggest water companies have awarded ceos £50m collectively in total reward during the past three years despite billions of litres leaking from mains pipes each day, looming hosepipe bans and public anger over sewage being dumped into rivers. *The Mail on Sunday* revealed the huge reward packages awarded by the dozen largest firms. More than half of those gave their ceos at least £1m last year despite the cost-of-living crisis fuelled by soaring household bills. They include Southern Water, which imposed a ban on hosepipes and filling swimming pools and Thames Water, which imposed a ban affecting 10 million people on August 24, warning of £1000 fines for anyone failing to comply with the new rule. Campaigners complained that leaks across the mains network and a failure to address dwindling water reserves mean Britain is unprepared for drier periods. It emerged recently that water companies were leaking up to a quarter of their supply each day – almost 2.4bn litres. Of the 12 firms investigated by *The Mail on Sunday*, the highest-paid ceo was Severn Trent's Liv Garfield, who has received £9.8m in the past three years. Her pay was boosted by £819,000 in the last pay year and she now earns almost £4m per year. She was followed by United Utilities' Steve Mogford, with £9m in three years. Thames Water paid its former ceo Steve Robertson and his replacement Sarah Bentley a total of £3.4m. Last year Ms Bentley received a *66 percent* pay rise, taking her total reward to more than £2m, including a bonus of £500,000. Severn Trent, United Utilities and Thames account for almost half of the total £50m reward figure. They face growing public anger over sewage pumped into rivers. During the three-year period there have been more than a million sewage discharges into Britain's rivers, with the scale of the problem getting worse. Hardly a single major river in England is fit for bathing due to their polluted waters. Regulators have allowed water companies to pay out more than £72bn in dividends to shareholders, while saddling the companies with more than £50bn in debt, said Feargal Sharkey, a clean water activist and former lead singer in the Derry punk group, the *Undertones*.

*Some highly paid ceos of England's water companies are earning tens of thousands of pounds in second boardroom jobs, advising on the pay deals of other top executives, reported the *Guardian.* Five of the ceos of England's nine water and sewerage companies are working as non-executive directors in other firms, sitting on remuneration committees. Campaigners said it was inappropriate for water industry chiefs to be helping to fix the pay and bonuses of senior executives in other companies. Nicola Shaw, who is head of Yorkshire Water, is on the board of International Airlines Group (IAG), which owns British Airways. She sits on its remuneration and safety committees, earning £115,000 last year. Yorkshire Water said that Shaw's second boardroom role did not affect her commitment to improving water services. Susan Davy, ceo of Pennon Group, owner of South West Water, which spilled sewage and storm water into the sea around Devon and Cornwall recently, is on the board of data management firm Restore plc. She was paid £53,000 by the firm last year, sitting on a remuneration committee. Lib-Dem analysis revealed that the average water company's ceo reward package went up by 20 percent last year, despite most firms failing to meet sewage pollution targets, which it said was a *"national scandal*".

*The governmental Environment Agency blasted water firms for their 'shocking' performance on pollution. It branded incidents last year as the 'worst we have seen for years.' Chair Emma Howard Boyd said executives and investors had been '*handsomely rewarded while the environment pays the price'*. She issued a damning report calling for water company bosses responsible for the most serious incidents to face time in prison. '*It's appalling that water companies' performance on pollution has hit a new low,*' she said. '*We plan to make it too painful for them to continue like this.'* Luke Hildyard, director at the left-leaning High Pay Centre, slammed the scale of the water industry salaries. He said water bosses were paid like '*entrepreneurs' for doing the job of a 'civil servant'*, adding: '*Water is a public good. You don't need to be a particularly good salesman to persuade people to drink or wash in it*.' Many water companies insist their environmental and operational records are improving, but their ceos are paid vastly more than counterparts in Wales, Scotland and Northern Ireland, whose organisations are structured differently and not run for profit. Sarah Venning, ceo of Northern Ireland Water, the least well paid of the dozen, received £215,000 last year. Scottish Water's Douglas Millican earned £558,000.

## Restricted securities elections

HMRC updated its *Employment Related Securities Manual* over the various restricted securities elections, said Centre member **RM2 Partnership** in its latest blog. Among the changes, it has been confirmed that a restricted securities election, such as those falling under s431 Income Tax (Earnings and Pensions) Act 2003, can now be made in formats other than HMRC's standards forms, including electronically, and as part of another document such as a share subscription agreement. Interested parties will note that it used to be the case that such restricted securities elections had to be made in HMRC's agreed form, or if amendments were made to the form then they needed to be approved. However, as long as the format now used contains no less detail than the standard HMRC form, then that will be acceptable to HMRC and, therefore, to advisers reviewing such elections during due diligence exercises, for example. As always, HMRC can ask for evidence that a restricted securities election has been entered into, and companies should therefore keep signed elections in a safe place should they ever be requested.

