

'On-Call' Hours Minimum Wage

A care worker who was provided with accommodation provided she remained 'on-call' was entitled to treat such hours as working time under the Working Time Regulations. Her employer was therefore in breach of the 48 hour maximum working week and had failed to provide the requisite rest breaks after an 85 hour week.

She was also entitled to the National Minimum Wage rate for the 'on-call' time even though she was only called out approx. twice a month and was paid separately on each occasion.

Race Suspension Lawful

Centrewest London Buses Ltd has been held to have acted lawfully after it suspended a black African employee who had complained that he had been racially abused by a colleague.

The Company investigated the allegation and the employee was suspended because he gave inconsistent evidence of the events and his evidence was contradicted by an independent witness. The suspension was justified on the basis that the Company reasonably believed that the employee was making a false allegation.

New Maternity Rights Proposed

The European Commission has published proposals for improved maternity rights for women including:-

- An increase in the minimum period of leave from 14 to 18 weeks
- A recommendation that 100% of salary be paid for this period
- Compulsory period of maternity leave increased to 6 weeks (currently 2 weeks in the UK).

EAT Upholds Sex Discrimination Allegation Against School

The Employment Appeal Tribunal has found that the Governing Body of Aylesford School had discriminated against a female teacher, Ms Burmis, on grounds of her Gender after 40 days of legal argument!

It was found that a senior member of staff, Mr Grosvenor, had repeatedly attempted to kiss and fondle Ms Burmis and has falsely claimed to have had sexual intercourse with her, amongst other allegations.

Mr Grosvenor's defence was, perhaps unsurprisingly, held to lack credibility after he admitted that he had "...forged documents and lied to the Employment Tribunal."

It was also held that Ms Burmis

was unfairly dismissed because she 'blew the whistle' on allegations of sexual harassment and cannabis use on a school trip.

An allegation that Ms Burmis asked another teacher, Mr Crombie, to remove his trousers and had in turn removed her skirt during a "truth and dare" game on the same school trip in the presence of two 16 year old pupils was held not to be critical to the principle findings of sex discrimination and unfair dismissal. However, the EAT held that "It remains open to the School to argue contributory fault at a future remedies hearing."

Names of Tribunal Respondents to be Published

The Information Commissioner has ordered the Department for Business, Enterprise and Regulatory Reform (DBERR) to provide the identities of all respondent businesses in Employment Tribunal claims under the provisions of the Freedom of Information Act. However, the ruling does not similarly apply to claimant employee details.

Employer's details were public information from 1965 until 2001 when the practice of disclosure was discontinued.

The ruling will be disappointing to businesses who may have been wrongly accused of misconduct. Such publicity may also seriously prejudice the possibility of an amicable settlement between the parties. However, Deputy Information Commissioner, Graham Smith stated "The public interest in maintaining the exception does not outweigh the public interest in disclosing the requested information."

Bricklayer in 'sham' Contract Entitled to Holiday Pay

A bricklayer for Redrow Homes signed a contract with Redrow Homes which allowed him to substitute his own services for those of another to carry out the contract. However, it was found that the provision was never intended to apply and the contract was effectively one of personal service. As such, the bricklayer was a 'worker' under the Working Time Regulations and was therefore entitled to holiday pay.

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