Former employees can claim protection from retaliation for whistleblowing

In Onyango v Berkeley, Mr Onyango, a solicitor, claimed that as a result of accusing his former employer of acting illegally, he was reported to the Solicitors Regulation Authority for forgery and subject to an investigation by the SRA.

ACAS Code is not quite the Holy Grail for dismissal procedures

In Buzolli v Food Partners, the Employment Appeal Tribunal found that an employer's decision to dismiss was fair even though the dismissal procedure was not fully compliant with the ACAS Code.

Employer tries to dismiss employee over a disagreement

about money

In Handshake Ltd v Summers, the Employment Appeal Tribunal found that a breakdown in trust and confidence between an employer and employee, did not entitle the employer to rely on "some other substantial reason" to dismiss the employee.

Volunteers have no protection under discrimination law but interns do

In X v Citizens Advice Bureau, X signed a volunteer agreement to work four to five hours a week for a Citizens Advice Bureau. The volunteer agreement specifically stated that it was "not an employment contract or legally binding". The CAB subsequently asked the volunteer to stop working for the organisation. She claimed that this was disability discrimination.

Wearing crosses / Tensions between rights of homosexuals and religious groups …at work

To the great joy of the Daily Mail, in the much publicised case of Eweida and Ors v UK, the European Court of Human

Rights ruled that Nadia Eweida, a practising Christian and British Airways check in worker should not have been prevented by BA from wearing a visible plain silver cross necklace. Whilst the European Court agreed that BA's aim to promote their corporate image was reasonable, there was no evidence that employees wearing religious items had a detrimental impact on that image. The European Court decided that there had been a breach of Ms Eweida's right to manifest her religion. The fact that BA subsequently amended their uniform policy demonstrated that the earlier prohibition was not very important.

If you're one of two employers being sued, don't be the first to settle

In Optimum Group Services Plc v Muir, Optimum lost a key contract. They thought Mr Muir's employment should transfer to the new providers, Beaumont, under TUPE. The new providers denied this and said that Mr Muir was redundant and should claim payments from Optimum. Mr Muir ended up with no job and no redundancy payment so sued both Optimum and Beaumont. Mr Muir reached a settlement with Beaumont before the hearing where they agreed to pay him £20,000. He continued his claim against Optimum and won. The Tribunal found that Mr Muir had been unfairly dismissed by Optimum. In calculating the compensatory award for unfair dismissal, it decided not to deduct the £20,000 settlement payment from Beaumont because to do so would give Optimum, who had behaved badly, a 'windfall benefit'. The Employment Appeal Tribunal held that the first tribunal had got it wrong. A Tribunal, when calculating

compensation for unfair dismissal, should only consider what actual financial loss was suffered by a claimant as a consequence of dismissal. The Tribunal cannot enable a claimant to profit financially irrespective of the circumstances. The Tribunal also erred when it sought to penalise Optimum for its behaviour towards Mr Muir.

Employee-Owner status: shares for staff instead of employment rights

Probably the most radical reform proposed by the Government is the new ‘employee owner’ status, whereby employees will forfeit major employment rights (like unfair dismissal) in exchange for employees being given shares in their employer worth £2,000 or more. These shares will be sold back to the employer for a reasonable price and up to £50,000 worth of shares will be exempt from Capital Gains Tax (CGT) at the point of sale. This is due to come into force in April 2013.

Employers can rely on unrelated earlier disciplinary warnings to

dismiss an employee for misconduct

In Wincanton v Stone, Mr Stone was employed as a driver for Wincanton. In 2009, Mr Stone received a first written warning for being insubordinate. In 2010, Mr Stone breached Wincanton's health and safety rules when he pulled out of a loading bay when the light was red. This was not an act of insubordination but carelessness. Wincanton dismissed Mr Stone on the basis that the earlier warning "tipped the balance" in favour of dismissal, even though the two warnings were for very different types of conduct.

Volunteers have no protection under discrimination law

In X v Citizens Advice Bureau, X signed a volunteer agreement to work four to five hours a week for a Citizens Advice Bureau. The volunteer agreement specifically stated that it was "not an employment contract of employment or legally binding". The CAB subsequently asked the volunteer to stop working for the organisation. She claimed that this was disability discrimination.

Controversial remarks on Facebook about gay marriage are not ‘gross misconduct’

In Smith v Trafford Housing Trust, Mr Smith posted a link on his Facebook wall to a BBC news article entitled “Gay church marriages set to get the go-ahead” and commented that it was “an equality too far”. In response, his colleague posted a comment on his wall, “Does this mean you don’t approve?”

If employees sue two employers and one settles, the tribunal must reduce the award against the other employer to ensure the employee does not “double recover”

In Optimum Group Services Plc v Muir, the Employment Appeal Tribunal held that a Tribunal should have deducted a settlement payment received by the claimant from another employer when calculating the award, in accordance with the principle that the same loss cannot be recovered twice.

Government publishes its response to ‘employee owner’ share scheme

In December 2012, the Department for Business, Innovation and Skills published its response to a consultation on how to implement the new ‘employee owner’ scheme, whereby employees will forfeit major employment rights in exchange for taking a stake in their business.. This is an unusually fast response from the Government who only announced the scheme at the conservative party conference in October 2012.