



INSIDE THIS ISSUE:

HE governance - too many rule-books?

Pg 3

Digital Economy Bill

Pg 5

Insurance clauses in contracts

Pg 7

Radicalisation on campus

Pg 8

Age discrimination cases

Pg 10

Education News

Pg 12

EDUCATION BRIEF

CORPORATE MANSLAUGHTER - POTENTIAL PENALTIES DEFINED

After a long wait, the Sentencing Guidelines Council has published its guidance for the courts when considering the level of fines for organisations facing a corporate manslaughter prosecution or where a breach of health and safety legislation was a significant cause of death.

The guidance provides that the fine on conviction under the Corporate Manslaughter and Homicide Act 2007 will rarely be less than £500,000 and may well be millions of pounds. Historically, fines of this level were reserved for public disasters, such as explosions or rail crashes, but this is no longer the case.

The guidelines also provide that where there has been a breach of health and safety legislation that has led to a person's death, the fine will usually be at least £100,000 and may well be hundreds of thousands of pounds.

The guidelines come into play almost immediately and apply to all sentences, rather than offences, after 15 February 2010.

When deciding on the level of fine, the court will consider the seriousness of the offence, in particular:

- Whether it was possible to foresee death or serious injury;
- How far short of the relevant standard the organisation fell;

- Was there widespread non-compliance or was it an isolated incident; and
- How far up the management chain the breach went.

Other factors could include whether there were multiple deaths, any failure to heed warnings or advice, cost-cutting at the expense of safety, failure to comply with relevant licences which have a health and safety element or injury to vulnerable persons.

In the case of corporate manslaughter, the fact that unauthorised acts of an employee may have contributed to the offence will not significantly reduce the fine. Where the unauthorised act forms the entire health and safety offence, the responsibility of the organisation for that act will be assessed.

This could include whether there has been inadequate supervision or training.

These aggravating factors should be weighed up against mitigating factors such as prompt acceptance of responsibility, high level of co-operation with enforcing authorities, genuine efforts to remedy the defect, a good health and safety record and a responsible attitude.

The guidelines recognise that the financial means of an organisation are relevant in deciding the appropriate level of fine. The court should look carefully at both turnover and surplus/profit to assess the organisation's resources and the fine is intended to be one which inflicts painful financial punishment and yet is one which the organisation is capable of paying. If the organisation fails to provide financial information to the court, the court may make adverse assumptions in assessing the organisation's ability to pay.

“the fact that unauthorised acts of an employee may have contributed to the offence will not significantly reduce the fine.”



The court will also consider the effect on the organisation's employees, shareholders and directors not involved in the incident. Although public organisations (i.e. local government or the emergency services) are to be treated the same as commercial companies where standards of behaviour are concerned, a different approach may be justified. The extent to which services funded by the taxpayer will be adversely affected is a relevant factor. It remains to be seen whether this consideration will be deemed appropriate for universities and colleges.

A further penalty available in respect of corporate manslaughter offences is the publicity order. This requires publication by the convicted organisation, in a specified manner, of:

- the fact of the conviction;
- specified particulars of the offence;
- the amount of any fine; and
- the terms of any remedial order.

It is envisaged that the terms of the order will specify the precise particulars to be published, the place the announcement is to be made, its size, and that notification is given to shareholders or local people, in the case of public bodies. Consideration will also be given to whether there should be notice on the organisation's website or in a newspaper. The court should endorse the form of the order and will take specific account of any comment the organisation may make and seek to publish alongside the announcement.

The sentencing guidelines demonstrate the severity with which the courts are likely in the future to view breaches of health and safety legislation and instances of corporate manslaughter. Although fatalities in the HE and FE sectors are rare, prudent risk management may require a review of how health and safety is managed within the institution to ensure that if the worst does happen, the institution is well placed to mitigate the harsh penalties that the courts will have in mind.

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HE GOVERNANCE - TOO MANY RULE-BOOKS?