Baker McKenzie

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## Corporate governance

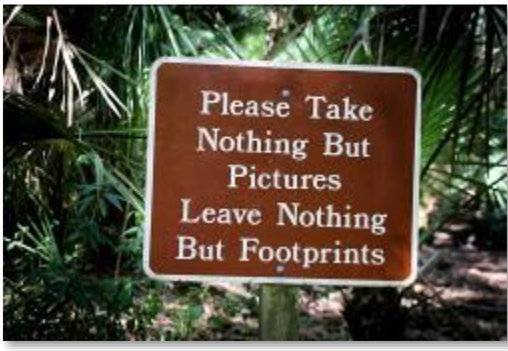


Photo by Florida-Guidebook.com on Unsplash

The use of **ESG** (Environmental, Social and Governance) metrics in executive incentive packages is now common, said Centre member CORPGRO, but too often they appear on a *bolt on* basis to the existing incentive structure. Although many investors encourage the inclusion of ESG metrics, few really expect or demand it. This year's Investment Association remuneration guidance said that *explain disclosure* was needed if ESG was in the company's strategy but, crucially, not in executive compensation, said CORPGRO founder and director **Damian Carnell.** He pointed to a bombshell recent study by the Harvard Law School of US S&P companies using ESG metrics in executive compensation, which showed that bolt-on metrics in executive compensation schemes were sometimes inadequate, as when too few metrics were used and/or their weighting in the pay formula insignificant, targets too soft and the disclosures/definitions of poor quality, said the study, published last March. Far from making US companies more socially responsible, ESG appeared to give cynical senior executives a powerful tool with which they could increase their reward without delivering extra value to shareholders, the Harvard study report claimed. It concluded: "*Our empirical analysis shows that in almost all cases in which S&P 100 companies use ESG metrics, it is difficult if not impossible for outside observers to assess whether this use provides valuable incentives or rather merely lines ceos' pockets through performance-insensitive pay. Encouraging and expanding the use of ESG-based compensation, we explain, gives self-interested executives a powerful tool to increase their payoffs without creating any significant incentives to deliver value to either stakeholders or shareholders. The current use of ESG metrics likely serves the interests of executives, not of stakeholders. Expansion of ESG metrics should not be supported even by those who care deeply about stakeholder welfare.*"

# IR35: Definition of employment needed

The government must now define what is meant by the term 'employment' as opposed to self-employment, in the context of **IR35**, said tax adviser Mike Warburton. As it stands, IR35 effectively bans the self-employed from working for only one company, he said. HMRC says that it continues to chase down those self-employed who are effectively employed people because it wants to ensure a level playing field in terms of the tax they pay on their earnings. IR35 has turned into the most hated and damaging piece of legislation affecting SMEs that I can remember, said Mr Warburton, former tax director at *Grant Thornton.* "*The main reason is that the legislation was flawed from the outset: it did not say what was meant by employment. This devastating new law was brought into being without any attempt to clarify the difference between employment and self-employment. It has been left to the courts over the years to reach their own conclusions, frequently in illogical and contradictory judgements*." The Esop Centre is interested in IR35 because some companies who contracted workers set up employee benefit trusts (EBTs) which issued 'loans' to the contracted people, in lieu of pay, via vehicles constituting what HMRC describes as *Disguised Remuneration.* However, individuals and companies who signed up to use these vehicles had been assured that they were perfectly legal.

The Court of Appeal recently overturned earlier rulings by both the First and Upper tax tribunals that Atholl House Productions, owned by *Loose Women* anchor Kaye Adams, was a genuine provider of self-employment (freelance) services. Seven judges and three court hearings have taken place on this issue to date, but she is worried that the legal expense of fighting on could ruin her. One of the judges said pointedly that it would help everyone affected by IR35 if there were a clear test or approach as to whether a person was employed or not.

Many think that it should remain a matter of contractual agreement between an employer and a worker as to whether that worker is employed, with all the usual benefits, such as paid leave, pension contributions etc or self-employed with none of these rights and little security. This would obviate any need for HMRC to determine arbitrarily a worker's status and impose penalties as it chooses.

# Dividend payments five times greater than pay rises, claim

UK employees would be paid about £2,100 more per year on average if wages had matched a boom in company dividends handed to shareholders over the past two decades, claimed a report. Highlighting a gulf between earnings from work and company share ownership, the *Common Wealth* think-tank claimed far-reaching reforms were needed to rebalance power amid rising levels of inequality. It urged the government to increase employees' rights and trade union negotiating strength, as well as delivering an increase in care funding and social security benefits. Separate research from Common Wealth showed that BP and Shell paid out £147bn between them to shareholders via dividends and share buybacks over the past decade. The main finding of the report was that total labour compensation for UK households grew by 25 percent in total between 2000 and 2019 after taking account of inflation and growth in the UK's working-age population. However, dividend payments by UK-based private corporations increased over the same time period by 132 percent. Common Wealth said that if the ratio between wages and dividends had stayed the same over the past two decades, then earnings from work would have been eight percent higher, equivalent to £2,100 annually per working-age person. Official figures show that average pay in Britain remains below the pre-2008-crisis peak after inflation is taken into account - *the worst performance for employee pay since the Napoleonic wars.*

# UK CORNER

## Fintech investment still high

KPMG said investment in financial tech firms in the UK grew sevenfold last year to £27.5bn, with London attracting more fin-tech funding than the rest of Europe, the Middle East and Africa (EMEA) combined. The total was boosted by 601 deals that were finalised in the UK in 2021, the financial services firm said, up from 470 the year before. London's fintech boom was strengthened by the size of many of the deals, which included the $14.8bn Refinitiv deal completed in January 2021. Five out of the 10 largest fintech deals in the EMEA region were completed in the UK, it said. While the UK sector is growing fast, it still only accounts for a fraction of the overall fintech sector. KPMG said that the total global fintech funding across the various sectors was worth $210bn, comprising a record 5,684 deals, in 2021. Payments continued to attract the most funding, accounting for $51.7bn in investment globally in 2021 – up from $29.1bn in 2020 – thanks to a continued surge in interest in areas such as *buy now pay later.* The UK is trying to lure £34bn payments firm Klarna to the London Stock Exchange amid fears that high-growth companies were snubbing London for New York. In other research it emerged that the number of private equity-backed acquisitions of UK professional services firms went up 179 percent last year.

