

Spring edition

the little book of business law 2010

Whose rights are right?

Are some equalities more equal than others?



Contents

Introduction	2
Equality trumps	4
Pope pontificates on UK equality law	10
A new religion	11
Fit for purpose?	14
Health & safety in numbers	15
Age before duty	16
Serial age discrimination claimants	18
More paternity leave for fathers... ...more maternity pay for mothers?	20 21
Equal terms for temps	22
Blacklisting blacklisted	24
Tax system too taxing for small businesses	26
Crackdown on minimum wage dodgers	27
Unhappy holidays	28
Bullying off	30
BCC says employment law is stifling UK Plc	32
ACAS averts 5,000 tribunal claims	33
And finally...	34

Disclaimer

This document is designed to provide general news and information about current and forthcoming legislation affecting businesses in the UK. The information contained in this document should not be relied upon by any individual, company, business or organisation without recourse to specific legal advice. It should also be noted that the general information provided may not apply to certain styles of employment or occupation, companies or organisations.

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Introduction

Given the string of unforeseen disasters that have surprised economists over the last couple of years, it is perhaps dangerous to make prognoses for the economy. We still don't even know whether the UK may yet slip back into recession.

However, one prediction does seem unassailable. It will be some time before we see a year quite as tough for businesses as 2009.

If the wave of redundancies and other drastic measures that many employers were forced to take were not trial enough, there was always the threat of a fatal pandemic.

Swine flu may not have killed us all off, but it certainly played havoc with sickness absence. In any other year, this alone would have kept HR departments and business writers quite busy.

While we hope to have put the recession behind us, the legacy for employers will endure for some time to come. Such a huge spike in the number of people that were made redundant has inevitably had a knock-on effect for employment tribunals.

Statistics for 2008/09 showed this clearly, but (another prediction) the statistics for 2009/10 due over the summer will not make for comfortable reading either.

Meanwhile, the legislation governing employment in the UK continues to develop rapidly.

Last year employers had to get to grips with case law governing holidays and sickness absence; a new points-based system for immigration; the extension of the right to request flexible working to parents of children under 16; and a new statutory process for handling disputes with employees.

So far, 2010 looks just as busy with some very interesting case law developments concerning religious discrimination and the new GP "fit notes" to contend with.

The government's ambition to consolidate 40 years of equality legislation with its much-anticipated Equality Bill should clarify and simplify the law, but is likely to make for some heavy reading in the short term.

Hopefully, this latest Little Book of Business Law will provide some light relief. We've tried to pull together a useful mix of important information, fascinating statistics and quirky cases to keep you both interested and up-to-date.

If you have comments, questions or feedback about our Little Books of Business Law, please email businesslaw@das.co.uk

Equality trumps

It can sometimes be difficult to balance the varied demands of a diverse workforce with the day-to-day concerns of running a business, but most employers recognise the benefits of providing a fair, inclusive and accommodating workplace.

Equality laws have helped transform working life for women, disabled people, ethnic minorities and other previously disadvantaged groups in the UK, but some unintended conflicts have recently arisen out of the legislation that are presenting real headaches for employers and tribunals alike.

Most often, it seems, such battles pit an employee's religious beliefs against their employer's need to deliver services without preference or prejudice.

These disputes have inevitably attracted plenty of public debate and discussion in the press, which hasn't been restricted to British commentators. At the start of February, even the Pope was moved to comment on UK equality legislation.

So far, tribunals have found largely in favour of employers but the apparent willingness of their employees to claim, and for some religious organisations to back them financially, suggest that this is a story that will run for some time yet.

In a previous Little Book of Business Law, a year ago, we covered the story of a Christian bus driver in Southampton who refused to drive a particular bus because it carried advertising bearing an atheist slogan.

That matter was resolved quickly and without recourse to the courts, though the Advertising Standards Authority was called upon to rule that the adverts did not breach its codes of practice or mislead consumers.

Since then, however, it has taken appeal court decisions to resolve other long-running discrimination claims from employees seeking exemption from particular workplace duties or responsibilities on religious grounds.

