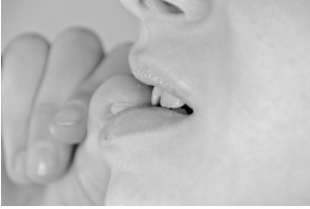


YOUR WEEKLY BULLETIN OF WIT AND WONDER



CELEBRITY SHARES

The little details we could have done without.



UNION FLACK

How stepping around Unite ended badly in tribunal.



SIT UP!

An easy resolution to swallow a Dairylea Deltoid Curve Prism this January!

GREASY, FLOSSY, DIRTY AND FAMOUS

No, not a rival law firm, this is our favourite celebrity news this week - that Orlando Bloom leaves used dental floss lying around.

Bloom's fiancée Katy Perry dished the dirt on the *Lord of the Rings* star on the *Heart Breakfast* radio show this week. 'He has brilliant teeth, but he leaves the floss everywhere,' she told Amanda Holden. Even, it turns out, on her side of the bed and in the car.

Ick.

But it gets better. In a piece of groundbreaking journalism on *Yahoo!* this week is a list of some other celebrity habits that do a lot to take the shine off...

- Barack Obama can't make a bed or remember to put his cheesy socks in the laundry basket, according to Michelle.
- Jake Gyllenhaal thinks bathing is a waste of time, claiming: 'We naturally clean ourselves.'
- Backing him up are actors and celebrity environmentalist couple Kristen Bell and Dax Shepard, who admit they only bathe their kids when they smell.



- Twilight star Robert Pattinson is on board with the 'not washing your hair' thing. He says he's gone six weeks without shampoo.
- Graham Norton admits he bites his nails and wants to stop.
- Robbie William has to go one better. He bites his toenails. And has no plans to stop.

Here at Warner Goodman Towers, while we're not cool with toenail chewing, we are wondering whether bathing less is something we should all consider for the state of the planet. Using less hot water, soap and shampoo is also good for the budget as fuel and household bills soar.

I am now drawing up a CRITICAL STINK CHART for the team. We'll keep it in the staff kitchen, with a freely accessible book of stickers in the shape of toxic green mushroom clouds. As the weeks pass, we can all, anonymously, put a sticker alongside the name of the person who we think is getting a bit whiffy.

When any of us hit five stickers, it's generally agreed that this person NEEDS a shower before they come in tomorrow. Freshly showered colleagues can remove their stickers and wait for the next five to accumulate.

Mark my words, you'll all be following our lead...

Are there any other celebrity habits you know of? Let us know over on our Facebook page.

KOSTAL'S COSTLY MISTAKE

And speaking of critical collective decisions brings me neatly to the case of *Kostal UK v Dunkley and others 2021* in which the Supreme Court considered whether an employer who was engaging in pay negotiations with a recognised trade union had acted unlawfully by making an offer directly to workers before the collective bargaining process had been exhausted.

The workers bringing the claim were members of Unite, a union which was recognised by the employer, Kostal. In December 2015, Kostal made an offer to the union to increase pay by 2% and pay a 2% Christmas bonus in exchange for changes to terms regarding overtime, breaks, and sick pay. The union rejected this offer. The company then approached the workers directly with the same offer, circumventing the union. The workers were told that if the offer was not accepted they would not receive the Christmas bonus for that year. Following another unsuccessful negotiation with the union, both Kostal and Unite agreed to refer the matter to ACAS.

In January 2016, the company made another direct offer to those workers who had not yet accepted the direct offer made in December. They were informed that if agreement could not be reached their employment might be terminated.

In May 2016, workers filed a claim in the Employment Tribunal (ET) that by making an offer directly to the workers, the company had violated the Trade Union and Labour Relations (Consolidation) Act 1992 ("TULRCA 1992").

The ET decided in favour of the workers and ordered the company to pay a statutory award of £3,800 to each worker for each direct offer they received. The total amount to be awarded was £421,800. The case was then appealed through the Employment Appeal Tribunal (EAT) and the Court of Appeal, all the way to the Supreme Court for the final word on this matter.