# COMPANIES

*The soaring cost of second-hand cars, dent removal and towing charges sent first-half profits sliding by 48 percent to £251m at **Admiral**, one of Britain's biggest car insurers, which is a great believer in employee share ownership.

*Supermarket group **Aldi** awarded 4,200 logistics staff nine percent pay rises, bringing their pay rates up to £12.66 per hour and to £13.05 in London, from September. It was the second rise this year, after pay rates were raised in January.

***BA** was refusing to stop reducing its pilots' pay, despite its mother company, IAG, moving back into profit during the three months to June this year. BA negotiated a salary sacrifice deal with the pilots' union BALPA during the pandemic in order to save hundreds of jobs, but while cabin staff are now getting pay rises, pilots are still seeing their pay slips reduced. However, around 16,000 BA staff won a 13 percent pay increase to compensate for pay cuts they suffered during the Covid-19 pandemic. Employees were being given a lump sum worth five percent of their wages, a consolidated five percent increase in September, and a further three percent consolidated rise in December, working out at 13 percent overall for 2022. The deal will apply to non-management workers throughout the business, including cabin crew, engineers and baggage handlers, and will help to restore pay to 2019 levels.

*Defence company **BAE Systems** appointed its first female chairman, Cressida Hogg, an infrastructure expert. She was about to become the third woman to help run defence sector companies – as Anita Frew chairs Rolls Royce and Ruth Cairnie chairs shipbuilders Babcock. The current chairman of BAE Systems, Sir Roger Carr, steps down next May. Ms Hogg chaired property company Landsec and co-founded 3i's infrastructure business in 2005, reported *The Telegraph.* Cressida is the daughter of Sir Christopher Hogg, who chaired Reuters and GSK.

***BP** reported profits of almost *£7bn* for the three months to June after oil and gas prices soared. The energy giant saw underlying profits hit $8.45bn (£6.9bn) - more than triple the amount it made at the same time last year. The latest pre-tax profit is the second highest in the firm's history and takes its half-year profits to $14.6bn. BP said it would hand investors $3.5bn through a share buyback programme, while it increased its total dividend payout by ten percent to $1.1bn. BP ceo Bernard Looney, and cfo Murray Auchincloss decided to donate their £400 energy bill discounts to charity, reported *The Times* after a reporter asked them about their plans. Irish born Mr Looney is expected take home £11.7m in total reward this year after his pay ballooned to almost £4.5m in 2021. The 51-year-old, often pictured in jeans and jumpers, is referred to as a 'company man.' He stressed his 'green credentials', commitment to diversity, and humble beginnings on a dairy farm in Kerry.

*French billionaire Patrick Drahi will be allowed to keep his 18 percent equity holding in **BT,** announced Business Secretary Kwasi Kwarteng, following a Whitehall probe. However, Mr Drahi, who owns Sotheby's, the auctioneer, was put on notice that if he tried to up his bid for BT shares again, the transaction could be halted in the interest of national security.

*The 5,500 UK employees of crashed **Cineworld**, the world's second-largest cinema chain, worried about their futures as their employer prepared to file for bankruptcy after failing to see movie-going revive sufficiently since the end of the pandemic. Cineworld's battered share price crumpled from 20p to 2p, leaving employee shareholdings almost worthless. Before the pandemic, Cineworld was trading at £1.97. The company, which operates 751 sites in ten countries including the Cineworld and Picturehouse chains in the UK, was expected to file a chapter 11 petition in the US and was considering insolvency proceedings in the UK, according to the *Wall Street Journal*. Investors reacting to the news sent the company's market value plunging to less than £50m, having been valued at £4.4bn before the pandemic all but destroyed the cinema industry. Just 18 months ago, Cineworld had to row back plans for a LTIP which would have awarded its senior executives if Cineworld's share price had bounced back to £1.90p within three years. At this level – close to its pre-pandemic level of £1.97p - ceo Mooky Greidinger, and his brother and deputy, Israel, would have been in line for awards of £33m each. If the share price had reached the upper cap of £3.80, executive directors collectively would have been awarded shares worth a total of £208m, with the two Greidinger brothers receiving £65m each. "On an annualised basis the maximum payout under the plan reflects about ***3,400 percent*** of the ceo's base salary," Glass Lewis told investors in a note. "This potential payout is excessive, far outpacing the maximum opportunity available to UK peers." Last May, almost a quarter of voting shareholders gave the thumbs down to the executive remuneration report in protest against even the adjusted reward plans

*__Deliveroo__, the food delivery company, said it would launch a £75m share buy-back to prevent shareholder dilution from its employee share awards.

*__Domino's Pizza__ was strongly criticised for launching a £20m share buy-back programme as half-year pre-tax profits to end of June fell 16 percent at the delivery company, while its debt pile rose to £236m.

