The legal landscape for employers, and particularly businesses in road transport, is changing. Could you afford the costs of an Employment Tribunal claim? Worse still, what if due to not having the back-up and support of experienced HR professionals when you are handling difficult employee relations, you lose at Tribunal, or have to make a settlement to end a claim?

For most employers, and especially businesses in the road haulage sector, profit margins are tight and engaging lawyers can be a costly overhead. Most employment lawyers charge on an hourly basis for helping with each problem or case. Even with just a few employees, it takes only one or two problems for costs to escalate. Even if you follow advice to the letter, any employee is still free to issue an Employment Tribunal claim. So if, for example, you have followed all the procedures necessary to dismiss someone fairly, you would have to go through the process of proving this to the Employment Tribunal to defeat a claim for unfair dismissal. And claims for things like ‘whistleblowing’ and discrimination are on the rise.

There are firms that offer an annual fixed cost for providing HR support. Some of these organisations are not law firms and you will not necessarily be dealing with a qualified solicitor. You won’t even always be talking to the same person! The costs quoted by these firms can be as much as £15,000 or £20,000 per year or more!

But you should read the small print:

• Does the annual fee cover the cost of representing you at an Employment Tribunal? Or are you on your own unless you agree to pay more on top? And….

• Do you also have to pay any award ordered by the Tribunal if the claimant wins, or pay settlement to end the case?

After paying your annual retainer, some firms operating in this sector will leave you holding the baby when it comes to paying any award/settlement, and possibly even paying extra to be represented on the day.

Rothera Dowson have teamed up with Total Legal Care and we can now offer an insurance package for Employment Law services which we believe is a market leading product.

In return for an annual payment you will be entitled to:

• Telephone advice & support from an employment law solicitor with over 15 years’ experience of handling employment cases day in day out.
• Representation at any Employment Tribunal hearing.
• If the Tribunal should make an award to the Claimant, or we recommend a settlement which involves payment, you do not have to pay anything.

The annual retainer will not be based on how many vehicles you own or any other artificial criteria. It will be based on your headcount and payroll, as well as your claims record.

For a no obligation quote please contact Anton Balkitis or Paul Brill on 0115 9100 600
The Health and Safety Executive (HSE) is warning hauliers involved in waste and recycling to improve worker safety after nine lives were lost during the summer – more than for the whole of 2011.

It says it “will not hesitate to take action” if evidence is found that lives are being put at risk.

The deaths were caused in separate incidents within a 12-week period between June and September and most occurred on skip hire and waste transfer premises.

The HSE says seven of the fatalities are likely to be recorded under the classification ‘waste collection, treatment and disposal activities’.

This figure already exceeds the total number of five deaths within this classification during 2011.

The Environment Agency Wales continues to investigate an incident in which a lorry spilled up to 6,000 litres of caramel into a river, turning it brown.

The spillage followed a road traffic accident involving the lorry on the A2482 near Lampeter, South West Wales last month.

The food additive liquid caramel entered the Nant Creuddyn, a tributary of the Afon Teifi, and caused strong discolouration of the water.

“Although the food additive is not toxic in itself, it can affect oxygen levels in water which could have a negative impact on the fish population,” said a spokesman.

“The current high river flows are helping to disperse the liquid quickly, but we will continue to keep a close eye on the situation and will do everything we can to limit the impact of this accident on the local environment.”

Late payment and unrecovered debts are persistent problems for businesses. They can seriously disrupt cashflow and profit. If left unresolved, they threaten the very viability and survival of your business.

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www.debtrecoveryandcollection.co.uk
Consultation Due on HGV Speed Limits

The Department for Transport (DfT) insists it will consult on the speed limit for HGVs on major trunk roads by the end of the year.

In a document published in November 2011 outlining how the government aimed to facilitate conditions for growth in the logistics industry it said it would look at the current 40mph speed limit and see if an increase was possible.

An increase to 50mph would be widely welcomed in the industry. In fact an e-petition on the government’s website demanding just that was created in September by HGV driver Matt Downie. In the first six weeks it attracted more than 300 signatures.

A DfT spokesman says: “The government has made a commitment to consult on the speed limit for HGVs over 7.5 tonnes on single carriageway roads during 2012.”

Metal Theft Bill to Deter Criminals

The price of metal has rocketed in recent years and this has led to an increase in criminal activity, particularly within metal theft.

