

Rightfocus

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Focussing on legal issues important to you

Complaints about financial services organisations

During the first six months of this year, the Financial Ombudsman Service (FOS) received some 70,000 complaints about the treatment consumers received at the hands of banks, building societies, credit card companies, insurers, fund managers, investment companies, pension firms and financial advisers.

More than half of the complaints, however, related to the so-called 'big five' high street banks – Barclays, Lloyds Banking Group (including Lloyds TSB, Halifax, C&G and Bank of Scotland), Royal Bank of Scotland (RBS, which includes NatWest), Abbey and HSBC.

This was the main message of a report published in September by the FOS, which for the first time 'named and shamed' the financial industry's worst offenders. In addition, the report also contained figures showing the proportion of complaints that are settled in the customer's favour. These revealed that some banks have over two-thirds of complaints against them upheld, while for some credit card companies this figure reaches close to 90%.

The data also revealed that customer service standards are worsening. During the period, some six in 10 complaints about banking products like current and savings accounts were upheld, contrasting with about one in three in previous years. According to outgoing Chief Ombudsman Walter Merricks, "Putting this information into the open will now give those worse-performing businesses encouragement to improve, which should mean fewer of their customers having to bring complaints to the Ombudsman that should already have been resolved."

Andrew Hagger of consumer group Money.net.co.uk agreed, saying: "Consumers now have a yardstick by which to judge financial providers." Complaints that reach the FOS tend to be those that have not been settled by the financial institution's own internal procedures. As RBS points out, over 90% of complaints are settled internally with no need to be taken further. Equally, Barclays is at pains to highlight that under 1% of its 22 million UK customers feel the need to complain.

However, the proportion of complaints upheld demonstrates that complaining to the FOS is often a worthwhile step of last resort for anyone who feels that they have not been served well by an institution's own procedures. The FOS's website (www.financial-ombudsman.org.uk) contains details of how to make a complaint – but if you feel that your case is a particularly complex or important one, you may wish to talk to your solicitor about how to ensure the greatest likelihood of a successful outcome.

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

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

This issue's articles include:

- Report details the scale of complaints about financial services organisations
- Flu drives increase in contingency planning
- More businesses introduce alcohol policies
- Online CT filing is on the way
- Debt write-off claims under scrutiny

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



Online CT filing is on the way

Important changes to Corporation Tax (CT) filing are on the way, affecting all tax returns covering accounting periods that end after 31 March 2010.

HM Revenue & Customs (HMRC) has written to some 500,000 companies and their tax agents, explaining that following 31 March 2011 all returns will need to be filed online, using either commercially available software or HMRC's CT-filing software, designed for companies with comparatively straightforward tax affairs.

The change will not require companies to amend their accounting processes to comply with the changes, as either HMRC's CVT filing system or their commercial software equivalent will do this for them.

According to HMRC Director Mark Holden, "While March 2011 might seem to be a long way off, agents and businesses need to be thinking about these changes now, as they will affect accounting periods ending after 31 March next year.

"HMRC is hoping to release its CT-filing software towards the end of this year. We're also working closely with software developers, and a number of commercial products will become available in the same timescale, with more to follow. This will mean that the majority of companies that wish to familiarise themselves with filing online before it becomes compulsory will have the opportunity to do so."

If you would like a copy of the leaflet that HMRC circulated, please email marketing.online@hmrc.gsi.gov.uk



Flu drives increase in contingency planning

Warnings about the possible impact of the swine flu pandemic this winter are resulting in more small and medium-sized firms drawing up business continuity plans to help them get through the possible crisis with the minimum of damage to their business.

An important benefit of having such a plan in place is its value in the face of a wide range of disruptive events, from the loss of computer facilities to floods, key resignations and much more.

While first developing and embedding a business continuity plan can be a nuisance, its value can pay off immeasurably – even if it is only ever used once. Some insurers are prepared to offer businesses with a workable plan in place reduced premiums.

The key to a workable plan is communication, to ensure that every employee understands their responsibilities in the event of a crisis occurring, so you need to make sure that it is simple, clear and practical.

Specifically in relation to swine flu, businesses are being urged to introduce stricter personal hygiene guidelines and to provide staff with anti-bacterial hand-washes and wipes in a bid to control its spread.

More businesses introduce alcohol policies

If the experience of HR consultancy Jaluch is anything to go by, stricter health and safety laws in the workplace have driven a 50% increase since August 2008 in the number of businesses seeking to introduce an alcohol policy.

This is believed to result from the demands of last year's Corporate Manslaughter and Homicide Act, under which businesses that knowingly allow an employee to come to work under the influence of alcohol can be prosecuted. Jaluch even reports that some companies are using breathalysers to identify those who might have dined too long and well.

According to Director Gina Leccacorvi, "Certain industries, particularly in the rail and manufacturing industries, clamped down on this some time ago to comply with the Health and Safety at Work Act, but now office-based firms are also beginning to take heed."

While the dangers are not as obvious in an office environment, she continues, "Lunchtime drinking brings a reduction in productivity and impairs judgment, which can put colleagues at risk.

"With lunchtime and evening networking a key part of working life for many, imposing a no-alcohol policy has its challenges, but the risk of failing to have a clear policy in place can be high."

