

# Employment law support *10 ways in which we can help*

## The problem

## How we can help

### Poor performance

You have a number of employees whose performance is not up to scratch and/or where there is no longer an appropriate fit but you do not see it as tenable to go through a lengthy performance process to improve/remove.

*We can guide you through the pre-termination negotiation process leading to an agreed termination and the certainty of a settlement agreement in return for a lump sum payment. The process is more straightforward than you may think and the costs may well be lower.*

### A tricky grievance

You have received a lengthy grievance from an employee raising numerous issues going back some time together with a data subject access request ("DSAR") seeking large amounts of documentation. You are concerned as the grievance raises discrimination issues and, following it, you cannot see how it would be tenable for the employee to return to their job.

*We can assist you in investigating and fully responding to the grievance and DSAR, mitigating the risks and, where necessary, positioning appropriately to agree settlement terms at lowest cost.*

### Concerns regarding culture and risk of claims

Thus far, you have not had to defend any discrimination claim. You are concerned, however, that the culture in certain parts of the business is more boisterous than it should be and that at some stage a line might be crossed and you may face claims.

*We can assist in devising and delivering an appropriate programme of dignity at work training, both aimed at your senior managers, with a view to equipping them in mitigating risk, and for staff generally, to ensure that they are aware of their rights and responsibilities under your policies.*

### Concerns regarding protecting your staff, confidential information and clients

You have a concern that the business is very much dependent on sensitive confidential information and/or particular client relationships and/or skilled staff and that you are, therefore, vulnerable to staff departures.

*Appropriately drafted restrictive covenants can and will be enforced. Garden leave can also be a useful tool. We can assist in drafting covenants tailored to your business, amending contracts where this is necessary, can advise on practical steps to protect from unfair competition and in the taking of enforcement action to obtain appropriate remedies to protect your business.*

### Complying with TUPE and mitigating risks where outsourcing

You are looking for the first time to outsource a particular function or shortly to go through a tender exercise prior to a second stage outsourcing. You are concerned regarding your obligations under TUPE and how to ensure you are not at risk of incurring liabilities now or at a later stage.

*We can guide you through the TUPE process, including identifying the employees in-scope and complying with information and consultation obligations. We can also assist you in negotiating appropriate indemnity protection from your service providers to mitigate any TUPE risk.*

### Restructuring and Redundancy

You have to cut costs and, as part of this, cut roles. You are concerned as, knowing those involved, you anticipate significant resistance and possible legal claims.

*We can advise you how to approach any restructuring exercise with a view to best mitigating the legal and HR risks including regarding whether selection is required, how to carry out any selection exercise, who to consult with and how to go about the process to put you in the best position to defend any claims and, where appropriate, to minimise the costs of any settlement agreements.*

### Long term ill health

You have an employee who has had significant periods of ill health absence and where there is still significant uncertainty as to when they may be able to return and the extent to which they then will be fully able to carry out their duties. The business has lost patience and wants you to deal.

*We can assist you in assessing any disability discrimination risk and in identifying the best route to agree a termination at lowest cost.*

### Consultants – status risk

The business uses a number of "consultants", because of head count restrictions. You are concerned that they may be workers or even employees.

*We can audit your use of consultants, advice on the risks and means of mitigating those risks including advising on the amended Off Payroll Rules.*

### Flexible working

You are seeing an increasing number of flexible working requests. You are concerned that the business could be exposed to discrimination risk as some of your line managers are very resistant to such requests.

*We can advise you both in responding to individual requests to minimise the risk of indirect sex discrimination and other claims and regarding development of an overarching policy to ensure consistency and mitigation of ongoing risk.*

### Being pushed out

You are a senior employee and believe your new CEO is looking to push you out, your sex may be a factor.

*We can advise you of your rights and how to best address with your employer to resolve, if appropriate, maximising your exit package.*