



## Claimant Intimidation

In *Force One Utilities v Hatfield*, Mr Hatfield was verbally threatened by a Director of the Company in the car park after a tribunal hearing. Employment Tribunals have the power to prevent a party in a dispute from taking any further part in proceedings if they have behaved in a "scandalous, vexatious or unreasonable" way.

The tribunal concluded "... Once a tribunal finds that a party is sufficiently intimidated as to affect his or her ability to give evidence without fear of consequences, the only proportionate response can be to bar the other party from participating in the trial." The Director was therefore barred from further participation.

In *Nicholls v Corin Tech Ltd (and others)* Mr Nicholls was threatened by his former employer outside the lifts on the fourth floor of the Southampton Tribunal. Mr Nicholls claimed this was unlawfully harassment under the Disability Discrimination Act 1995.

The Company tried to argue that the harassment was not sufficiently connected with Mr Nicholls employment and also, that the alleged harassment took place during court proceedings and those engaged in court proceedings should be able to "express themselves freely".

The EAT held that the threats could amount to an actionable case of victimisation and also, that conduct intended to deter Claimants from enforcing their rights could be unlawful within the context of the DDA 1995.

## Northern Rock Redundancies

Northern Rock has entered into a 90 day consultation period with employees and unions over 2,000 potential redundancies.

## Assaulted Salesman was Unfairly Dismissed

A car salesman who was regularly assaulted and subjected to foul and discriminatory language was held to have been unfairly dismissed but only after he appealed to the Employment Appeal Tribunal ("EAT").

The employee, Mr Lovelock, was assaulted on numerous occasions by his supervisor, Mr Lawrence. Mr Lawrence habitually struck colleagues in the testicles and elsewhere. The Tribunal had originally described Mr Lawrence's behaviour as "indiscriminately tactile".

Mr Lovelock, who was the oldest member of staff was also referred to as "the old parsonage", "old buzzard" and "old git". This use of language was initially dismissed by the Tribunal as "industrial" in

nature and not discrimination on grounds of age.

Mr Lovelock also complained of dangerous workplace practices instigated by Mr Lawrence including "the use of an air gun, a mini motorbike and a go-cart". Unfortunately, the case report does not provide more detail!

The EAT unanimously overturned the decision of the original tribunal and found that Mr Lovelock had been constructively unfairly dismissed in that Mr Lawrence's conduct, when viewed objectively, was likely to destroy the employment relationship. The EAT also described the original tribunal's decision as "plainly and unarguably wrong".

## Is Baldness a Disability?

An art teacher who was teased and laughed at by his pupils for being bald has lost his claim for disability discrimination. James Campbell also claimed constructive unfair dismissal against Falkirk Council.

The Tribunal Judge refused to accept that Mr Campbell had a disability, stating that to make such an order would take the definition of "impairment" under the Disability Discrimination Act 1995 too far.

He continued "If baldness was to be regarded as an impairment then perhaps a physical feature such as a big nose, big ears or being smaller than average height might of themselves be regarded as an impairment." The claim for unfair dismissal will be heard later.

## European Court of Justice Pension Ruling

The ECJ has ruled that public sector employers who fail to offer the same pension rights to workers on both fixed term and permanent contracts will be acting in breach of the Fixed Term Work Directive.

It remains to be seen what impact, if any this ruling will have on the private sector but firms with such potentially discriminatory pension policies should consider taking advice now.