The results of HEFCE’s consultation on a revised financial memorandum are awaited. Summing up the responsibilities of governing bodies as “considerable”, the draft describes or incorporates by reference six separate sources of obligation, apart from the requirements set out in the text of the memorandum itself:

- the institution’s charter and statutes, statutory powers and articles of government, or other founding documents;
- the CUC Guide and Governance Code of Practice;
- the seven principles laid down by the Committee on Standards in Public Life;
- the law of the land, in particular education, employment, health and safety, and equality legislation;
- the duties of charity trustees; and
- the duties of company directors (made applicable to all HEIs, even though the great majority of them are not constituted as companies).

Whatever the result of continuing complaints about the over-regulation of HE, this untidy bundle of requirements should surely be made accessible in one place. The last two sets of duties may be least familiar, so are summarised here.

Duties of charity trustees

The duties of charity trustees are not defined in the Charities Acts; they derive from the common law and are expanded in Charity Commission guidance. Members of governing bodies of HEIs are charity trustees because they are ultimately responsible for the conduct of charitable bodies, however constituted. Confusingly, they are not trustees in the strict sense of people responsible for a trust, so are not subject to the duty of care set out in the Trustee Act 2000.



Responsibility

Charity trustees are responsible for:

- directing the affairs of the institution;
- ensuring its solvency;
- ensuring it is well run; and
- delivering its charitable outcomes for the public benefit.

Compliance

Charity trustees must:

- ensure compliance with charity law and the requirements of the Charity Commission and HEFCE as principal charity regulator;
- comply with charitable requirements;
- comply with legislative and other regulatory requirements; and
- act with integrity and avoid conflict of interest or misuse of assets.

Duty of prudence

Charity trustees must:

- ensure solvency;
- use assets reasonably and only in furtherance of the institution's objects;
- avoid putting the institution's assets or reputation at risk; and
- exercise special care when investing or borrowing.

Duty of care

Charity trustees must:

- use reasonable care and skill; and
- consider getting external advice where there is material risk or the possibility of breach of duties.

Duties of company directors

The general duties owed by directors to companies, derived from common law rules and equitable principles, were given statutory authority for the first time in Part 10, Chapter 2 of the Companies Act 2006. A company may claim losses from a director arising from breach of the general duties. The draft financial memorandum requires them to be applied with necessary modifications to reflect the status of any HEI.

Members of governing bodies must:

- act in accordance with the constitution;
- only exercise powers for the purpose for which they are conferred;

- promote the institution's success in achieving the purposes for which it is established, having regard to:
 - the long term consequences of decisions;
 - employees' interests;
 - fostering business relationships with suppliers, customers and others;
 - the impact of operations on the community and environment;
 - maintaining a reputation for high standards of business conduct;
 - acting fairly in achieving the institution's purposes;
- exercise independent judgment;

- exercise reasonable care, skill and judgment, to the standard of a reasonably diligent person with:
 - the general knowledge, skill and experience reasonably expected of a member of the governing body;
 - the general knowledge, skill and experience the member actually has;
- avoid actual or potential conflicts with the interests of the institution, direct or indirect;
- not accept benefits from third parties; and
- declare any interest in a proposed transaction with the institution.

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“ A company may claim losses from a director arising from breach of the general duties.”





THE DIGITAL ECONOMY BILL: COPYRIGHT LAW FOR THE INTERNET AGE

Over the last few months, there has been a great deal of speculation about how the Digital Economy Bill (the Bill) will affect the law on copyright infringement, and in particular the possible measures to be taken to ensure that Internet Service Providers (ISP) and website operators help copyright holders protect their rights. In addition the Bill deals with possible punishments which may be imposed on ISPs and website operators when copyright is breached. Although the final version of the Bill has yet to be agreed, it can safely be assumed that once the Bill becomes law, which many predict will happen before the general election, it will enforce new, stricter obligations on internet providers and operators, such as education institutions, to combat copyright infringement.

