



EMPLOYMENT UPDATE

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SOLICITORS

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Minimum Wage Increase

From 1st October 2008 the national minimum wage increases as follows:-

16 up to 18 - £3.53 (from £3.40)

18 up to 21 - £4.77 (from £4.60)

Over 21 £5.73 (from £5.52)

If accommodation is provided the rate will be £4.46 (from £4.30)

Sex Discrimination Abroad

The Employment Appeal Tribunal has held that it has no jurisdiction to hear claims of sexual harassment that occurred in Paris even when they were related to ongoing claims in the UK.

However, the Parisian evidence could be introduced as background evidence in support of the UK claim.

Colour Blindness Discrimination

A colour blind man who applied to join the police force and was turned down due to his colour blindness has failed in a claim for disability discrimination.

However, he has been given leave to appeal out of time to bring a claim for indirect sex discrimination on the grounds that more men suffer colour blindness than women!

Age 'Harassment'

A 62 year old employee has successfully claimed age discrimination after the words "Ambition is not a motivation for Joe (due to his age)" were inserted into his performance review and comments were allegedly made that he was "waiting for death".

However, despite other age related allegations, the employee was only awarded £750 which was reduced by 50% because the employee had failed to attend a grievance appeal.

Equality and Discrimination Update

At the end of July the Government published its response to its consultation on the Equality Bill.

One of the main aims of the Bill is to simplify and harmonise existing discrimination legislation that has developed in a 'piecemeal' manner over the years.

However, the Bill is likely to further increase the protection afforded to employees. In particular, harassment on grounds of colour and nationality are likely to be specifically included. It is also likely that the Bill will be amended to incorporate changes in the law brought about by recent judicial decisions.

In particular, the European Court of Justice has confirmed that an

employee of a law firm in the UK was discriminated against and harassed under Community law on the grounds that her son was disabled

Employers should be aware that this 'discrimination by association' ruling will also apply (at least in principle) to other areas of discrimination at work.

Exactly how the ruling will be implemented depends upon further interpretation by the Courts or a change in the law but employers will need to be more vigilant in eradicating associative discrimination in the workplace and should review current policy and procedure.

Compromise Negotiations and Termination Dates

In the case of Radecki v Kirklees M.B.C. the Employment Appeal Tribunal has held that that an employee's employment contract had not terminated despite the negotiation of a draft compromise agreement over 4 months earlier.

An unsigned draft of the agreement referred to a termination date of 31st October and Mr Radecki was removed from the payroll on that date. However, despite giving certain assurances, Mr Radecki later indicated that he was not happy with the terms of the agreement.

On 5th March the Council wrote to Mr Radecki informing him that his employment had terminated on 31st October. Mr Radecki issued proceedings against the Council on 7th March and the Council argued that he was out of time, the 3 month time limit having passed.

The EAT, overturning the decision of the original tribunal, held that Mr Radecki's Effective Date of Termination was 5th March and not 31st October and he was therefore within the time limit for bringing a claim.

Whilst this case raises no new issues of law, it serves as a reminder to employers that termination dates in compromise agreements are not fixed until negotiations are finalised and particular care needs to be taken if negotiations become protracted.