

YOUR WEEKLY BULLETIN OF WIT AND WONDER



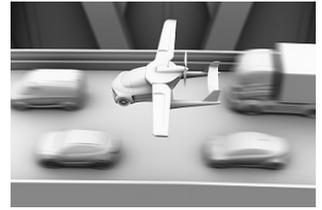
## SING IT!

Just scored at work? We all need a Skinner and Baddiel style anthem!



## NO PROTECTION FOR PPE DELIVERER

How do you get furloughed if you're delivering the PPE? (Hint: You don't).



## SIXTH GEAR

This is the one that goes UP...

## A CHORUS OF APPROVAL

Listening to the whole neighbourhood launch into joyful song on Tuesday night, I realised something was missing from WG Towers.

A glory anthem.

I'm not a big follower of football but I even knew Tuesday's match was a HUGE one - England versus Germany in the Euros! Of course, I knew as soon as I started paying any attention at all, we would inevitably crash and burn, but this time it turns out I was *wrong*. And it was strangely moving to hear Skinner and Baddiel's THREE LIONS song being joyfully carolled out from windows and gardens up and down the road. It occurred to me then that bursting into song when we've had a big win is something that *every* part of life should offer.

So I've written a glory anthem for the next time the Employment Team triumphs, whether that be with effective and successful guidance in a tribunal or in giving our beloved clients the kinds of perfectly chiselled, on-the-nose advice that makes the world a better place.

Just fit this to the THREE LIONS tune and picture me dancing happily around WG Towers in a nice jacket, with rip-roaring back up vocals and air-punching from Howard, Emma, Natalie and the rest of the team...



*This case is won, my work is done, it's time to have a fresh cream bun  
This case is won, my work is done, it's time to have a fresh cream bun...*

*Talk about workloads getting done  
And evenings in the sun  
It was tough... but we won*

*And I remember early last week  
I was feeling so bleak  
So much checking of law  
But I just scored with  
Three lines on my pad  
Crucial points for meetings  
Clients so very glad  
Happy, sorted feelings...*

*This case is won, my work is done, it's time to have a fresh cream bun  
This case is won, my work is done, it's time to have a fresh cream bun...*

(repeat and fade or add another verse)

We're considering making a video. Unless enough of you write to beg us not to.

**Can YOU rewrite the Three Lions anthem for your own workplace triumphs?  
Please share *your version* on our Facebook page.**

And speaking of repeating and fading brings me to the case of *Mr Francesco Accattatis v Fortuna Group (London) Limited 2021* and his multiple attempts to get furloughed due to Covid-19 fears ending in dismissal.

Mr Accattatis worked for his employer, a company that sells and distributes PPE, from May 2018 until his dismissal in April 2020.

Shortly after the national lockdown was announced in March 2020, Mr Accattatis asked his line manager about the possibility of working from home, but was told this was not possible because many of his duties required him to be present at the workplace. The position of the company was that employees could self-isolate, but only by taking paid annual leave or unpaid leave.

On 30 March, Mr Accattatis began to experience coronavirus-like symptoms and consequently self-isolated. He was paid sick pay according to his contract of employment and remained on sick leave into April. While on sick leave, he emailed the managing director, Mr Bavetta, a letter of agreement to temporarily place him on furlough, calling it a “win-win,” because he would earn more while the company saved money. His request was rejected, with Mr Bavetta saying that there remained work for Mr Accattatis to perform and that they expected his “immediate return to work”.

Mr Accattatis replied that as he was still experiencing symptoms, he was unable to return to work and that at any rate, he was not comfortable using public transportation to get to work (he took the bus and did not have access to a car). He requested again that he either be allowed to work from home or be placed on furlough. Mr Bavetta replied that furlough was not an option while Mr Accattatis’ job was still active.

Mr Accattatis sent a couple more emails asking Mr Bavetta to reconsider the furlough position. Subsequently, on 21 April, Mr Accattatis was informed that he was being dismissed for a “general ongoing failure of your part over a period of many months to support and comply fully with our company policies and guidelines”.

