

## CLAIMS MANAGEMENT NOW REGULATED!

As of April 23<sup>rd</sup> 2007 it is an offence to provide claims management services without authorisation or exemption from the Department of Constitutional Affairs' Claims Management Regulator. The regulator's website has a helpful guide to regulation together with a list of all of those firms who have obtained the necessary authorisation. [www.claimsregulation.gov.uk](http://www.claimsregulation.gov.uk). The regulator is asking anyone who believes a business which is providing claims management services is acting illegally or improperly should report the fact. The definition of claims management services is widely drawn and includes anyone who advertises or markets for persons who have a claim, advises such a person or refers details of such a person to another business or

represents a Claimant in regard to that claim. Claims management services cover six sectors;

1. Personal Injury
2. Criminal Injuries Compensation
3. Industrial Injuries Disablement Benefit
4. Employment
5. Housing Disrepair
6. Financial products and services

The new regulations are intended to fill a gap in the existing regulatory regime. As such, certain bodies are exempt from having to gain authorisation. They include Solicitors/Barristers, Trade Unions, Charities and persons whose services are already regulated by the Financial Services Authority. It is considered that those organisations who are exempt are

already strictly regulated elsewhere. Small referrers are also exempt



*Mark Boleat—Head of Claims Regulation, Department of Constitutional Affairs*

on the basis that referrals are incidental to their main line of business and they do not refer more than 25 cases per quarter.

In order to gain authorisation businesses must comply with the

conduct rules. The essence of those rules is that a business must conduct itself with honesty and integrity. They must have competent staff, deal with clients fairly and responsibly and ensure that all information provided to the client is clear, transparent and not misleading. A full list of the rules can be found within the Conduct of Authorised Persons Rules 2006.

Regulation of these Companies is long overdue. Hopefully regulation will restore public confidence in this sector of the industry and dispel the negative perception associated with the pursuit of meritorious claims. Whilst regulation is a wake up call for these Companies, Solicitors have been required to adhere to high professional standards for decades.

## ICE REGULATIONS

From 6 April 2007 all businesses with 100 or more employees must comply with The Information and Consultation of Employees Regulations 2004 SI 2004/3426 (the 'ICE Regulations') which place obligations upon employers to inform and consult with their employees in respect of a number of workplace issues.

Employers should set up an information and consultation agreement when requested to do so by at least 10% or 15 of the employees, whichever is smaller.

Within three months the employer should make arrangements for the election of employee representatives, and then negotiate with them about the form of the information and consultation (I&C) agreement.

Once an I & C agreement is in place

there are three categories of subjects about which an employer will be obliged to inform and consult: company development and the economic situation, employment developments, and decisions likely to lead to substantial changes.

These categories could cover the launch of new products or services, changes in senior management, redeployment, changes in policy on overtime working or flexible working.

Employee representatives will have a duty of confidentiality, but in some circumstances employers will not need to disclose confidential information where it would be prejudicial to the business to do so.

These requirements will apply to employers with 50 or more employees from 6 April 2008.

## FLEXIBLE WORKING

Employees now have a legal right to request flexible working to care for a spouse, partner, civil partner or relative, or even for someone who lives at the same address. Their employers have a duty to consider their requests seriously. The right to request flexible working has been in place for parents for some years, and from 6 April 2007 this right is extended to carers of adult's relatives. Relatives include a mother, father, adopter, guardian, parent-in-law, son, son-in-law, daughter, daughter-in-law, brother, brother-in-law, sister, sister-in-law, uncle, aunt or grandparent. The employee making a request must have worked for their employer continuously for 26 weeks at the date the application is made, and not have made another application to work flexibly during the past 12 months. A request

could be to work reduced or altered hours, or to carry out some work at home.

The DTI has given guidance on the kind of care that might be covered by the Regulations. This seems to be wide ranging and the examples given includes escorting to GP appointments, keeping someone company, help with financial matters or paperwork as well as help with personal care and nursing tasks.

The employee making the request must show what impact the change would make upon the business, and how this might be resolved. There is no right to insist on the change: only for the employer to seriously consider it. Employers have to follow a set procedure when considering requests. Once granted the requested change will be permanent.



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## LATEST EMPLOYMENT LAW REFORMS

On 7 December 2006 Michael Gibbons was appointed to review all aspects of employment dispute resolution. His report was published on 21st March 2007.



Michael Gibbons

In the words of the report itself 'the headline recommendation is the complete repeal of the statutory dispute

resolution procedures set out in the 2004 Dispute Resolution Regulations ... to introduce a new simple process to settle monetary disputes without the need for tribunal hearings; to increase the quality of advice to potential claimants and respondents through an adequately resourced helpline and the internet; and to offer a free early dispute resolution service, including where appropriate mediation'.

