

No. 111

For further
information contact:

Judith Ellery
jellery@metcalfes.co.uk
0117 9453080

Paul Seath
pseath@metcalfes.co.uk
0117 9453084

PERSONALITY DISMISSALS

Earlier this month a Court of Appeal said that employers can potentially dismiss employees for having difficult personalities, even if they are technically good and there are no criticisms of their integrity. The reason for dismissal in such cases would be “some other substantial reason”.

The normal rules of fairness and procedure obviously need to be adhered to as well in order to ensure fairness but the case does confirm that the first hurdle at least, i.e. establishing the fair reason for dismissal, can be got over by showing a difficult personality.

The case also said that in appropriate cases it is possible to:

- Find in favour of the employee but deem that they contributed 100% to their conduct and therefore award no compensation.
- Conclude that because of the aggressive way in which the employee defended himself any disciplinary panel (even one not chaired by somebody who the Claimant said was biased) would be 100% certain to have dismissed him on the grounds that he would not be able to continue working with senior members of the employer.

This is another case which will make happy reading for employers. Employers ought not to shoot from the hip however and do need to ensure that fair and appropriate policies are followed before any decisions to dismiss is taken; including the new statutory rules on dismissal, which came into force in October 2004. Employers also need to ensure that the decision is in all the circumstances fair and reasonable.

Whilst every care has been taken producing this E-Brief, no liability is accepted for any errors or omissions. The E-Brief is not a substitute for proper legal advice, merely an aid. For further advice contact Judith or Paul or your usual Metcalfes contact.