

### An Oral promise Beats a Contract

*“Recently an employer failed in their attempt to recover a large golden hello that formed part of pre-contract discussions, why?”*

Golden hellos are quite common when recruiting at senior or key levels and agreements are commonly verbal. In a recent case Thinc Group (T) v Armstrong (A). Mr & Mrs A were financial advisors who were required as part of the acquisition of their business by T. The As were offered verbally £243,000 for their goodwill on sole condition that they stayed with T for 3 years. A written contract then followed which gave T the right to terminate “at any time on notice” with full repayment of the above monies. The As refused to pay up & a subsequent High Court hearing held that the verbal agreement prevailed.

T’s case failed as the written contract failed to include a clause that it formed “the entire agreement” & therefore failed to exclude prior discussions.

### School Leavers need better skills!

*“Business groups report that school leavers are not properly prepared for employment & the workplace”*

The Federation of Small Businesses (FSB) reports 50% of small business find school leavers lack key skills such as problem-solving, numeracy & possess a poor attitude. There are calls for GCSEs to be changed to provide the appropriate skills & attitudes, the FSB holds the same view.

The British Chamber of Commerce has applauded the recent ‘A Level’ results but reports that despite high academic achievement, youth unemployment remains high despite employers being willing to hire & train them. The cause is a lack of work & life skills amongst school leavers. The CBI believes that this issue could suppress long-term growth & competitiveness & also that there needs to be an urgent improvement in the country’s skills base or the UK will lose ground.

### Firm Fined for not Holding Insurance

*“A Sunderland firm has been fined for failing to hold statutory insurance under which employees can claim injury compensation”*

The situation came to light following an investigation into Sun Spirit Ltd by HSE after a tip off. On 16<sup>th</sup> August, Sunderland Magistrate’s Court heard that the company failed to hold Employer’s Liability Insurance during the period 09/02/12 to 13/12/12 and was therefore not covered for any work-related injuries or diseases that it’s employees might have suffered.

Sun Spirit Ltd of Sunderland was fined £750 with £850 for a breach of Section 1(1) of The Employer’s Liability (Compulsory Insurance) Act 1969. Commenting the HSE said “As well as being a legal requirement, Employer’s Liability Insurance offers important protection for employers & employees alike. Failure onto a worker, e to insure is seen as a serious matter & HSE will continue to take legal action where appropriate”

### Asleep on the job? Dismissal

*“Recently an employers’ decision to sack an employee for sleeping on the job was upheld by a tribunal”*

Mr MacPherson (M) was employed by NFT Distribution Operations Ltd (N) in their warehouse and as well was a trade union and health & safety representative. On the day in question he was involved in a near miss with a fork lift truck & was reportedly abusive to the driver. Later in the day M went missing, fearing illness or injury N conducted a search of the premises. M was found in the 1<sup>st</sup> aid room taking a nap.

A disciplinary investigation ensued into both incidents, statements from another employee indicated that M boasted about regularly taking a nap in the 1<sup>st</sup> aid room. N could find no health or other mitigating factors to excuse the behaviour and after a full appeals process, sacked m for gross misconduct. A later tribunal upheld the decision on the grounds that (1) No medical condition (2) The behaviour was not accidental (3) evidence of other occurrences (4) employer not informed of whereabouts.

**Tip:** Always check for underlying causes or mitigating factors.

### Male vs Female Bonus Gap Widens

*“The Chartered Management Institute reports that the gap between the bonuses paid to men & women has widened. Some male managers earn on average double the bonuses of women.”*

The latest yearly report shows on ave. men earning bonuses of £6,442 compared to £3,042 for women. Taking into account basic salaries the ave. figures are men £38,169 & women £29,667. The CMI reveals that men can expect to earn £141,500 more bonus in a lifetime than their female counterparts. Despite concerted government efforts, there is still a significant imbalance between men & women in management roles from middle management upwards. At entry level women are in the majority but this falls away as seniority rises. The CMI comments that this failure to develop & take advantage of the female skills pool will hamper growth & diversity and calls for more measures on equality, flexible working & sponsorship/ mentoring systems for women.

### Freight Co. Fined £50,000 after injury

*“A Suffolk-based freight company has been sentenced for a series of safety breaches after a forklift truck toppled and spilt its load on to a worker, breaking his back”*

Neil Jennings 56 of Ipswich was waiting for his trailer to be loaded in the yard of Eagle Freight Terminal Ltd when the forklift hit a pothole, toppled over and shedding it’s load of pallets & boxes one of which hit Mr J. Mr J. Suffered multiple vertebrae fractures and can now only perform light duties & can’t carry out everyday tasks without pain & discomfort. HSE found that the yard was pitted with potholes, little traffic management & no instructions regarding workplace segregation. The company was fined £50,000 with costs of £4,501 + £120 victim surcharge after pleading guilty to several breaches & non-compliance with improvement notices. For the full story go to:-

<http://www.hse.gov.uk/press/2013/rnn-e-eagle-freight-terminal.htm>