

RightFocus

Focussing on Legal Issues important to You



Legal500 2008 – Actons continues to excel!

The 2008 edition of The Legal500 – The Clients Guide To The legal Profession has been launched and once again, Actons' expertise has been recognised. This independent guide researches firms on their ability and reputation as well as speaking to peers and clients for an unbiased view of the marketplace across the region.

The firm was ranked in nine key sectors -

- Insolvency,
- Company Commercial,
- Commercial Litigation,
- Debt Recovery,
- Personal Injury (Claimant),
- Commercial Property,
- Employment,
- Personal Tax, Trusts & Probate
- Family Law

Both Nicky Calthrop-Owen and Richard Leman have been ranked individually as Leading Experts.

Chairman Peter Seymour said: "The results highlight the level of expertise and dedication that Actons has to offer. This success is testament to the team ethos across the Firm – congratulations to all. The Firm continues to go from strength to strength and will build on this success over the coming year".

Credit Crunch – Protect Your Business Interests

With the credit crunch starting to bite and a recession predicted, is your business protected? By being pro-active you may be able to minimise your business risks by taking the following steps:

Effective Credit Risk Management

A positive cash flow is the lifeblood of any successful business. Controlling what is spent is only one side of the equation. It is equally important to actively manage the debts that you are owed. When you agree to give customers credit terms, you should recognise that, just like a bank, you are providing credit. The following steps will reduce your risk of not being paid:

Choose Your Credit Account Customers Carefully

Use credit reference agencies or alternatively carry out County Court Judgement checks: those companies with poor records should not be given credit.

Set Appropriate Credit Limits

Set appropriate credit limits for each customer in line with their individual likelihood of failure. Monitor these limits in accordance with track records and don't give credit above a set limit.

Agree Precise Credit Terms

Issue written terms and conditions before giving credit. Make sure customers agree your terms. Don't be caught out agreeing to trade on customers' terms. Specify how many days' credit you are providing. Specify an interest rate that will apply if payments are late.

Personal Guarantees

Consider asking for personal guarantees from your customers' directors. Carry out credit checks on the directors to make sure they could honour their guarantees.

Reserve Title

Make sure that your terms and conditions state that you own your goods until you have been paid all outstanding monies. This will help to protect you in the event that your customer becomes insolvent.

Monitor And Take Prompt Action

It is vitally important to monitor all credit account customers. At the first sign of default consider: insisting on cash payments for any further orders;

taking personal guarantees from directors (if not already in place);

speaking to your customers - chase the debt and set a clear final date for payment;

recovering any goods supplied subject to a reservation of title agreement;

instructing Actons to take prompt action to recover the debt.

Do not issue further goods or supply further services on credit until overdue accounts are cleared.

Taking prompt action is likely to increase your chances of recovery and may also let other credit customers know that you are not a soft touch.

How Actons Can Help:

- (a) We can provide you with appropriate terms and conditions for your business, or check ones that you currently use and advise on any appropriate changes needed due to recent case law or statute law amendments. We can also advise on setting up a system to ensure that your terms and conditions govern the contracts you enter into;
- (b) We can act promptly and cost effectively in suing customers who default - the sooner you instruct us, the more likely it is that we can recover the money you are owed. It may only take one letter.
- (c) If a customer becomes insolvent we can help protect your interests by liaising with the liquidator.

If you would like to have a confidential discussion about insolvency related issues please contact Nicky Calthrop-Owen, Actons licensed insolvency practitioner and Head of Insolvency or a member of her team. If you would like more information about how we can help you with credit control and debt recovery please contact Yvonne Thomas. Our telephone number is 0115 9 100 200.



Nicky Calthrop-Owen



Yvonne Thomas



Ensuring acceptable Internet use

Most businesses understand that they need to implement and enforce a number of policies to ensure they comply with the demands of the law. Policies governing employment, discrimination and data protection, for example, are regarded as vital in protecting the business from the risk of legal action.

So it is surprising that a report from Websense highlights that 23% of small businesses surveyed do not require their employees to sign up to an Internet use policy, while 16% have no policy in the first place. This means that virtually 40% trust their employees not to misuse Internet access. In a world where almost a third of workers admit to downloading music or video at work, this looks like a triumph for optimism.

