

annual report

2011

OFFICERS

Honorary President:

Jim Mortimer

President:

Professor Keith Ewing

Chairperson:

John Hendy QC

Treasurer:

Geoffrey D Shears

Director:

Carolyn Jones

INTRODUCTION

Last year we predicted that 2010 would be a year of problems and possibilities. And we were right. We began on shaky grounds with a large budget deficit and the prospect of becoming homeless. We faced economic uncertainty due to financial constraints and political uncertainty due to an oncoming general election. In the circumstances, we can look back and report that we grasped the possibilities where available and overcame the problems where possible.

While we retain a budget deficit, the size of that deficit has dropped and is now in single figures for the first time in three years. In terms of office accommodation, when our old landlord went into liquidation we joined a trade union hub and moved into the new Liverpool UNITE building. We also took advantage of the move to clear out stock by organising a "Big Book Sale". As part of the move and the review of finances we revamped the style of our booklets and relaunched our website – offering subscribers electronic access to our library of publications.

Politically we responded to the new political landscape and the ideologically driven cuts agenda pursued by the ConDem Coalition through each of our publications and our events. Each of our publications focused on an aspect of the cuts agenda while our events offered practical strategies for trade unionists facing workplace difficulties. We also targeted our work at politicians through the Lawful Industrial Action (Minor Errors) Bill, while our network of lawyers continued to win ground-breaking strategic victories through the litigation route.

ADMINISTRATION

The main administrative change in 2010 was our move to new premises in Liverpool. In August we left the People's Centre and moved into the newly refurbished UNITE building, occupying a 4th floor office overlooking central Liverpool. The move, though time consuming and costly was achieved without too much disruption. In terms of future costs, we expect rent, rates and service charges to be similar to our old premises but we fear telephone charges may increase. Other than our change of address, our administration and staffing arrangements remained the same. Phelim MacCafferty (Projects and Events) works full time in Brighton; Treena Johnson

(Administration) works 3 days and Carolyn Starr (North West Events) works one day – both based with me in our Liverpool office.

MEMBERS AND SUBSCRIBERS

Our membership figure currently stands at 85, of which 43 are trade union representatives.

Following two years of growth in subscriptions, last year saw a fall in numbers. This was partly due to systematically removing non payers from the database (44) and partly due to an expected fall due to our free subscription year, developed to celebrate our 20th anniversary. We had hoped that by enticing people in (through speaker gifts or general promotions) we could retain them. Of the 55 who took up a free offer, 36 were retained – 23 of whom were union subs (13 GMB, 3 RMT, 2 UNITE, 2 CWU and 3 general anniversary promotion) and 13 individuals.

Subscription numbers now stand at 544, down from 690 last year representing an overall drop of 21%. Numbers in each category fell – individuals 255 (25% down on last year's figure of 342); commercial 15 (down 42% from 26); trade unions 208 (down 16% from 249), international 8 (down 33% from 12) and students 55 (down 9% from 61). We also have 33 free subscribers (we offer one year free subscription to speakers at our events).

Our 2010 promotion aimed at lawyers failed to attract the desired numbers. Whether this was due to the subscription price (£160) or a failure to reach the target audience, will need further analysis. We will then decide whether and in what form to pursue that particular promotional project or whether to focus our limited resources on other categories.

Despite falling numbers, income from subscriptions increased due to the increased cost of subscriptions from £45 to £55 for a branch and from £80 to £160 for commercial.

While the number of our paying subscribers fell, our electronic subscription base continued to grow. In our 2010 report we noted a 30% increase to 895 signed up to our e-list. This year that number increased to 2,809 - a staggering 68% increase. Hopefully those joining us via our website will pay a subscription fee to enable them to read our publications online – a new feature developed for the forthcoming year. We also hope the direct contact list will assist in selling publications and promoting our events.

