Claire Dawson will be speaking at the 6th Annual IFSEA Conference

On 17 June 2025, BDBF Partner Claire Dawson will be speaking at the 6th Annual IFSEA Conference on a session entitled "Navigating Reverse Discrimination: Addressing Concerns of Those Who Feel Diversity Targets are Working Against Them."

Joining her on the panel will be Regan O'Driscoll at CC Solicitors, Camille Olsen at Seyfarth Shaw and Carl-Fredrik Hedenström at CFH Law.

Register Here

Nick Wilcox speaking at ELA Annual Conference 2025

On 15 May 2025, BDBF Partner Nick Wilcox will be speaking at the ELA Annual Conference in London.

Nick's panel session, entitled "When Employment Duties & FCA Rules Collide: Non-Financial Misconduct and Other Knotty Issues" will look at practical issues faced by regulated employees whose fit and proper status is imperilled and will examine possible solutions presented by employment rights.

Register here

ABA International Labor and Employment Law Committee Midyear Meeting 2025

BDBF Partner Claire Dawson, Principal Knowledge Lawyer Amanda Steadman and Managing Associate Tom McLaughlin will be attending and speaking at the ABA International Labor and Employment Law Committee Midyear Meeting in Madrid (4-8 May 2025).

Amanda's panel session, entitled "DEI Reexamined: How Companies, Employees and Stakeholders are Navigating a Growing

Backlash Movement in the US – and Will It Spread?" will consider this unfolding trend in the US and examine where sentiments lie in Europe, the UK and Latin America.

Tom will be speaking on a panel session about Workplace Surveillance. With advances in AI and in technology generally, the panel will look at how both employers and employees are increasingly using technology in the workplace to monitor behaviour and productivity.

Samantha Prosser speaking at “Discrimination: The Law and Strategy” ELA Webinar

On 24 April 2025, BDBF Partner Samantha Prosser will be speaking at “Discrimination: The Law and Strategy” a webinar with the Employment Lawyers Association (ELA).

The course will explore the practical issues of running discrimination claims, and what strategies can be used for different types of claims.

Samantha will be discussing the claimant perspective, with a focus on assessing the claim and other pre-litigation steps.

[Register here](#)

International Women's Day 2025: Accelerate Action

Introduction

Saturday, 8 March 2025 will mark the 114th International Women's Day (**IWD**). What started in the aftermath of 1,500 women marching through New York City demanding shorter working hours, better pay and the right to vote, is now an internationally recognised day to mark the progress made on women's rights and gender parity.

The theme of IWD 2025 is to "Accelerate Action", calling for increased momentum and urgency in addressing the barriers women face both personally and professionally. In this blog, BDBF associate, Julia Gargan considers the focus on the need to Accelerate Action in the professional world to ensure gender equality in the workplace to inspire others because, ultimately, we need to '*see it to believe it*'.

The current landscape of women in leadership positions

A recent Financial Times' article reported that two of the world's largest professional services firms, EY and PwC, are on track to miss their 2025 targets for female partner representation in the UK, and that all the Big Four are struggling to boost the proportion of women in their upper ranks. The article noted that '*raising the gender balance of partnerships towards parity has proved to be a* ***slow process'*** and, as is often said, this is because building the pipeline '*takes time*'. Given that the drive for gender equality in the workplace is not a new phenomenon and the importance of gender equality and the benefits of a diverse workforce are well known, this begs the question of *how long* building the pipeline is really going to take? How can we accelerate action on this to avoid the pipeline becoming a convenient excuse for the lack of progress?

A reason to #AccelerateAction – the importance of female role models

A 2022 LinkedIn Study found that 57% of women believe that having a relatable role model is crucial to achieving career success and 70% agreed that it is easier to be "*like someone you can see*." Female leaders in the workplace don't just improve a company's bottom line, but they normalise career paths for more junior colleagues, empowering them to take risks by showing them that their career goals are attainable. Female leaders encourage a shift in mindset about what is possible and how to achieve this. They can alleviate the impact of unconscious bias on the role women play in society and the workforce.

How can companies Accelerate Action?

A key way to Accelerate Action, therefore, is to ensure that women are present and visible in corporate leadership. This may be done by setting gender targets, creating clear pathways for women to executive positions and by establishing mentorship schemes and equitable recruitment practices. These policies need to be backed by accountability where targets are not met and a drive to tackle the structural inequalities that hold women back, for example, unequal pay and family leave policies. In this vein, the Government plans to require larger employers to publish annual "equality action plans" explaining the steps being taken to address the organisation's gender pay gap and to support workers going through the menopause.

