

## Hospitality employers face court action for not protecting staff against smokers' rage

- **Restaurants, clubs and pubs without doormen are most at risk**
- **Employers can be held liable if they do not react to foreseeable risks of harm**
- **Law firm provides practical ideas to minimise risk and protect employees**

Employers whose staff are put in potentially dangerous situations by having to enforce the smoking ban must ensure they have measures in place to avoid court action, says commercial law firm Wedlake Bell.

According to Wedlake Bell, restaurants, clubs, pubs and hotels - especially those without trained doormen - are particularly at risk because their employees may have to deal with abusive customers who breach the new smoking laws. If employers do not react by putting the correct measures in place to protect their staff "where there is a foreseeability of harm", they could be held liable for failing their duty to provide a safe place of work.

Julian Yew, Head of the Hotel and Leisure Group at Wedlake Bell, explains: "Hospitality bosses need to take immediate action if they see any increase in abusive behaviour towards staff trying to enforce the smoking ban. From carrying out risk assessments to training staff to deal with abusive customers to implementing extra security measures, this should be at the top of their agenda or they could be found negligent by a court."

"Every company must have a policy which details who should approach customers breaching the ban, how to approach them, and what procedure should be followed if they refuse to co-operate. Without a policy in place employers will struggle to prove that they have taken the necessary steps to protect staff from abuse."

So what should employers do?

Julian Yew suggests the following practical ideas on protecting employees:

1. Ensure you have a policy which clarifies what employees should do when smoking breaches occur;
2. Put up notices of codes of conduct for customers in prominent places - reiterate zero tolerance policy of abusive behaviour towards staff;
3. Carry out risk assessments;
4. Train employees to anticipate and deal with potentially violent scenarios;
5. Hire extra doormen to police the ban;
6. Encourage staff to report incidents of harassment or increasing abuse;
7. Inform employees and doormen about customers who are notoriously aggressive;
8. Show that you take complaints from staff seriously;
9. Consider additional security measures such as surveillance cameras or alarm systems;
10. Control service of alcohol - reserve the right not to serve customers who are behaving inappropriately.

# Wedlake Bell

## About Wedlake Bell

Wedlake Bell's employment team, comprising 10 specialist employment lawyers, provides advice to employers ranging from SMEs to Plcs on all aspects of employment. The firm's specialist, cross-disciplinary Hotels and Leisure Group, offers bespoke advice on legal aspects ranging from employment, property and construction, intellectual property and commercial law for the hotel and restaurant industry. The Group acts for a range of hotels including a number of top 5-star establishments.

Wedlake Bell is a 41-partner law firm with offices in central London and Guernsey. Its core practice covers corporate finance, intellectual property and media, employment and pensions, commercial and residential property, investment funds, banking, tax and trusts, construction and litigation. Internationally it is a founder member of Trans European Law Firms Alliance (TELFA) and is associated with the US law firm Fredrikson & Byron.

## **ENDS**

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