

A few more bits of news ...

Please find below some news items for August. Our update includes a summary of changes in legislation; as well as some general news items.

We have also included a case law round-up from Dr Jane Elgar (solicitor).

LEGISLATION

The Equality Act 2010: 1st October 2010

The Equality Act 2010 consolidates existing equality law into a single piece of legislation and introduces a number of reforms that we will be reporting on shortly.

One area that may affect employers **immediately** is a provision that **prohibits employers from asking questions about health before offering a candidate a post**. This has been introduced to stop potential disability discrimination prior to employment. You can ask questions after an offer has been made (but will need to consider how you deal with any 'health problems' that are declared at this stage).

Comment

If you use pre-employment medical questionnaires or ask health questions on application forms etc, you should review your documents and procedure by 1st October 2010.

(If you have 'Your HR Services'; all documents on your site will automatically be updated prior to October and you will be informed by e-mail).

Minimum Wage: 1st October 2010

Despite the current economic climate, the Government have confirmed that the National Minimum Wage will be increased and implemented with effect from 1st October 2010.

21 years and over = £5.93 (from £5.80)
18-20 years = £4.92 (from £4.83)
16-17 years = £3.64 (from £3.57)

There is also a new minimum wage for apprentices of £2.50 per hour.

NEWS

Money Worries Can Lead to Absence!

A recent survey from AXA revealed that 5% of employees had taken time off due to money problems. Money worries are the biggest cause of depression and stress-related illness and cost the economy £3.7 billion per annum in lost productivity.

The Credit Counseling Services has stated that employers are best placed to help employees improve their financial literacy (although there is no duty to do so).

The report suggests that providing information about financial literacy can reduce absence and increase productivity.

Comment

We are working with some independent financial advisors who can offer FREE seminar(s) to your workforce. The Financial Services Authority is keen for these financial seminars to be made available to all employees.

The sessions will generally last for about an hour, so if you would be interested in offering this to staff, please do not hesitate to contact us.

Latest Tribunal Figures ... 2009/2010

The latest statistics from the Employment Tribunals show a further increase in the number of claims. This, in part, may well be due to the economic climate. The main findings confirm the following:

- The total number of claims **increased by 46%** in 2009/10, rising from 266,500 to 392,700.
- There was a 17% increase in the number of claims associated with unfair dismissal, breach of contract and redundancy.

Comment

The trend relating to claims is concerning and the compensation culture we live in simply means that no Company is safe from claims. How ever good your procedures and working practices are, you cannot prevent an employee making a claim if they are determined to do so – whether there are grounds for a claim or not!

Employment Law Update August 2010

Considering this, we can now offer access to insurance against employment disputes. We would like to think that this is not necessary – as good employment practices should be sufficient.

However, given the trends employers may wish to consider insurance as a further option. If you would like details please contact us.

CASE ROUNDUP

A few interesting cases have been summarised below from Jane Elgar:

Court of Appeal

BA's "no visible jewellery" policy not discriminatory

In Eweida v British Airways Plc the Court of Appeal held that a Christian employee who was prevented from displaying a cross on a necklace while at work had not suffered discrimination under the Employment Equality (Religion or Belief) Regulations 2003.

It was not sufficient for the Claimant to show that she had been adversely affected.

For such a claim to succeed BA's uniform policy, which at the time prohibited customer-facing staff from wearing any visible item of adornment, must actually or potentially disadvantage other Christians and this was not proven. In any event, the Court noted that any discriminatory impact of the policy would have been justified.

High Court

Poaching employees was unlawful

In Tullett Prebon Plc and Others v BGC Brokers LP and Others the High Court held that by encouraging a group of brokers to resign en masse and join its ranks, the defendant firm had unlawfully induced them to breach their contracts with their existing employer and had conspired to injure that employer by unlawful means. The Court found that the brokers' allegations of unfair constructive dismissal were unfounded and were part of an "exit strategy" orchestrated by their new employer so that they could commence their new employment together without having to serve their notice period.

Employment Appeal Tribunal

Changing terms without consent was lawful

In Bateman and Others v Asda Stores Ltd the Employment Appeal Tribunal held that Asda was entitled to introduce a new pay regime without the consent of employees in accordance with a provision in its staff handbook. The Court accepted that the staff handbook entitled Asda as a matter of contract to introduce the new pay regime without obtaining the Claimants' consent because Asda had contractually reserved the right to amend contract terms unilaterally.

Dismissal for viewing pornography was unfair

In City of Edinburgh Council v Dickson the Employment Appeal Tribunal held that the dismissal of an employee for watching pornography on a school computer was unfair. The employer had rejected the Claimant's explanation that his uncharacteristic behaviour was the result of a hypoglycaemic episode caused by his diabetes without investigation or understanding his medical condition. This case is a reminder to employers of the need to undertake an investigation of the facts of each case.

With thanks to Dr Jane Elgar for her case law round-up.

Your HR Services

We now have a **3 minute video** about our new product. Visit www.yourhrservices.co.uk to take a look... and if you want log-ins for our demo site, please call us...

We hope you have found this update useful and informative.

If you would like any further information, please do not hesitate to call us.

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