

Behind every successful business are good people

Mishcon de Reya Solicitors

Introduction

Behind every successful business are good people. Employees are often a company's greatest asset, but they can also be its largest overhead. As such, it is critical for your business that you attract the right people, employ them on appropriate terms and handle their exit from your business with a clear understanding of the commercial and legal implications of your actions. Equally, when you are the employee, you want to feel comfortable with the contract you are asked to sign and know that you can receive good advice when problems at work arise.

In addition, directors often need specific advice on their position given their fiduciary duties and the conflicts which can arise when they are also shareholders.

Employment law can also impact on other commercial transactions, be it the acquisition or disposal of businesses or securing design rights in inventions. Relationships with employees have serious ramifications on a company's ability to succeed. At Mishcon de Reya, we offer you proactive advice and solutions to problems that not only deal with your legal issues, but also keep an eye on your commercial objectives. Working together with you, we can help your business run more smoothly, now and in the future.

Drafting contracts of employment and employee handbooks

We draft and advise on one-off senior management contracts, including restrictive covenants and bonus schemes. We can also provide pro forma contracts for all your employees. Employee handbooks must be regularly updated to reflect changes in legislation. Not only do we regularly review and update handbooks, we also draft them from scratch. We can also help with the drafting of disciplinary and grievance procedures, e-mail, internet, equal opportunities and harassment policies and many other non contractual employment rules and regulations.

We also draft and advise on consultancy agreements, including the tax consequences of proposed and existing consultancy arrangements.

We tailor our documentation to meet your business needs and reflect the culture of your business - we do not believe in 'off the shelf' advice since often this will not fit your needs or provide you with the protection your company deserves.

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Restrictive covenants

When an employee is leaving employment, protection and enforcement of restrictive covenants can be a key issue for your company.

We regularly advise on the enforceability of restrictive covenants and how to gather the information needed to seek or avoid that enforcement.

We are also very experienced in obtaining injunctive or declaratory relief. We take care to consider the impact that such action may have on your workforce and your industry.

Confidential information

If information is power, then a modern business needs to ensure that the access employees have to confidential information is controlled and that it is protected against its disclosure.

Standard confidentiality clauses are often not enough. We advise on how your trade secrets can be best protected, both during and after employment.

Recruitment and ethics

If employees are your greatest asset, they can also be your greatest risk. Over recent years, the fraudulent activities of certain employees have attracted great media attention and, in some cases, have destroyed their employers' businesses.

We have a well established fraud team who also focus on pre-emptive advice, and, in particular, business ethics. We advise on policies and how to operate them effectively, what to do when things go wrong and, most importantly, how to protect yourself against employing the dishonest employee in the first place. Because we have a great depth of experience in dealing with employee fraud, we are in a key position to advise you on preventative measures.

We also advise on drugs and screening policies, to ensure that your business stays fit for the future.

Advising on business acquisitions and disposals

Frequently a price sensitive issue, what happens to employees in a business acquisition or disposal can be fundamental to determining whether a deal is practical or desirable.

We advise on due diligence issues, the transfer of undertakings and harmonisation of terms of employment after the acquisition of a new business.

Our advice seeks to identify and highlight issues of real concern to our clients and leave them free to focus on the bigger commercial picture. We can do this in partnership with our own Corporate and Commercial Department, with

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in-house lawyers or other law firms. Whatever the approach, we seek to provide a seamless service at a time when our clients will inevitably be subject to considerable demands themselves.

Restructurings

Whether you need to downsize your business or vary the contracts of your existing staff, in addition to legal advice, we can help you with your strategy.

We have experience in advising on small and large scale redundancy exercises and variation of contracts. We also defend employment tribunal proceedings in relation to employers' decisions to make employees redundant or vary contracts.

Dismissals

We provide advice on managing the termination of employment, from telephone advice on disciplinary procedures to defending or taking unfair dismissal proceedings in the employment tribunals.

We have vast experience in handling executive terminations, on behalf of both the employer and employee. We draft and advise on compromise agreements and settlement agreements, including tax, pensions and benefits advice. And if things don't work out, we will bring or defend High Court proceedings for breach of contract.

Increasingly we have used mediation to settle such disputes and regularly consider how the process can be utilised at an early stage in contested proceedings.

Discrimination

No organisation would like to think that it would find itself being accused of discrimination. The reality is that, year on year, discrimination claims are rising and there is no end in sight.

At the moment, employees and prospective employees have protection against discrimination on the grounds of sex, race or disability. Over the next few years, the areas covered will be expanded to include age, gender orientation and religious beliefs. We routinely advise on discrimination issues, both before matters become contentious and also in employment tribunals. Having an experienced team supporting you can make the difference between success and failure. We have the experience to make that difference.

In March 2001, the Industrial Society published a book written by James Libson and Joanna Blackburn on disability discrimination. If you are interested in purchasing a copy please contact the Industrial Society on 0870 400 1000.

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Financial services

We have a particular expertise in the financial services sector. Our knowledge of both the regulatory environment and of employment law means that we offer our clients an integrated service. We understand and can anticipate the needs of our clients, whether they are authorised firms or employees subject to regulation. In addition we have personal contacts with the regulators. The services we can offer, whether for employers or employees, include:

- Advising on references
- Dealing with internal investigations
- Compliance advice
- Protecting authorisations and registration
- Managing your relationship with your regulator
- Conducting regulatory and Court proceedings.

Directors' fiduciary duties

In recent years we have frequently been asked to advise directors of both private and quoted companies on the duties they owe the company, particularly in the context of board and shareholder disputes. In times of crisis, many boards get distracted from these fundamental obligations yet in doing so, can face serious personal liability.

Directors with shareholdings: the issues

We have had many years of experience dealing with the problems which can arise when relationships between directors who are also shareholders turn sour. Rather than wait for those problems to happen and watch the business be distracted by expensive and time consuming litigation, we apply our knowledge to advising you how to protect your business while you are building it and how to deal with the inherent conflicts, which can sometimes arise.

The international dimension

As business becomes more international, there is an increasing need to be able to call on specialist advice around the world. We have established networks of local advisors in European, Asian and American jurisdictions and can act as an effective interface in helping solve problems in overseas divisions of your business. By calling on our expertise as UK employment lawyers, we can help identify issues in other jurisdictions and translate that advice into practical solutions to your problems.

Immigration and employment

The increasingly international and mobile nature of the workplace may require you to recruit or transfer staff from overseas. Our specialist immigration lawyers can advise you if and when you need immigration consent for staff and how to get it. Be it work permits or Home Office consents, we understand the commercial need to have key staff in place quickly and efficiently.

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Stricter restrictions and criminal liability on employers means that you can't afford to be without integrated employment and immigration advice.

Training

If your business is going to set itself up to deal with new legislation and changes to case law, it needs to be well informed.

We provide clients with regular briefings on new legal issues, spanning European and domestic legislation and case law. We also run in-house seminars, usually every six months, to update interested clients on the law.

We regularly attend clients' offices to provide training or advice on how to prepare themselves effectively for new developments in employment law. Whatever the concern, we aim to provide pragmatic and practical ways forward so that our clients can face new challenges with confidence.

The Mishcon Employment Group

The Mishcon Employment Group includes four partners, James Libson, Rowena Herdman-Smith, Joanna Blackburn and Adam Epstein together with six assistants and two trainees. It works closely with the firm's Fraud Group, headed up by Gary Miller, and the Immigration Group.

Conclusion

This brochure gives you an insight into some of our areas of business and how we work. We are always happy to discuss how we can tailor our service to fit your needs.

Contact

If you would like to know more about any Employment related services, please contact:

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