Tax incentive to help attract skilled staff

A tax incentive has been given the all clear by the European Commission (EC) that will allow small businesses to offer enhanced tax benefits to staff, so helping them to attract and retain the most highly skilled workers.

While it was once possible for them to do so by exploiting loopholes This relates to the Enterprise Management Incentive (EMI) scheme, which enables small and medium-sized companies to offer employees options on shares worth up to £120,000. Basically, they agree to a fixed price, meaning that if the value of shares increase, they can buy them for the lower, pre-amount cost.

Currently employees pay income tax and national insurance (NI) on the gain, while the employer also pays NI. Now, though, the EC has given State Aid approval to the Government's request to make them tax exempt. The Government has also loosened current eligibility criteria, which used to restrict the EMI scheme to companies activities that are "wholly or mainly" in the UK. From now on, companies with a permanent base in the UK that work overseas will also be able to use EMI as a recruitment tool for UK-based workers.

Both elements are expected to take affect from 6 April 2010.

According to Ian Pearson, Economic Secretary to the Treasury, "This is excellent news for small and medium-sized businesses, particularly at a time when their success will be crucial to economic recovery."

UK insolvencies set to rise in 2010

With most commentators suggesting that the UK is moving into recovery, it is important that businesses continue to take a cautious approach. This is the overriding message of a recent report from information services company Experian, which showed a 24% decrease in company failures between July and August this year.

Rolf Hickman, managing director of Experian subsidiary PH, said: "Although it is too early to tell whether this is an indication of a more positive outlook, one thing is for sure: businesses are distinctly aware of the current environment and the need to be cautious in any business dealings."

Another recent report, this time from a large insolvency firm, is even more cautious, saying that while the number of UK insolvencies (149,543) during the three months from July to September was 14% below the same period in 2008, we can expect to see a rise again in 2010. It also suggested that the UK may be at the mid-point of a 'W-shaped' recession, pointing out how business confidence rose sharply in the 1980s' recession before deteriorating again in 1982.

Anyone concerned about the future health of their business might consider contacting their solicitors to speak to an insolvency practitioner.

Watch out for misleading CVs

In a recent survey, carried out by pre-employment specialist Powerchex of 5,000 job applications made in the financial sector between May 2008 and June this year, 19% were found to contain false or misleading information.

This is a 12% increase over last year, leading the company to think that the economic slowdown has a role to play. According to Managing Director Alexandra Kelly, "The pressure of the recession on job markets seems to have led more applicants to believe that they should lie or make embellished claims to get jobs."

Sue Rees, of recruitment company Sue Rees Associates, says that in her experience people are most likely to lie about the dates of their employment, their qualifications and directorships held, making these the primary areas for prospective employers to probe. She adds that, although lying on a CV is not in itself a criminal offence, accepting a paid position on the strength of an untruth could be considered deception and fraud.

In the 2009 Powerchex survey, people aged under 21 showed the largest increase in untruthful applications. As Alexandra Kelly adds, "It's unfortunate to see that more young people are reacting to the pressure in this way. Their socio-economic group has been one of the hardest hit."



Angry holidaymaker goes online

Many people might have gained some satisfaction earlier this autumn from the story of an irate holidaymaker who used his blog to take revenge on the tour company that he felt had let him down badly.

Not only did this gain the number 1 spot on Google rankings – beating the company itself on many of its own search terms – but it also played a significant role in enabling him to receive £595 in compensation for his dissatisfaction with the holiday and the company's more traditional complaints procedures.

It is a story that highlights two truths about our connected, transparent world. First, consumers now have a voice that is greatly more powerful than they have ever had before, enabling them to highlight grievances in a way that takes them directly into the public eye.

Second, it means that companies need both to plan for such events and, more importantly, ensure that they live up to their customer care promises. In this case, for example, the company failed to respond to a letter of complaint within the 28 days set out in its own procedures, escalating the customer's displeasure.

Contact your solicitor if you suspect you may be eligible for compensation for a ruined holiday. If you are a business seeking help with your complaints procedures, you may benefit from the help of a commercial lawyer.



Reynolds Parry Jones

Reynolds Parry Jones is a long-established quality firm, founded in the nineteenth century. It is a general practice offering a full range of legal services to the whole community.

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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

Read the insurance small print

Four out of five CEOs of small and medium-sized businesses who were surveyed for an April report by Homeowners hoping to gain some extra income from letting a spare bedroom to a lodger need to read the small print on their household insurance policy.

This is because some insurers, including esure and More Than, apply restrictions to their policies that mean many people may unwittingly be living with invalid cover. According to esure, "If a policyholder takes in a lodger without telling us, their home insurance is potentially null and void because withholding this information counts as non-disclosure."

Other insurers, including Direct Line and Churchill, apply the same restrictions if the lodger is a student because of the particular risks that their lifestyle (including visitors and unlocked doors) poses. In addition, a policy may be invalidated if you fail to check whether a lodger has an unspent criminal conviction.

Any homeowner who is worried that their cover is at risk should let their insurance company know straightaway if they have a lodger to remove any suspicion of non-disclosure. In addition, they should ask a prospective lodger to sign a declaration, possibly as part of the letting agreement, to confirm that they have no unspent convictions. If the insurer declines cover, the National Landlords Association carries a list of specialist companies on its website – www.landlords.org.uk.

If you are still concerned on this matter, consult your solicitor.