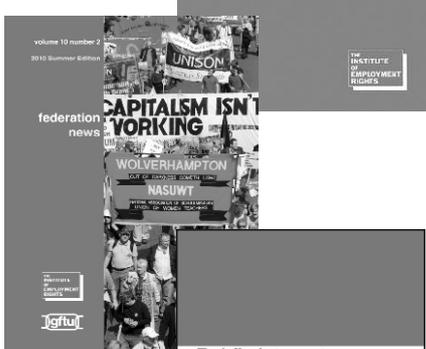
4th Floor,
Jack Jones House,
1 Islington,
Liverpool L3 8EG
Tel: 0151 207 5265
Fax: 0151 207 5264
E: office@ier.org.uk
www.ier.org.uk

**THE
INSTITUTE
OF
EMPLOYMENT
RIGHTS**



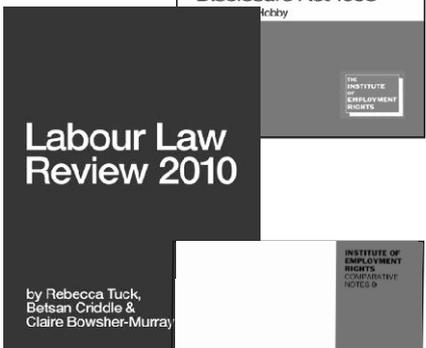
Regulatory surrender: death, injury and the non-enforcement of law

by Steve Tombs and David Whyte



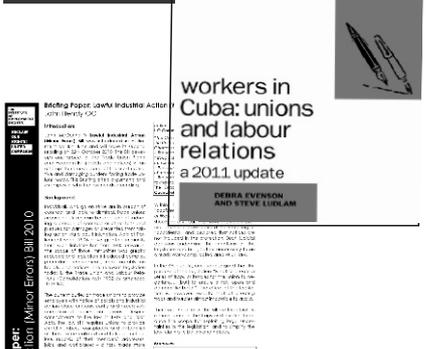
Public interest whistleblowing: 12 years of the Public Interest Disclosure Act 1998

by Cathy



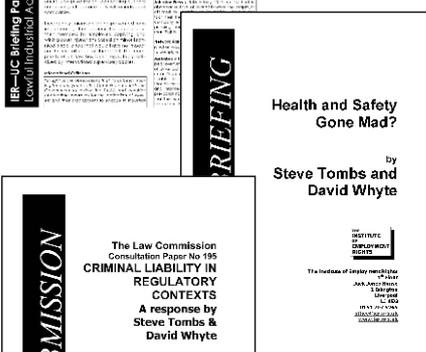
Labour Law Review 2010

by Rebecca Tuck, Betsan Criddle & Claire Bowsher-Murray



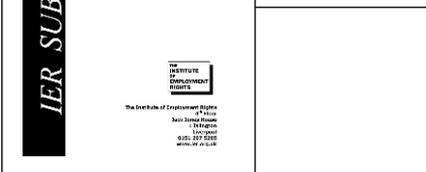
workers in Cuba: unions and labour relations a 2011 update

DEBRA EVENSON AND STEVE LUDLAM



Health and Safety Gone Mad?

by Steve Tombs and David Whyte



The Law Commission Consultation Paper No 195 CRIMINAL LIABILITY IN REGULATORY CONTEXTS A response by Steve Tombs & David Whyte

PUBLICATIONS

Last year the AGM agreed that we should reduce the number of publications from 8 down to 6 and use the money saved to revamp our publications and to develop our new website-based facilities. Both tasks were achieved. A new house style was developed via our new printers and on 1st April 2011 our new website was launched, offering subscribers the opportunity to access our publications online as well as in hard copy.