The measures which are likely to be agreed in their current form are those which require an ISP to keep records of complaints made by copyright holders. If these measures become law, every time a complaint is made the ISP will have to notify the copyright infringer and will also be responsible for using the records of these complaints to compile lists of persistent offenders. The copyright holder will then, under existing law, be able to apply to the court to have the ISP provide details of persistent copyright infringers. The copyright holder could then serve notice on the persistent infringers, and, if necessary, issue proceedings against them.



Not only would this create extra work and expense for ISPs, but non-compliant ISPs could also be fined up to £250,000 by Ofcom. Proposals to reduce the maximum limit of this fine were rejected by the House of Lords, as it was felt that the qualification that the fine should be appropriate and proportionate to the infringement would ensure that ISPs were not unduly punished. This emphasises the importance of ISPs keeping up to date with the progress of the Bill and any new law made under it, as an ISP will be less likely to be punished if it follows the prescribed steps upon receiving a complaint.

Of more concern to ISPs are the various provisions which have been proposed at different times under clause 17. Initially, in an attempt to future-proof the legislative procedure, this clause provided that the Secretary of State for Business, Innovations

and Skills, currently Lord Mandelson, would have the power to amend sections of the Copyright, Designs and Patents Act 1988 and have these amendments established as law following a super-affirmative procedure which would reduce the amount of time Parliament has to consider and debate the changes.

There was widespread concern that this would provide the government, or possibly one individual, with unilateral power to amend the law even in circumstances where no actual infringement had taken place. The communications industry strongly opposed the change and, in December 2009, Google, Facebook, Yahoo and eBay sent an open letter to Lord Mandelson in which they strongly urged him to amend this section of the Bill.

Lord Mandelson responded and suggested amendments which limited the situations in which the government could amend the law, and which increased the power of the House of Lords to amend or block the changes. However, on 3 March 2010, the House of Lords agreed a proposal to remove the clause entirely and replace it with provisions which would provide the High Court with the power to grant an injunction against an ISP requiring it to prevent access to online locations for the prevention of copyright infringement upon request by a copyright holder.

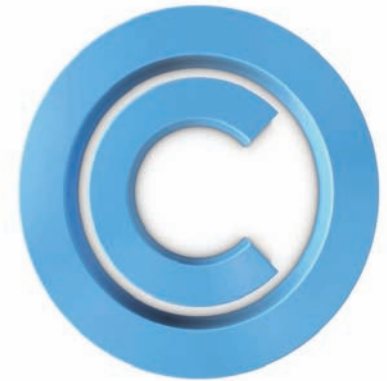
These provisions have created as much concern as the previous provisions. The problem from the ISPs' point of view is that the courts will have the power to punish them for the actions of their users, and it is difficult to monitor all users. There is also concern in relation to prioritising and dealing with claims in view of the fact that there is no penalty provision for copyright owners who make frivolous complaints. Of particular concern to education institutions is the fact that access to information sharing sites which are designed for educational purposes may be withdrawn due to unsolicited infringement by a minority of users.

The counter argument, and the reason for which this section of the Bill has been proposed, is that copyright owners need a swift method to respond to copyright infringement, especially in view of the fact that technological advances are providing infringers with ever-increasing ways in which to breach copyright and the law has been slow to react to these advances.

It should be emphasised that when enforcing its powers under the proposed clause 17, the court would have to consider factors such as:

- whether a substantial proportion of the content accessible at or via a specified online location infringes copyright;
- the extent to which the operator of each online location has taken reasonable steps to prevent copyright infringement and/or remove the infringing material;
- whether the ISP has taken reasonable steps to prevent access to the specified online location;
- any issues of national security raised by the Secretary of State;
- the extent to which the copyright owner has made reasonable efforts to facilitate legal access to the content; and
- any other matters which appear relevant to the court, including the importance of preserving human rights such as freedom of expression.

In addition, if and when the Bill becomes law, Ofcom and the communications industry are to devise codes of practice for enforcing it. If education institutions follow these codes of practice then they will be able to further protect themselves.