At the centre of this case was the interpretation of section 145B of TULRCA 1992 and whether the direct offers, if accepted, would achieve the "prohibited result," i.e. that the workers' terms of employment, would not (or would no longer) be determined by collective bargaining with the union.

The company argued that they had not infringed section 145B because the direct offers were not an inducement for the workers to completely relinquish their collective bargaining rights (either permanently or temporarily). The direct offers were a temporary arrangement while the company continued to negotiate with the union.

The majority in the Supreme Court rejected this argument, finding that 145B is infringed when an employer makes a direct offer to workers before the collective bargaining process has been exhausted. Kostal had not exhausted its collective bargaining process when it made the direct offers, as it had referred the matter to ACAS. The Supreme Court therefore upheld the workers' claims and restored their financial awards.

However, the Supreme Court also rejected the argument that any direct offer made by an employer to its workers would be a breach of TULRCA 1992, as this would give trade unions an effective veto over any new contractual terms.

Employers may make a direct offer to their workers where they genuinely believe that the collective bargaining process has been exhausted. This includes any dispute resolution step, such as referral to ACAS. Employers with a recognised trade union should review their collective bargaining processes to ensure that the process to be followed is clear, and that they can easily determine when the process has been exhausted.

EVENTS SEASON

2021

FEB 2
HR Hangout -
Challenges for HR
in 2022



EAT AT 90 DEGREES



We do love to offer you good advice, as many of you (especially our Peace of Mind members) will know. So here's one. Eat in an upright position. Hanging upside down and eating, say, a Dairy Lea Cheese Triangle, is not a good idea.

Because you might not know this. Or your children might not. A TV advert for the processed cheese portions* has this week been officially banned by the Advertising Standards Authority, after depicting two girls hanging upside down while one ate a Dairy Lea Cheese Triangle.

Although choking when upside down is unlikely, thanks to the way gravity works, the ad was deemed unsafe after it got 14 complaints, including one from a parent who said their three-year-old was trying to eat upside down.

Inverted Dining, as we like to call it here in Warner Goodman Towers, is obviously unwise, which is why we're all agreeing not to do it for the whole of the rest of January. We hope you'll all join us and report the benefits of doing something that you were actually going to do anyway. We assume.

Eatuprightanuary!

The odds of you not achieving this goal are very small.

Go us!

**Actually not triangles. I hate to be pedantic but a triangle has three straight sides and I think we'll all find that the presenting plane of DCTs is two straight edges and one curved edge. Which makes them... something else. Possibly a deltoid curve prism. Well, they'll always be Dairylea Deltoid Curve Prisms to me...*

Peace of Mind

Do you want to save your business time and money, and reduce stress?



“A true class act; every company should have them on their speed dial!”

Contact us today on

023 8071 7717 or email peaceofmind@warnergoodman.co.uk to find out how **Peace of Mind** can help you.

Are you looking for us on Facebook?

If you haven't liked us already, follow the link below...



... And after liking us on Facebook, why not follow us on Twitter?



Sarah Whitmore
Partner
023 8071 7462



Howard Robson
Partner
023 8071 7718



Emma Kemp
Associate Solicitor
023 8071 7486



Natalie Rawson
Associate Solicitor
023 8071 7403



Louise Bodeker
Solicitor
023 8071 7448

DISCLAIMER

While every effort is made to ensure that the contents of these newsletters are up-to-date and accurate, no warranty is given to that effect and Warner Goodman does not assume responsibility for their accuracy and correctness. The newsletters are provided free of charge and for information purposes only. Readers are warned that the newsletters are no substitute for legal advice given after consideration of all material facts and circumstances by an experienced employment lawyer. Therefore, reliance should not be placed upon the legal points explained in these diaries or the commentary upon them.

UNSUBSCRIBE

If you do not wish to receive future editions of this newsletter, please simply reply to the e-mail and include the word "Unsubscribe". Click [here](#) to view our Privacy Policy on how we hold and process your data.

COPYING THESE DIARIES ON TO OTHERS

While the author retains all rights in the copyright to these newsletters, we are happy for you to copy them on to others who might be interested in receiving them on a regular basis. You are also welcome to copy extracts from the newsletters and send these on to others who may be interested in the content, provided we are referenced as the author when doing so.