

*Focussing on Legal Issues important to You*

## 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 or 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.



## Creating a safety net for your business

When there was an earthquake in Los Angeles in 1990, a local disc jockey was heard to say on air: "The telephone company is urging people to please not use the telephone unless it is absolutely necessary in order to keep the lines open for emergency personnel. We'll be right back after this break to give away a pair of Phil Collins tickets to caller number 95."

Clearly not someone who understood the basic rules of business continuity planning, which means working out how to stay in business in the event of disaster.

What constitutes a 'disaster' clearly depends on the circumstances of your business. It could be something as simple as the departure of a key member of staff, the collapse of your telecommunications system, loss of data or even a postal strike. At its simplest, a disaster is something that prevents your business from operating as normal.

What all such events have in common is equally simple – that proper planning can invariably alleviate their impact, but only as long as it is properly implemented. Having a plan is worthless unless it is put into action. It is a sobering thought that 44% of businesses affected by fire fail to re-open, often the result of either having no business continuity plan or neglecting to implement it.

### Plan to survive

What should such a plan comprise and how should it be created? There are four well-established stages to creating a workable plan, tailored to the needs of your business:

- Identify and assess what your business needs to continue operating, and work out how long it would take to get each element up and running again after a failure

- Determine what the main risks are, assess their likelihood of occurrence and consider first how they may be alleviated, then how they should be dealt with
- Establish responsibilities among your people, and ensure everyone understands their roles and duties in the event of disaster
- Document all the above in an easy to understand, accessible format.

In this way, you can define the critical priorities for your business, identify the main threats to them, assign responsibilities and ensure everybody knows what to do.

There are other methods you can adopt to protect your business. Most importantly, ensure you have in place appropriate contracts with your employees, customers or clients and suppliers, to ensure you receive the relevant support should there be a disaster and agreed levels of compensation if they fail to deliver on their obligations. Also, investigate what business continuity insurance options are available to you. Remember that the existence of a robust plan is likely to reduce the cost of your premiums.

You may well benefit from professional advice, both in ensuring you have the right contracts in place and in developing a plan. In the first instance, contact a commercial specialist for initial advice.

After all, the following salient advice from a 1970s insurance specialist is as relevant today as it was then: "Better to have the business continuity plan and not need it, than to need the plan and not have it."



## Eligibility for the tax-free taxi

Since 2003 HM Revenue and Customs (HMRC) has agreed to make tax-exempt the cost of taxi rides paid for by an employer for people working late at night.

This was a positive reaction to a genuine need to protect staff by ensuring a safe trip home. Under normal tax rules, payments for an employee's journeys to and from work are taxable because they are regarded as part of a remuneration package.

Now, however, HMRC has outlined conditions that must be met for the exception to be honoured. These are that:

- the employee needs to work later than usual, until 9.00pm at the earliest
- this is an irregular occurrence (the exemption also only applies for the first 60 such trips in any given tax year)
- public transport has ceased to operate, or it would be unreasonable to expect the employee to use it
- the transport used is a taxi or similar vehicle.

If you wish to discuss this further please contact a tax specialist who will be able to advise you accordingly.

## How HSE is reducing the admin burden

According to the Health and Safety Executive (HSE) the cost of the administrative burden placed on businesses and other organisations by health and safety legislation, totals a staggering £2.03 billion.

Aiming to help reduce this figure the HSE is now addressing one particular issue in the Health and Safety for Employees Regulations 1989, which requires the display or distribution of posters and leaflets approved by the HSE.

Employers are currently required to write on these publications, and keep updated, the name and address of the local enforcing authority and the address of the local Employment Medical Advisory Service office.

However many such posters and leaflets either do not provide the information employees need, or contain information that is out of date. In addition, the cost of complying with this regulation totals some £7.4 million each year for UK businesses. While this is only a small proportion of the total administrative burden cost, a reduction of any level will be a welcome step forward for many.

So the HSE is proposing amendments to the regulations to allow the publication of posters and leaflets that do not require the addition of this information.

In its words, this step will reduce "an unproductive burden, whilst maintaining or improving employees' access to useful information."

If you feel you need advice on this matter, contact a commercial health and safety specialist.

## More home-workers than ever before

Research from the Trades Union Congress (TUC) has suggested that more people are working from home than ever before, currently 3.5 million people (12.2% of the working population). Taking self-employed people, who are often home-workers out of the statistics, this equates to an average figure of 5.1% of the UK's employees working from home, a 36% growth over the last decade.

According to Phil Flaxton, CEO of Work Wise UK, the message is getting through. "The benefits of working from home, even occasionally, are now widely accepted. Not only does it reduce the amount of commuting people have to do, enhancing their work-life balance, but many are actually more productive."

One of the biggest concerns that employers have is that workers will 'skive' at home. A Work Wise case study demonstrates that this is far from the case, with clients who have enabled mobile and home-working reporting "an average annual growth in turnover of 27.6%, an 11% decrease in staff time spent on repetitive tasks, and a 16% increase in job satisfaction."

Introducing more flexible working practices, with less time spent in the office, have some significant implications for employers, including the challenge of how to 'manage' a more remote workforce as well as the development of new employment contracts, policies and practices.

To enable your business to gain from the productivity and satisfaction benefits of home-working, contact an employment specialist to discuss your particular needs and the best way forward.



## ***Debate over the dismissals database***

Controversy continues to rage over the launch of the National Staff Dismissal Register, an online database of workers who have been sacked for theft or other misconduct, regardless of whether or not they have been officially charged by the Police.

