



Introduction to Employment Law – Day One
Thursday 23rd November 2023

- Chair:** Connie Cliff, Gowling WLG and Member of the ELA Training Committee
- 9.30am Registration and tea/coffee**
- 9.50am Introduction from the Chair**
- 10.00am Employment Status**
Simon Rice-Birchall, Emma Humphreys and Rachel Snipe Eversheds Sutherland LLP
- What do we mean by “employee”, “worker”, “self-employed”?
 - Why does it matter?
 - Reminder of statutory definitions (ERA, WTR, EqA, TULRCA)
 - Applying the common law tests – personal service, control, mutuality of obligation
 - Highlighting key cases
- 10.40am The Contract of Employment/Changing Terms and Conditions**
Simon Rice-Birchall, Emma Humphreys and Rachel Snipe, Eversheds Sutherland LLP
- Statutory particulars, highlighting changes as of April 2020
 - Nature of contractual terms i.e. express, implied, incorporated, statutory
 - Common clauses and their effect e.g. IP, confidentiality
 - Variation of contract terms – options/risks
 - By consent
 - Contractual right to vary
 - Collective agreement
 - Unilateral imposition
 - Dismissal and re-engagement
 - Breach of contract by employer or employee – potential claims/remedies
- There will be a 10-minute tea break at 11.20am.**
- 12.10pm Comfort Break (no tea and coffee will be served)**

12.15pm

Working Time

Linda Jones and Amy Hextell, Pinsent Masons LLP

- Overview
- Who is covered?
- The 48 hour limit and average weekly working time
- What is working time?
- Rest breaks and periods
- Annual leave
 - Basics
 - Pay
 - Carry over, pay in lieu and the exceptions
- Record Keeping
- Enforcement and remedies

1.00pm

Lunch

2.00pm

Whistleblowing

Martin Chitty and Vivienne Reeve, Gowling WLG

- Who gets protection? – extended definition of worker
- What amounts to a protected disclosure?
 - Qualifying disclosure – subject matter, made "in the public interest", reasonable belief of worker
 - Made to the right person – s43C-H
- Automatic unfair dismissal/ detriment/ confidentiality
 - Reason or principal reason – and whose reason does it have to be (Jhuti)
 - Disclosure "materially influences" treatment
 - Vicarious and individual liability
 - Timis v Osipov and significance
- Confidentiality clauses and their limits
- Remedies
 - Interim relief
 - Compensation
- Practical matters: whistleblowing policies, whistleblowing officer, confidential telephone hotlines, useful resources

3.00pm

Tea/coffee

3.15pm

Restrictive Covenants

Craig Rajgopaul and Navid Pourghazi, Blackstone Chambers

- Protections against competition during currency of employment
- Confidentiality provisions
- Post termination restrictions (PTRs)
 - Enforceability and the importance of drafting
 - Explanation of common PTRs (e.g. non-compete; non-solicit, non-deal)
 - "Blue pencilling"
 - Garden leave and the interplay with PTRs
 - Danger of repudiation and affirmation
- Enforcement

4.15pm **Tea/coffee**

4.30pm **Redundancy and Collective Consultation**

Sophie Copson and Joanna Galbraith, Squire Patton Boggs LLP

Redundancy

- Redundancy as a potentially fair reason for dismissal
- Definition of 'redundancy' and three redundancy situations
- Individual vs collective redundancy processes
- Overview of an individual redundancy process, relationship with ACAS Code and strategies/suggested approaches (including documentation required, meetings, companions, consultation, selection criteria/pools and appeals)
- Compensation and redundancy payments (statutory, contractual and other enhanced payments)
- Unfair / discriminatory redundancy and potential claims
- Suitable alternative employment and trial periods

Collective Consultation

- When the duty to consult on collective redundancies arises
- Content of information and consultation
- Who to consult with, including where recognised union refuses to participate
- Interaction with Information and Consultation Regulations
- Practical issues in managing consultation process: notification to BIS, Q&As for staff, preparing scripts for managers, privilege on advice

5.45pm **Close of day one**

7.00pm **Pre-Dinner Networking Drinks Reception**

7.30pm **Dinner**

Menu

Starter:

Basil-infused burrata cherry vine tomatoes, toasted brioche, candied hazelnuts (v)

Main:

Roast Cotswold White chicken seasonal crushed potatoes, leeks, roast chicken jus

Vegetarian Main:

Black olive gnocchi roasted artichoke cream, wilted rocket, Roquefort (v)

Dessert:

Blueberry & lime frangipane tart Lime curd, whipped white chocolate (v)