

Legal Update – October 2011

Ensure payment card surcharges are made clear on websites

The Advertising Standards Authority have upheld a complaint made about a website which did not make it clear that it charged a payment card surcharge. The website added either £1 or £2 to the purchase price of goods depending on the type of card used by a customer.

Website operators must ensure that it is clear to customers at an early stage if any extra charges are going to be made to a purchase price dependant on the payment method used.

Copyright protection for headlines and extracts of articles

A recent case in the Court of Appeal has confirmed that headlines and extracts of articles can constitute copyright works. The test to be applied is the standard copyright test of originality. (*Newspaper Licensing Agency & others v Meltwater Holdings BV & others* [2011] EWCA Civ 890)

Cookies – consent is needed from the user

A reminder that the rule relating to cookies is that specific consent is required. Cookies cannot be used on a website unless the user consents to their use.

Website operators have until the May 2012 to change web browsers. After this date enforcement proceedings will be taken against operators that use cookies without users consent.

When giving a reference outstanding allegations can be mentioned

The Court of Appeal has held that a former employer will not breach of its duty with regard to references by referring to allegations against a former employee which were not investigated, provided it makes it clear that there had not been an investigation.

If the reference was true, accurate and fair, the employer would not be negligent. (*Jackson v Liverpool City Council* [2011] CA Civ 1068)

Dismissal for making derogatory Facebook comments was unfair dismissal

An employment tribunal has held that an employee who was dismissed after making derogatory comments about her workplace on facebook was unfairly dismissed.

The tribunal noted that the comments were 'relatively minor', there was no suggestion of harm to the employers relationship with key clients and the employer had failed to consider the employees exemplary employment record. (*Whitham v Club 24 Ltd t/a Ventura* ET/1810462/10)

For any further advice on any the above please contact our Poole office on 01202 725400 or our Dorchester office on 01305 251007.