*Almost 150 long-term employees of industry intelligence provider **GlobalData** benefited from its share options scheme, with £82m worth of awards vesting in recent weeks. GlobalData created the scheme in 2010 as part of a goal to align its staff to its long-term success and granted the first options on New Year's Day 2011, while remaining open to new entrants until December 31 2020. It was subject to a £52m in adjusted earnings before interest, taxes, depreciation and amortisation (EBITDA) performance target, which was met last year. GlobalData reported revenues of £54m and adjusted EBITDA of £7m when options were first granted under the scheme. Since then, its growth between 2011 and 2021 saw a revenue compound annual growth rate of 13 percent and an adjusted EBITDA CAGR of 23 percent. Other employee share option schemes that the provider created in 2019 and 2021 remain open to its employees and scheduled to vest between February 2025 and 2027.

*__HSBC__'s ceo hit back at calls for a break-up from the top shareholder Ping An, saying splitting the business would come with "material costs" and a "high risk of failure" that could harm investors long-term. Noel Quinn said that it made far more sense to maintain HSBC's current global reach and that any break-up was unlikely to generate enough profit to cover the cost of such an exercise. The bank reported flat pre-tax profits of $5bn (£4.1bn) for the second quarter, as income from mortgages and loans was offset by the amount it had to put aside for potential defaults linked to weaker economic forecasts. That resulted in a lower bonus pool for bankers, which will be paid out next spring, with $400m raised for performance-related payouts in the first half of the year, versus $900m a year earlier. However, that was 12 times more than the roughly £27m it pledged for 18,000 of its lowest-paid UK staff, who received a one-off payment of £1,500 last month to help with the cost of living crisis. HSBC paid 451 of its bankers €1m (£837,000) or more last year, a 40 percent increase on the number of staff with such payouts in 2020.

*__Manchester United__ reached an agreement in principle with Manchester United Supporters Trust (MUST) over a club fan share scheme, with the result of the supporters' group vote on whether to accept it to be announced shortly. Already a year has elapsed since Eric Cantona was quoted as an enthusiastic backer of the shares for fans plan. MUST held a first online consultation with fans on the agreement recently, with 99 percent of those who voted in an exit poll stating they would approve it. If accepted, the shares-for-fans plan would go before United's board. However, the plan was derailed temporarily by speculation as to whether the clubs' owners, the Glazer brothers, would be ready to sell out as several suitors, including billionaire Ineos owner Sir James Radcliffe, waited in the wings, ready to make offers. The club was thought to be hopeful that the shares for fans scheme would be accepted, suggesting its approval by the board would be a formality. The scheme may comprise the issue of new shares, as part of the "B" category, meaning they would match those owned by the Glazers, who own United, and have ten times the voting weight of "A" category, which are owned by most investors.

*The UK government was in line for a £1bn payout from its near 50 percent stake in **NatWest Group** despite a dip in the bank's second-quarter profits and "uncertainty" over the UK's economic outlook. NatWest revealed that it was poised to issue dividends worth 20.3p a share, after reporting "strong growth" in lending and deposits across the business, thanks in part to rising interest rates that meant it could charge borrowers more for loans and mortgages. Almost half of the dividends – about £1bn – will be given to the Treasury, which still owns 48 percent of the bank's shares after its £46bn state bailout at the height of the 2008 financial crisis. The bank boosted its bonus pool by 37 percent to £195m, a figure that is likely to grow further before payments are made to bankers in the spring. While shareholders and bankers are in line for payouts, ceo Alison Rose, said some of the bank's most vulnerable customers were struggling amid a near ten percent rise in inflation.

*Ministers will conduct a national security review into the ownership of **Royal Mail,** after it emerged the Czech billionaire who is the 500-year-old postal firm's largest shareholder had increased his equity stake. RM said it had received a notification from the government that its top shareholder, Vesa Equity Investment, could increase its stake to more than 25 percent. Vesa is controlled by Daniel Křetínský, whose financial holdings include Sainsbury's and West Ham United. Vesa confirmed it had declared its intention in mid-July to take its stake above 25 percent. Vesa held 22 percent of the company in its most recent disclosure. Long gone are the days when RM's postal employees held more than 12 percent of the company – and thus considerable influence - after share awards from the government during the privatisation process. By July this year, that once huge employee stake in the business had more than halved to 5.6 *percent*, held in its SIP. RM said in a statement to the Stock Exchange: "The secretary of state has notified Royal Mail that such a step would constitute a trigger event under the NSI Act [National Security and Investment Act] and that he is exercising his call-in power under section 1 of that Act. Royal Mail will fully cooperate with this review and a further announcement will be made as and when appropriate." Křetínský, known as the "Czech sphinx" for his low public profile, has not commented in detail on his intentions for Royal Mail since he became its largest shareholder in 2020.

***Shell** was handing almost all its 82,000 staff a bonus equivalent to eight percent of their salary after the oil company reported record profits amid soaring energy prices. The multinational was making the one-off payment to the vast majority of its employees worldwide, only excluding those on its executive committee, executive vice-presidents and contractors, reported *The Guardian.* Shell said: "*The award enables those employees to share in our current operational and financial success – it is not a response to inflation or cost of living challenges."* It promised to give shareholders payouts worth £6.5bn.