In the 2010 economic and political climate, with ideological cuts high on the agenda of the ConDem Coalition, it was unsurprising that all our publications had at their core the issue of cuts, the response of workers to those cuts and the impact the law would have on worker attempts to resist those cuts. Our first publication, the Spring edition of Federation News, focused on the *Politics of Pensions*, with particular reference to the public sector. Articles considered not just the legal aspects of pensions but the wider political and economical context, strongly rejecting the inevitability of cuts and the myth of gold plated public sector pensions. The articles, written by labour movement based pensions experts, offered alternative arguments and progressive solutions. Our next publication was an excellent contribution from two specialists in health and safety, Steve Tombs and David Whyte. Their book, *Regulatory Surrender: death, injury and the non-enforcement of law*, looked at the problems associated with deregulated workplaces with specific reference to health and safety. The collapse in regulatory control as outlined in the book, led to prosecutions following deaths at work falling from 46% to 28%, leaving the authors to ask where the unfolding crisis in enforcement leaves worker safety. The autumn edition of Federation News, edited by Roger Seifert, focused on the trade union response to cuts. Critically reviewing the ConDem ideology of the "Big Society" and the "small state", trade union representatives from across the public and private sector set out their alternative proposals for growth, for winning the hearts and minds of people and for challenging the anti trade union laws. Our fourth publication considered whether the law introduced to protect whistleblowers would be robust enough in the current climate of fear to protect those who expose corruption, fraud and malpractices. The author, Catherine Hobby, concluded that the law was not fit for purpose, leaving whistleblowers vulnerable to victimisation and dismissal and called for the legislation to be reviewed and improved. Our fifth publication was the latest in our series of *Labour Law Reviews* by Rebecca Tuck, Betsan Criddle and Claire Bowsher-Murray from Old Square Chambers. With a 56% increase in the number of tribunal claims, keeping informed of major statutory and judicial developments makes this publication as important and as popular as ever. Our final publication was a

contribution to our series of Comparative Notes. *Cuban workers: unions and labour relations*, included an update by Steve Ludlam to a previous edition by Debra Evenson. The 2011 update commented on the restructuring of Cuba's labour market and the role of unions and collective bargaining in that process. The publication was sponsored by UNITE and carried a Foreword from Len McCluskey.

Publications proposed for 2011/12

- *Union Busting and Strike Breaking in the BA Dispute* by Keith Ewing
- *Federation News*, Spring Edition
- *Victimisation at Work* by Alan Bogg and Keith Ewing
- *TUPE updated* by Richard Arthur
- *The Equality Act* by Aileen McColgan
- *Federation News*, Autumn Edition
- *Labour Law Review 2011* by Rebecca Tuck, Betsan Criddle and Claire Bowsher-Murray
- *The Law and Practice of Injunctions* by Keith Ewing, Gregor Gall & John Hendy

PROJECTS, COMMISSIONS AND PUBLIC POLICY WORK

The Institute continued with a PCS project on the victimisation of trade unionists. An IER Briefing meeting was organised at PCS Head Office, at which a number of unions outlined examples of victimisation faced by their members. Keith Ewing and Alan Bogg are working on this project, which we hope to finalise this year. A second project, this time commissioned by UNITE and again involving Keith Ewing, is an analysis of the BA dispute and its implications for the union, its members and the wider labour movement. We hope to publish the result of that work early in 2011. The FBU asked us to look at the growing use of s188 notices as a method of unilaterally amending terms and conditions of employment. Michael Ford prepared a short briefing note on the legality of the practice and it is hoped to develop that paper into a larger piece of commissioned work.

On public policy, we worked with the United Campaign, the TUC and individual unions around the *Lawful Industrial Action (Minor Errors) Bill*. Unfortunately the Bill failed to attract the 100 MPs required for debate despite more than 3,000 supporters lobbying their MPs via the United Campaign postcard campaign. Reinforcing our argument that unions should pursue legal avenues if political efforts fail, significant aspects of the LIAM Bill were secured by two stunning victories in the Court of Appeal by John Hendy and Richard Arthur on behalf of RMT and ASLEF. Such victories provide an excellent backdrop against which to pursue our earlier proposal for a Trade Union Strategic Cases Unit.

