

TIM RUSSELL – TRAINING PROGRAMME

I am more than happy to come and work with your in-house team to train them on any contentious or non-contentious employment law issue that may be of particular interest. The charge for this starts at as little as £450 (including VAT) for a half-day session including handouts. Please email me on tdrussell@bopenworld.com or call me on 07767 646656 if you would like to discuss this further and in order to assist here are some typical talks (or workshops if you want them to be more interactive) that might be of interest based in part on the HR Forums that I did in conjunction with Kemp Little during 2005. These have been set out alphabetically.

Age Discrimination

It took a long time for the Government to bring age discrimination to the statute book and one of the main reasons for this (given the obvious merit of making it unlawful to discriminate on the grounds of age) is the impact was going to have on long standing and recognised employment practice, e.g. long service awards. Having a voluntary code of practice was one thing but preventing direct discrimination or indirect discrimination opportunities means changing the way that vacancies and promotion opportunities are advertised, interviews and appraisals are conducted and redundancies are implemented. Now that the new regulations have arrived have you taken the specific steps need to be taken to ensure that the inevitable Employment Tribunal test cases do not involve you? What more do you need to do to audit your existing policies and procedures?

Bullying and Harassment

Bullying and harassment claims are on the increase. New definitions of harassment under Section 3A of the Race Relations Act 1976, Section 3B of the Disability Discrimination Act 1995 and Regulation 5 of both the Religion or Belief Regulations and the Sexual Orientation Regulations have been introduced. The effect on a company's business and staff morale of a bullying claim is obviously considerable (and destructive) so how should an employer deal with both the drafting and implementation of their Equal Opportunities Policy and monitoring and dealing with breaches of it. What about Employment Tribunal claims? Like all the other talks however it can be tailored to suit a client's business needs and the experience of any particular audience. Suggested Equal Opportunities Policies can be provided along with case studies to show how sensitive grievances can be dealt with and the approach an Employment Tribunal takes to these claims.

Disability Discrimination

Significant amendments were made from 1 October 2004 to the Disability Discrimination Act 1995. Some changes to Discrimination law affect all areas of discrimination (e.g. sex and race) including a free-standing definition of harassment, provision for unlawful acts after the employment relationship has ended and changes to the burden of proof. However, there are now special provisions concerning disability including a new definition of unlawful discrimination covering direct discrimination ("on the ground of" a disabled person's disability) which now sits alongside the existing two definitions of discrimination in the DDA being "less favourable treatment for a reason relating to disability" and "failure to make a reasonable adjustment". This session will normally look, over ten years on from the implementation of the DDA, at how these changes will affect employers in practice with particular reference to the Disability Rights Commissions' (updated) Code of Practice and some of the key decisions including an update on stress related issues.

Disciplinary and Grievance Issues

The new statutory procedures have applied since 1 October 2004 and are still causing concern amongst employers and employees alike despite talk of the procedures being abolished. What have Employment Tribunals done in practice when reducing/increasing compensation? How has the

ambiguity in the new regulations been resolved? How are the new provisions working in practice? Benefiting from my first hand experience as a part-time Employment Tribunal Chairman I will look at some of the areas causing employers particular problems and consider issues of importance to your company. A Question and Answer guide is provided as part of this talk along with case studies to illustrate how the new procedures apply in practice.

Employment Case Law

This is a practical guide of some of the most important employment cases and how they affect a company's day-to-day practice and procedure. Any subject of particular interest can be highlighted for a more detailed discussion and an A-Z guide on a case by case as well as by subject matter (allowing easy cross-reference) will be provided as well as samples of how a knowledge of these key cases can assist in the drafting of policies and procedures and (most important of all) avoiding discrimination claims and/or unfair or wrongful dismissal claims.

Employment Tribunals

This talk can, in particular, be tailored to your particular requirements but does include, in any event, a guide that I have prepared to Employment Tribunals looking at claims and defences as well as practices and procedure up to and including the full hearing. Advice is given on tactics flowing from my experience over the last five years as an Employment Tribunal Chairman and the Employment Tribunal's approach to decision-making is explained together with rights and remedies as well as liability and the impact of the new disciplinary and grievance rules, the use of interlocutory applications, the importance of disclosure and witness statements and tactics designed to minimise an employer's exposure to poor publicity and compensation through unsuccessful (or even a part-successful) case. A "behind the scenes" guide to how employers should prepare their case.

