

**Legal advice privilege only extends to lawyers**

In [R \(on the application of Prudential plc\) v Special Commissioner of Income Tax](#) Prudential sought to claim legal advice privilege in respect of legal advice provided by PricewaterhouseCoopers ("PwC") who had devised a marketed tax avoidance scheme which PwC adapted for the benefit of the Prudential group of companies, who implemented the scheme through a series of transactions. Prudential refused to disclose certain documents to the inspector of taxes on the ground that legal advice privilege applied because they related to PwC giving them legal advice in connection with the transactions. The Supreme Court held, by a majority of five to two, that legal advice privilege cannot be extended to communications in connection with advice given by professional people other than lawyers, even where that advice is legal advice which that professional person is qualified to give. To do so would extend legal advice privilege beyond what are currently, and have for a long time been, understood to be its limits

Comment: The ruling by the Supreme Court confirms that it continues to be the case that only legal advice given by members of the legal profession to their clients is protected by privilege (except where the subject matter of that advice is connected with litigation). That protection is denied for the same legal advice emanating from any other profession.

New quarterly tribunal statistics published

The Ministry of Justice has published [statistics](#) in relation to all types of tribunals (including employment tribunals) for the second quarter of 2012-13, for the period 1 July to 30 September 2012. Between July and September 2012, employment tribunals received 45,300 claims in total – 13 per cent more than in the same quarter of 2011-12. The increase was as a result of the rise in multiple claims (particularly those associated with Working Time Regulations). The number of receipts of multiple claims went up by 25 per cent, whilst the number of single claims went down by 9 per cent, continuing a downward trend. In July to September 2012, there were 27,300 disposals made by employment tribunals – a 1 per cent fall on the number for the same quarter of 2011-12. The number of single disposed cases decreased by 10 per cent, whilst those for multiple cases went up by 10 per cent.

Consultation on reforming employment agencies/businesses regulatory framework

The BIS has published a [consultation](#) on its proposals for reforming the regulatory framework for employment agencies and employment businesses. The Government believes that the legislation, which regulates the recruitment sector, is complicated and difficult for businesses and individuals to understand. This consultation is seeking views on a proposal to establish a new, fit for purpose regulatory framework with minimum regulation. The Government believe that the future system should achieve four outcomes for people and businesses that use recruitment firms:

- Employment businesses and employment agencies are restricted from charging fees to work-seekers.
- There is clarity on who is responsible for paying temporary workers for the work they have done.
- The contracts people have with recruitment firms should not hinder their movement between jobs, and temp-to-perm transfer fees are reasonable.
- Work-seekers have the confidence to use the sector and are able to assert their rights.

The consultation also seeks views on the current enforcement regime and whether individuals should be able to enforce their own rights at Employment Tribunals, bringing the recruitment sector in line with other areas of employment law. The consultation closes on 11 April 2013.



Tackling long-term sickness absence

The Government has decided to proceed with the main recommendation in the 2011 'Health at work: an independent review of sickness absence' report, i.e. the introduction of a health and work assessment and advisory service from 2014. The DWP have [announced](#) that the service will provide a state-funded assessment by occupational health professionals for employees who are off sick for four weeks or more, accompanied by case management for employees with complex needs who require ongoing support to facilitate their return to work and advice for employers and employees on overcoming the barriers that prevent employees from returning to work. The announcement also reveals some statistics about sickness absence, e.g. around 131 million working days are lost each year to sickness absence in Great Britain, approximately 4.5 days per worker or 1.8% of hours being lost, one million employees each year experience one or more spells of long-term absence (over 4 weeks) and employers pay £9 billion a year on sick pay and associated costs.

Workplace commitment and happiness increase

Employee satisfaction and commitment to their place of work has significantly increased according to the Government's press release following the publication of the [2011 Workplace Employment Relations Study: First Findings](#), which was last run in 2004. The study explores the current state of workplace relations and covers a wide range of issues such as the relationship between employer and employee, work life balance, equality and diversity, training, pay and working hours, based on research carried out in 2,680 workplaces between March 2011 and June 2012. Report highlights include: (i) job satisfaction levels have increased: 20% of employees in 2011 were satisfied or very satisfied with all aspects of their job measured, compared to 16% in 2004; and (ii) since 2004 employees' levels of commitment to the organisation in which they work increased, up from 55% in 2004 to 65% in 2011.

More businesses using Acas for workplace advice

Acas have [highlighted](#) that the 2011 Workplace Employment Relations Study (see above), found more businesses with five or more employees wanting expert advice with a 29% increase in managers using Acas since the 2004 survey. Last year, the Acas helpline answered almost 925,000 calls on employment issues and the Acas website saw a rise of around 10% in traffic with more than four and a half million visits. Acas also highlight some key points from the report, e.g. three quarters of workplaces changed some aspect of their staffing practices in response to the recession, the most common being a freeze or cut in wages (42%), grievances raised by an employee are down from 38% to 30% and low use of mediation to resolve individual disputes – only 7% of workplaces reported its use.

Tensions caused by responding to cost-cutting

Senior HR and wider business leaders are both clearly focused on the short-term business priority of cost management. The challenge for HR is to balance the tension between responding to short-term cost imperatives and keeping longer-term people issues firmly on the agenda, as these are what will really make the difference to sustainable performance. That's according to a new research from the Chartered Institute of Personnel and Development (CIPD) based on a survey of 369 business leaders and 107 senior HR professionals. The report, [HR Outlook: A variety of leader perspectives](#), reveals that although 64% of business leaders and 71% of HR professionals cited cost management as their top priority, when it comes to what keeps them awake at night, HR is more likely to be worrying about longer-term people issues. Most notably, leadership development (41% of HR respondents versus 18% business leaders) and talent development in line with future skills needs (27% HR versus 18% business).