An IER response to the *Law Commission's Consultation Paper on Criminal Liability in Regulatory Contexts* was submitted, kindly prepared by Steve Tombs and David Whyte.

sustainable jobs in a green economy:

the role of trade unions and collective bargaining

a half-day seminar

tuesday 18th May 2010

1:30pm - 4:15pm

at NUT Hamilton House, Mableton Place, London WC1H 9BD

organised by The Institute of Employment

Haldane Society of Socialist Lawyers & The Institute of Employment Rights

INVITE YOU TO

hear Lord Wedderburn QC and Jim Mortimer (former Labour Party General Secretary)

in conversation with John Henty QC

"The Law Versus the Trade Unions? Reflections on the Past and Strategies for the Future"

Monday 27 May 2010, 6.30pm - 8.30pm

at the Adelphi Hotel, Lime Street, Liverpool

Whistleblowing

A half-day seminar

Tuesday 20th July

1:30-4:15pm

NUT Hamilton House, Mableton Place, London WC1H 9BD

Organised by The Institute of Employment

Employment Law Update 2010

Ken Gill Memorial Fund

A one-day conference

9.30am to 4.15pm

Wednesday 13th October 2010 at NUT Hamilton House, Mableton Place, London WC1H 9BD

London

Workplace issues Redundant, victimised and worse

A one-day conference

9.30am - 3.30pm

Wednesday 17th Nov 2010 at NUT Hamilton House, Mableton Place, London WC1H 9BD

Organised by The Institute of Employment

Update on Equalities: Where are we?

A conference

10.00am-4.00pm

Wednesday 8th December 2010 at NUT Hamilton House, London WC1H 9BD

Organised by The Institute of Employment Rights

Race, racism and the workplace

A half-day seminar

Wednesday 19th Nov

1:30-4:15pm

NUT Hamilton House, Mableton Place, LONDON WC1H 9BD

Organised by The Institute of Employment

Equal Pay Act at 40: Over the hill or finally picking up speed?

A conference

9.30am to 4.30pm

Wednesday 23rd February 2011 NUT Hamilton House, Mableton Place, London WC1H 9BD

Organised by The Institute of Employment Rights

Grievance procedures & employment tribunals: casework update

A half-day seminar

Tuesday 22nd March 2011

NUT Hamilton House, Mableton Place, London WC1H 9BD

Organised by The Institute of Employment

a north west conference

health and safety: a new agenda at work?

Tuesday 13th July 2010

9.30am - 7.00pm

at the Adelphi Hotel, Lime Street, Liverpool

Organised by The Institute of Employment Rights

a north west conference

employment law update

Tuesday 23rd November

9.30am - 4.00pm

at the Adelphi Hotel, Lime Street, Liverpool

organised by The Institute of Employment Rights

supported by The Ken Gill Memorial Fund

What Now For Trade Unions?

Ken Gill Memorial Fund

A conference

10.00am to 3.00pm

Tuesday 8th February 2011 Adelphi Hotel, Lime Street, Liverpool

Organised by The Institute of Employment Rights

Sponsored by NUT and The Ken Gill Memorial Fund

Liverpool

CONFERENCES AND SEMINARS

In the annual report 2009-10 we reported that we had done well to ride the economic storm in terms of seminars and conferences. Last year we faced many of the same economic problems so we are pleased to report that once again we ran a successful programme of events, with 9 in London (one more than the previous year) and 4 in Liverpool.

We opened the year with a seminar on greening the workplace, with a platform of international and UK trade union speakers exchanging information on how unions can assist in greening the economy. In May we collaborated with the Haldane Society of Socialist Lawyers to organise an *Evening in Conversation* between Bill Wedderburn and Jim Mortimer, kindly supported by the TUC and skilfully chaired by John Henty. The event attracted a large, mixed audience of trade union officials and lawyers and was the first of what we hope will be a continuing relationship between our two organisations.

The results of the general election, the formation of the coalition government and the needs of the trade union movement were the subject of our roundtable discussion *After the general election: what now for trade unions?* Contributions were led by Prof Keith Ewing. We hope this is the beginning of a series of debates involving senior trade unionists and legal and academic professionals. In Liverpool, a conference on a similar theme attracted a large audience and brought together senior trade unionists, academics and John McDonnell MP in an event that attracted local media coverage.

