

Employment Club Update

January 2011



Pay, Gender and the Minimum Wage

The introduction of the National Minimum Wage has been voted the most successful government policy of the past 30 years in a poll of 159 members of the Political Studies Association. Policies were rated on such factors as social and economic impact, success in implementation and duration of impact. It is interesting to speculate whether the same results would be obtained from a poll of owner managers of small and medium sized enterprises?

The poll comes at almost the same time that the UNITE union has criticised the Government for "railroading" the soon to be abolished Agricultural Wages Board (which set minimum wages for agricultural workers) into freezing agricultural wages until October 2012.

In an entirely separate but possibly indirectly related announcement, the Office for National Statistics has reported a continued and accelerated decrease in the gender pay gap. The median pay gap for full time workers indicates a 10.2% gap, down from 12.2% last year and from 17% in 1997 when records began.

Statutory Rate Changes

From 1st February the maximum compensatory award for unfair dismissal claims will increase from £65,300 to £68,400 and the maximum weeks pay for calculating basic awards in unfair dismissal claims and redundancy payments will increase from £380 to £400.

This effectively increases the maximum statutory redundancy payment from £11,400 to £12,000.

It is the date of the event which gives rise to the compensation or payment entitlement. E.g. the new rate applies to dismissals which occur on or after 1st February.

The Department for Work and Pensions has also announced that it expects to increase the rate of Maternity Allowance and Statutory Maternity, Paternity and Adoption Pay from £124.88 to £128.73 and the rate of Statutory Sick Pay from £79.15 to £81.60 from 11th April.

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.

Delusion - Not Victimisation

The Employment Appeal Tribunal has held that an employee in a solicitor's firm who was dismissed after she made allegations of sex and disability discrimination was not 'victimised'.

The employee, who was later found to be suffering from 'paranoid delusions' alleged that two partners in the firm called her a prostitute and that she was "after their money".

After several further allegations were made, the firm dismissed her due to a breakdown of trust and confidence.

The EAT held that the dismissal was not caused by the act complained of but a feature of the act complained of which was separable from the act itself (namely using intemperate language, making inaccurate statements and the risk of further disruptive conduct by the employee).

Happy New Year To All Our Readers (Weather Permitting!!)

Hopefully you will have survived the Christmas Party without any unpleasant consequences and everyone is now back at work. However, the weather at home and abroad still continues to cause disruption to UK businesses.

As the situation may well continue (and there will always be a risk of ash clouds and other naturally occurring phenomena) now may be the time to consider introducing a policy on adverse weather and other types of business disruption.

A policy will not avoid such problems but at least your employees will be fully aware of their obligations and entitlements in such circumstances.

No Compensation for Unfairness

An employee of Enfield Primary Care Trust was not entitled to re-instatement, re-engagement or a compensatory award despite being unfairly dismissed when her employer failed to consider her equally with another employer in the same capacity.

It was held that she had been unfairly dismissed but the Court of Appeal accepted the Tribunal's finding that there was no way that the employee in question would have got the job had she been properly considered from the outset.

Reasonable Adjustments Ruling

A Tribunal has held that the Foreign and Commonwealth Office did not breach its duty to make reasonable adjustments when it withdrew a job offer to a deaf employee and member of its senior diplomatic staff. This was due to the unreasonable costs that the proposed adjustments would have entailed.

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