A national day of action against the crime was held in October and led to police, VOSA and Environment Agency officers stopping goods vehicles on the A1.

Currently, scrap metal operators and hauliers must be registered with their local authority for regulatory purposes, but the fines available for not complying are no longer thought to be set high enough to put off criminals.

Partly as a response to this was the creation of the Metal Theft (Prevention) Bill, which has been trundling through Parliament and is due to become legislation shortly.

It will mean metal dealers having to be licensed and provides Magistrates’ Courts with the power to impose licence restrictions, as well as giving the police the ability to recover money generated from selling stolen metal for scrap under the Proceeds of Crime Act. Fines will be increased as well.

“We hope the change in the law will also disrupt the stolen metal market by giving us a clear audit trail to those bringing commodities into recycling yards,” says Detective Inspector Sharon Dence of Cambridgeshire Police.

12 month O-licence Ban for Five Directors

The illegal use of an O-licence has led to the disqualification of five directors of a Tooting-based company.

TC Nick Denton said the five men were banned from holding or obtaining a goods vehicle licence for a year after he heard how they allowed another business to use Goodman Hichen’s licence.

In a written decision following a public inquiry TC Denton described how Goodman Hichens entered into an arrangement with subcontractor Peter Jeeves.

Jeeves was entrusted to run the transport side of the company and vehicles were used to carry goods for other people, even though the licence did not allow this. The company terminated its relationship with Jeeves in 2007, but failed to surrender the licence and vehicle discs.

This allowed Jeeves to continue to use the licence to run his own vehicles under his business, P&J Services Ltd.

The TC determined that the directors allowed themselves to be manipulated by Jeeves, who was not present at the hearing, and were negligent in their duties as directors.

He said that even though they became aware that Jeeves was not a satisfactory business partner, “they still did not see fit to acquaint themselves in more detail with a licence holder’s responsibility and check that the transfer of a transport operation to P&J Services Ltd was carried out properly.”

However, he also concluded that there was no “malign intent” on the part of Guy Nickalls, John Tomlin, Nicholas Gardner, Anthony Higgins and Andrew Mackie.

“Their disqualification emphasises that directors’ responsibilities and undertakings must be taken seriously and cannot simply be delegated, ignored and forgotten,” he concluded.
Plans to Reduce Tachograph Download Frequency

A plan to increase the time required between tachograph data downloads is still on the cards but the government says it has not yet scheduled a consultation.

GB operators currently have a legal responsibility to download data from a vehicle unit at least every 56 calendar days and make it available for inspection by VOSA for the next 12 months.

In addition, they must download information immediately before transferring control of the use of the vehicle when it is sold or de-hired and without delay upon becoming aware that the unit is malfunctioning, if possible.

However, the Department for Transport says it plans to consult the industry on whether to increase the time between downloads to 90 days instead.

A Department for Transport spokeswoman says: “We are planning to consult on this, but no consultation has been launched yet.”

URTU Men Bailed

Seven United Road Transport Union (URTU) men arrested by police in February as part of an investigation into Driver CPC training activities have had their bail extended again.

The men, including general secretary Bob Monks, national officer Mel Thornton and regional officers Lee Pimbley and Mike Billingham, are due to answer it again on 6 December.

They were originally arrested on behalf of the Driving Standards Agency on 15 February on suspicion of fraud by false representation and since then they have had their bail extended three times.

A URTU spokesman said all the men continued to cooperate fully with the investigation.

News in Brief

VOSA’s Operator Compliance Risk Score system changes are now in place. For guidance and advice see the information on the agency’s website: http://alturl.com/3ecuc

The French government has delayed the levying of fines on drivers who fail to carry a breathalyser kit while travelling through the country until next March.

October saw the introduction of the Fee for Intervention Cost Recovery Scheme. As reported in September’s newsletter, operators who break health and safety laws are now liable to pay for the Health and Safety Executive’s costs for inspection, investigation and taking action.

Scott Brothers Haulage in Teesside says it fitted surveillance cameras to its fleet in order to keep insurance premiums down following a number of apparent ‘crash for cash’ incidents.

Rothera Dowson’s online blog is updated weekly with news and views from the transport world. Our aim is to help you preserve your O-licence, as well as providing advice about keeping on the right side of the law. Go to: www.keepmeontheroad.co.uk/blog

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