Perhaps the most publicised of these has been the case of *Eweida v British Airways*, in which the airline was accused of operating a discriminatory uniform policy.

No less important are the cases of *Ladele v London Borough of Islington* and *McFarlane v Relate Avon Limited* which both concern the issue of employees' responsibility to support equal opportunities policies even though they might conflict with their religious beliefs.

We first covered Ms Ladele's case against Islington Borough Council in the 6th Little Book of Business Law, back in 2008.

At her original tribunal hearing, the registrar had successfully claimed that the council acted illegally by threatening to dismiss her for refusing to conduct civil partnership ceremonies.

An Employment Appeal Tribunal overturned that judgment at the end of 2008, accepting that accommodating the employee's wishes would undermine the council's legal commitment to deliver services without discriminating.

The Court of Appeal upheld this decision at the end of last year, but Ms Ladele then sought leave to undertake a further appeal.

This has just been refused by the Supreme Court on the grounds that her situation does not raise legal issues of "general public importance", but the claimant has already suggested that she might take her case to the European Court of Human Rights.

The wider implications of this case are clear in that it has already been cited in another EAT judgment in the case of *McFarlane v Relate Avon Limited*.

No discrimination against Christian counsellor

In December, an Employment Appeal Tribunal upheld a 2008 tribunal decision that a Christian relationship counsellor was not discriminated against when he was dismissed for refusing to counsel same-sex couples on sexual issues.



Gary McFarlane worked for Relate for several years and had signed up to the organisation's equal opportunities policy, which ensured fair treatment regardless of "personal or group characteristics".

When he was sacked for failing to give an unequivocal commitment to counsel same-sex couples, he claimed that he had been unfairly dismissed and discriminated against because of his religious beliefs.

In upholding the original tribunal judgment, the EAT noted that the employer's decision to dismiss would have been the same regardless of an employee's beliefs and could not therefore be discriminatory.

Both the Ladele and McFarlane cases have been highlighted as examples of a clash between different sorts of discrimination. Religious campaigners have argued that people's rights not to be discriminated against because of their religion or belief are being trumped by the rights of other groups not to face discrimination.

So far, however, tribunals have made it clear that questions about whether or not discrimination has taken place are considered on their own merits and not relative to other types of discrimination. One of the tests applied in the McFarlane case was whether the claimant would have been treated in the same way if his actions were not religiously motivated.

The decisions are also consistent with other cases where the religious objection does not concern any other form of discrimination, such as that of *Eweida v British Airways*. Clearly, the religion and belief regulations protect against direct discrimination, but they do not give employees the right to manifest that religion or belief as they choose.



DASbusinesslaw tip

These cases show that the regulations around different forms of discrimination are both tricky and evolving. It is therefore imperative to get proper legal advice on such issues as quickly as possible.

A cross to bear

The Court of Appeal has upheld the decisions of both an employment tribunal and a subsequent EAT that a British Airways uniform policy was neither directly nor indirectly discriminatory against Christians.

It has been three years since Nadia Eweida came to public attention by refusing to remove a cross necklace, in defiance of the airline's uniform policy for check-in staff at Heathrow airport.

The judgment makes it clear that employers need only accommodate an employee's request to contravene such a policy where it contradicts a genuine requirement of the religion, and not a personal religious decision or preference.

Even though BA has long since amended its policy and Ms Eweida did return to work, the case may still see an appeal to the Supreme Court.



Pope pontificates on UK equality law

Proposed legislation is inevitably the target of some criticism, but the government's ambitious Equality Bill recently attracted condemnation all the way from the Vatican.

Ahead of a planned visit to the UK in September, the Pope took an audience with the Catholic bishops of England and Wales in Rome as an opportunity to launch an attack on the Bill and what he called "unjust limitations on the freedom of religious communities to act in accordance with their beliefs."

Politicians and campaigners waded in on both sides of the debate, as the Pope's comments attracted an immediate and widespread reaction.