White & Case

Host of the Esop Centre
British Isles Employee Share
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WHITE & CASE

*The co-founder and boss of **THG**, the struggling online retailer, bought and mostly gave away shares in the group worth £800,000 to friends. None of those gifted shares were *persons closely associated* with Matthew Moulding, a legal definition that includes spouses and relatives who have lived in the same household for a year, reported *The Times.* Shares in THG were trading at a record low of 67p, having fallen 71 percent since the start of this year. Shortly after its listing in 2020, THG's shares almost hit 800p as investors cheered its online growth during the pandemic. An agreement for Japanese conglomerate, SoftBank to acquire a potential $1.6bn stake in the technology division of THG has been terminated, delivering a new setback for the British online retailer. THG, formerly known as The Hut Group, said that "in light of global macroeconomic conditions" the option agreement with part of the Japanese investment group had been ended "by mutual agreement".

*About 70,000 **Uber** drivers based in the UK secured a pay rise following successful negotiations with trade union GMB. Wages will increase at differing rates for various cities, linked to fare rises. In London, fares are set to go up by an average of five percent. Uber stated that it was making changes to peak hours and minimum base rates to help boost driver earning opportunities. Recently, GMB and Uber signed a recognition deal after the union won a landmark court case to categorise the drivers as employees. The firm agreed holiday pay and guaranteed minimum earnings with the union, as well as access to a pension scheme as of October.

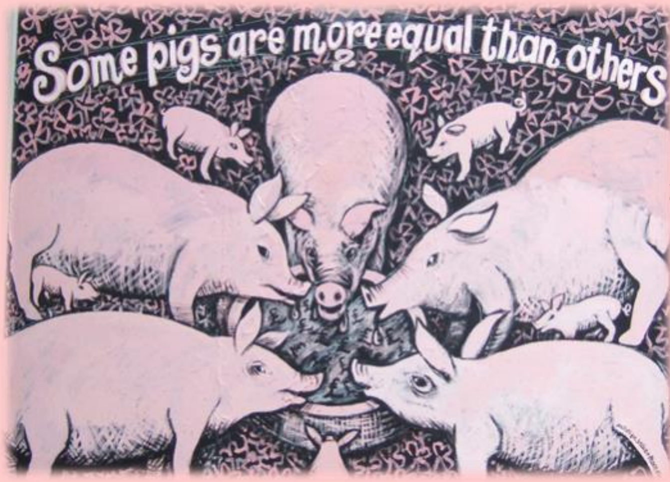
*Employee share ownership fan **Schneider Electric**, a global company based in Paris, announced that it was considering a £9bn bid for the remaining 40 percent of shares it does not own in Cambridge based design software company **Aveva**. If the bid goes ahead, Aveva's shares would be de-listed from the LSE.

# Employee Ownership Trusts

***The RM2 Partnership** was registering EOTs with HMRC's Trust Registration Service (TRS) as the deadline to register by September 1 approached. In the past it may not have been necessary to register an EOT using the TRS if it was not subject to a tax liability, however recent changes to money laundering laws have extended the scope of the TRS requirement and now EOTs will need to be registered, even if there is no tax liability, said RM2. It was vital to register EOTs to avoid penalties from HMRC, which could be charged in multiples of £100, depending on the lateness of the filing. All EOTs must now register, added RM2. This registration requirement concerns EOTs which were in existence on or after October 6 2020. Any new EOTs created after September 1 this year, must be registered on the TRS within 90 days of creation. Details of the beneficiaries must be provided, but as the EOT is an employment related trust, the employment related trust beneficiaries section will be used and the number of beneficiaries in the group should be given. Details of the shares held must be provided, including *Share company name *Number of shares *Class and type of share *Rough value of the shares when the trust was registered.

*Approved Covid tester **Concepto Diagnostics,** which has a dozen outlets around London, became majority employee owned after co-directors and co-owners Atal Malviya and Eileen Flatley transferred 51 percent ownership to an EOT**.** Malviya and Flatley retained ownership of 49 percent of the firm, which was recently valued as being worth £97m. Adopting the employee ownership model will increase the share of profits for its employees and will create an environment of inclusive growth led by all stakeholders, said the company. Trustees hold the shares for the benefits of all staff having at least 12 months' service and will act in what they believe are their best interests. Malviya said*: "From the outset, we have maintained a flat, non-hierarchical structure and valued our staff as family members striving for a common goal. With the EOT structure in place, they are not just going to be involved in the day-to-day operations, but will own the present and the future of Concepto."*