How can the law #AccelerateAction?

At BDBF we hope to play our part in accelerating action by advising on the legal protections in place for employees and partners in the workplace and the enforcement of these. Be that through advising our employer clients on compliance with discrimination laws, and diversity or family leave policies or by advising employees and partners on their rights when returning from family leave, or where they have experienced gender-based discrimination or harassment.

Conclusion

You can read more about the women's movement and the various International Women's Day events on the IWD website.

BDBF is a leading law firm based at Bank in the City of London specialising in employment law. If you would like to discuss this blog or an employment related issue, please get in touch with Julia Gargan at juliagargan@bdbf.co.uk, your usual BDBF contact or email info@bdbf.co.uk.

New associate hire reflects BDBF's dedication to enhancing their client

services and adapting to the dynamic legal landscape

BDBF, a trailblazer in employment law, is delighted to introduce Esmat Faiz as their newest associate. Esmat worked at the European Court of Human Rights in Strasbourg before qualifying as a solicitor in 2019.

With a strong background in advising employees and employers on complex issues, particularly in relation to preventing discrimination and harassment in the workplace, Esmat looks forward to joining BDBF and contributing to their approach of bringing fresh ideas and innovative solutions to clients' needs.

Her appointment brings the firm's headcount to five partners and 18 associates, in addition to its eight-strong practice team.

BDBF's ability to attract high calibre talent is testament to the quality of its client base, its stellar track record in litigation, the complex and interesting work the team does, and the collaborative approach it fosters.

BDBF has been top ranked by the leading independent directories for acting for senior executives for the last 12 years consecutively. BDBF also has a growing practice acting for employers on their high stakes and high value employment work.

Gareth Brahams, Managing Partner of BDBF said, "Esmat brings an impressive track record of experience in acting on discrimination and harassment matters in the workplace, further strengthening our capabilities in these key areas. I am delighted to welcome her on board."

Esmat Faiz said, "I am delighted to be joining this

outstanding firm and look forward to the next stage in my career working with experts in the field of employment law."

BDBF boosts its employment law practice with new associate hire

Top-ranked, specialist employment law firm BDBF is delighted to announce the recent appointment of Margaret Welford. Margaret started her career in the law with a magic circle firm and most recently worked at a senior level within one of the world's largest banks.

Margaret's appointment demonstrates the continued growth of BDBF and brings the firm's headcount to five partners and 17 associates, in addition to its eight-strong practice team.

BDBF's ability to attract high calibre talent is testament to the quality of its client base, its stellar track record in litigation, the complex and interesting work the team does, and the collaborative approach it fosters.

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Gareth Brahams, Managing Partner of BDBF said, "Margaret's many years of experience in both a magic circle law firm and in-house at a bank will provide invaluable insight to us in helping our clients who work in those environments. Margaret is also very engaging and bright. We are delighted that she is joining our team and will help us deliver more outstanding outcomes for clients."

Margaret Welford said, "I am absolutely delighted to be joining BDBF. It is a stellar practice, offering outstanding employment law advice to its clients. I am looking forward to bringing my expertise to the BDBF team and to working with the best lawyers in the field to deliver employment law advice unmatched by any other London employment law firm."

Claire Dawson speaking at “Reasonable Adjustments – Where Are We Now?” ELA Course

On 13 February 2025, BDBF Partner Claire Dawson will be speaking at “Reasonable Adjustments – Where Are We Now?” a half day course with the Employment Lawyers Association (ELA).

The course will explore the duty to make reasonable adjustments, and covers three key aspects: legal, occupational health, and practical considerations, with a particular focus on neurodiversity.

Claire will be discussing seeking medical and specialist advice on potential adjustments. She will be joined by Kate Dean, Enable; Robert Manson, Haldane Health; and Andrew Smith, 11KBW.

Register here

BDBF expands its associate pool with new hire

Top-ranked, specialist employment law firm BDBF is delighted

to announce the recent appointment of Edward Duthie, who joins us from Clifford Chance.

Edward's appointment demonstrates the continued growth of BDBF and brings the firm's headcount to five partners and 15 associates, in addition to its eight-strong practice team.

BDBF's ability to attract high calibre talent is testament to the quality of its client base, its stellar track record in litigation, the complex and interesting work the team does, and the collaborative approach it fosters.

BDBF has been top ranked by the leading independent directories for acting for senior executives for the last 12 years consecutively. BDBF also has a growing practice acting for employers on their high stakes and high value employment work.