Set up by Action Against Business Crime (AABC), a partnership between the Home Office and the British Retail Consortium (BRC), the new service is being accused by some of potentially preventing people from ever getting another job.

Trades Union Congress (TUC) Policy Officer Hannah Reed, told the BBC: "The TUC is seriously concerned that this register can only lead to people being shut out from the job market by an employer who falsely accuses them of misconduct or sacks them because they bear them a grudge. Individuals would be treated as criminals, even though the police have never been contacted."

Human rights watchdog Privacy International has even questioned its legality, and has suggested that it could be libellous or defamatory, particularly if it prevents candidates from getting a new job.

Mike Schuck, chief executive of AABC, says that all participating companies will be obliged to abide by the Data Protection Act and that workers named on the database, maintained by AABC, will have the right to change their entries if they are inaccurate.

## ***Employers urged to recognise volunteering with additional time off***

A recent report has recommended that young adults should be 'given' a day a year to carry out voluntary work in their communities.

The Morgan Inquiry ran for six months until June this year. It concluded that a new opt-in scheme, through which employers and academic institutions grant young adults eight hours leave each year to volunteer, would help businesses enhance their corporate social responsibility and invest in their communities.

The resulting report also suggests that businesses would benefit directly from more skilled staff. "From our evidence it is clear that volunteering is an excellent way for young adults to learn the transferable skills that employers throughout the UK find valuable. Transferable skills include leadership, team working, self-confidence, initiative and organisation."

For further details, and to download a copy of the report, visit: [www.morganinquiry.org.uk](http://www.morganinquiry.org.uk).

## **NICE route to fitter workforce**

The National Institute for Health and Clinical Excellence (NICE) has suggested that employers should take some responsibility for the state of their employees' fitness by encouraging them to increase their activity levels.

The organisation says, "Many employers recognise that they have an obligation to the health and well-being of their workforce. Investing in the health of employees can also bring business benefits such as reduced sickness absence, increased loyalty and better staff retention."

Its recommendations include the development of a plan to encourage staff to be more physically active. It also suggests encouraging employees to walk or cycle at least some of the way to and from work, providing information on walking and cycling routes, and promoting the use of stairs instead of lifts.



**Readers are plentiful,  
thinkers are rare**

Employment

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## ***Better legal protection for consumers***

Following the introduction of new consumer protection legislation in May, there is now a duty on businesses not to trade unfairly.

The Consumer Protection Regulations aim to prevent 'rogue traders' from taking advantage of vulnerable consumers, by addressing issues ranging from aggressive sales tactics to bogus closing down sales.

Critically, they outlaw the use of misleading information which, although factually correct, may convince a consumer to make decisions that they would not have made otherwise. Affecting all business to consumer transactions in the UK, 31 specific practices are now banned outright including pyramid schemes, the use of fake credentials and phoney competitions.

In addition they clamp down on the use of aggressive sales techniques that rely on harassment, coercion or undue influence, meaning that the pushy door to door salesman who refuses to leave should be a thing of the past.

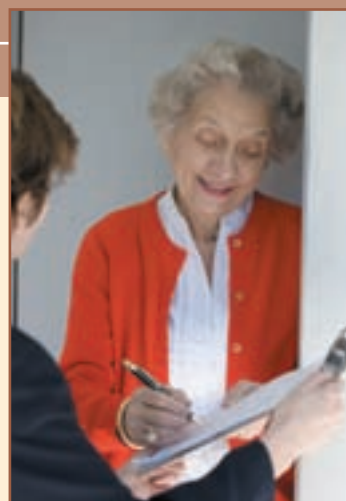
According to the Trading Standards Institute, who will be policing the new regulations, serious cases will be dealt with under criminal law, meaning a fine of up to £5,000 and/or a two-year prison term for cases heard in a Crown Court.

Trading Standards is currently investigating a fraudulent website that promised customers low-cost home appliances. Quoted in the Guardian, Trading Standards Senior Enforcement Officer Liam Mooney has described it as "rotten to the core", and is leading an investigation into the company under the Fraud Act 2006.

Not only did the business not deliver paid-for items, some consumers' credit cards were also charged amounts up to 10 times higher than expected. According to Mr Mooney, there are lessons here that every consumer can learn from.

"My advice is only to deal on the Internet with known and trusted names," he says. "Avoid firms you have never heard of – and use a credit card rather than a debit card if you can."

For more information on the new regulations go to [http://www.offt.gov.uk/shared\\_offt/business\\_leaflets/530162/oft979.pdf](http://www.offt.gov.uk/shared_offt/business_leaflets/530162/oft979.pdf)



## ***Time to acknowledge success!***

'Swifter, higher, stronger' – the Olympic motto is particularly front of mind for many this summer thanks to events in Beijing.

It does not apply just to running, jumping and throwing - it's also relevant to any business that wishes to succeed, particularly in tough times.

So, while medals are not on offer for business success, it is still a good time to acknowledge the incredible achievements of countless business professionals whose total belief is driving their enterprises forward.

Some of these are household names. It was in 1998 that three Cambridge graduates decided to try out an alternative to their city careers and spent a weekend making and selling smoothies to London festival-goers. Today, their Innocent company has a turnover of £100 million and sells over 2 million smoothies every week through 7,000 shops.

After his farm went bankrupt in the 1990s, William Chase decided to start making potato crisps. Now, his Tyrells Potato Chips company sells 500,000 packets of upmarket, pesticide-free crisps every week, giving him an annual turnover of £10 million.

They might not be so high-profile, but every community has businesses that have similarly achieved great things on the back of ambition, imagination and sheer hard work.

In short, they are swifter, higher and stronger than the competition.