# Public sector bonus troughing




some pigs are more equal than others by byronv2

*The Bank of England, which was criticised for under-estimating the threat of rising inflation, last year paid out more than £23m in bonuses to its staff, revealed *The Observer*. This bonus pot was at its highest level for at least two years, with more than 4,260 employees receiving performance awards. Andrew Bailey, the bank's governor, was widely criticised earlier this year after telling Britain's employees that they should not be asking for big pay rises because inflation had to be kept under control. The BoE is tasked with hitting an inflation target of two percent, but the current annual consumer price index rate stands at 9.4 percent. Lord Sikka, emeritus professor of accounting at Sheffield University, said: "*Bonuses should only be paid for extraordinary performance, but there is no evidence the bank has delivered even an ordinary performance. They are unjustified."* All employees at the bank, with the exception of Bailey, who was appointed in March 2020, are eligible for a discretionary annual performance award. Bank officials say the vast majority of its employees do not work on monetary policy. Mr Bailey's reward package totalled £597,592 in the year to the end of February: this included his base salary of £495,000 and a payment in lieu of pension of £99,000. It was reported that he had turned down a 1.5 percent pay rise. The total bonus pot paid to BoE staff in 2021/22 was £23,325,265, up by more than £1m from the previous year. Statistics disclosed to the *Observer* under freedom of information laws show that 34 members of staff were given awards of between £15,000 and £20,000. Bank officials said the discretionary award budget has been ten percent of the total salary bill in the past two financial years, but the number of its employees has increased. Average payouts per person fell from £5,560 in 2020/21 to £5,471 in 2021/22. The BoE has been criticised by MPs over its handling of inflation. Former Tory Treasury minister Robert Jenrick told the *FT* last May: "*The BoE missed the opportunity to gain control over inflation last year, arguing that it would be modest and transitory when it was clear to many of us that it would be high and longstanding."*

*A row broke out in the airline industry over the pending payment of a *£1.2m* bonus to the head of the taxpayer-backed **NATS** – the air traffic control service – as the company insisted that ceo Martin Rolfe was not to blame for the air travel chaos this summer. The payment is for a historical five-year bonus scheme, which began in 2015, and which had to be put into the freezer in June 2020 due to the pandemic. Mr Rolfe said he would defer receipt of the due bonus until a 'more appropriate time,' but he did not surrender it. However, he and cfo Alistair Borthwick each took £245,000 extra recently as incentive bonuses for meeting profit and cost targets. NATS and its European counterparts are trying to recoup revenue lost during the pandemic, when most flights were cancelled, by charging airlines far more for their services. By contrast, Louis Gallego, ceo of IAG, the parent of BA, gave up a bonus of £900,000 last year after investor pressure, reported *The Telegraph.* A NATS spokesman said that the bonus, based on performance from 2015-2020, was contractually due to be paid in tranches, starting in the fiscal year 20-21, but was deferred at Mr Rolfe's instigation due to the financial challenges facing the company during the pandemic. Taxpayers' money was not used to fund ongoing operations, he added.

# UK CORNER

## Public sector bonus troughing

Nine airlines and pension funds own 42 percent of NATS, staff own five percent of the equity, Heathrow Airport four percent and taxpayers 49 percent.

*The head of a government quango responsible for wasting billions of pounds on Britain's "broken" defence procurement system received a bonus of up to £100,000 last year. Sir Simon Bollom is ceo of **Defence Equipment & Support (DES),** an arm's-length body of the Ministry of Defence. He was awarded a bonus of between £95,000 and £100,000 on top of his salary of between £275,000 and £280,000. Independent reports have accused the Ministry of Defence of wasting billions of pounds on botched procurement deals. Other DES mandarins received generous bonuses last year despite a litany of recent scandals, including the £5.5bn Ajax light armoured vehicles programme.

*The former ceo of the **Office of Public Guardian (OPG),** the state agency which left hundreds of thousands of elderly and vulnerable people in a financial black hole, received a farewell bonus of between £15,000 and £20,000, reported *The Telegraph.* Nick Goodwin, who stepped down last March to become ceo of the courts service, received the bonus on top of his £100,000 annual salary. During his time as OPG ceo, the agency witnessed waiting times to process lasting powers of attorney soar from 40 to 140 days. Around 330,000 applications remain pending. OPG advised website visitors to expect delays of 20 weeks to even process applications. Lawyers warned that the OPG was no longer fit for purpose and a *Telegraph* probe revealed that families had been unable to pay care home bills while they waited to gain control of a loved one's financial affairs. Without power of attorney, the necessary sale of homes and other assets – in order to fund care - cannot take place.

# TRUSTS

## Protectors guard wealth trusts

For every trust, there is a trustee. Whether the trustee holds the legal title for the assets of an individual inheritor, a family dynasty, or a large corporation, it all comes down to one word: Trust. Enter the *Protector* who can play an important role in promoting the smooth administration of a trust and especially when that trust is designed to be utilised as a multi-generational wealth management and corporate governance tool, said Iain Mason md of Centre member Jersey-based **VG.** Gifting substantial assets to professional trust companies to manage for, potentially, generations to come is not a decision any settlor will reach lightly and, often, great comfort can be found through having a protector within the architecture of the trust structure. Specifically, a protector might be chosen to be appointed in order that: a) the settlor wants someone to monitor the activities of the trustee; b) the settlor wishes to have someone who has a special understanding of the dynamics relating to the trust and its beneficiaries to be involved in assisting with the management of the trust/ the trust assets; or c) the settlor wishes to retain some influence over the trust, at least initially, typically by taking of the role as the initial protector themselves.

Unlike a traditional trust which has the option to appoint a protector, a non-charitable purpose trust must have an enforcer whose role it is to enforce the trust concerning its non-charitable purposes. Jersey trust law permits and recognises the role of the protector and gives substantial latitude to the draftsman to provide for such powers/provisions as may suit the family. At the one end, it may be that comfort can be taken by the protector having a power to appoint and remove trustees to ensure that the continued suitability of the trustee in the future is monitored and, if appropriate, changes are made to find an alternative trustee.