Institutions should also ensure they keep up-to-date with developments so that they are in a strong position to provide input when the details of the codes of practice are being discussed. Some questions which will need to be dealt with in the codes are (i) whether the likes of universities and colleges are classed as ISPs or internet subscribers, (ii) what the threshold is for establishing that an individual is a persistent copyright infringer and (iii) what actions institutions can take to prevent or mitigate against copyright infringement.

Whatever is decided, it is more than likely that the law will be changed in the near future and the outcome is likely to have a profound effect on the way in which institutions coordinate and operate their internet services.

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INSURANCE CLAUSES IN CONTRACTS - A BRIEF GUIDE

We all know that insurance is one of the key ways to lay off risk. This applies no less to the risks which arise out of the entry into, and/or performance of, a contract.

However, it is easy to get this badly wrong so that the parties effectively end up without the insurance they thought they had and had paid for, or with insurance companies fighting disputes through the courts over which the parties have neither control nor appetite. To avoid such unintended consequences, contractual provisions need to be correctly drafted ensuring adequate insurance is in place and placing risk where it belongs – with the person insuring it.

Who should insure?

It sounds obvious that the basic principle is that the party which is liable under a contract should insure that liability, but this is overlooked surprisingly frequently.

Often the seller or supplier takes significant liability. If so, he needs insurance in place and there is little point in the buyer having (and paying) to insure the same risks.

However, the buyer should remember that, whilst the seller has accepted liability under the contract and may have insured against that liability, it is unlikely that his acceptance of liability is unlimited or covers every conceivable risk. It follows that some risks will remain with the buyer. These could be in respect of losses above a certain level, certain types of risk or certain heads of claim – loss of profit is very often excluded or severely limited by sellers in business-to-

business contracts, for example. The buyer must consider whether to take out separate insurance for those risks which have not passed to the seller.

Insurance and cost

A buyer may well feel quite a moral victory should the seller take a large proportion of risk and liability. However, is this always the best deal? One way or another, the seller will pass the cost of insurance to the buyer in the price. If the buyer can insure a given risk himself at lower cost then he is probably overpaying. If so, the buyer is smarter to keep the risk and insure it himself. For example, a buyer can often take out loss of profits or business continuity insurance more cheaply and more easily than his seller can. This is because he is often closer and better placed to purchase insurance for the risks in his industry. This needs to be looked at case-by-case and risk-by-risk but, where it arises, the buyer is usually best advised to keep the risk and insure it himself.

Service credits

Of course, the seller should not freely escape all consequences where he performs poorly. Therefore, if the buyer has retained risk the better approach may be to use “service credits”. In effect, these are reductions to the price payable to the seller if he performs poorly, and that reduction can be substantial. It is calculated by assessing the performance of measurable aspects of the seller’s obligations (known as key performance indicators – KPIs).

Other considerations

Insurance clauses themselves are usually regarded as part of the “boilerplate” – that boring multitude of standard clauses at the back of the contract to be looked at as little as possible. However, there are a number of other aspects of insurance clauses themselves which should be considered – including the ways to ensure that the other party has and keeps the right insurance in place, that his insurance extends if need be to cover the risks of both parties, and how to avoid two insurance companies creating a dispute between the parties to a contract that they did not even know they had.

Conclusion

Parties must take a structured approach to establish the risks involved in a transaction and who should best take those risks and, where appropriate, insure against them.

However, the contract and insurance are not the only two risk management responses; commercial decisions and financial management, though outside the scope of this article, are also vital and need to be part of an integrated approach.

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RADICALISATION ON CAMPUS

In the aftermath of the July 2007 bombs in London and the subsequent failed attempt to explode further bombs, pressure has been exerted on universities and colleges from various sources to deal with the alleged problem of radicalisation of students on UK campuses. That pressure has received renewed vigour in the wake of the failed attempt to bomb a North Western Airlines flight from Amsterdam last December. Institutions have been exhorted to respond in various ways, including banning Muslim societies and/or particular visiting speakers and acting as a conduit for information for the security services.