Business Link recommends that every business should require its employees to sign up to an Internet 'Acceptable Use Policy' (AUP) that can then be monitored to ensure compliance. It should identify specific actions that break the rules of the business, including:

- visiting Internet sites that contain obscene, hateful, pornographic or other illegal material
- using the computer to perpetrate any form of fraud, or software, film or music piracy
- using the Internet to send offensive or harassing material to other users
- downloading commercial software or any copyrighted materials belonging to third parties, unless this download is covered or permitted under a commercial agreement or other such licence
- hacking into unauthorised areas
- creating or transmitting defamatory material
- undertaking deliberate activities that waste staff effort or networked resources
- introducing any form of computer virus into the corporate network

Simply having an enforceable AUP in place reduces the risk of legal action. If you require help in formulating one, speak to a qualified and experienced employment specialist.

Tax relief on staff training

It might be a surprise to learn that money spent on training does not automatically qualify for tax relief. It actually depends on two factors: who pays for it; and what it is designed to achieve.

If the employer pays for training, it will generally be eligible for relief – provided it is aimed at enabling employees to do their jobs better. This is even the case if the training covers generalist, 'soft' skills that do not rapidly deliver an identifiable advantage.

The situation is very different when the employee pays for his or her own training. Tax relief is not normally given, except when the training is required as an absolute necessity for the employee to carry out their own job. So it will not qualify, even if it solely is designed to help them do their job better, or if it enables them to carry out a new job.

In addition, when an employer reimburses an employee for training they have paid for, this will be seen as a benefit in kind that is taxable.

Any business with a training need that is likely to be costly, however it is paid for, should take professional advice on how best to approach it.

The realities of renting

As businesses seek to lower their costs during these tougher economic times, many companies that currently rent their premises may be considering moving to a less expensive property, reducing the space they occupy or negotiating a rent reduction.

Whilst achieving any of these aims can be difficult, you might be surprised to learn that negotiating a rent reduction could be the easiest – landlords are realists, and may well regard accepting a lower income from a known tenant as preferable to taking on the risk of an unknown quantity or leaving the property vacant.

The other options largely depend on the specific content of the original tenancy or lease agreement. Before making the decision to move, ensure that you are familiar with its details, paying close attention to notice terms, dilapidations and payments for utilities, rates and insurance. The timing of when you give notice can have a major impact on costs. If you plan to sublet or assign your lease to another business, make sure that you are not responsible for their debts if they default.

It is important to take professional advice from a commercial property lawyer before you make any final decisions. The costs of getting it wrong can be significantly greater than any savings you might stand to make.





Complaints can count!

Proof, if it is needed, that making a complaint about anti-social behaviour can have the desired effect was confirmed this summer by the story of a man whose CD collection and hi-fi system was destroyed by council officials.

Karl Wiosna, from Graig near Pontypridd in South Wales, used to play music so loudly that neighbours could easily hear the lyrics in their own homes.

He persisted even after an official warning by the council and a legal notice under the Environmental Protection Act. When finally taken to court this summer, he admitted making a breach of a noise abatement order, was fined £200 plus £50 in costs and had to hand over his CDs and stereo for disposal.

Rhondda Cynon Taf councillor Mike Forey believes there is a message in the story for others. "I hope it serves as a reminder that we can take them to court and seize their belongings if they do not cease causing a nuisance to others."

Anyone needing help in a neighbourhood dispute may benefit from professional advice, whether in taking a private prosecution or lodging a complaint with their local council.

Would you credit it?

The UK's three leading credit reference agencies – Experian, Equifax and CallCredit – are combining their resources to give identity fraud victims an easier route to putting their credit record straight.

From now on, anyone who is worried that they might be a victim of identity fraud needs to contact only one of the agencies, which will automatically notify the other two. They will then work together to restore the victim's credit file, advising banks, insurance companies, credit card companies and other financial services providers that a fraud has taken place.

The new initiative has been set up in response to a call from the National Consumer Council (NCC) to reduce the stress experienced by identity theft victims. According to senior NCC Policy Adviser Anna Fielder, "We fully support this initiative – it simplifies the whole process of sorting out the mess left behind by fraudsters and helps victims get their finances back on track."

Home Office statistics show that many people could benefit from the new system. Identity theft affects over 100,000 people annually, and the associated fraud is estimated to cost victims a combined £1.7 billion.

Cooling off on doorstep selling

Since the 'Cancellation of Contracts Made in a Consumer's Home or Place of Work etc Regulations 2008' came into force in October, the law governing traders who enter into contracts with customers at their homes or workplaces has been simplified.

