



Michelmores



## HR/Employment Law Update

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# What we're going to cover

- Key considerations when commencing a restructure;
- Conducting an absence management process;
- Making changes after a TUPE transfer; and
- Implementing new policies and procedures

# Restructures: Business Case

- A detailed business case is key
- Ensure it is compliant with your policy
- Need for clear reason and rationale
- Include structure charts or diagrams
- Confirm steps taken to avoid redundancies
- Confirm timings
- ...Get approval from your Board or Governors

# Restructures: Consultation

- Union consultation
- Staff consultation
- Collective consultation
  - 20 or more redundancies within a 90 day period
- Communication is key

# Common redundancy queries

- Should you redeploy?
  - What constitutes a suitable alternative role?
- Can I keep a good temp in favour of a permanent employee?
- Temporary staff might actually be fixed-term workers
  - Same employment rights after 2 years

# Absence Management



# Absence Management

- Keep in close contact
- Consider whether to pause any existing process?
  - Performance or disciplinary
- Work-related stress not often resolved by being off work!
- No need to postpone absence reviews indefinitely
  - Written representations
  - Send a representative
- Stress and mental health issues increasingly common...

**W** News ▸ Wales News ▸ Wales schools

# A teacher with bipolar disorder has been awarded £347,000 after being 'victimised and bullied'

Nicola Sinclair lives on benefits in a caravan after she was forced to resign from Bishop of Llandaff Church in Wales High School

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BY ABBIE WIGHTWICK  
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**NEWS**





But...

- Herry v Dudley MBC
  - Stress not held to be a disability... 'unhappiness with a decision or a colleague, a tendency to nurse grievances or a refusal to compromise...are not of themselves mental impairments: they may simply reflect a person's character or personality'.

# Occupational Health

- Advice before any dismissal on health grounds
- OH provider or independent doctor
  - Doctor can prove more robust, but more expensive
- Can dismiss even if a disability
  - Provided exhausted all options for reasonable adjustments

# Changes after a TUPE transfer

- TUPE protects T&C's
- Can only change if an ETO reason
  - Economic, technical or organisational
- Can usually find an economic reason!
- Most common change is to policies...

# Changing policies and procedures

- Maintained schools had local authority policies
  - Consulted on with unions
- Process for implementing policies similar to restructure
  - Need for consultation with unions

# Changing policies and procedures: Consultation and Implementation

- Draft and approve new policies first
  - Board level approval
- Provide copies to union and invite to consultation meeting
- Sometimes unions don't show up – other times more contentious
- Very common now, so unions expect this

- Any Questions?