

## Russell-Cooke LLP – Q&A

**In the business world, two distinctly vital legal areas are employment law and business immigration law – which both vary across the world. To find out more about these areas in the UK, we speak exclusively to partners from Top 100 law firm, Russell-Cooke LLP, Anthony Sakrouge about employment law, and Edward Wanambwa about business immigration law**

### Employment Law



**Please introduce yourself, your role and the firm.**

My name is Anthony Sakrouge and I am head of the Employment Department at Russell-Cooke LLP.



**With the retirement age in the UK axed on April 1st, in the long-term, what effect will this have on the economy of Britain?**

I hope it will be good for the country, because people who have valuable experience to offer will not be forced to retire. However, it may also lead to higher unemployment amongst young people and more employment litigation.



**Do you feel this may lead to age discrimination?**

It is possible that some employers will be more reluctant to take on employees who are approaching what used to be normal retirement age, because of fears that they will have to go through a potentially unpleasant performance procedure if the employee's

performance levels drop. Most employers will probably recognise that relatively few employees are likely to want to work beyond 70 and that the chances of a significant change in the employee's performance levels before he or she chooses to retire are fairly remote. Employers will also have the option of showing that there is an objective justification for retiring employees at a particular age, such as one based on business succession planning.



**What impact can employee use of the internet and social networking sites have on businesses?**

When something goes wrong the impact can be very significant. There is often a blurring of the lines between employees' work and personal lives and new stories are reported virtually every day in which employees have lost their jobs and the businesses they work for have suffered quite disproportionate reputational damage.



**Have social media sites affected productivity and work quality?**

Social media sites can obviously be an effective marketing tool, when used sensibly for the benefit of the business. On the other hand, they can also have a very damaging effect on productivity and work quality. Employers should make it very clear, in a policy which is properly communicated to staff, what they regard as proper and justifiable use of such sites. This will usually differ according to the type of business, or sometimes according to the position held by the employee within the business.



**There have been health and safety breaches where members of staff have performed 'stunts', later showing them on sites such as Youtube, (recognised because of their uniform). How should employers react and what are the legal implications of such situations?**

Employers have to be very vigilant about breaches of health and safety and will usually have no option but

to take appropriate action when these are brought to their attention, in order to avoid liability for future breaches and protect their reputation.



**What if the above situations occur outside of the workplace, is the employee still considered to be representing their company, and are there any legal ramifications?**

Often there will be. Usually the test is whether the employee was acting 'in the course of employment' at the time. If so, the organisation may be vicariously liable. Conduct taking place at a work social event will usually be considered to have taken place in the course of employment. Even where the misconduct in question was not in the course of employment, the employee may be disciplined or dismissed for having brought the employer into disrepute, or risked doing so, or in some cases because the conduct has damaged the employee's own reputation and therefore his standing with clients or customers.



**There have been many cases where employees have been dismissed from their position due to unflattering comments they have written on a blog or site about colleagues or their boss, do you feel this is justified?**

It is unsafe for an employee to regard anything they post as entirely private, even where comments are only seen by a limited group of Facebook friends. Publicly criticising your colleagues or boss outside the office will often lead to dismissal, as it is regarded as unprofessional, disloyal and likely to damage the reputation of the organisation. Doing so in writing only makes it easier to prove. Against this, the boss in question would be just as likely to be dismissed for criticising direct reports in this way and the organisation might place itself at risk of a constructive dismissal claim if it did not take appropriate action in relation to such conduct.

## Business Immigration Law



**Please introduce yourself and your role.**

My name is Edward Wanambwa and I am head of the Business Immigration Department at Russell-Cooke LLP.



**What are the main issues surrounding business immigration that your employer clients are facing at the moment?**

One of the main issues is the unpredictability of the changes (which are sometimes introduced without any prior warning) to the Tier 2 employment based



Edward Wanambwa

immigration categories. This can make long term staff planning very difficult.

Another problem area is the restrictive nature of the UK's employment related immigration rules. This is a particular problem when a skill set cannot be readily found in the resident workforce, for instance because 'local knowledge' gained in another country and/or an overseas group company is required to perform the role in the UK.

Restrictions since early April 2011 include a new permanent immigration cap (set at 20,700 for the year following 6 April 2011) being imposed on the popular Tier 2 'General' category, a new requirement for all Tier 2 employment roles to be at graduate level and limiting Tier 2 'Intra-Company Transfer' visas of more than one year to those who are paid £40,000 or more per annum.

In early June 2011, the government proposed further restrictions that are currently undergoing consultation. One of the most far-reaching proposals is to only allow certain categories of Tier 2 migrant to go on to settle in the UK. As the Immigration Minister recently put it, the proposals are 'aimed at breaking the link between temporary and permanent migration. Settlement has become almost automatic for those who choose to stay. This needs to change'. **LM**

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