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Hot Issues in Employment Law

23-24 September 2010, Radisson Edwardian Bloomsbury Street Hotel, London

22 leading experts explain the key developments for 2010-11

A 2 day conference devised and chaired by **Michael Rubenstein**



Key legislation

Thursday 23 September 2010

Age discrimination: recent developments

John Bowers QC

Collective redundancy consultation

Thomas Linden QC

Recent cases on religion or belief

Sue Ashtiany

Whistleblowing: how the law is being interpreted

Sarah Malik

Equal pay: the changing law

Daphne Romney QC

Health inquiries, fit notes and disability discrimination

Jane Amphlett

Pregnancy, maternity and paternity rights

Lucy Bone

Agency workers Regulations

Fraser Younson

Remedies for harassment at work

Anna Beale

Current working time issues

Lucy McLynn

Non-financial remedies for discrimination

Robin Allen QC

New case law

Friday 24 September 2010

Developing duty of mutual trust and confidence

Christopher Jeans QC

Who is an employee?

Paul Rose QC

Liability for workplace stress

Andrew Hogarth QC

Impact of *Kücükdeveci* on EU law

Sarah Moore

Team moves/employment injunctions: recent developments

Selwyn Bloch QC

Confidential information and data protection

Lorna Skinner

Industrial action: where the law now stands

Monica Kurnatowska

Termination payments and compromise agreements

Jane McNeill QC

Human rights and employment law

Heather Williams QC

Varying contracts of employment

David Craig

TUPE 2006: what is a transfer?

Geoffrey Mead

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"The best round up of employment law developments of the year: comprehensive and concise."

Bernard Kingsley, Head of HR, Liberty International plc
Hot Issues delegate 2009

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Hot Issues

in Employment Law

Often imitated, but never matched, our unique format of **11 sessions per day**, delivered by a collection of employment law luminaries, **represents tremendous value for money** and has become one of the real highlights of the conference calendar.

Key legislation, 23 September

This year the key legislation day will be updating delegates on a wide range of topics from the **Agency Workers Regulations**, **working time issues** and **harassment at work** to **whistleblowing**, **collective redundancy** consultation, and **discrimination** on grounds of **religion** or **belief**. The impact of parts of the **Equality Act 2010** will be considered in sessions looking at the new provisions on **pre-employment inquiries**, at changes to the law on **pregnancy**, **maternity** and **paternity**, and **non-financial remedies for discrimination**. Our expert speakers will also be reviewing recent changes to the law on **age discrimination** and on **equal pay**.

New case law, 24 September

The new case law day will explain the practical significance of some of the leading decisions over the past year. Issues to be explored include **employment status**, **implied contractual terms** relating to trust and confidence, dealing with **team moves**, varying **contracts of employment**, **protecting confidential information**, and the **right to legal representation** in **internal disciplinary hearings**. Other sessions will look at the latest cases on the **workplace stress**, **industrial action**, **compromise agreements**, the **enforceability of EU law**, and what is a **TUPE transfer**.

Benefits of attending

- A one stop update on 22 key employment law issues for the coming year
- Authoritatively delivered by leading employment law luminaries and practitioners
- Guidance and practical advice which can be applied immediately back in the office
- Excellent documentation which will provide you with a year-round reference source
- Network, benchmark and share ideas with your peers

“The speakers went straight to the meaty issues so that a broad range of topics were covered in a good level of detail.”

Adam Rice, Professional Support Lawyer,
Travers Smith LLP
Hot Issues delegate 2009



Programme 23 – 24 September 2010

Radisson Edwardian Bloomsbury Street Hotel,
London

In the Chair: **Michael Rubenstein**
Publisher of Equal Opportunities Review and
Editor of Industrial Relations Law Reports

Key legislation

Thursday 23 September 2010

09.00 Registration and coffee

09.30 **Age discrimination: recent developments**

This session will look at the implications of the Government's plan to phase out the default retirement age. It will also review a spate of recent age discrimination judgments from the European Court of Justice and at *Homer v Chief Constable of West Yorkshire*, the first Court of Appeal authority on indirect age discrimination.

John Bowers QC, Littleton Chambers

10.00 **Collective redundancy consultation**

In the *Fujitsu* case, the European Court of Justice set out guidance on when the obligation to consult in advance of redundancies is triggered. Whether there is an obligation to consult over the reason for a workplace closure is the subject of the Court of Appeal's decision in *USA v Nolan*.

