

## Employment

May 2010

Hello and welcome to the D&W Vox, our monthly podcast looking at some of the more interesting recent developments in the world of employment law.

In this D&W Vox, prepared by our employment team, we take a look at:

- **Charlie's Angel Loses £4m Sex Discrimination Claim;**
- **Application for Appeal Refused in Stirring Style;**
- **UK Law Firm To Pay £123k for Male Sex Discrimination Claim; and**
- **The jobseeker strikes back?**

### Escorts, Hitmen and a £4m Sex Discrimination Claim

Last month a London Employment Tribunal dismissed a 4 million pound sex discrimination claim from a high earning female employee who alleged that she had been hired to fulfil the role of the blonde member of a sales team which mimicked Charlie's Angels. In rejecting Miss Wimmer's numerous claims, the Tribunal concluded that she had not been a persuasive witness.

Her former employer, Mr Lowe, owner of the hedge fund Nomos Capital was accused of bringing an escort in hotpants to a business meeting, circulating sexist jokes via email and hiring a hitman to follow and kill Miss Wimmer.

The Tribunal said that the allegations that Mr Lowe had brought escorts to business events were "wholly unsupported" and dismissed the remaining claims.

### Law Firm to Pay £123,000 for Male Sex Discrimination

A former employee of law firm Eversheds has won his sex discrimination claim after he was made redundant last year. Mr de Belin argued that the redundancy selection criteria which Eversheds applied discriminated against him. The firm used a point-based system which assessed the speed in which their associates converted client invoices into payment. A female colleague who was absent on maternity leave was given full marks for this criteria to avoid any arguments of pregnancy discrimination. This, the Tribunal explained was unlawful and in fact Eversheds had discriminated against Mr de Belin. The firm intends to appeal against the ruling. The case does show the difficulty that even the most informed employers can face on avoiding pregnancy discrimination.

### Appeal Refused as Religion and Rationality Collide

Two issues this month show the difficulty which can arise where employers have to grapple with religion or wider belief systems.

In *McFarlane v Relate* involving the Christian counsellor who was dismissed for refusing to counsel same sex couples, the Court of Appeal has now refused Mr McFarlane's leave to appeal.

Lord Justice Laws' reserved judgment was particularly well reasoned with some stirring rhetoric. At the crux of his impassioned discourse was the notion that people are free to choose their religion, but the content of those beliefs must not impact negatively on others' rights. He said:

*The law of a theocracy is dictated without option to the people, not made by their judges and governments. The individual conscience is free to accept such dictated law; but the State, if its people are to be free, has the burdensome duty of thinking for itself.*

*So it is that the law must firmly safeguard the right to hold and express religious belief; equally firmly, it must eschew any protection of such a belief's content in the name only of its religious credentials. Both principles are necessary conditions of a free and rational regime.*

For employers who have to interpret these principles, they should focus on the misconduct rather than the belief. If the conduct impacts negatively on others then this will not be protected by the law, but the right to hold that belief will be.

### And finally the Jobseeker Strikes Back

A long time ago in a Jobcentre far, far away, Mr Jarvis was enquiring about disability benefits, but was then asked to leave because he refused to remove his hood. The incident provoked press attention because Mr Jarvis follows the belief system of the Jedi knights. Mr Jarvis argued that his ejection for refusing to remove this hood, had offended his Jedi sensibilities. The Jobcentre has now confirmed it did not intend to offend his beliefs and has written to apologise.

And that's all for this month's Vox.

This Podcast Transcript is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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If you would like any further information on any of these cases or news items, or any other Employment issues, please call the person at D&W with whom you normally liaise, or one of the following specialists:

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