MEP Stephen Hughes, himself a Catholic, said that he was appalled by the Pope's comments. He argued:

"Religious leaders should be trying to eradicate inequality, not perpetuate it... Instead of criticising the UK's plans to improve its legislation, the Pope should ensure that existing EU legislation is properly applied in the Vatican."

A new religion

While the Employment Equality (Religion or Belief) Regulations were designed to protect employees from religious discrimination and harassment at work, a precise definition of what constitutes "philosophical belief" has never been fully established.

In November, an Employment Appeal Tribunal ruled that a former head of sustainability at a large property firm deserved the same protection under law for his environmental beliefs.

In deciding that the unfair dismissal case can now proceed in an employment tribunal, the EAT identified that a belief worthy of protection under the law should:

- be genuinely held;
- be a belief and not an opinion or viewpoint based on the present state of information available;
- be a belief as to a weighty and substantial aspect of human life and behaviour;
- attain a certain level of cogency, seriousness, cohesion and importance; and
- be worthy of respect in a democratic society and not incompatible with human dignity or conflict with the fundamental rights of others.

While the courts have been very busy in recent months identifying what should be protected by the religion or belief regulations and precisely how far that protection extends, an employment tribunal in Essex had to consider the responsibilities that high religious office can entail.

The legal detail of the case was almost lost amid the tabloid frenzy over the more lurid aspects of the story, which concerned the extra-marital affairs of an outspoken religious leader of a church that has been the subject of some controversy in the past.

However, the case raised a very important point that could have wider implications about the behaviour that organisations can expect from senior personnel.

An extra-marital affair would not normally constitute grounds for a fair dismissal of even the most senior staff. In this case, however, because it contravened the very ethos of the church and represented a fundamental breach of the confidence trusted in the employee, dismissal was an appropriate disciplinary penalty.

Clerical error

A bishop who claimed that he was unfairly dismissed by his church has lost his tribunal case.

Michael Reid, who founded the Peniel Pentecostal Church, was dubbed the “Bonking Bishop of Brentwood” in the tabloid press after admitting to an adulterous affair with a choir mistress.

The bishop, who had already gained some public notoriety by leading protests against the BBC for airing Jerry Springer the Opera, made the surprising confession to his congregation.

Dismissing his claim in January, the tribunal chairman ruled that the breach of confidence by such a senior person was a serious matter and that the circumstances made dismissal an appropriate option for a reasonable employer.



Fit for purpose?

From 6 April, the new “fit note” system is introduced. GPs will be asked to assess if an individual is “not fit for work” or whether they “may be fit for work taking account of the following advice”.

Doctors will also be asked to comment whether the employee would benefit from a gradual return to work, altered hours, amended duties or adaptations to their working environment. However, the new Statement of Fitness for Work (to use its official name) will not require GPs to detail precisely what activities the employee is capable of undertaking.

Some HR professionals have raised concerns that the nature of the new notes will inevitably result in disputes between employers and employees about what work they can do. In February, the government issued guidance to help employers interpret the new fit notes. It advises employers who do not understand the information on a note to discuss it with the employee first, before consulting the GP if necessary.



DASbusinesslaw tip

All employers will need to know how the new fit note system works. The government has published some useful guides for GPs, for employers, and for employees and patients at <http://www.dwp.gov.uk/fitnote>

Health & safety in numbers

A key driver behind the new “fit note” system is the cost of sickness absence to businesses and the economy as a whole. Even conservative estimates put the financial cost of sickness well in the billions and there is also a huge human cost.

Unfortunately, a significant part of the absence results from injuries or illness caused or exacerbated by work. Statistics from the Health & Safety Executive describe this alarming toll in some very large numbers for 2008/09.

29.3 million days lost to work-related ill health or injury

246,000 reportable injuries

£12.4 million fines against convicted organisations

14,427 enforcement notices issued

1.2 million workers suffering illness caused or made worse by their work

1,245 offences were prosecuted by the HSE & ORR

The cause of illness in a great majority of all reported cases was either some sort of musculoskeletal disorder or psychological ill-health such as stress, depression or anxiety.