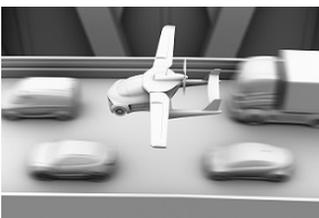
As Mr Accattatis had less than two years’ service, he was unable to bring a claim for ordinary unfair dismissal. Instead, he brought a claim against the company for automatically unfair dismissal under section 100 of the Employment Rights Act 1996. Under section 100 of the ERA, a dismissal will be automatically unfair where the reason or principle reason for the dismissal was that the employee took, or proposed to take, steps to protect themselves or others from a danger which they reasonably believed to be serious and imminent.

Judge Alliot accepted that Mr Accattatis reasonably believed the spread of Covid-19 presented a serious and imminent danger. However, he found that Mr Accattatis’ demands to either work from home or be placed on furlough were not “appropriate steps” because he could not feasibly work from home and he was not eligible for the furlough scheme. The protection afforded by section 100 of the ERA was therefore not engaged and Mr Accattatis’ claim for unfair dismissal failed.

This case is not binding on future tribunals but does contribute to an emerging case law revealing how tribunals will handle employment claims relating to health and safety during the pandemic. This case indicates that employees may need to show more than just a general anxiety about being in the workplace to gain protection from unfair dismissal under section 100 of the ERA. Employees must be able to point to specific dangers and show how the risk to health and safety is serious and imminent despite any steps taken by the employer to reduce the danger.



## WHAT A TIME TO BE ADRIVE...



The future is here. A flying car EXISTS.

According to the BBC this week, the AirCar has made its first ever inter-city flight. Taking off from Nitra airport in Slovakia, the car landed at Bratislava and converted, in just over two minutes, to a sports car. Its inventor, Professor Stefan Klein, then drove it into town.

The AirCar runs on regular petrol and can be fuelled in a standard filling station. It has a 600mph top speed and can fly at up to 8,200ft, carrying two people.

The only thing it can’t do is take off vertically from your drive - it still needs a runway.

Cuh. I dunno. They get your hopes up and then dash them...

I’d also add that another issue is where on earth you’d park it, given that it looks like something out of Transformers and isn’t likely to pass by unnoticed. It probably needs a forcefield. Unless they can make one indistinguishable from a Ford Focus once it’s on the road. Now *that* would be something...

## Peace of Mind

**Do you want to save your business time and money, and reduce stress?**

“A true class act; every company should have them on their speed dial!”

Contact us today on

023 8071 7717 or email [peaceofmind@warnergoodman.co.uk](mailto:peaceofmind@warnergoodman.co.uk) to find out how **Peace of Mind** can help you.

## Are you looking for us on Facebook?

If you haven't liked us already, follow the link below...



... And after liking us on Facebook, why not follow us on Twitter?



Sarah Whitmore  
Partner  
023 8071 7462



Howard Robson  
Partner  
023 8071 7718



Emma Kemp  
Associate Solicitor  
023 8071 7486



Natalie Rawson  
Associate Solicitor  
023 8071 7403



Louise Bodeker  
Solicitor  
023 8071 7448

### DISCLAIMER

While every effort is made to ensure that the contents of these newsletters are up-to-date and accurate, no warranty is given to that effect and Warner Goodman does not assume responsibility for their accuracy and correctness. The newsletters are provided free of charge and for information purposes only. Readers are warned that the newsletters are no substitute for legal advice given after consideration of all material facts and circumstances by an experienced employment lawyer. Therefore, reliance should not be placed upon the legal points explained in these diaries or the commentary upon them.

### UNSUBSCRIBE

If you do not wish to receive future editions of this newsletter, please simply reply to the e-mail and include the word "Unsubscribe". Click [here](#) to view our Privacy Policy on how we hold and process your data.

### COPYING THESE DIARIES ON TO OTHERS

While the author retains all rights in the copyright to these newsletters, we are happy for you to copy them on to others who might be interested in receiving them on a regular basis. You are also welcome to copy extracts from the newsletters and send these on to others who may be interested in the content, provided we are referenced as the author when doing so.