Gareth Brahams, Managing Partner of BDBF said, "We are thrilled to welcome Edward to the team. I am looking forward to him helping us continue to deliver career and reputation-saving outcomes for our clients."

Edward Duthie said, "I'm excited to join BDBF's market-leading team at such a pivotal time in the evolving employment law landscape. I look forward to supporting the firm's clients and learning from the wealth of expertise within the team."

BDBF featured in the IEL Elite guide of the world’s leading employment law practices

We are delighted to announce that BDBF have been featured in the IEL Elite 2025.

IEL Elite recognises the employment and labour law teams that provide innovative and high-value advice to individuals and employers around the globe.

Find out more about our practice from BDBF Managing Partner, Gareth Brahams:

https://www.bdbf.co.uk/wp-content/uploads/2024/10/BDBF-Nov24Promo.mp4

BDBF "Highly Commended" for Senior Executive Team of the Year at IEL Awards 2024

BDBF are delighted to have been "Highly Commended" for Senior Executive Team of the Year at the IEL Awards 2024.

The annual awards recognise the excellence, talent and outstanding achievements of in-house and private practice lawyers across 27 team and individual categories.

Consultation on expanding the remedies for breaches of collective redundancy and

fire and rehire laws

On 21 October 2024 the Department for Business and Trade opened a consultation on proposals for further reforms to the rules on collective redundancy consultation and fire and rehire (the Consultation). The Consultation will run for just six weeks, closing on 2 December 2024. In this briefing, we explain what is proposed and what it means for employers.

Collective redundancy consultation

What is the current position and how will the Employment Rights Bill change things?

Currently, collective redundancy consultation is triggered where there is a proposal to dismiss as redundant 20 or more employees assigned to one "establishment" within a 90-day period. Where 20 to 99 redundancies are proposed, the consultation must begin at least 30 days before the first dismissal. Where 100 or more redundancies are proposed, the consultation must begin at least 45 days before the first dismissal. The question of what counts as an "establishment" has been ventilated in litigation – with the courts concluding that it means the local unit where the employee works, not the business overall.

A failure to comply with these obligations may lead to a "protective award" of a sum not exceeding 90 days' gross actual pay per employee. This award is intended to penalise the employer and disincentivise breaching the rules. The amount of the award is determined by the Employment Tribunal according to what is just and equitable but, in a nutshell, the worse the breach, the higher the protective award and vice versa.

The Employment Rights Bill proposes to change the law to

trigger collective consultation where there are 20 or more proposed redundancies within 90 days across the business overall rather than in just one workplace. This would mean that collective consultation would be triggered more frequently as redundancy numbers would need to be counted across the whole business, even where the redundancies are unrelated. The Government has said that this change will mean that more employees will benefit from collective consultation, including those who are not assigned to a local unit and work remotely.

What is proposed in the Consultation?

The Consultation does not revisit the Bill proposal, but, rather, seeks views on strengthening the remedies available for breaches of the rules.

Raising the protective award

Firstly, the Consultation asks whether the maximum period of the protective award should be raised from 90 days, in an effort to tackle the problem of employers flouting the rules and "buying out" potential claims in settlement agreements. The Government says that an absence of consultation removes the chance to prevent or reduce the volume of redundancies needed. The consultation proposes two options: doubling the cap to 180 days' gross actual pay or removing the cap altogether. In either case, the Tribunal would retain discretion as to the length of the protected award, based on what it determines to be just and equitable in light of the severity of the employer's breach. However, any increased period would not apply to insolvent firms, where the award is paid by the Insolvency Service and is capped at 8 weeks' pay.

Introducing the remedy of interim relief

Secondly, the Consultation asks whether the remedy of interim relief should be made available to affected workers. Interim

relief is a remedy available in a limited number of automatic unfair dismissal claims (e.g. dismissal for having made a protected disclosure). In such cases, the dismissed employee may be able to apply to the Employment Tribunal for interim relief within seven days of the date of termination of employment. If granted, the Employment Tribunal will order the employer to reinstate the claimant to their previous role or re-engage them in a different role pending the determination of the unfair dismissal claim at the final hearing. If the employer is willing to reinstate or re-engage the claimant then they go back to work.

Where (much more commonly) the employer is not willing, the Tribunal will make a “continuation order”, meaning the employer is ordered to pay the claimant as if their employment contract was still continuing, until the final hearing. Sums paid under a continuation order are irrecoverable. This means that a claimant does not have to repay the salary paid even if they ultimately lose their claim at the final hearing. This makes interim relief a potentially very valuable remedy for claimants, and a burdensome one for employers. The Consultation says that extending the remedy of interim relief to employees who have protective award claims would be an additional deterrent to employers against abuse of the collective consultation rules.