Age before duty

While the government has brought forward next year's review of the default retirement age (DRA) some interested groups are clearly growing impatient for change.

The provision currently allows employers to insist that their employees retire at the age of 65, but the review looks likely to result in a decision to raise or even abolish the DRA.

Attempts were made to scrap enforced retirement at 65 in January, through an amendment to the Equality Bill, but the amendment was withdrawn after debate in the House of Lords.

The government consultation on the DRA closed at the start of February but a further attempt to amend the Equality Bill was made, this time to include a "sunset clause" in the legislation to remove the DRA in 2011 if the review failed to do so.

Employers and business groups have been divided over whether the law should be changed. The CBI claims that the existing right to request flexible retirement combined with the DRA provide an adequate framework for retirement decisions.

However, groups supporting abolition of the DRA include the Chartered Institute of Personnel Management and the Federation of Small Businesses, which claims that 60% of small businesses don't think the government should specify an age.

It shouldn't happen to a veteran TV presenter

The BBC is facing allegations of ageism again, following a revamp of its flagship rural affairs programme Countryfile.

Presenter, Miriam O'Reilly lodged an employment tribunal claim in January, alleging sex and age discrimination

after she was one of four middle-aged women dropped from the show when it was overhauled in November 2008.

TV bosses have faced a succession of similar accusations about older female broadcasters including Moira Stuart, Arlene Phillips and Selina Scott, who secured a substantial out-of-court settlement from Channel Five in 2008.

The BBC has strongly denied that the presenters' age was the reason for their replacement describing the suggestion as "absolute nonsense".



Serial age discrimination claimants

One aspect of the age discrimination regulations that attracted particular attention when they came into force in 2006 was the risk presented in recruitment advertising. While sensible rewriting of job ads should be enough to avoid allegations, it seems a number of serial litigants have been using the law to make repeated and apparently profitable tribunal claims.

The Sunday Times recently reported that one man is thought to have taken action against more than 60 companies, claiming age discrimination over job advertisements calling for “school leavers” or “recent graduates”. While many of his claims have been recognised as vexatious and struck out at tribunal, it is believed he has made thousands in out of court settlements, despite never attending an interview or even applying for a job.

He uses the tribunal service website to file claims, emailing companies with an offer to settle his case and avoid court action, often selecting a tribunal as far from the business as possible to encourage settlement.



DASbusinesslaw tip

Careful wording of recruitment adverts should prevent even vexatious claimants, but businesses certainly should not try to settle a claim without taking legal advice.

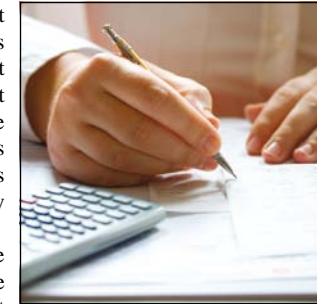
Accountancy ageism

An Employment Appeals Tribunal has upheld the decision against an experienced accountant who made a series of age discrimination claims after applying for jobs advertised for “newly qualified” accountants.

Margaret Keane originally brought the case against 11 employment agencies, though six had settled her claim by the time of the original tribunal hearing.

While the claimant argued that she was taking a stand against ageism in her industry, this point was undermined at tribunal by the fact that she had settled numerous cases.

The EAT found that Ms Keane had not suffered any real detriment because she had no genuine interest in the jobs and also upheld the tribunal’s unusual decision to award costs against her.



More paternity leave for fathers...

At the end of last year, the government announced that its long-standing pledge to introduce additional paternity leave would come into force from April 2011.

The provisions will apply to parents of children due to be born on or after 3 April 2011, following a consultation on the draft regulations that closed in November.

The new right will allow mothers to forfeit the second half of the maximum 52-week maternity leave entitlement and pass it to the father. The first 13 weeks of this leave would be paid at the statutory rate but the remaining three months would be unpaid.

