

Employment Club Update

April 2010



British National Party Membership Rulings

The Central London County Court has ordered the British National Party to remove beliefs and policies relating to race from its constitution. This follows on from the removal of the 'whites-only' membership clause last month. It was also barred from accepting new members until certain offensive clauses were removed.

One rule allowed the vetting of new applicants for membership by BNP officials which could have intimidated non-white applicants. Other clauses requiring members to further the existence of an indigenous British race and the stemming and reversing of migration were also indirectly discriminatory. The BNP was ordered to pay approximately £60,000 in costs.

However, a review of BNP membership in schools by Maurice Smith, former Chief Inspector of Schools, has concluded that teachers should not be barred from being BNP members. The report set out existing measures protecting young people from discrimination and indoctrination in schools and concluded that an outright ban on teachers becoming members of the BNP would be "...taking a very large sledgehammer to crack a miniscule nut." Despite Mr Smith's conclusions, the Government has accepted his recommendation that the matter be reviewed every 12 months.

Church Liable for Abuse

The Roman Catholic Church has been held to be liable for the sexual abuse of a boy in its care by a priest who was held to be an employee of the Church.

The Court of Appeal held that the employee's 'course of employment' should be interpreted widely and also noted that priests are "...never off duty."

The court took into account that the Priest was wearing vestments when he met the victim, was under a duty to evangelise and gain trust, was responsible for youth work, had fostered the relationship with the victim by inviting him to a church disco and had asked the victim to go and work for him at the presbytery where the abuse took place.

New Paternity Leave Rules

The Additional Paternity Leave Regulations 2010 come into force on 6th April but only apply to children whose expected week of birth (or adoption matching) begins on or after 3rd April 2011.

The regulations entitle fathers a minimum of 2 weeks and up to six months additional paternity leave provided that the mother has returned to work.

The leave must not start until at least 20 weeks after the birth or placement and must be taken in multiples of complete weeks.

H.M. Revenue and Customs and Employers will be able to carry out checks to ensure that entitlements are being adhered to and not being abused.

Need To See A Psychiatrist?

The EAT has held that an employer had not subjected a female employee to racial abuse when its management team suggested to her that she might need to see a psychiatrist.

The request constituted unwanted conduct having the purpose or effect of violating her dignity. However, there was no evidence that this had occurred on racial grounds. No reliance as such could be placed on the facts that the management team were of a different race to the employee in question.

Employment Status Ruling

The First Tier Tax Tribunal has ruled that allegedly self-employed Weight Watchers Leaders were actually employees for PAYE and Employers NIC assessments.

The Leaders were described as self-employed, dealt with their own tax and NIC, had complete control over the running of Weight Watchers meetings, hired meeting venues in their own names and had the right to substitute other leaders in their place if they were unable to attend meetings for any reason.

However, the Tribunal held that written contracts between Weight Watchers and the Leaders were not determinative of the legal relationship and that was contradicted by two handbooks.

TUC Toilet Rights Campaign

The TUC has launched a campaign to force employers to allow workers to go to the toilet when required. The campaign also aims to improve worker's toilet facilities.

The report warns of the danger of renal and other health problems when 'calls of nature' are delayed until break times.

These notes are for guidance purposes only. We believe the contents to be correct but it should not be taken as sufficiently accurate or full to apply in any specific situation without first referring to us. We would be pleased to advise on any specific issues or problems.

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