

contract and partly because there was a contractual obligation on the employee to 'work those hours necessary to carry out his duties in a full and professional manner'.

Discussion point

In what circumstances will the duty of trust and confidence require employers to advise employees about their rights?

The High Court has subsequently held that the right to work is subject to the condition that the employee has not, as a result of some prior breach of duty, demonstrated in a serious way that he or she is not ready or willing to work. Thus in *Valuation Service v Boudrais*⁵ the employer was granted an interim injunction which had the effect that the defendants had to remain on garden leave for the remainder of their notice periods.

3.3 To co-operate with the employee

Usually, this duty amounted to little more than an obligation not to impede employees in the performance of their contracts, and there is no general requirement to advise employees of their rights.⁶ However, one of the effects of the unfair dismissal provisions has been that the courts have displayed a greater willingness to accept that employers have a positive duty to ensure that the purposes of the contract are achieved. Thus, it has frequently been stated that employers must not destroy the mutual trust and confidence upon which co-operation is built without reasonable and proper cause.⁷ However, the Supreme Court has ruled that such a duty is concerned with preserving the continuing employment relationship and does not extend to the way that the relationship is terminated.⁸ There are also limits as to how extensive this obligation should be.

CASE STUDY 3.2

University of Nottingham v Eyett

In *University of Nottingham v Eyett*⁹ a failure by an employer to warn an employee that exercising important rights in connection with pension benefits in a certain way was not the most financially advantageous was not seen as breaching a duty of mutual trust and confidence.

Discussion point

Is it true to say that most employees now have the right to be provided with work when it is available?