Some commentators have suggested the cost to business and impact on the economic recovery are too great to introduce the change now. However, the first fathers entitled to the leave won't be able to take it until October 2011 and then the number eligible can only grow slowly.

A bigger problem is likely to be whether many families can afford to make use of the leave. A report by the Equality and Human Rights Commission found that 45% of fathers cannot afford to take the current paternity leave entitlement of just two weeks.

...more maternity pay for mothers?

One overdue change to employment law that the government has postponed to avoid overburdening businesses recovering from recession is an increase in the duration of statutory maternity pay from 39 weeks to 52. However, in February, a European Parliament committee approved proposals to extend the period of maternity leave on full pay to 20 weeks.

European law currently gives pregnant women 14 weeks' leave on full pay, while UK women are entitled to just six weeks on 90% pay followed by 33 weeks on statutory maternity pay.

Scaremongers were quick to suggest that the EU vote could foist a £2bn bill on UK businesses when they could least afford it. However, the proposal is still a long way from becoming law, would take some time to legislate, and the government currently funds the majority of statutory maternity pay costs.

One legitimate concern that has been raised, however, is that improvements in maternity rights and pay could lead employers to discriminate against women of childbearing age.

DASbusinesslaw tip

It is doubly important for businesses to stay up-to-date with statutory requirements for maternity and paternity.



Equal terms for temps

One piece of EU legislation that is a lot closer to being implemented in the UK is the 2008 Temporary and Agency Workers Directive.

The directive gives agency workers the right to be treated equally on basic employment conditions such as pay, working hours and holidays, in comparison with permanent employees. In the UK, the Agency Workers Regulations 2010 will come into force in October 2011.

Following consultation with bodies including the TUC and CBI, the government has agreed that agency workers will only be entitled to equal treatment after a 12-week qualifying period.



DASbusinesslaw tip

While October 2011 may seem a long way off, employers who regularly use temporary workers for extended periods will need to plan carefully for this change in the law.

Asda way to do it

Well in advance of the legal requirement to do so, supermarket chain Asda has agreed to push equal treatment of agency staff up its supply chain, following discussions with the Unite union.

The agreement could affect as many as 6,000 of the UK's estimated 1.3 million temporary and agency workers, who work for 29 of Asda's suppliers.

Mirroring the forthcoming legislation due to be introduced in 18 months' time, the agency staff will now get pay, holiday entitlement and working hours in line with their permanent colleagues, after 12 weeks' service.



Blacklisting blacklisted

Slightly earlier than anticipated, new legislation was introduced in March that outlaws the practice of blacklisting employees for union membership or activities.

The new regulations, introduced under the 1999 Employment Relations Act, were required after it emerged that employers in the construction industry had been subscribing to an illegal database in order to screen candidates.

The regulations make it illegal to refuse employment or sack someone because their name is on a blacklist, and ban employment agencies from refusing to provide a service to candidates because they have been blacklisted.

Union members can complain to an employment tribunal if they are denied a job, unfairly dismissed or suffer a detriment because they appear on such a blacklist and courts can now award damages, including for injury to feelings.

The regulations also allow individuals or unions to take action against and seek compensation from those who compile, distribute or use blacklists.

Lord Young, the employment relations minister said "Blacklisting someone because they are a member of a trade union is underhand, unfair and blights people's lives".

First blacklisting action fails

One of the workers named on blacklists that some firms in the construction industry allegedly used to screen applications for union activists has lost his case at an employment tribunal.

Mick Dooley claimed that he was denied work in the early 1990's because his name was on a blacklist. The action was the first to be brought following an Information Commissioner's Office investigation into the use of blacklists.

The hearing was heard before the new regulations were introduced, so Mr Dooley's claim was made under the tribunal jurisdiction of breach of contract.



Tax system too taxing for small businesses

The Federation of Small Businesses has called upon whichever government is in power after the general election to simplify the tax system for entrepreneurs, start-ups and small businesses.

Its survey of more than 1,600 small businesses showed an overall lack of confidence in dealing with questions about taxation and suggested that the complexity of the tax rules was impeding growth in this important part of the economy. The research showed that some 75 per cent of the FSB sample believed that they could grow their business if the UK tax system was simplified.