Information and Consultation

The Information and Consultation Directive provides for consultation obligations and the involvement of workers in key decisions affecting their employer's business. This will have a large impact in the UK where Works Councils and other formal employee representative bodies are rare. Companies with 150 or more employees had to comply with the new rules from March 2005 and smaller employers with over 50 employees had to follow suit by 2008 either by negotiating a voluntary INC Agreement with employee representatives or allow the standard or "default" provisions to apply unless they simply wait and hope that no request for representation is made. In this practical session I normally look at the preparatory steps that employers need to consider, how "confidential" information can be stored and safeguarded, how to achieve maximum flexibility and some of the practical pitfalls of the new regime as it begins to bite.

Redundancy

Redundancy is the only "no fault" dismissal, but unless there is a genuine redundancy implemented fairly with adequate notice and consultation, it will invariably be an unfair dismissal and employees with over one year's service can claim compensation as a result. Whilst the main pitfalls may be obvious, what are the tactics to follow to maximise the chances of fair dismissal by way of redundancy and what particular steps do employers need to take where "group" redundancies are or may be involved. Were you aware that if the Employment Tribunal find that a reason for dismissal was otherwise than redundancy, any so-called "redundancy payment" is not set off against any basic award in the Employment Tribunal leaving the employer with an extra expense? Do you know how "bumping" works and the key differences in practice between "suitable" and "other" alternative employment following cases such as *Fisher -v- Hooper Finance*? Are you fully aware of the tax implications of any redundancy and the effect on share options, state benefits and future job vacancies or the interaction of legislation such as the Part-Time Workers Regulations or the new Age Discrimination laws? How do you go about making a selection for redundancy where someone is disabled or has suffered a personal injury? Many companies are familiar with the standard

procedures necessary to ensure a fair dismissal by way of redundancy but this session deals with those issues/areas, which are not always put under the microscope.

Restrictive Covenants

Drafting and enforcing restrictive covenants continues to be of critical importance to many companies. Employee, client and supplier relationships are invariably based upon personal contacts and it is vital that these are protected in such a way that confidential information and genuine client connections can be safeguarded for a reasonable period after an employee leaves. This can be done but how can this best be achieved and if you are the victim of “poached” clients or employees how can this most effectively be resolved without spiralling legal costs. This session will consider key issues to be taken into account the common mistakes that will prevent covenants from being enforceable. Recent case law is considered and injunction proceedings (to enforce covenants) are explained.

Strategies for dismissing Senior Executives

Pay offs to “fat cat” directors often hit the headlines. However, even modest payments to dismissed executives can be affected significantly by the way in which an employer manages the departure. How does an employer determine and reduce entitlements on the termination of the contract of employment? What does this mean for the tactics of dismissal, and indeed drafting the contract of employment in the first place? What are the advantages of a payment in lieu of notice or a garden leave clause and what are the key points for an employer to bear in mind when looking at issues as diverse as mitigation, references and future restrictive covenants? What if the individual is a director or a shareholder and can a compromise agreement deal with such issues as well? At this session I provide templates for dealing with wrongful dismissal claims as well as a Q and A discussion paper to illustrate tactics employers and employees respectively may adopt.

Transfer of Undertakings Regulations

New TUPE regulations are now in force. What is the practical effect of these changes on contract negotiation, eg the fact that the regulations will inevitably apply to all outsourcing now whether first generation contracting, second generation (contractor changeover) or contracting in (taking the services back in house) or that transferors and transferees will be jointly and severally liable for any failure to consult and inform. Maybe you want a reminder/summary of how TUPE works, a simple explanation of the key elements and a clarification of what actually happens/should happen to employees after a transfer whether they stay (when their terms and conditions of employment are likely to be the focus of attention) or go (where potential claims are imminent without careful procedure). My talk will summarise recent case law.

Your workshop/seminar

If you have a particular employment law topic you would like me to focus on for your company just let me know. Perhaps you want a mock Employment Tribunal Day or have a particular area you want your employees/HR department to know about.