Thomas Linden QC, Matrix Chambers

10.30 **Recent cases on religion and belief**

What are the boundaries of protected "philosophical belief" after the EAT's decision in *Grainger v Nicholson*? What are the implications of the Court of Appeal's judgments in *Ladele v London Borough of Islington*, *Eweida v BA* and *McFarlane v Relate Avon*?

Sue Ashtiany, Partner, Nabarro

11.00 Coffee

11.15 **Whistleblowing: how the law is being interpreted**

Guidance on key issues has been laid down by the EAT in recent months. *Cavendish Munro v Geduld* explores what is a "disclosure", while *BP v Elstone* looks at whether a disclosure made before employment began is protected.

Sarah Malik, Hardwicke Chambers

11.45 **Equal pay: the changing law**

The Equality Act makes important changes to equal pay law, but meanwhile the torrent of cases continues with the EAT considering what is "the same employment" in *City of Edinburgh v Wilkinson* and the Court of Appeal reviewing the employer's material factor defence in *Gibson v Sheffield City Council*.

Daphne Romney QC, Cloisters Chambers

12.15 **Health inquiries, fit notes and disability discrimination**

The Equality Act largely bans pre-employment health inquiries. What questions can now be asked of job applicants? How do you ask the right medical expert the right questions? What is the impact of the new Fit Notes regime on reasonable adjustments and getting

employees back to work?

Jane Amphlett, Partner, Finers Stephens Innocent LLP

12.45 Lunch

13.45 **Pregnancy, maternity and paternity rights**

The Equality Act makes pregnancy and maternity protected characteristics and changes the definition of pregnancy discrimination. New paternity leave provisions will apply to parents of children born from April 2011. *O'Neill v Buckinghamshire County Council* provides guidance on risk assessment of a pregnant employee.

Lucy Bone, Littleton Chambers

14.15 **The Agency Workers Regulations**

The 2010 Regulations give temporary agency workers after 12 weeks in a given post the right to the same basic working and employment conditions, including pay, working time, rest breaks and annual leave, as those employed directly by the end-user. How is the new system likely to work?

Fraser YOUNSON, Partner, Berwin Leighton Paisner LLP

14.45 **Remedies for harassment at work**

The Equality Act extends employer liability for third party harassment. Recent cases such as *Veakins v Keir Islington*, *Rayment v Ministry of Defence* and *Marinello v City of Edinburgh Council* have taken a broad view of the Protection from Harassment Act.

Anna Beale, Cloisters Chambers

15.15 Tea

15.30 **Current working time issues**

Issues relating to holiday entitlement continue to dominate the case law. How are tribunals post-*Stringer* treating carrying forward holiday when a worker has been sick? What happens where an employee has not complied with holiday notice requirements? What is the holiday entitlement of full-time workers who become part-time?

Lucy McLynn, Partner, Bates Wells & Braithwaite LLP

16.00 **Non-financial remedies for discrimination**

The Equality Act enhances the ability of tribunals to make action recommendations where a discrimination claim is upheld. What can go into an action recommendation, what is the relationship with compensation, and how are recommendations backed up?

Robin Allen QC, Cloisters Chambers

16.30 End of Day One

New case law

Friday 24 September 2010

09.00 Registration and coffee

09.30 **Developing duty of mutual trust and confidence**

The meaning of this central implied contractual term continues to be explored by the appellate courts in recent judgments such as *Buckland v Bournemouth University* and *Aberdeen City Council v McNeill*.

Christopher Jeans QC, 11KBW

10.00 **Who is an employee ?**

Since our last conference, there have been more important cases on employment status, including *Autoclenz v Belcher* and *Protectacoat Firthglow v Szilagyi* on sham contracts, and *X v Mid Sussex CAB* on the status of volunteers.

Paul Rose QC, Old Square Chambers

10.30 **Liability for workplace stress**

Connor v Surrey County Council is the latest Court of Appeal judgment interpreting the guidelines on workplace stress set out in *Hatton v Sutherland*. Where does the law now stand?

