

LEGALLY BOUND

Mike Pitt, employment, company and commercial law specialist at Oldham legal practice Pearson Hinchliffe, says telling jokes in the office might not be as funny as it sounds.

A funny thing happened at work the other day. Someone asked what's the difference between a good lawyer and a great lawyer? The answer? A good lawyer knows the law and a great lawyer knows the judge.

Whether that's a perfectly reasonable joke to make, or is offensive to lawyers, may not be the point. The fact is that it was probably meant to be amusing, and harmlessly so. That's what jokes are usually for – to amuse and entertain – and surely we all need some fun and humour now and again to help us get through the working day.

The problem with jokes is that sometimes they're not said just to amuse and entertain, but perhaps to ridicule, insult or humiliate. If that's the intention or effect, the law quite rightly has a part to play in identifying and eradicating what can be described by various terms including discrimination, harassment and bullying.

While we all have a responsibility to be sensitive to other people's feelings, and to not harass, upset or insult people because of race, gender, racial belief or sexual orientation, employers have the difficult challenge of making sure that no such discrimination happens in their organisation, and in dealing with it promptly, sensitively and effectively if it does.

Easier to say than do, of course, and where one employer's actions might seem too timid and ineffective, another's might seem so unbelievably out of touch with reality as to be totally unjust. Take, for instance, the case of prison officer Colin Rose who was sacked when he told an insulting joke about Osama bin Laden shortly after the 11 September 2001 attacks on the United States.

It was claimed that the dismissal was justified because a group of Muslim visitors who were in the prison at the time might have been offended if they'd heard the remark.

An employment tribunal judged the dismissal unfair and said the prison governor was not "living in the real world" but the episode has provided a focus for people who despair of "political correctness" and complain that calling coffee black might be actionable.

Nevertheless, employers have to be aware of the effect of jokes in the working environment and that an effective management tool called "common sense" can often be brought to bear on tricky situations. Race, sex, disability, sexual orientation, religion and other beliefs are all covered by anti-discrimination law as a protection against the violation of an individual's

dignity and to guard against the creation of an intimidating, hostile, degrading, humiliating or offensive atmosphere.

So they should be. Harassment of an individual by making them the victim of an embarrassing or otherwise offensive joke should be subject to penalty. It's just not funny.

And finally – a man asked a solicitor how much he charged and was told it was £100 for two questions. "Isn't that a rip-off?" the man asked. "Maybe," the solicitor replied, "now what was the other question?" An insult worthy of criminal or civil action? Better ask a lawyer!