

Diary Dates

1st October—National Minimum Wages Increases

From 1st October Employers Liability Certificates can be displayed electronically (as opposed to physically) as long as they are reasonably accessible.

For women whose expected week of childbirth is on or after 5th October women on additional maternity leave are entitled to the same rights as women on ordinary maternity leave under the Sex Discrimination Act.

From 27th October agency workers who have worked for less than 3 months will be entitled to Statutory Sick Pay.

Dismissal Procedure Update

The Court of Appeal has held that a statutory dismissal procedure had been 'completed' despite 'unreasonable delay' on the part of the employer, thereby denying an employee from claiming a statutory 10-50% uplift in compensation.

This will be good news for employers who may have inadvertently missed a procedural step and now wish to complete it at a late stage.

Polish Language Not a Disability

A Polish cleaner has failed in her claim in asserting that her lack of English was a disability after allegations that she was exploited due to her failure to understand English.

Judge Valentine Adamson dismissed the claim at a hearing in Bedford stating "I find the Claimant's language difficulties are not capable of being classed as an impairment within the meaning of the Disability Discrimination Act."

Age Discrimination Update

European Court's Advocate General has produced an opinion in a case brought by Age Concern indicating that employers can continue to retire employees at 65.

Whilst not binding, the Advocate General's opinion in a case is often followed by the ECJ in its final decision. This preliminary opinion will be of some relief to businesses hoping to make future plans on the basis of retiring employees although the final decision may take some months to be handed down and the national laws will then need to be interpreted by the national courts.

In a separate case against Milton Keynes Council, the Council's advertising for a teaching vacancy that "...would suit candidates in the first five years of their career" was held to be indirectly discriminatory

on grounds of age.

It was held that the advert could, and did in this case, put the teacher in question who was over the age of 60 at a disadvantage as such a teacher was far more likely to have more than 5 years experience.

Finally, in *Galt v National Starch and Chemical Ltd* an enhanced redundancy payment scheme was held to be discriminatory on grounds of age because it was calculated on length of service and age which didn't mirror the age and length of service provisions in the statutory redundancy payment scheme.

The employer also failed to objectively justify the scheme and as a result, the scheme was unlawful.

Church of England Ministers Not Employed By God

The Church of England has conceded for the first time that its ministers are employed by the Church and not 'office holders' occupying 'a living' according to the union UNITE. The case follows an employment tribunal decision where the Church agreed that one of its ministers, Reverend Sharpe was a 'worker' for the purpose of the claim.

The claim was brought by the rector of Teme Valley South, Worcestershire after he allegedly suffered appalling working conditions. He was subjected to verbal abuse, his dog was killed, he had faeces smeared on his car and he was forced to live in a vicarage infested with mice and frogs. The claim will now be dealt with by mediation.

Considering Redundancies?

Employers are facing difficult economic times and you may be considering redundancies. However, don't attract potential claims by not following the correct procedures. Ensure you formally consult those who may be made redundant and follow the statutory dismissal procedure. Obtaining early legal advice should save you money in the long term.

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