Last year we successfully used IER events to launch two publications. Catherine Hobby called for the law on whistleblowing to be reviewed and reformed at a seminar in London. In Liverpool, a broad platform of speakers welcomed the Institute's blistering critique of the crisis in health and safety regulation and enforcement, with a speaker from the HSE joining the platform to respond to the criticisms.

Now in its 6th year in London and its second in Liverpool, our employment law update conference is held in high esteem. Last year's events heard inspirational speeches condemning threats to workers' rights, cuts to communities and vicious employer attempts to restrict democratic decisions of union members for industrial action. These annual events in Liverpool and London are now linked with the *Ken Gill Memorial Fund*. Responding also to the desire for practical advice on current workplace problems, conferences focusing on specific workplace issues facing trade union representatives are now a consistent aspect of our programme.

Equalities remain close to our heart and were again reflected in our events, attracting high profile, informed and thought-provoking contributors to our platforms in London and the North West. John Wadham, Sheila Wild and Alan Christie of the EHRC, Anna Bird from the Fawcett Society and Don Flynn from the Migrant Rights Network joined our own equality experts in providing stimulating equality events for over 250 trade union reps.

Specifically, we examined the Equality Act 2010 in Liverpool, the Equal Pay Act in London and in January of this year, in conjunction with the TUC Race Relations Committee, we held a fascinating seminar on race, racism and the workplace.

Most recently, the damaging proposals in the ConDem consultation on *Workplace Dispute Resolution* were examined in a seminar on *Grievance procedures and employment tribunals: casework update*.

The year was also busy in terms of contributions at events: we held fringe meetings at Scottish TUC, PCS, Unison and GMB conferences and at the TUC Congress in Manchester. We also had a presence via stalls and through delegate packs at many individual union conferences, at the annual Morning Star and Labour Representation Committee conferences and for the first time at the Progressive London event.

Events for 2011-12

Liverpool

- Equalities: A changing workplace?
- TUPE Update 2011: Your questions answered
- NW Employment Law Update 2011
- Human rights at work: Can the European Convention protect our rights?
- Workplace issues: learning from the front line

London

- Workers' rights v employers' charter: what now for employment law?
- Lecture in association with the Haldane Society
- TUPE Update 2011: Your questions answered
- Friction Dynamics at 10: a taste of things to come?
- Employment Law Update 2011
- Human Rights Act: a practical introduction to workers' rights
- Equality and discrimination, 2011
- Pension rights and age discrimination developments
- Developments in European Employment Law

CONCLUSION

We began the year facing problems and possibilities and we end it much the same. But despite economic difficulties and the political dangers of a Tory led coalition government, there are global signs of inspiration. Workers in Tunisia, Egypt, Europe and Wisconsin are fighting back against inequality, corruption, anti trade union laws and attempts to undermine their rights at work. In the UK that fight-back is also showing signs of life, reflected in the massive response to the TUC's anti-cuts demonstration. As ever the Institute will take that on board and approach the next year with new ideas, new strategies and renewed determination to use our 20 years of experience and achievement for the benefit of the labour movement.

