



Preventing Workplace Harassment and Violence

A former employee of the News of the World has been awarded £792,736 for unfair dismissal and disability discrimination after an Employment Tribunal found that there had been a 'consistent pattern of bullying behaviour'.

The employee was on sick leave for stress-related depression at the time of his dismissal which was claimed to be on the grounds of his capability or qualifications for the role.

The need to raise awareness of workplace harassment has been recognised for some time and in April 2007 European employer and trade union organisations signed a framework agreement on Preventing Harassment and Violence at Work. Guidance on this issue was launched on the 17th November 2009 to implement the agreement.

The guidance which has the support of the Health and Safety Executive (HSE), Department for Business Innovation and Skills (BIS) and the Advisory, Conciliation and Arbitration Service (ACAS) can find at <http://www.workplaceharassment.org.uk/>

More Workers Planning to Work Beyond Retirement Age

The Chartered Institute of Personnel and Development (CIPD) has carried out a survey which shows that the number of older workers planning to continue working beyond the state pension age has increased significantly over the last two years.

Factors that may explain this are the current economic climate and the effect the recession has had on savings, investments and property prices. When the survey of workers aged 55 and over was carried out two years ago only 40% indicated that they intended to continue work after state pension age. This figure is now 71%. Younger workers were less likely to plan to work beyond this age but as the age of those questioned increased so did the likelihood that they would consider continuing work.

Employers and employees should by now be familiar with the procedure of requesting to work beyond retirement age but it looks likely that there will be many more requests in the future.

The survey also showed that while 90% of public sector workers had a pension with their current employer, the figure dropped to 36% in the private sector. Men were significantly more likely than women to have a pension with their current employer.

Reforms to current pension arrangements are planned for 2012 when auto-enrolment and minimum employer contributions are introduced.

On the Horizon....

The Equality Bill

The long-awaited Equality Bill, originally laid before Parliament in the 2008-2009 session, was re-presented in the House of Commons on 19 November 2009. The Bill is expected to receive Royal Assent in Spring 2010 and to come in to force in October 2010.

The Bill's main aims are to harmonise and strengthen discrimination law. It will do this by bringing together existing discrimination legislation concerning sex, race, disability, sexual orientation, religion or belief and age and adopting a unified approach where appropriate.

There will also be significant changes in areas including gender pay discrimination, disability discrimination and harassment claims and the scope of permitted 'positive action'.



Case Study

Chagger v Abbey National Plc and another.

This recent Court of Appeal case confirmed that where a dismissal has been discriminatory the employee may claim for 'stigma' where other employers are unwilling to employ him because he has pursued a discrimination claim.

The decision also confirmed the Employment Appeal Tribunal decision that when compensation was being assessed, the tribunal should also consider what would have happened to the employee if there had been no unlawful discrimination.

In this case the Court noted that Mr Chagger may well have been dismissed by reason of redundancy even if the redundancy selection had not been discriminatory, as he was one of two employees in the selection pool for redundancy. The Tribunal should have assessed the likelihood of redundancy and reduced the compensation accordingly.

The Court also accepted that while consideration should be given to the fact that termination may have occurred in any event at a later time, when assessing compensation, the effect of a premature return to the labour market can also be considered. This means that compensation does not have to be limited to the time it would have taken the employee to carry out a non-discriminatory dismissal.

Guidance on the Vetting and Barring Scheme

The Government has provided new guidance for this scheme which came into effect on the 12th October 2009. The scheme aims to prevent unsuitable people from undertaking certain paid or volunteer activities with children or vulnerable adults.

The Guidance provides information for employers, voluntary organisations, employees and volunteers on; Key Points, the Scope of the Scheme, and Key Dates. It can be found at: <http://www.crb.homeoffice.gov.uk/PDF/VBS%20Guidance%2012%20Oct.pdf>

Apprenticeship, Skills, Children and Learning Act 2009

This Act received Royal Assent on 12th November 2009.

It is the first complete overhaul of apprenticeship legislation for nearly 200 years. Key points include:

- Introduction of a new apprenticeship structure with relevant agreements (in a prescribed form) and certificates.
- Greater legal protection for apprentices through a contract of service.

The Act will also introduce the right for employees to request time off for study or training to increase their performance or effectiveness at work.

- The request procedure will be similar to the flexible working request procedure.
- Only employees who have been employed for at least 26 weeks can make a request.
- Only one request can be made every 12 months.
- Employers must consider requests but may refuse a request for certain business reasons or if they do not believe the training would improve the employee's effectiveness or performance.
- The new rights are expected to apply to business with more than 250 employees from 6 April 2010 and all employers from April 2011.

Employees will be protected from detriment and dismissal connected to exercising these rights.

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