Sometimes, a settlor may simply want the protector to be consulted upon by the trustee over certain matters rather than having the protector have formal powers of veto or positive powers to exercise certain functions of the trust. Where a protector is appointed, often they will be given veto powers (i.e. consent is required to the exercise of a power by the trustee) and these powers might extend to providing consent over appointment/removal of beneficiaries, dealings with specific assets, appointments of the trust fund to beneficiaries, changes to the proper law or place of administration of the trust, amendments to the terms of the trust, reviewing remuneration arrangements with respect to the trustee or in connection with the termination of the trust.

# Choose your own pay level!

Some start-ups allow staff to choose their own salary level themselves. By letting everyone research the market, present a business case for their chosen salary and have their peers give feedback, start-ups like Ragnarson argue that it makes reward as fair as possible. A few European start-ups are toying with the same idea. Maciej Gałkiewicz, ceo and partner of Ragnarson, introduced the policy in his company in 2017, when it had 20 employees. The software development agency has a fund to invest in early-stage impact start-ups. "*We don't like the idea that there is a boss at the top and they make all the decisions and the employees are supposed to just do what they say*," explained Gałkiewicz. "*So in order to give people more authority and a sense of purpose in what they do, we needed to open up all the data and let them make their own decisions*." The concept of self-set salaries isn't new. Brazilian manufacturer Semco, which has had the policy in place since the 1980s and US tomato processing firm Morning Star are the best-known examples, reported the FT supported website Sifted. Start-ups such as Dutch Incentro made the switch to self-set salaries five years ago, as did the London-based betting exchange Smarkets. Before introducing self-set salaries, Ragnarson had already opened up its budget to employees in 2014 to show them how the company was performing financially and educate them on its revenue, costs and profit. Everyone knew what the other was earning and the company spent time looking at the team's salaries and ironing out discrepancies. Generally, the employee spends time researching what others in similar roles are paid in the wider market. They then create a business case about why their salary should be increased based on their performance — and, in Raganarson's case, how they align with the values of growth, openness and commitment — while factoring in the company's financial position.

The employee shares their business case with colleagues and receives feedback on whether or not what they are asking for is fair. This could be a formal committee at a bigger company, or just a chat at a smaller one. Based on this input, the employee then makes the final decision on what their salary should be.

However, salaries for new recruits are negotiated in a standard way, said Gałkiewicz. The company has a salary range for each position, and will set the person's salary within this range depending on the candidate's level of experience.

Following the examples of large US companies, such as Whole Foods and Buffer, some European start-ups have experimented with transparent salaries — disclosing everyone's pay internally — in order to combat the frustration, office gossip and mistrust in management that the traditional opaque system can spark. For some founders, having transparent salaries doesn't go far enough to achieve equality. Pawel Brodzinski, ceo at Lunar Logic, introduced a self-set salary policy for the 35 employees eight years ago. With self-set salaries, everyone has control. "*Since the whole process is transparent, the rules of the game are clear to everyone. It doesn't mean that frustration doesn't happen at all, but it's far more manageable than in a traditional system*," he said. Another benefit of self-set salaries is that employees acquire a better understanding of how compensation affects the overall economics of an organisation, and they gain personal financial skills. However, for 360Learning, a collaborative learning platform, the concept of allowing employees to set their own salaries is highly problematic. It believes the process breeds unfairness, and allows those with the best negotiation skills to secure the best deal, thus contributing to the gender pay gap. 360Learning has, since 2019, removed all negotiation with employees from its salary process and instead uses salary bands, which are calculated using data about the market rate for each job. "*If people don't agree, they can leave*," said ceo Nick Hernandez, though few employees have challenged the process so far. Managers and employees liked not having the negotiation burden placed on them when it's time for salaries to be adjusted, as these conversations were usually uncomfortable for both sides, he added.

Gałkiewicz agreed that self-set salaries had drawbacks, especially when it came to securing talent. If salaries were hidden from employees and a candidate a company really wanted to hire was asking for 30 percent more than the offer, it could afford to make a handful of exceptions. The process of self-setting salaries had to be adjusted with scale. Once a team grew to 100-200 employees, it was logistically impossible to have every team member submitting feedback on one person's salary.

## Start-up blues

Embattled ticketing and travel start-up **Pollen,** which had raised $150m from investors, collapsed into administration after months of speculation about its future, as aggrieved customers and employees became increasingly vocal on social media. In recent weeks, Pollen had missed payroll amid acquisition talks and was hit by multiple refund requests. After laying-off 12 percent of its staff in February, online events platform **Hopin** eliminated almost 30 percent more of its job roles — 242 staff. The company cited the economic downturn as one of the reasons for the cuts. Elsewhere, listed health-tech app **Babylon** planned to cut 100 jobs as it tried to reduce costs by up to $100m in Q3 of this year. Its share price has slumped by 90 percent since it listed in New York last October. Leading stock exchanges like the NYSE automatically de-list shares in public companies once they trade below $1 for 30 consecutive trading days. SoftBank-backed Swedish comms software company **Sinch** has seen its

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share price drop 80 percent this year. UK-based ecommerce site **The Hut Group**'s shares have lost more than 60 percent of their value since the beginning of the year and Swedish music platform **Spotify**'s shares had fallen 50 percent, said FT supported website *Sifted.*

WORLD NEWSPAD

*__France:__ Fibre optic cable manufacturer **Nexans**, which employs 25,000 people worldwide, implemented its tenth employee share plan, covering 25 countries in which it has employees. For the first time, employees who buy its shares under the group savings plan will participate in the group's de-carbonisation effort, as Nexans will use part of the funds raised for projects to reduce greenhouse gas emissions, increase energy efficiency and the circular economy. Nexans was the first French issuer to propose this type of initiative. This Eso plan, which is in line with the policy of developing the employee shareholding within the Nexans Group and wanting to associate its employees with the group's development, both in France and abroad. Nexans promised to allocate at least 25 percent of the total amount subscribed by employees, or at least €10m to finance internal environmental projects developed by the group.

