TUPE and ‘organised groupings’

In Ceva Freight (UK) v Seawell, Mr Moffat was employed by Ceva Freight, a logistics and freight company, and worked in the “outbound team”. Although the team worked for a variety of clients, unlike his colleagues, Mr Moffat spent 100% of his time working on the account of one client, Seawell. In fact, Mr Moffat’s contract specifically said that he had been employed for the purpose of enabling the contract with Seawell to be performed.

Woolworths spurs landmark decision

Under UK law, a duty to inform and consult employees as a group is triggered when an employer is proposing to make 20 or more redundancies at ‘one establishment’ in a 90 day period. If the duty is breached, a ‘protective award’ can be claimed of up to 90 days’ gross pay per employee. This appears to be at odds with the European Directive (on which the UK legislation was based) which does not refer to the need for employees being at “one establishment” in order for the consultation obligations to apply.

Tribunals more willing to make costs orders against employees

In employment tribunal litigation, both parties usually bear their own costs. However tribunals do have the discretion to award costs orders against parties who have ‘acted vexatiously, abusively, disruptively or otherwise unreasonably’. Historically, this power has been exercised rarely but a couple of recent cases suggest that the tide is beginning to turn.