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Rightfocus

Focussing on legal issues important to you

Enhanced consumer protection services are on the way

Anyone who is confused about where to turn for protection of their consumer rights should be pleased to hear that Government plans are underway to simplify this complicated area. It is currently carrying out a consultation exercise, called Empowering and Protecting Consumers, which has the aim of concentrating all support into Trading Standards and the Citizens Advice Centre.

When launching the consultation, Minister for Employment Relations, Consumer & Postal Affairs Edward Davey gave some of the background to the initiative. "Our consumer policy is all about empowering consumers to make the right decisions for themselves when they buy goods and services," he said.

"But we also need to ensure we have the right system of help, advice and protection when consumers need support," Mr Davey continued. "For too long, people have been faced with a confusing landscape of different, public, private and voluntary consumer bodies, with overlapping roles and responsibilities. It is not always clear where to turn for trusted advice and information which consumers need to make good choices or a champion to support them when they have been ripped off.

"These proposals seek to put an end to such confusion and make sure consumers are empowered and have champions. The Citizens Advice service has for a long time offered trusted advice, information and advocacy. So it's right that it sits at the heart of our

plans. Likewise, Trading Standards are trusted by the public to do a good job in enforcing consumer law and standing up for consumers.

"But there are barriers which get in the way of effective responses to rogues who operate across authority boundaries. Our proposed reforms will strengthen their hand in tackling these threats to consumers."

Under the proposals, the Citizens Advice service will become the single source of information and advice for consumers to turn to, while local authority Trading Standards Services will be strengthened and co-ordinated to manage complex cases that cross council boundaries.

While such support services have an important role to play in upholding and enforcing consumer rights, they are not invariably the whole answer. There are many circumstances in which the help and support of a qualified solicitor will be necessary, either instead of or alongside publicly funded support.

The consultation period on consumer protection runs until the end of September.

Clear Advice: Plain English

The Employment team advise on all aspects of the employment relationship, including the rights, obligations and remedies available to both employers and employees. The range of matters the team can offer advice on include the employment contract and associated policies/procedures, discrimination, maternity and other family friendly rights, dismissals and transfer of undertakings.

The Company Commercial team concentrate on giving pragmatic, practical and competitively priced legal advice to medium sized businesses and institutional clients. The team advises on all legal aspects of business and company acquisitions and disposals including raising of corporate finance, shareholder's agreements, share issues, takeovers and mergers.

The Commercial Landlord and Tenant team advise in relation to both contentious and non-contentious areas. The team has a heavy emphasis on industrial, office, retail and leisure premises. The range of services the team can advise on include taking, granting and renewals of leases, Landlords Consent Licenses and recovery of rent arrears and repossession of premises.

The Commercial Property team offers a full range of legal services to buyers, developers and lenders. The team offers a complete range of expertise reacting quickly to clients' requirements with practical and cost-effective advice. The team can advise on acquisitions, disposals and leasing of commercial, industrial and retail properties, planning applications, appeals and enquiries.

The Commercial Litigation team advise on commercial contractual problems, disputes, commercial debt recovery, employers liability including Health and Safety at Work disputes.

The Insolvency and Restructuring team deals with all aspects of insolvency such as liquidations, administrations, receiverships, voluntary arrangements, corporate restructuring, bankruptcy and asset recovery.



Copyright laws face radical overhaul

Following a Government-commissioned review by Professor Ian Hargreaves of the UK's existing copyright and Intellectual Property laws, new proposals are set to bring about a 'radical overhaul' that will affect many small businesses.

Designed to update existing legislation and keep the UK at the forefront of global innovation, some of the key changes in Digital Opportunity: a Review of Intellectual Property and Growth include the creation of a more efficient digital copyright licensing system, where nothing is unusable just because the rights-owner cannot be found.

The review also calls for a revised patent system that can prevent heavy demand for patents from slowing market entry in critical technologies. Perhaps most important of all, it recommends the creation of a reliable and affordable advice service for smaller companies, helping them to compete faster and better within the UK and internationally.

Practical proposals include the launch before the end of 2012 of a 'Digital Copyright Exchange' to streamline permissions to use copyright works and agree a licence with copyright owners. The review also suggests the legalisation of digital copying of CDs and DVDs for personal use.

This appears to be a positive and refreshing approach to creating a more user-friendly IP system. Anybody requiring help with the current IP and copyright laws should seek the guidance of a specialist solicitor.

BSI develops new anti-bribery standard

Any company concerned about verifying the rigour of their anti-bribery policy and practices following the introduction during the summer of the new Bribery Act might be interested by the news that the British Standards Institution (BSI) is developing a new standard (BS 10500) to help them do so.

It is expected that the new standard will be published before the end of 2011 following the consultation period and review by the Anti Bribery Committee.

According to Shirley Bailey-Wood, Operations Director of BSI Standards, "Responsible organisations increasingly see bribery prevention as on a par with safety and quality control. They want a means to demonstrate that they have an adequate system to prevent bribery from taking place. Although a significant amount of guidance already exists, as yet there is no system of measuring to an agreed benchmark that an organisation's anti-bribery practices are adequate. This is what BS 10500 will provide."

It is important that any business still requiring guidance on formulating and implementing an anti-bribery policy takes advice as soon as it can. Our commercial solicitors have experience in helping put workable and effective policies in place.

Discrimination case highlights individual responsibility

A recent sex discrimination case has shown that an individual can be held personally responsible for the unlawful dismissal of an employee.

