

Court upholds 12 month non-compete restriction

The High Court held that a 12 month non-compete restriction entered into as part of a sale of goodwill against a financial adviser was enforceable. The court allowed this long post-termination restriction on the basis that the goodwill agreement in place between Mr Cooper and Merlin was nearer to a business sale agreement than an employment contract.

Repeating a restrictive covenant in an undertaking

The High Court held that it was not proportionate to order an injunction against the former employees of Capgemini to enforce their post-termination restrictions. The restrictions, if enforced, would have prevented the employees from working for a competitor of Capgemini who had been awarded the contract that Capgemini had lost. The court, with a view to the fact that there was no prospect of Capgemini regaining the contract and the pending expiry of the restrictive covenants, held that damages were an adequate remedy and refused to grant the injunction.

Court order allows imaging and inspection of ex-employees' computers

The High Court granted an order allowing an employer to appoint a computer expert to inspect and take images of the computers of two former employees after information came to light in the course of tribunal proceedings that, in breach of their employment contracts, the employees had misused confidential information belonging to their employer during their employment.

Court refuses musicians specific performance of their contracts

Musicians in a play at the National Theatre made an application to the High Court for specific performance of their contracts (i.e. that the High Court should make an order that they be reinstated rather than simply get damages) after their dismissals following a decision that their performances would be replaced by recorded music. The High Court refused to grant the application because such orders should only be granted in exceptional cases and on this occasion, the musicians' interests would be adequately protected by damages.

Court of Appeal rules that poor treatment of vulnerable migrant workers because of their immigration status was not race discrimination

The Court of Appeal has held that the poor treatment of vulnerable migrant workers because of their immigration status is not race discrimination.

EAT holds TUPE transfer has taken place after share sale

Normally, a share sale would not constitute a TUPE transfer because the identity of the employer does not change. However, the courts have accepted that there may be a transfer of an undertaking to a holding company or a sister company following a share sale. In this case, the control exercised by the parent company of the purchaser of the target's shares and extensive integration exercises carried out by it led to the judgment that there had been a TUPE transfer.

Court overlooks drafting error to enforce restrictive covenant

In *Prophet plc v Huggett* [2014] EWHC 615, the High Court overlooked a drafting error to enforce a 12 month restrictive covenant which, if interpreted literally, would have been unenforceable. The clause restricted the employee from being engaged or employed in connection with products he was involved with during his employment. As these exact same products would not be sold by a competitor, the clause was effectively useless but the court treated this as a drafting error adopting what it believed to be the true intentions of the parties to cover products similar to those that the employee had dealt with whilst employed.

Error in employer's letter to disabled employee not relevant when considering objective justification

In *Crime Reduction Initiatives (CRI) v Lawrence* UKEAT/0319/13, the EAT held that a poorly drafted letter inviting the claimant to a disciplinary meeting when it should have referred to a capability meeting which had the effect of deterring her from attending was not relevant to the question of whether her employer had been objectively justified in deciding to dismiss her.