Carolyn Jones
Director
cad@ier.org.uk

Members of the Institute

Lord Archer QC	Joe Mann <i>Community</i>
Richard Arthur <i>Thompsons</i>	Joe Marino <i>BFAWU</i>
Geoff Bagnall <i>Unity</i>	Len McCluskey <i>UNITE</i>
Jonathan Baume <i>FDA</i>	Professor Aileen McColgan
Jess Belmonte <i>CSP</i>	Dr Sonia McKay
Christine Blower <i>NUT</i>	Professor Jonathan Michie
Mike Bradley <i>GFTU</i>	Karon Monaghan QC
Patrick Carragher <i>BACM-TEAM</i>	Robert Monks <i>URTU</i>
Stephen Cavalier <i>Thompsons</i>	Gerry Morrissey <i>BECTU</i>
Steve Cottingham <i>O H Parsons</i>	Jim Mortimer
Bob Crow <i>RMT</i>	Kevan Nelson <i>UNISON</i>
Professor Paul Davies	Ged Nichols <i>Accord</i>
Professor Simon Deakin	Paul Noon <i>Prospect</i>
Jeremy Dear <i>NUJ</i>	Keith Norman <i>ASLEF</i>
Professor Linda Dickens	Tonia Novitz
Mark Dickinson <i>NAUTILUS</i>	Christine Oddy
Gerry Doherty <i>TSSA</i>	Joe O'Hara
Richard Evans <i>SOR</i>	Peter Pendle <i>ACM</i>
Professor Keith Ewing	Tim Poil <i>NGSU</i>
Kate Fallon <i>AEP</i>	Dave Prentis <i>UNISON</i>
Michael Ford <i>Old Square Chambers</i>	Alan Ritchie <i>UCATT</i>
John Foster	Mick Rix
Steve Gibbons	Rod Robertson
Tess Gill	Mickey Rubenstein
Steve Gillan <i>POA</i>	Mike Seifert
Nigel Gooch <i>Hard Dowdy</i>	Mark Serwotka <i>PCS</i>
Geoffrey Goodman	Geoffrey D Shears
John Hannett <i>USDAW</i>	Bob Simpson
Billy Hayes <i>CWU</i>	Grahame Smith <i>STUC</i>
John Hendy QC <i>Old Square Chambers</i>	Paul Statham <i>Pattinson & Brewer</i>
Sally Hunt <i>UCU</i>	Ed Sweeney <i>ACAS</i>
Professor Phil James	Barbara Switzer
Neil Johnson <i>Rowley Ashworth</i>	Gordon Taylor <i>PFA</i>
Chris Keates <i>NASUWT</i>	Baroness Muriel Turner
Paul Kenny <i>GMB</i>	Sarah Veale <i>TUC</i>
Chris Kitchen <i>NUM</i>	Professor Lord Wedderburn QC
Michael Leahy <i>Community</i>	Frank Wilkinson
Jonathan Ledger <i>NAPO</i>	Tony Woodley <i>UNITE</i>
Professor Roy Lewis	Matt Wrack <i>FBU</i>
Paul Mackney	
Leslie Manasseh <i>PROSPECT</i>	

IER Budget Report 2010-11

Year to 31st March 2011

£s	Budget 2010/11	Actual 2010/11	Actual 2009/10
INCOME			
Sales of Publications	15,000	13,530	17,708
Donations	42,000	39,157	41,775
Subscriptions	24,000	25,600	22,540
Sponsorship	1,750	500	1,700
Seminar Receipts	45,000	41,185	41,080
Royalties	1,500	1,709	1,581
Commissioned Work	13,500	10,500	17,675
Project Development	10,000	7,750	0
Bank Interest	200	5	41
TOTAL INCOME	152,950	139,936	144,100
EXPENDITURE			
Printing: Promotional (incl C&S Packs)	8,000	10,990	9,975
Printing: Publications	18,000	16,512	24,079
Design Work	0	0	2,745
Salaries	86,500	83,766	83,411
Rent	5,000	2,824	5,030
Sundries	2,500	2,347	3,181
Advertising	300	128	483
Insurance	1,200	1,131	1,398
C&S Room Hire (incl Refreshments)	13,000	8,048	14,934
Professional Fees	5,000	4,410	4,853
C&S Hotels	150	190	144
C&S Fares	250	13	223
Travel	2,500	1,831	2,481
Telephones	2,000	2,524	1,978
Office Stationery	1,500	2,248	1,263
Postage: Couriers	1,000	1,593	1,659
Postage: Mailing	6,500	4,185	6,338
Repairs & Maint	300	262	593
IT development	750	941	861
Bank Charges	650	818	675
Re-Location	3,000	2,915	0
TOTAL EXPENDITURE	158,100	147,674	166,304
Surplus/Deficit for year	-5,150	-7,738	-22,204