The case was brought by a woman against the manager who made her redundant immediately after she told him that she was pregnant. The manager argued that only the company, as her employer, should be held liable for sex discrimination.

The Employment Tribunal that heard the case did not agree with him, saying: "It is entirely clear that an individual may be liable for discrimination by dismissal". It ruled that the woman had been dismissed because of her pregnancy and awarded her £22,000 in compensation.

This case highlights how important it is that every employee who is responsible for managing others fully understands the legal implications of unlawful dismissal or other forms of discrimination. It does not release companies from responsibility in such cases, but shows that individuals, whether directors or employees, can also be held liable.

Any company wishing to help its employees understand the detail and implications of anti-discrimination law in the workplace should seek the guidance of our experienced solicitors.



Employers consider cuts to paid holidays

In these tough economic times, many employers are taking a close look at the total value of the benefits packages that they provide to their employees. According to insurance and financial services company MetLife UK, around 25% of companies are as a result considering cutting back the amount of paid holiday that they offer their staff.

As the company's Managing Director Dominic Grinstead says, "Employers are starting to question the overall value of their employee benefits packages, of which paid holidays are clearly an expensive part.

"The ongoing UK economic recovery will rely heavily on SMEs and they need to contain costs. Employees are willing to be flexible to support their employer but will want something in return. Employers should recognise that commitment and take a wider look at employee benefits in order to gain the maximum value for their business and workforce, as a strategic approach to employee benefits can add real value."

Under current legislation, fulltime employees have the statutory right to 28 days' paid holiday – including bank holidays.

Any employer who is keen to maximise the value and positive impact of their employee benefit packages, or concerned about how contracts of employment restrict their room for manoeuvre should in the first instance consult with one of our employment solicitors.

Government remains committed to reducing red tape

Major changes to employment law are on the horizon as the Government continues its ongoing review with the aim of reducing the amount of red tape that companies currently have to contend with.

As Edward Davey, the Minister for Employment Relations, Consumer & Postal Affairs, put it, "We will be looking carefully at the arguments for reform. Fairness for individuals will not be compromised, but where we can make legislation easier to understand, improve efficiency and reduce unnecessary bureaucracy we will do so."

Three of the main areas to be addressed, which the Government regards as priorities for employers, are compensation for discrimination, Collective Redundancy Rules and Transfer of Undertaking (Protection of Employment) Regulations (TUPE).

Some employers currently feel that each of these areas can hold businesses back from employing people and growing. For example, there is a sense that discrimination compensation awards made by employment tribunals can be too high, while present consultation rules on collective redundancies can hamper companies' ability to restructure efficiently. The current TUPE rules, some feel, offer overly gold-plated protection to employees when there is a change in business ownership.

Anybody needing advice on how to prepare for these changes is advised to contact our employment solicitors.

Social media policies are inadequate

A new study from a major consulting firm shows that the majority of employees in the UK have still not been provided with guidance by their employers on the use of social media sites. According to the report, companies that do not have adequate social media policies in place are at risk of reputational damage and breaches in their security.

According to research, growth in the use of such sites mean that over half of all UK employees admit to using sites like Facebook, Twitter and LinkedIn at work, while 30% do so on a daily basis and over 5% several times an hour.

Part of the problem faced by many companies is the generational divide between those senior managers who are responsible for devising and implementing policy, and those younger members of staff who tend to be the most regular users of social media. In particular, senior managers who assume that their less experienced colleagues would not post inappropriate comments online are all too often proved wrong.

It is becoming increasingly important that companies have in place a workable and highly visible social media policy – seek the advice of our solicitors to establish the legal parameters within which such a policy should operate.



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**Readers are plentiful,
thinkers are rare**

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Who is responsible for animal damage?

What happens if an animal you own or are responsible for causes damage or injury to somebody else? And what are your rights if you (or your property) are the victim of an animal attack?

In brief, it all depends... for this is a complicated area.

At its simplest, under the Animals Act 1971, there are three main tests that help decide the responsibility of the animal's owner. First, is this the kind of damage that may occur or be severe if the animal is left unrestrained? Second, is the damage due to a characteristic that is not normally found in the species or that comes out at certain times or in particular circumstances? And third, is the animal's owner aware of the characteristic at the root of the damage?

Essentially, if the damage was not due to a characteristic of the animal, then the keeper can avoid liability. On the other hand, if the characteristic was the cause, the next step is to establish if the keeper knew about it in which case they might be held liable.

If you are concerned that you may be held liable for or have been a victim of animal damage, you should consult with one of our solicitors.

University tests new retirement rules

A Scottish university has sparked a heated debate about the new laws abolishing the default retirement age by claiming in an email that their principal had retired – a claim that was initially hotly contested by the man himself.

The principal involved started tribunal proceedings following the university's announcement. A statement issued on his behalf said that "his position is that he has not retired and he remains in dispute with the university over the terms of an extension of contract agreed with the university last year."

While the situation has now been amicably resolved with the principal's agreement to retire, some observers see this as a test case for the new retirement rules that come into full force on 1 October this year.

It clearly highlights the dangers involved in attempting to enforce decisions regarding an employee's future unilaterally without the full agreement of all parties. This is a situation that may become all the more fraught in the absence of a clear age at which retirement becomes mandatory.

In future, it is inevitable that employers and employees will often need to reach individual agreements as to when retirement actually takes place. Any employer seeking advice on the content of such agreements should consult with one of our solicitors.