Terrorist attacks are very emotive issues and, undoubtedly, institutions would want to discharge their social duty to take steps reasonably within their control to minimise threats to national security. However, the ability of institutions to tackle the putative problem of radicalisation on their campuses is clearly constrained in the absence of intelligence relating to the specific conduct of particular individuals or groups which amounts either to misconduct under the institution's own regulations or which is an inchoate or actual criminal offence. Those constraints arise out of legislation and are not the product of "political correctness" as alleged by an interviewee on a recent Radio 4 programme ("Report: Halting campus extremists", 4 February 2010). This article looks at that legislation.

1. Race Relations Act 1976 and Employment Equality (Religion or Belief) Regulations 2003

Treating students less favourably on the grounds of race (i.e. race, ethnic or national origins, nationality or colour) or on the grounds of religion amounts to unlawful discrimination and is not capable of being justified. Therefore, for example, targeting for special scrutiny an institution's Muslim students or those from a particular Middle Eastern country, or banning them from forming their own societies, simply on the ground of their membership of a particular religion or ethnicity/nationality, rather than for reasons relating to the actual or suspected conduct of individuals, could amount to race or religious discrimination.

2. Human Rights Act 1998 (HRA)

The HRA is often vilified by the tabloid press as providing a refuge for terrorists. Such a view is a distortion. The HRA is not an impediment to protecting national security or to detecting crime. It provides a check and balance on the power of the state or of publicly-funded institutions to interfere in the lives of individuals. It therefore seeks to achieve a balance between the rights of the community and of the individual. Institutions can interfere with many of the rights afforded to their students under the HRA, provided they are doing so for a legitimate purpose (e.g. protection of national security, protection of health & safety) and provided the interference goes no further than is

necessary to achieve the legitimate purpose.

In the context of dealing with alleged radicalisation of students, the following rights are likely to be engaged:

- the right to freedom of expression, including the freedom to hold opinions and to receive and impart information and ideas, without interference by the institution e.g. the right to debate issues even if the views expressed are exaggerated, biased, shocking or even wrong (Article 10 of the European Convention on Human Rights);
- the right to freedom of association with others i.e. the right to come together and further common interests (e.g. Muslim societies) (Article 11 of the European Convention on Human Rights); and
- the right to enjoy all of the rights guaranteed under the HRA without discrimination on any ground such as sex, race, colour, language, religion, political or other opinion, national or social origin, association with a national minority, property, birth or other status (Article 14 of the European Convention on Human Rights).

An institution cannot therefore take pre-emptive action to ban a society or speakers unless that society or any speakers who address it incite or intend to incite its members or others to violence, racial/religious hatred or harassment, or otherwise threaten the rights of others.

3. Academic freedom/freedom of speech

University and college constitutions provide that academic staff must have freedom within the law to question and test received wisdom, and to put forward new ideas and controversial or unpopular opinions, without placing themselves in jeopardy of losing their jobs or privileges.

In addition, the Education Act (No 2) 1986 requires universities and colleges to take reasonably practicable steps to ensure that freedom of speech within the law is secured for all staff, students and visiting speakers. It includes the duty to ensure that, so far as is reasonably practicable, the use of premises is not denied to any person on the ground of their beliefs, policies or objectives. The duty does not apply to any exercise of freedom of speech that is outside of the law.

Preventing debate on sensitive and controversial issues of genuine academic interest, in the absence of any actual or potential breach of the law, is likely to be a breach of the constitutional duty to protect academic freedom and the statutory duty to secure freedom of speech.



