

Rightfocus

ISSUE 17 | AUGUST 2009

Focussing on legal issues important to you

Expenses are not just a parliamentary issue

For several weeks in the early summer, pubs and dinner parties echoed to frenzied discussions of one key topic – the vexed question of MPs' expenses.

The expenses issue is not one that affects politicians alone, however. Now, a report from fleet management company Lloyds TSB Autolease, released in June, has shown that just one in three senior managers and directors have cut back on their business expenses and benefits in the face of the economic slowdown. In particular, it showed that just one in 10 bosses have taken on a cheaper company car in an effort to reduce their business expenditure.

According to Corporate Sales Director Claudia Rose, "If one thing can be taken from the survey, it's that there are potentially enormous business savings to be made on personal expenses and benefits such as business travel and company cars. Now is the opportunity to act."

Writing on the Director of Finance Online website (www.dofonline.co.uk) Tim Hardcastle, Chief Executive of expense review consultancy F2X, suggests that this is just a small element of a far wider issue. "Despite the fact that we're in the midst of a recession, companies are still mismanaging their business expenses, with expense spend up to 40% higher than it should be," he says.

He advises that "operational expense processes should be transparent, auditable with delegated authority and automated wherever appropriate".

More specifically, he recommends that businesses should thoroughly review all their accounts payable, and address each in turn starting with the highest spend areas. As he says, "Make sure you have the best possible contracts in place for the best deals."

Most important of all, though, are the policies and authorisation procedures that a business should have in place to make sure that the right sums are being spent in the right areas. "Clear expense policies are vital, setting out who authorises expenses, what value they can authorise and who is overseeing these policies," he says. "Informally ask questions to determine if the authorisers check the expenditure, follow the policy and keep costs to a minimum."

Just as it appears that the MP expenses row will eventually result in a better, fairer and more open approach at Westminster, the recession may also result in a more efficient and rigorous approach to expenses that will continue to stand businesses in good stead once recovery takes place.

Welcome to the August 2009 issue of Rightfocus, Reynolds Parry Jones' newsletter.

Rightfocus aims to keep both our private and commercial clients up to with date with the most important legal developments affecting them.

This issue's articles include:

- Further companies act changes
- Protection against social engineering
- Insurance for micro-businesses
- Banks to be fined for poor customer service
- Know your rights when shopping
- FSA set to protect consumers against insurance changes
- NHF accuses energy companies of overcharging some companies

If there are any topics you would like to see covered in future issues then do let us know.

Reynolds Parry Jones

10 Easton Street
High Wycombe
Buckinghamshire
HP11 1NP
Tel: 01494 525941
Fax: 01494 530701

www.rpj.uk.com



Further Companies Act changes are due in October

The Companies Act has been in existence for some 150 years, but the sweeping changes that received Royal Assent in 2006 will not be fully implemented until October this year when the final alterations to its 1300 different provisions will finally come into force.

The changes due this autumn to the Companies Act 2006 include areas such as:

- the formation of companies
- companies' constitutions and capacity
- company names and business names
- re-registration of companies as a means of altering status
- protection from disclosure of residential addresses of company directors
- shares and share capital
- company charges
- dissolution and restoration to the register
- unregistered companies and overseas companies
- the registrar of companies

Recognising the complexity of the changes that are yet to come, many solicitors and other professional services firms will be running seminars and other events to explain their main impact on running a small or medium-sized business. Ask your solicitor if they are planning to do so, or set up a special meeting where you can discuss what the changes will mean for you and your organisation.



Protection against 'social engineering'

An international telecoms company highlighted in May this year an emerging technique that is enabling criminals to bypass even the most hi-tech protection systems to steal confidential business information.

Research from Siemens Enterprise Communications has warned against the growing threat of 'social engineering', in which a criminal gains the confidence of people within the targeted business. According to Colin Greenlees, a security and counter-fraud consultant with the company, "The scary thing is that it's all simple stuff. It's just confidence, looking the part and basic trickery such as 'tailgating' people through swipe card operated doors."

In a week-long experiment, a Siemens employee used such techniques, not only to enter a FTSE-listed company's offices without being challenged by security guards, but even to base himself in a meeting room where he worked for several days, to access the company's data room, IT and telecoms network and to persuade 17 employees to give him their usernames and passwords.

While big business is the primary target for social engineering attacks, there are still lessons to be learned by smaller organisations, particularly those that use contractors and temporary staff. Ensure that all employees are prepared to challenge people they do not know, and that you are fully aware of who is entitled to be on your premises at all times.

Insurance for micro-businesses

Under new proposals from the Law Commissions of England and Scotland, upcoming reforms to insurance law should treat very small businesses, with fewer than 10 employees, in the same way as it does consumers.

The reasoning is simple. Many of them are no more financially sophisticated than individual consumers, and comparatively few of them use a broker to arrange their insurance cover, with about half buying direct from insurance companies (FSA, 2007). Currently, however, they do not receive the same mandatory protection against unfair contract terms in their insurance policies that consumers enjoy.

Any such change would affect a great many organisations. According to Government figures from last year, there are some 4.5 million so-called 'micro-businesses' in the UK, providing jobs for over 30% of private sector employees.

According to Commissioners David Hertzell and Colin Tyre QC, "We believe it is vital to ensure that this sector of industry is protected by the law. We are eager to hear the views of all interested parties, in particular micro-businesses, on our proposals."