John Wright, the FSB's National Chairman, implored the government to recognise the importance of small businesses to strengthening economic recovery in the tax system:

"The potential investment and jobs which could be created through such a move would provide the economy with the boost it needs to sustain recovery."



DASbusinesslaw tip

As well as the guidance available on our website at www.dasbusinesslaw.co.uk, existing DAS commercial policyholders can get advice on any tax matter affecting their business by calling their helpline.

Crackdown on minimum wage dodgers

The government has established a dedicated team to crack down on companies that persistently fail to pay workers the minimum wage.

The HMRC Dynamic Response Team has been tasked with addressing the more complicated and higher profile cases, targeting particular areas where migrant labour is used to create a competitive advantage, by paying less than the legal minimum.

It will be staffed by specialists who will co-operate with local authorities and other government departments to make sure that non-compliant employers are dealt with in the most effective way, including civil action and criminal prosecution.

Every year, HMRC helps thousands of low-paid workers recover millions in pay from employers who have refused to pay the minimum wage. The hospitality sector is one of the worst for failing to comply with the legislation.

HMRC undertook the first criminal prosecution for failure to pay the minimum wage in 2008, in which a butcher's shop in Sheffield was ordered to pay more than £11,000 in compensation and costs.

Unhappy holidays

Employees may be entitled to keep holidays that they have previously arranged but cannot take because of subsequent illness, following a tribunal decision in February.

In *Shah v First West Yorkshire*, Mr Shah took his employer to a tribunal because the company would not let him have back four weeks leave that he had been unable to take after a broken ankle forced him to be absent past the end of the holiday year.

The case follows decisions in two actions that reached the European Court of Justice. In *Pereda v Madrid Movilidad SA*, it was found that workers should be allowed to reschedule leave if they are prevented from taking it through illness.

Another recent case followed the House of Lords' decision in *Stringer v HMRC*, confirming that employees on long-term sickness absence continue to accrue holiday, in spite of the UK's working time regulations.

The claimant in *Rawlings v The Direct Garage Door Company* had been absent for more than a year when he resigned, claiming more than a year's holiday pay.

£25,000 garlic bread order

A hospital chef who had walked into work because of heavy snowfall and not taken a lunch break because some of his colleagues hadn't been able to get to work, was dismissed for "stealing" a leftover piece of garlic bread.



An employment tribunal awarded the man £25,000 in compensation for his unfair dismissal and racial discrimination, after he was sacked because his general manager witnessed him taking the bread which had been returned to the kitchen for disposal.

As is so often important in discrimination cases, the employer's lack of consistency in handling disciplinary matters was key. The tribunal found that the allegations had not been properly investigated and other staff guilty of committing similar offences were merely warned or suspended, rather than dismissed for gross misconduct.

Bullying off

The subject of workplace bullying was thrust into the headlines recently, after the publication of a book about the Prime Minister levelled some serious allegations about behaviour in Number 10.

The story took an unfortunate turn when the founder and chief executive of a charity, the National Bullying Helpline, was seen to breach the helpline's confidentiality by claiming that it had been called by Downing Street staff.

The charity was forced to suspend its services briefly during a difficult week in February when a number of the charity's high-profile patrons resigned.

The opposition was perhaps reluctant to try making too much political mileage from the story. An employment tribunal decision two years ago found that Conservative director of communications and planning, Andy Coulson, had led "a consistent pattern of bullying behaviour" towards an employee in his previous role as a Fleet Street editor.

Like journalism and some other professions, politics can often lead to a working culture in which stressful conditions and bullying behaviour are accepted as part of the demands of the job. Employment tribunals are unlikely to accept this as an excuse.

Record payout for bullied reporter

A newspaper reporter was awarded nearly £800,000 in damages after bringing a tribunal claim for unfair dismissal and disability discrimination, alleging he was bullied out of his job.



