EDWARD FENNELL'S LEGAL DIARY

A weekly diary of news events, analysis, insights and expert commentary from the legal world

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SHORT THOUGHT FOR THE WEEK – AN AGE OLD STORY?

Timed-out. burned-out and bailing -out – at all ages?

This week we have seen two senior lawyers – **Mark Mifsud**, London managing partner at **Fried Frank Harris Shriver & Jacobson** and **Marnix Leijten,** managing partner of **De Brauw Blackstone Westbroek** – saying they needed a timeout. It is understandable. Law firm management is tough at the best of time and after what's been happening over the past year or so it's no surprise that people are feeling stressed.

But is this an age issue?

It's a complicated story. At the junior end there has been alarm and controversy recently about the number of billable hours which associates need to put in to secure a partnership at a time when many of the younger generation are already burned out.

Meanwhile, a recent survey by law firm Winckworth Sherwood has suggested that almost a quarter of employees believed that their leaders were not equipped to lead a multi-generational

workforce – and the top bias that employees felt in the workplace was against workers aged over 55.

There is no easy way to reconcile these different strands of analysis. Maybe the reality is that if you survive the trial by fire in your 20s and 30s then you have just twenty years before age starts to count against you. So the only sensible answer is for law firms to adopt **systematic flexible working**. It's an old solution yet less than half of businesses countenance it. Surely now is the time for flexible working to be accepted culturally in the legal sector for all age groups and genders.

The LegalDiarist

IN THIS WEEK'S EDITION

LEGAL COMMENT OF THE WEEK

TOPIC: The SRA's plan to increase the maximum fine it can issue internally for traditional firms, and those working in them, from £2,000 to £25,000, without a referral to the SDT following the consultation on Financial Penalties

COMMENT BY: Andrew Pavlovic, Partner at CM Murray LLP:

"The SRA's decision to increase its internal fining powers from £2,000 to £25,000 will be considered controversial by some, given that both The Law Society and the Solicitors Disciplinary Tribunal opposed an increase to this level. The concern is that firms will decide to accept SRA fines rather than appealing them to the Tribunal, given the high profile and reputational stigma of Tribunal proceedings and the costs which they would incur in those proceedings (which they are unlikely to recover).

"The increase in fines follows on from the SRA's recently launched consultation on the extent to which investigations and sanction decisions are publicised. Now the SRA have these additional powers it will be important that the SRA provides transparency about its decisions and the basis upon which fines have been issued."

TOPIC: The ICO's decision to fine facial recognition software company, Clearview AI, £7.5 million for breaching data protection laws

COMMENT BY: Alexander Dittel, Partner at Wedlake Bell

"The ICO fine does not come as a surprise following previous news about similar investigations of Clearview in Australia, Canada and Sweden.

It is very difficult to reconcile the way Clearview operates with the GDPR. Indiscriminate scrapping of images from the web for purposes which may have a direct impact on individuals will likely be unlawful.

Clearview is directly liable because it processes data for its own purposes as a controller in order to develop its service. It is unable to hide behind the processor status which is often used by service providers who act on client instruction.

A parallel can be drawn with many other technology providers who use data for research and product development. The UK Government's data reform is hoped to further encourage innovation. However, the present case offers a clear view of the risks of elevating the importance of research above our fundamental rights."