The regulations give consumers more protection by extending current law on the established seven-day 'cooling off' period and cancellation rights, that cover agreements made during an unsolicited visit to the consumer's home when the value is £35 or more.

Now, consumers have the right to change their minds at any time during the cooling off period of a minimum of seven days on transactions, worth £35 or more made during solicited or unsolicited visits to their own or other people's homes, workplaces or on excursions the trader organises away from their premises.

These cancellation terms must be displayed clearly on any contract or, when there is no written contract, provided in writing. So, as well as ensuring that they show you some form of valid identification, do be sure to ask about cooling off if you are not completely comfortable with the quality or usefulness of any goods or services that a doorstep trader offers you.

While enforcement may be difficult, it will at least show them that you understand your rights, possibly leading to better service – but if you feel you have been the victim of undue pressure, do be sure to report the incident to your local Trading Standards office.





The Perfect Fit...

Actons has served industry and commerce in Nottingham and the East Midlands for close to two hundred years, evolving, adapting and growing in response to the needs of its clients. Trawling through the archives of Nottingham, one can find records of the "original" Frederick Acton dating back to the early 1800s, when he practiced from offices on Low Pavement.

Through the years, Actons Solicitors has built a solid reputation for providing high quality legal services that are primarily based on a practical approach - taking full account of the needs of our clients.

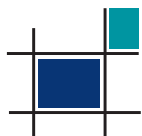
Actons operates two main departments - Business Services and Individual Services.

BUSINESS SERVICES

- Corporate & Commercial
- Dispute Resolution
- Debt Recovery
- Insolvency & Corporate Recovery
- Commercial Property
- Employment Law

INDIVIDUAL SERVICES

- Personal Injury
- Moving House
- Family Dispute Resolution
- Wills Trusts & Probate
- Equine Law



actons
solicitors

Actons Solicitors
20 Regent Street
Nottingham NG1 5BQ
Tel: 0115 9 100 200
Fax: 0115 9 100 290
Email: enquiries@actons.co.uk
Website: www.actons.co.uk

Personal injury awards – why the gap?

Have you ever wondered why there is such wide disparity between the personal injury awards made to different claimants? During the summer, several observers commented on the £4.5 million award made to promising footballer Ben Collet, whose career was cut short by a badly broken leg.

In the meantime, people who have been victims of crime, including violence, regularly receive far smaller pay-outs – particularly when the perpetrator is unknown.

The primary reason for this disparity was that Ben's was a 'fault' case, where another footballer and his club (Middlesbrough FC) were known to be responsible for the injury. This meant the case could be heard in court, taking into account factors such as the loss of past and future earnings – and as one of England's most promising stars at the time, Ben was clearly set for a very high income.

If a perpetrator is not caught, however, a case is regarded as 'no-fault'. This means that reparation is paid by the state, with a fixed set of guidelines in place to determine how much should be paid. In a case of violent crime, awards are made by the Criminal Injuries Compensation Authority (CICA), whose guidance, for example, proposes £1,000 as appropriate compensation for a victim who suffers an undisplaced fractured nose.

While this might not be immediately seen as a fair solution, there are many countries where no compensation at all is available in no-fault cases. With the support of a good personal injury solicitor, every UK citizen has the opportunity to win a financial award appropriate to their loss.



Avoid making an allegation public!

Be very careful if you make an accusation against someone by email – particularly if you copy it into people other than the person you're accusing.

A recent case highlights this need for care. Before Salford University lecturer Dr Tom McMaster attended a conference in Ireland, he first gained the permission of his employer to travel there by boat. When he submitted a £180 expenses claim for the costs of the trip, however, it was rejected.

When he questioned the decision, he received an email from the university's then finance director, which alleged that the claim was fraudulent. Critically, this mail was copied into four of Dr McMaster's colleagues.

Dr McMaster instructed lawyers to demand an apology, only to receive a repeat of the allegations. He then took the university to the High Court to clear his name and seek damages, receiving £10,000 in libel damages. The cost to the university of defending the action is unknown.

In sharing his allegations with the people on the original email's circulation list, the finance director was effectively libelling Dr McMaster – a step that resulted in significant costs being awarded against his employer.

So anyone who doubts the probity of another person would be well advised to ensure that all communications remain on a one-to-one level!