Matt Driscoll was sacked from the News of the World in 2007 while on sick leave. The tribunal found that he had been subjected to consistent bullying behaviour.

The tribunal singled out editor Andy Coulson as "the original source of the hostility towards the claimant", noting that other senior managers either followed his lead or shared his views.

The News of the World claimed that Mr Driscoll previously faced disciplinary proceedings over a single punctuality incident and alleged reporting inaccuracies and that the grounds for his dismissal concerned capability and qualification.

BCC says employment law is stifling UK Plc

The British Chambers of Commerce has blamed the “relentless flow of complex employment law” for stifling UK competitiveness.

In a report entitled *‘Employment regulation: up to the job?’* the BCC argues that the economy is burdened by rights to request flexible working, extended provisions for “time-off”, and unreasonable health and safety restrictions.

The report calls for the UK’s “dysfunctional” tribunal system to be overhauled and makes a series of recommendations, including:

- Reducing the waiting time for a first tribunal hearing to 16 weeks
- Allowing employers to dismiss staff if they reasonably believe their actions constitute gross misconduct
- Making remote workers responsible for health and safety in their own homes, aside from equipment provided by employers
- Requiring employees to seek advice from ACAS or a solicitor before submitting a formal claim or complaint.

ACAS averts 5,000 tribunal claims

The release of employment tribunal statistics for 2009/10 may be some months away, but one early indication of the number of employment disputes occurring has just been released.

Numbers released by the conciliation service ACAS show that more than 8,000 calls have been made to its pre-claim conciliation helpline since it was launched last April.

While this may indicate that there has been a high number of disputes occurring in businesses under the extreme commercial pressures the recession has created, the ACAS figures suggest that as many as 5,000 tribunal claims have been avoided.

It would appear that businesses already struggling in the harshest of economic climates are keen to explore any affordable mechanism of resolving workplace disputes if it means avoiding the cost and trouble of tribunal action.

ACAS claims that more than half of the cases its pre-claims service resolves are completed in a matter of weeks, whereas tribunal claims will take months or even years to reach a conclusion.

And finally...

The media tend to focus on the more extreme claims and unusual stories from the commercial world, and Little Books of Business Law are no exception.

Such tales may be interesting and raise important technical or legal issues, but they aren't necessarily indicative of either the day-to-day work of the tribunal system or the risks that businesses are likely to face every day.

In truth, tribunals up and down the country deal with few truly groundbreaking cases; the behaviour of employers and employees isn't often that outrageous; there is probably right and wrong on both sides; and awards are far more likely to be measured in the thousands than the millions.

The lessons to be learned, however, are pretty common. Whether it be a multi-million pound discrimination claim or a simple failure to follow procedure, employing people can be a tricky business, and dismissing them is even trickier.

So, we present a far more prosaic but perhaps representative story, about a small businessman, his chip shop, and some free chips.

Chip shop owner left battered by tribunal ordeal

The assistant manager of a chip shop in Newmarket has won her claim for unfair dismissal, after she was sacked for giving away free chips, reports the Newmarket Weekly News.

Ann Parr claimed that the chips were given away to local companies, occasionally in return for services they provided, and said the practice had been going on before she joined the business.

Mrs Parr was awarded £2,500 though only after her award was reduced by 25% because the tribunal found that she had, in some way, contributed to her own dismissal.

Her employer, Phil Fotiou, summed up the difficulties that employment law can present to small businesses, "Basically I didn't follow procedure... This is a small family business and I didn't quite understand the law I had to follow... It's hard enough to manage in a recession without food being given away."



We're not going to the gay bar, gay bar

The former assistant manager of a gay pub in London has won his tribunal action for discrimination that occurred after the business was sold to new owners who he claimed tried to discourage the existing gay clientele.



While the new owners argued that they were trying to turn the venue into a gastro-pub that would appeal to people regardless of their sexuality, the tribunal found that attempts to “de-gay” the pub led to discrimination.

Existing gay staff were apparently referred to as “queens” and the claimant was asked to put up a sign stating: “This is not a gay pub”.

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