The review found that there was 'near unanimity' that the 2004 dispute resolution regulations had 'failed to produce the desired policy outcome' and commented that 'this is perhaps a classic case of good policy, but inappropriately inflexible and prescriptive regulation'. The new proposals are the subject of consultation until 20<sup>th</sup> June 2007, to be found at the DTI website [www.dti.gov.uk](http://www.dti.gov.uk)

## HATCH BRENNER ON BBC RADIO

Jacqueline Middleton who is part of our Employment Department gives advice and information on Radio Norfolk. She used to have a regular spot on the "Mills at Midday" show until the sad death of John Mills last October. Nowadays, when there is any new development in the Law, when some interesting case is reported from Europe or there is a particular decision in our Courts affecting this country she is called up to the studio to talk about it on

various programmes. This can be a 'last minute' exercise which is sometimes very challenging for her - and for the rest of the Department who have to consult with her! Her latest topic for the radio was the new "Flexible Working" Regulations and how they would be likely to be interpreted when they become law in April 2007. It wasn't possible for her to give all the information in 15 minutes, although she packed in

as much as she could - so she is going on again in April to give a fuller explanation. Jacqueline aims to explain the very complicated Employment Laws in a way that is understandable to all, and she is very careful to make sure that she covers the position of both employers and employees because it is very easy to forget that : without employers - there would be no employees and vice versa!

## Our People

### Employment Law

Whether acting for a large international firm or a local sole trader, you can be assured that we offer unrivalled expertise and comprehensive services. From simple contractual advice to TUPE guidance and from preliminary contentious action to representation before the Employment Appeal Tribunal, we are proud to say that we can be there to address all your Employment needs. All the lawyers in the team are specialists in their field and full members of the Employment Lawyers Association.

#### Richard Cassel



Head of Employment Department. Richard specialises in all aspects of employment and discrimination law and has wide experience of advocacy and Tribunal practice and procedure. Part-Time Chairman of the Employment Tribunals since 1993.

Contact Tel: 01603 214205

#### Sally Davenport

Sally previously worked as a commercial litigation specialist with City firm Theodore Goddard before moving abroad with her family. Sally is fluent in Spanish, German and French. Since returning to the UK she has completed an LLM in Employment law, with distinction, at the University of East Anglia. She is also a Fellow of the Chartered Institute of Arbitrators and is an adviser at a local Citizens Advice Bureau.

Contact Tel: 01603 214205

#### Jo Chimes

Jo joined Hatch Brenner in June 2002, having been admitted as a solicitor in 1989. She is highly active within the profession as a member of the Employment Law

Association, and a contributing member of the employment team of the Adviser editorial board. Jo also works as a freelance trainer - designing and delivering specialist employment training. She sits on the Law Society employment law committee. Her current practice focuses on complex discrimination matters in employment. Jo has extensive peer review experience, most recently for the Carter Review.

Contact Tel: 01603 214205

#### Takis Vachaviolos



Takis joined Hatch Brenner in April 2003, and has specialised in employment law since he was admitted as a solicitor in 2001. Takis has acted for both claimants and respondents in the employment tribunals and the employment appeals tribunal in London, and has received instructions from unions and national charities. He has achieved a very high success rate when carrying out his own representation before the employment tribunals. He writes articles for various publications and magazines.

Contact Tel: 01603 214205

### Civil Litigation and Personal Injury

We have a well established Civil Litigation department at Hatch Brenner which is headed by Rosemary Escott, partner. For Personal Injury cases we can offer a free initial consultation when we can advise on a range of funding options (including no win - no fee) ensuring each individual client's circumstances are taken into account. We also have specialist legal advisers dedicated to providing an efficient and comprehensive service covering a wide range of commercial disputes including arbitration/mediation/ADR, County and High Court litigation.

#### Rosemary Escott



Head of Civil Litigation Department. Rosemary is a Personal Injury specialist in fatal and serious injury claims, arising out of road traffic accidents, accidents at work, clinical negligence and sexual abuse. Member of the Law Society's Specialist Personal Injury Panel since 1995.

Contact Tel: 01603 674539

#### Mark Fitch



Experienced in a wide range of disputes; enjoys particularly professional negligence claims, contested probate matters and claims against the police. He qualified as a mediator in 2005 becoming one of the youngest members of the Mediators in East Anglia Group.

Contact Tel: 01603 674552

#### Colin Cook

Colin was previously a partner at a firm in Chancery Lane in London where he dealt with a wide range of personal injury claims for both Claimants and

Defendants.

He deals with all aspects of personal injury including road traffic accidents, accidents at work, criminal injuries, trips and slips. He is an Accredited Senior Litigator of the Association of Personal Injury Lawyers.

Contact Tel: 01603 674544

#### John Cushing

John is well-placed to assess landlord and tenant claims from both perspectives, having acted for either side in a vast number of possession actions, rent collection matters and damages claims. He also deals with other property-related matters including boundary and neighbour disputes, building disputes, and professional negligence claims. He is highly experienced in debt collection, and regularly appears before the district judges in the local county courts.

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