*The international renewable energies company, **Voltalia,** quoted on Euronext, announced that 72 percent of eligible employees (88 percent of its 1,300 employees) had decided to participate in its second employee share plan. For this second edition, seven countries were eligible: France, Portugal, Brazil, Greece, Italy, Spain and the UK. The participation rate was: 77 percent in France, 71 percent in Brazil and Greece, 70 percent in Portugal, 62 percent in the UK, 58 percent in Italy and 57 percent in Spain.

*__Germany__: *Street Fleet*, a Berlin-based rider platform owned by speedy grocery start-up **Gorillas**, told its 100+ riders that it was closing at the end of July, leaving many of them jobless. Riders told the FT-supported website *Sifted* that they were unsure whether they would be paid all the money they were owed by Street Fleet. The platform —which provides riders to Gorillas and other Berlin-based delivery companies such as Delivery Hero — was accused of failing to pay riders for up to three months, which led to protests in Berlin. Riders at Street Fleet are employed on contracts guaranteeing them a set number of hours: some work full-time, some part-time and others have so-called mini-jobs, where the maximum monthly salary is €450 a month or the maximum workload is 70 days per calendar year. They are not gig workers.

*As **Indian** start-ups saw a funding boom over the last year, their Esop buy-backs exploded. During an Esop buy -back, shares are exercised by employees on given terms and conditions, as defined by employers. For listed companies, employees can sell the shares in the market when the lock-in period of Esop is over, at prevailing market prices. Furthermore, the Income Tax Act says that capital gains on shares tendered to a company are exempt from tax in the hands of the investors in the case of Esop buy-back. The Esop shareholders do not have to pay any taxes on their profits while tendering the buyback shares. The start-ups commit to Esop buybacks to share their success with their employees; Indian employees have made $159m through these buyback programmes. Fintech unicorn *Razorpay* announced an Esop liquidation programme worth $75m, with participation from Lightspeed Venture Partners and Moore Strategic Ventures. As the start-up ecosystem develops in India, one of the trends over the last few years has been start-ups offering employee stock ownership plans to employees to reward them. Indian start-ups grew and raised new rounds of funding and last year saw many of them rewarding the employees through Esop buy-backs. Swiggy, Unacademy, FirstCry and Zerodha are among some of the major Indian start-ups which opted for Esop buybacks to share their success with the employees in 2021. The trend has continued this year as well, with 16 start-ups – ranging from ed-tech to food-tech to crypto – going for Esop buybacks, before the end of May. However, institutional investors are voting increasingly against generous stock option packages proposed by such companies for their senior employees.

***US: Bank of America** maintained generous bonus payments for junior bankers as some of its rivals cut back after successive salary increases over the past year. The US investment bank told analysts about their bonus numbers, according to juniors contacted by *Financial News*, with payments coming in at between 75-100 percent of base salary. Last year, JPMorgan paid between 90 to 100 percent of salary as a bonus for first- and second-year analysts. Now, it's between 45 percent to 60 percent following successive salary hikes at the Wall Street bank over the past 12 months.

*Global investment firm **KKR**, a Centre member, signed an agreement to sell Minnesota Rubber and Plastics (MRP) to engineered polymer solutions business Trelleborg Group for US$950m (£780m), with employee shareholders set to receive a pay-out as a result. MRP has more than 1,450 employees across four US states, the UK and five other countries, including hourly manufacturing production, technical and administrative workers. They will all receive *cash* pay outs, varying based on tenure and employment status, when the transaction closes. KKR introduced an employee ownership programme for MRP employees as a free, incremental scheme as a supplement to employee benefits, wages or pay increases. The programme included sharing business targets and regular progress updates with all employees, while giving them a voice in capital expenditure and operational improvements. **Pete Stavros**, co-head of Americas private equity at KKR, said: "*MRP shows the power of building an ownership culture, something we believe many more companies can replicate, and the potential of the shared ownership movement. Trelleborg is a great cultural fit for MRP and the ideal strategic partner. As part of Trelleborg, MRP will continue to be an employee-centric organisation with exciting opportunities for continued innovation and global growth."* Employees were offered access to pre-paid personal financial coaching and tax preparation services. Deloitte will provide tax services globally. Jay Ward, ceo of MRP, added: *"[This] announcement is the culmination of a lot of hard work by our dedicated employees and KKR's shared ownership model has allowed all MRP colleagues to share in this success*." The transaction, subject to regulatory approvals, is expected to close before the end of the year. KKR and MRP were advised by Houlihan Lokey on financial and merger and acquisition matters, and Kirkland and Ellis on the legal aspects.

The Z/Yen Group

*The Employee Share Ownership Centre is a membership organisation which lobbies, informs and researches on behalf of employee share ownership.*