Andrew Hogarth QC, 12 Kings Bench Walk Chambers

11.00 Coffee

11.15 **Impact of *Kücükdeveci* on EU law**

The European Court's decision in the *Kücükdeveci* case resurrects the controversial *Mangold* judgment and holds that national courts have a duty to disapply any provision of national legislation contrary to the principle of equal treatment. Where does *Kücükdeveci* leave the distinction between public and private sector employees?

Sarah Moore, 11KBW

11.45 **Team moves/employment injunctions: recent developments**

Team moves are the hot issue this year in this area. The High Court's holding in *Tullet Prebon v BGC Brokers* that a team of brokers were bound by post-contractual restrictions and a poaching raid was unlawful is just one of a number of interesting new cases.

Selwyn Bloch QC, Littleton Chambers

12.15 **Confidential information and data protection**

What is "confidential" information? How can employers restrict disclosure of confidential information by employees and former employees and what are their remedies against disclosure of information? What access do employees have to information held by employers about them?

Lorna Skinner, Matrix Chambers

12.45 Lunch

13.45 **Industrial action: where the law now stands**

What are the practical implications for employers of the recent spate of cases on the lawfulness of strike action such as *BA v Unite*, *Metrobus v Unite* and *EDF Energy v RMT*? What strategies are employers and trade unions now likely to pursue?

Monica Kurnatowska, Partner, Baker & McKenzie LLP

14.15 **Termination payments and compromise agreements**

In *Gibb v Maidstone NHS Trust*, the Court of Appeal considers when a compromise agreement can be held to be unenforceable because the employer acted outside its powers. In *Industrious v Vincent*, the EAT ruled that a compromise agreement can be set aside because of misrepresentation.

Jane McNeill QC, Old Square Chambers

14.45 **Human rights and employment law**

Human rights principles based on the European Convention are increasingly influencing interpretation of employment law issues. The recent case law on whether there is a right to legal representation during internal disciplinary proceedings is just one example.

Heather Williams QC, Doughty Street Chambers

15.15 Tea

15.30 **Varying contracts of employment**

Bankers' bonuses have led to a spate of new case law on varying contracts of employment such as *Khatri v Cooperative Centrale Raiffeisen-Boerenleenbank* and the *Dresdner Kleinwort* litigation. *Bateman v Asda Stores* examined an open-ended variation clause.

David Craig, Essex Court Chambers

16.00 **TUPE 2006: what is a transfer?**

Cases interpreting the new definition of a TUPE transfer are now making their way through the appellate courts. This session will look at retention of identity in the context of a service provision change and at issues arising on the splitting/fracturing of contracts.

Geoffrey Mead, Partner, Eversheds LLP

16.30 End of Day Two

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Plaudits for Hot Issues in Employment Law 2009 from solicitors, professional support lawyers, in-house counsel, HR and employee relations managers, advice workers and trade union officials:

“As usual, fantastic standard of presenters and materials. One snap shot of all you need to know!”

Joanne Woodhead, Senior Solicitor, BSKyB

“An excellent whistle stop tour of recent developments – very reassuring to know that you’ve not missed anything – and even more reassuring to know that if you have, you can remedy that.”

Hazel Craik, Senior Solicitor, NHS Scotland

“A very useful and interesting update on the key issues for employment law specialists.”

Helen Depree, Head of UK Employment Law, Thales Corporate Services Ltd

“A useful and informative snapshot of key employment legislation.”

Teresa Scott, Director of HR, National Army Museum

“A very useful canter through some key employment law issues.”

David Tyme, Partner, Webster Dixon LLP

“Great coverage of issues in one hit.”

Nick McCall, Branch Officer, UNISON

“The conference has been very useful in updating knowledge of the important changes and developments in employment law.”

Felicia Agbakoba, LSC Employment Casework Supervisor, Citizens Advice Bureau, Tower Hamlets

“Relevant subject matter, very useful.”

Richard McGregor, Solicitor, Eversheds LLP

“Very useful update.”

Audrey Onwukwe, Partner, Levenes Solicitors

“A regular event in the diary.”

Vikki Wiberg, Solicitor, Taylor Wessing

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- Equality Act**, 30 September 2010, Central London
- Employment Tribunal MasterClass**, 7 October 2010, Central London
- Tax and Employment Law**, 20 October 2010, Central London
- Disability Discrimination Law and Practice**, 4 November 2010, Central London

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