4. Data Protection Act 1998 (DPA)

Like the HRA, the DPA also seeks to achieve a fair balance between individuals' right to privacy and the need for institutions to process personal information in the interests of their business and for other legitimate purposes. The DPA does not present an unreasonable barrier to the flow of information for such purposes. There is an exemption for disclosing personal data where the disclosure is necessary for the purposes of prevention/detection of crime or the apprehension of offenders and failure to disclose the information in question would prejudice the achievement of those purposes. That exemption does not create a corresponding duty to disclose information to the police in the absence of a warrant or court order, and the institution could refuse to provide the information if it wished.

There is also a wide exemption for personal information processed for the purposes of national security. The security services however have a statutory duty to act proportionately and to obtain information only insofar as it is necessary for the proper discharge their functions or so far as necessary for the purposes of the prevention or detection of serious crime. They are also obliged to comply with the HRA and DPA.

It is likely to be a breach of the DPA for institutions to agree in very general terms to act as a conduit of information to the police or the security services. Rather, institutions should seek from those bodies written assurances on a case-by-case basis that the information sought is necessary for the purposes of crime detection etc. and that failure by the institution to comply with the request would prejudice those purposes.

5. General equality duties

Universities and colleges, at present, have a broad positive duty to promote good relations between people of different races and, when the Equality Bill comes into force, between people of different religions. Institutions will therefore have to assess the impact on racial and religious groups of any stringent security policies adopted to address the perceived problem of radicalisation on campus. Where an adverse impact is identified, institutions will have to determine whether any such policy is warranted, given the specific risks to safety and security which have been highlighted.

Conclusion

Before responding to public pressure, universities and colleges should apply the legislation outlined above to determine what a reasonable and proportionate response would be to allegations of radicalisation. That approach should ensure that the delicate balance between individual and community interests are appropriately balanced.

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NO SUCH THING AS AN 'OLD FLAME', & ARE SOME DENTISTS TOO LONG IN THE TOOTH?

The European Court of Justice (ECJ) has recently handed down judgments in two interesting German cases on the extent to which age discrimination can be objectively justified. In one case, the ECJ held that a German law restricting applications to join the fire service to those under the age of 30 could be defended as a genuine occupational requirement under Article 4(1) of the EU Equal Treatment Framework Directive (Directive). In the other, the ECJ held that a law setting a maximum age limit of 68 for dentists working in the German national health service is potentially in line with the Directive as a national law aimed at protecting public health.

Wolf v Stadt Frankfurt am Main (C-229/08)

Mr Wolf applied to work as a fire-fighter in the Federal State of Hesse in Germany. However, he was informed that his application would not be considered because he was over the age of 30 and local regulations provided that recruitment to intermediate posts in the fire service was not open to anyone over that age.

He brought proceedings in the German Administrative Court on the basis that the law restricting applications to those under 30 was contrary to the general prohibition on age discrimination contained within the Directive. The Administrative Court referred the matter to the ECJ on the compatibility of German law with the Directive.

The ECJ judgment

The ECJ considered whether the direct discrimination in the age limit could be justified under Article 4(1), which stipulates that a difference in treatment based on a characteristic related to age does not constitute discrimination where the characteristic is a "genuine and determining operational requirement", provided that the objective is legitimate and the requirement proportionate.

It held that the maximum recruitment age was proportionate to the legitimate aim, namely the proper functioning of the emergency services. In doing so the ECJ took into account the fact that fire-fighters had to complete a two-year training programme, and that an individual recruited before the age of 30 would normally be able to undertake the physically demanding duties of a fire-fighter for at least 15 to 20 years. If the fire service recruited older applicants it might be short of fire-fighters who could complete the most physically demanding duties, including fire-fighting on the ground and rescuing people, or individuals who could complete these duties for a sufficiently long period of time.

Petersen v Berufungsausschuss für Zahnärzte für den Bizerk Westfalen-Lippe (C-341/08)

In this case, the German Social Security Code provided that admission to practise as a panel dentist in the German national health insurance scheme expired at the end of the calendar quarter in which the dentist turned 68 years of age. This rule was said to protect the health of patients, since it was thought that the performance of dentists (and doctors) declined from the age of 68 onwards. Outside the panel system dentists were able to practise their profession irrespective of age, although in Germany approximately 90% of patients are covered by the statutory health insurance scheme.