Fire and rehire

What is the current position and how will the Employment Rights Bill change things?

“Fire and rehire” is a shorthand used to describe the practice of dismissing an employee then offering to re-engage them on inferior terms and conditions. Currently, this practice is lawful provided that the employer has a good business reason for needing to make change. Since 18 July 2024, employers have

also been required to comply with a new statutory Code of Practice on dismissal and re-engagement. A failure to do so may give rise to an uplift to compensation of up to 25% in certain related claims. Further, where over 20 employees are affected in a 90-day period at one establishment, the employer must also undertake collective consultation.

The Employment Rights Bill will change the law so that it will be automatically unfair to dismiss an employee:

- for not agreeing to change their terms and conditions of employment; or
- in order to rehire them (or hire someone else) under varied terms and conditions for substantially the same role.

The sole exception will be where the reason for the variation was to eliminate, prevent or significantly reduce or mitigate the effect of any financial difficulties which, at the time of the dismissal, were affecting, or were likely in the immediate future to affect, the employer's ability to carry on its business, and there was no way the need to make the variation could reasonably have been avoided.

What is proposed in the Consultation?

Again, the Consultation does not revisit the Bill proposal, but seeks views on strengthening the remedies available for breaches of the rules. The Consultation asks whether the remedy of interim relief (as discussed above) should be extended to employees who have fire and rehire-related automatic unfair dismissal claims. The Government believes that permitting interim relief in this situation would lead to greater protection of employees and further disincentivise employers from using fire and rehire at all.

Interestingly, the Consultation goes on to say that the

Government is considering whether, in fire and rehire cases, adjustments are needed to the interim relief process to ensure that the remedy can work effectively and be determined promptly. Given that the window for applying for interim relief is extremely short (seven days from dismissal), this suggests that the extra time may be afforded in fire and rehire-related cases.

What do these proposals mean for employers?

The Government is satisfied that employers who "play by the rules" will not be subject to any additional burden as a result of these changes. Only those who flout the rules could end up paying significantly more. However, a steep increase to the protective award is likely to deter employers from buying out such claims and force their hand to undertake consultation of either 30 or 45 days instead – which appears to be the aim behind this measure. Indeed, if the cap is removed altogether, it may be impossible to even agree the level at which the claim could be bought out. The Consultation does recognise that removing the cap altogether "could cause uncertainty" for business, which may indicate that the Government is leaning towards a cap of 180 days.

Extending the remedy of interim relief to claimants who have protective award claims or fire and rehire dismissal claims clearly raises the stakes for employers. Breaching the rules in either case would carry not only the risk of a Tribunal award at the end of the litigation but would also present the immediate risk of paying salary until the final hearing, which may be many months away. That said, the threshold for granting interim relief is high – a claimant must show that they have a "pretty good chance" of winning their claim. In whistleblowing claims, this is not straightforward: the claimant has the uphill battle of showing that they are a worker, that they

have made a protected disclosure and that protected disclosure was the sole or principal reason for the dismissal. The result is that interim relief is rarely granted.

However, in a protective award claim, it will usually be clear whether the collective consultation rules have been breached. If breached, even in a minor way (e.g. the consultation fell a day short of the minimum period before the first dismissal), surely it could be said that the claimant has “a pretty good chance” of succeeding in their protective award claim? Although any protective award ultimately awarded might be adjusted downwards by the Tribunal to reflect the minor nature of the breach, it is not clear that the severity of the breach would be relevant to a decision to grant interim relief. As such, in cases of minor breaches, the threat of interim relief will be viewed as a more powerful weapon than the protective award claim itself. It also fast-tracks the case to an early public hearing.

If taken forward, these proposals will raise the stakes in collective consultation exercises (which will occur more frequently as a result of the Employment Rights Bill change). The majority of employers will be forced to undertake consultation and manage it with care to avoid the risk of claims and interim relief applications. Legal advice is likely to be needed to avoid inadvertent and costly errors. Similarly, introducing interim relief on top of a new right to claim automatic unfair dismissal in fire and rehire scenarios will make such dismissals more hazardous for employers. Employers wishing to respond to the consultation have until 2 December 2024 to do so.

Consultation on strengthening remedies against abuse of rules on collective redundancy and fire and rehire

BDBF is a law firm based at Bank in the City of London specialising in employment law. If you would like to discuss any issues relating to the content of this article, please

contact Principal Knowledge Lawyer Amanda Steadman (amandasteadman@bdbf.co.uk) or your usual BDBF contact.