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### Redundancy Update

Both the Court of Appeal and the Employment Appeal Tribunal have recently been faced with important questions over redundancy procedure.

In Home Office v Evans the Court of Appeal gave consideration to whether invoking a mobility clause rather than follow a redundancy procedure amounted to a breach of the implied term of trust and confidence in the employment contract.

It was held that the Home Office was entitled to favour exercising mobility clauses rather than a redundancy procedure, as whilst there was a "potential" redundancy situation, an "actual" redundancy situation did not materialise as the Home Office was able to redeploy rather than dismiss the affected employees.

The Employment Appeal Tribunal was also faced with procedural questions in the case of UK Coal Mining v NUM (Northumberland Area) & BACM. Here the EAT faced a challenge that the current consultation requirements with Trade Union or appointed representatives under Trade Union and Labour Relations (Consolidation) Act 1992 were in breach of the EU Council Directive dealing with collective redundancies.

The case concerned the issue of whether an employer was required to provide details surrounding the decision to close a business and effect redundancies. It was held that the current position to take steps to avoid redundancies should be interpreted to include consultation about the reason for the proposed redundancies, not simply the imminence of such action.

### Age Discrimination

The Employment Tribunal President has ordered that all current and future retirement claims are to be stayed pending the decision of the European Court of Justice in the case of Heyday. The ECJ's decision is not expected until 2009, which means a lengthy delay for any claims dealing with this issue.

### Proposed legislation – Temporary Workers

The Temporary and Agency Workers (Equal Treatment) Bill has been presented in Parliament, which would extend the right of equal treatment to temporary and agency workers. It also makes provisions for the enforcement rights of these workers. It is hoped that if enacted the Bill would ensure that over 1.4 million agency workers in the UK are entitled to the same terms and conditions as their employed colleagues. The Bill will be read for a second time on 22 February 2008.

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