The German government sought to rely on the exemption set down in Article 2(5) of the Directive, namely that the principle of equal treatment does not apply to national law necessary for the protection of health.

The ECJ's considerations

The ECJ identified two different objectives that might be considered to be necessary for the protection of health, namely:

- ensuring the competence of dentists accredited to work in the national health system; and
- ensuring the financial viability of the system.

It held that whether the age limit was a proportionate means of achieving those legitimate aims was dependant on which aim was pursued. The ECJ did not consider that the age restriction was proportionate in relation to the question of competency given that it only applied to those dentists who practised within the statutory insurance scheme. The age limit was undermined by the fact that those dentists working privately were not precluded from practice after they turned 68 (presumably at no detriment to their patients).

However, the ECJ considered that the age limit could potentially be justified as a means of ensuring that the national health system remained financially viable, particularly as it provided a means of limiting the pool of dentists who could be employed within the system. It was for the German court to identify which of these aims was being pursued and to give judgment accordingly. The ECJ went on to endorse the German government's justification argument that it might be "appropriate and necessary" to restrict older dentists from practising within the scheme in order to give younger generations the opportunity of working as national health physicians.



Comment

These decisions should be welcomed by universities and colleges.

The Wolf case is particularly interesting as it is the first reported ECJ decision to consider when age may be a genuine occupational requirement. Historically the concept of "genuine occupational requirement" has been construed narrowly (for example, where an acting role is restricted to someone of a particular age), but this decision suggests that employers may be able to justify genuine occupational requirements on a broader basis in certain circumstances.

Both cases indicate that the ECJ is prepared to accept that age-related decline in the performance of duties is a very real issue capable of justifying directly age discriminatory rules, although this argument was ultimately rejected in Peterson because of the fact that private dentists were able to work past 68.

We wait with interest to see how UK age discrimination case law develops following these decisions.

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EDUCATION NEWS

The End of an Era

Many of you will already know that Paul Pharaoh is retiring at the end of April 2010. Paul joined the firm in 1996, and has over the last 14 years been instrumental in developing Martineau's education practice into a nationally renowned, market leading one.

Paul comes from that generation of lawyers whose practice is broad and flexible. Qualifying as a solicitor in 1971, Paul tried his hand at many and diverse areas of law from litigation to conveyancing, before ultimately settling on constitutional, governance and charity law as his favoured specialisms. In those fields he has become recognised as a leading expert, with a deep and intuitive understanding of the issues facing HEIs and FE Colleges. Although he is retiring from private practice, the sector will continue to benefit from his experience and expertise in his capacity as vice-chair of governors at Lakes College, West Cumbria and Council member at Aston University.

For many years Paul was the head of the education team and client partner for the firm's many university and college clients, which required him to travel the length and breadth of the country on review visits. The

extensive requirement for driving, combined with his carefree attitude to irksome and unnecessary state interventions such as speed limits, motorway junctions and traffic lights, saw him regularly return to the office with some sad tale of high-handed treatment by the road traffic authorities. This led to him demonstrating his silky advocacy skills before the Stafford Magistrates Bench, who ultimately imposed a one month disqualification as opposed to the more usual six week one. Never let it be said that Paul is slow to learn from life's lessons, though: once his right to drive was restored, he immediately purchased a foolproof "fuzz-busting" device, which has allowed him to continue to drive in the way and at the speeds nature intended without further intervention from the authorities.

We wish Paul all the best in his retirement, and some much deserved relaxation and rest in the company of his wife Lynn, and two new grandsons, Oliver and Toby. There will no doubt be occasions in the future when Paul will join us for events and projects, and we look forward to those. I and the rest of the Education Team will miss greatly his wisdom, humour, unfailing contributions to Education Brief and seemingly boundless capacity to delegate.

Smita



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