

YOUR WEEKLY BULLETIN OF WIT AND WONDER



### STEP BY STEP AND DAY BY DAY

Lead me away from temptation to buy more petrol



### SHAM ON YOU

The EAT decides a redundancy was a fake and awards accordingly



### GETTING VERBY

We have redeployed a jubilant word

## WALK THIS WAY

Who wants to sponsor me for a marathon?

I haven't fully decided but I'm thinking it will be a marathon done in stages - two lots of two hours a day across three days. This may not actually be classed as a marathon but stick with me here. I might actually do several staggered marathons.

Because with this week's news that the cost of fuel is set to hit around £100 a tank, I'm seriously thinking about *walking* from Bishops Waltham to Southampton and back each day. According to Google Maps it would take about two hours each way.



I mean, OK, it will lengthen my working day somewhat, but what if I start dictating correspondence into voice recognition software as I go? Or make calls to clients whilst perambulating? They do say that walking and talking is much better for your performance, don't they? My productivity could soar - and the ambient birdsong/rumbling HGV audio might bring out the kindred spirit in my clients and encourage them to do the same.

Of course, I could just get an electric scooter, but that still needs charging and the cost of electricity is going up, too. Also, I'm not loving the look of it. I'd have to wear a helmet, and the hat hair that would follow is just not worth it.

The cost benefit of walking it is obvious but also... the fitness! How toned are my calves going to be by the end of the summer?

Nagging thought, though... will I actually spend more on restorative chocolate than I would otherwise on fuel..?

Hmmm. As you were.

WHAT alternative mode of transport are you considering? Scooter? Push bike? Pony? We'd love to hear about it over on our Facebook page.

And speaking of redundant ideas brings me to the case of *White v HC-One Oval Limited* 2022, the Employment Appeal Tribunal decided that even though an employee had volunteered for redundancy, this did not bar her from bringing a claim for unfair dismissal.

Ms White began working for HC-One Oval Ltd in 2013 as a part-time receptionist. In late 2017 she carried out additional administrative and receptionist duties, without any additional pay, whilst a colleague was off sick. Ms White consequently raised a grievance over the fact that she had taken on extra work and had not been paid for it. Her grievance was dismissed by her employer.

In June 2018 a new receptionist was hired. A few months later the company announced a proposal to reduce the number of employees working in a receptionist or administrative role. The company started a redundancy process and Ms White was provisionally selected for redundancy along with other part-time staff and a staff member who had been off sick.

Ms White volunteered for redundancy, which was accepted by the company, and her employment was terminated in October 2018.

Ms White claimed she had been unfairly dismissed because the company failed to follow a fair redundancy process. She argued that the redundancy was a sham on the basis that the company had taken on a new full-time receptionist two months before it started the redundancy process, who was retained to do both reception and administrative work. Ms White argued that she was targeted as the company wanted to replace the part-time staff with full-time staff - and also because she had raised a grievance.

The company disputed Ms White's claims, arguing that she had been offered an alternative administrator role but that she had rejected this and instead requested voluntary redundancy. The company asserted that Ms White had therefore been fairly dismissed for redundancy and that her claim should be dismissed because it had no chance of succeeding.

The Employment Tribunal found in favour of the company and held that Ms White's claim had "no reasonable prospects of success" and was "fundamentally flawed".

Ms White appealed to the EAT. The EAT allowed the appeal and remitted the case back to the ET for a full hearing. The EAT made it clear that when an employee requests voluntary redundancy, they are agreeing to be dismissed for redundancy. They are not resigning and therefore can bring a claim for unfair dismissal. The EAT also highlighted that the ET should not strike out a claim where the central facts are disputed, such as in this case, where the parties did not agree on whether there was a genuine redundancy situation. The EAT reasoned that even where a tribunal is satisfied that the reason for dismissal is redundancy, it should still examine whether the redundancy process was fair. The EAT concluded that the "fact that [Ms White] had requested voluntary redundancy did not mean that her complaints about the process that had led her to make that request were irrelevant; a claim of unfair dismissal in these circumstances cannot be assumed to be 'fundamentally flawed'".

This case establishes that an employee may bring an unfair dismissal claim, even when they have voluntarily been made redundant. Employers must therefore treat requests for redundancy very carefully and ensure they always follow a fair process.

## EVENTS SEASON

# 2022

JUN 30

HR Hangout - Practical Management of the Mental Health process: from concern to reasonable adjustments

JUL 19

Practice Makes Perfect Masterclass

OCT 6

Settlement Agreement Masterclass

NOV 23

Litigation Lessons Masterclass



## ALL BUNTED OUT?



Sounds like nonsense? Nonsense!

And I base this on Clare Balding who - as a BBC stalwart - has happily gone with 'medalling' over the past decade. I'm certain we had never heard such a verb prior to the 2012 Olympics. At first I was taken aback, wondering who these olympians were who kept meddling in stuff, like the cast of Scooby-Doo. But no. Medalling as in 'to get a medal'.

I do hope you all had a lovely jubilee with much cake, music and bunting - and very little rain. There has been talk around WG Towers of who outbunted who. (Or whom. Never entirely sure about that.)

It didn't take long for the new verb to be accepted widely, so I'm now championing the post-jubilee birth of another.

**BUNT** - *verb* - to put up bunting.

Nouns becoming verbs is a bit of a thing. You may have bunted for the

**BUNTING** - *noun/verb* - a line of flags for celebratory purposes/to put up a line of flags for celebratory purposes.

first time this year, as you dangled a line of flags out of your front bedroom window. You might have joyfully shouted across to your similarly festooning neighbour:

'Look - I'm bunting!' and meant not that you had *become* a line of flags, but that you were in the process of hanging out your line of flags.

We can add BUNTED (to have concluded putting up a line of flags for celebratory purposes) and

BUNTLESS (for those of us who went down The Range too late and couldn't get any).

No need to thank me. I do this so you don't have to...

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