The new proposals were published by the Law Commission in April this year, with a request for the views of interested parties by mid-July. We will report on further developments in a future issue of Right Focus.

Penalties for paying below the minimum

Since last April, new penalties have been in force for employers found by HM Revenue & Customs (HMRC) to be paying staff less than the national minimum wage.

Not only may employees now claim back arrears for the underpayment, but employers can also additionally be penalised 50% of what they failed to pay, ranging from a minimum of £100 up to £5,000. Those who comply within two weeks of receiving a notice of underpayment will also receive a 50% reduction in the penalty.

The new penalties coincide with the award of new powers of inspection to HMRC compliance officers, who will now inform the Secretary of State for Work and Pensions of any non-compliance.

It is therefore more important than ever that businesses pay the correct wage, which is currently set at £5.73 an hour for people aged over 22, £4.77 for those under 22, and £3.53 for those between 16 and 17. These rates will increase in October this year.

Credit squeeze appears to be loosening

Employers' lobbying organisation the CBI has said that it believes the negative credit conditions that have helped to stoke the economic slowdown are set to stabilise in the months ahead, as businesses become slightly more optimistic about the supply of new and existing credit.

In its latest Access to Finance survey (May this year), the CBI reported that only 7% of the firms surveyed expect a further decline in the supply of new credit in the next three months. In addition, small and medium-sized firms (with up to 249 employees) expect no further decline in the supply of new credit, while very large businesses (with over 5,000 employees) are predicting a slight improvement in existing credit.

According to the CBI's Chief Economic Adviser Ian McCafferty, "Credit availability is still a concern, but the severity of the situation is easing compared with a few months ago."

A report in late May by the British Chamber of Commerce (BCC) also highlighted an atmosphere of improved optimism, suggesting that 30% of those surveyed expect their turnover to increase in the following quarter by between 1 and 25%, up from 22% three months earlier. On a less positive note, however, the same report showed that half are experiencing longer payment times by their customers, suggesting that businesses are continuing to face trading difficulties.

Breaching data protection rules

Following the results of an investigation by the European Commission, which found that the UK's privacy laws are "woefully inadequate", the British Standards Institution (BSI) has reported that close to one in five businesses has at least once unwittingly breached the Data Protection Act (DPA), with nearly half of these admitting to doing so on more than one occasion.

A breach might mean the illegal transfer of information to a third party or failure to hold information securely, including such potentially sensitive data as ethnic origin, criminal proceedings and trade union membership. In one such recent event, the Information Commissioner's Office (ICO) has taken action against Manchester University, when a staff member emailed the personal records of 1,700 students to 469 other students.

Now, the University has been made to sign an undertaking that it will process personal information in line with the DPA, and ensure that its employees receive training to prevent further breaches.

Mike Law, Director of Standards at BSI, said: "The five million small and medium-sized businesses in the UK are handling vast amounts of personal information on a daily basis. While it is encouraging that some already have appropriate data protection measures in place, our survey shows that there is still a long way to go."

Do not hesitate to ask your solicitor if you would like more information on data protection legislation.



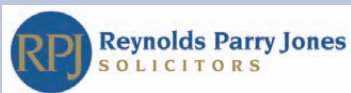
Reynolds Parry Jones

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Reynolds Parry Jones

10 Easton Street
High Wycombe
Buckinghamshire
HP11 1NP
Tel: 01494 525941
Fax: 01494 530701
Email: partners@rpj.uk.com

www.rpj.uk.com

NHF accuses energy companies of overcharging some customers

In a June report, the National Housing Federation (NHF) has calculated that energy companies have been overpaid by some £460 million over the last three years by customers on pre-payment meters.

Some 12% of customers, often those who can least afford such additional financial stress, use this method of payment.

The NHF, which based its calculations on figures released by energy regulator Ofgem, believes that the overpayment is due to higher charges imposed on metered customers by the energy companies. It says that this might be in breach of EU rules, suggesting that those affected may be entitled to claim refunds.

NHF Chief Executive David Orr has accused Ofgem of being "asleep on the job", adding: "It is an absolute scandal that Ofgem allowed energy firms to overcharge customers to the tune of £460 million, and potentially breach EU rules for so many years... It must urgently start defending the rights of ordinary people, instead of protecting the profits of big business."

Anyone who believes that they have been overcharged by their energy supplier, or any other provider, may benefit in the first instance from taking professional advice on whether or not they can successfully reclaim any sums that they have overpaid.



A positive outlook drives good business

Four out of five CEOs of small and medium-sized businesses who were surveyed for an April report by the Institute of Leadership and Management are optimistic about the future – so it is unsurprising that a significant proportion of them also identified a positive outlook as the single most important personal quality in helping them survive recession.

The report, called *Delivering in a Downturn*, said they want "managers to be confident, optimistic, positive and have a can-do attitude, and believe that there is a strong association between positivity and solution-driven hard workers with a winning mentality – people who are more likely to fight for a company's survival."

Equally, the CEOs highlighted the dangers of pessimism. As the report says, "It paralyses organisational decision-making processes and hinders chances of survival. Optimistic organisations are better positioned to take advantage of opportunities presented during a recession."

So the message is clear – a positive attitude about the future feeds the energy and enthusiasm that enable challenges to be overcome and ambitions to be achieved.

