Employment News

The requirement to provide a written contract

As most employers will be aware, they are under a legal duty to provide an employee with a written contract of employment within the first two months of their employment. This is set to change from 6th April 2020.

New regulations will make it a legal obligation for employers to provide the written contract no later than on the first day of the employee's employment.

Although there is still some time before this change is implemented, it is important that employers ensure they are prepared for this change as failure to provide the written contract in the correct amount of time could lead to the employee receiving compensation.

A worker's right to an itemised pay slip

Previously employers only had to provide itemised pay slips to individuals deemed as employees. This changed in April 2019.

An employer is now under a duty to provide pay slips to both employees and workers. It is important that an employer provides pay slips containing the correct information to a worker because there may be the potential for the worker to receive compensation if they have not.

Employer's duty to record the time worked by its employees

To ensure they are compliant with their legal obligations, employers must keep adequate records of the hours worked by an employee. A recent decision of the Court of Justice of the European Union ("CJEU") in the case of CCOO v Deutsche Bank SAE could however put more pressure on an employer.

The case shows that current UK law is not sufficient and that an employer should be under a duty to keep a stringent record of the hours worked by their employees. Without an accurate record it can be hard to establish whether an employer is complying with their legal obligations.

Although the UK is bound by the decisions of the CJEU, given the situation surrounding Brexit, it is hard to determine whether Parliament will adjust the law accordingly. It would however be a good idea for employers to start keeping accurate records, if they do not already, in anticipation of any future changes.

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A worker's right to a daily rest break

All workers are legally entitled to take one uninterrupted 20 minute break if they work more than 6 hours a day. They can choose to leave the place of work if they so wish.

There are however some exceptions to this rule as highlighted by the case of Network Rail Infrastructure v Crawford. In this case the Court of Appeal stated that workers may be able to take shorter breaks providing these shorter breaks amount to the 20 minute break the worker is legally entitled to.

It is important to note that this only applies to certain fields of employment. An employer must ensure they are providing their workers with the rest breaks they are legally entitled to dependant on the area of work. Employers should remember, this right extends to all workers and not just employees.

The law for bereaved parents and carers

A new law is expected to come into force in April 2020 that will give bereaved parents and carers new rights. The Parental Bereavement (Leave and Pay) Act 2018 will give employees who have lost a child under the age of 18 the right to two weeks paid leave. This extends to stillbirth providing the unborn child is beyond 24 weeks.

The employee will have the option to take the leave as a single two week leave or they can split it into separate one week blocks. An employee will be entitled to this right from the first day of their employment.

This right is mandatory so it is important that employers are aware of an employees entitlement.

Are shared parental leave and maternity leave comparable?

The recent joint case of Ali v Capita Customer Management Ltd and Chief Constable of Leicestershire Police v Hextall demonstrate that maternity leave ("ML") and shared parental leave ("SPL") are not comparable.

The Court of Appeal decided that it will not amount to sex discrimination if an employer pays an employee on SPL less than they do to a woman on ML. The purposes of the two types of leaves are different. The main purpose of ML is to assist a new mother with recovering from the physical and psychological effects of pregnancy and childbirth whereas the purpose of SPL is for taking care of a baby.

An employer can lawfully give enhanced benefits to a mother on ML without having to offer the same benefits to an employee on SPL. It is important for an employer to be aware however that if a woman enjoys an enhanced SPL whereas a man is only entitled to a basic SPL then this will be an act of discrimination.

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Religious discrimination in the workplace?

The recent case of Kuteh v Dartford and Gravesham NHS addresses the tricky topic of religious discrimination in the workplace. In this case a Christian nurse was dismissed because she inappropriately discussed her religion with patients after instructions from management not to do so. The Court of Appeal held that the nurse was fairly dismissed.

The employer was not preventing the employee from having her own beliefs and it was reasonable for them to state that she shouldn't press her beliefs onto patients as she had been. This case shows that it is important that an employer does not suppress an employee's religious beliefs but there are situations where they can put reasonable restrictions on the employee's expression of that belief.

Whether the restriction is reasonable will of course depend on the relevant circumstances so an employer must tread carefully.

Can an employee be discriminated against if they do not have a disability?

In the recent case of Chief Constable of Norfolk v Coffey, the Court of Appeal has held that an employee can be discriminated against by an employer if they are treated less favourably because the employer believes the employee to have a disability, even if they do not.

The Equality Act 2010 provides protection to employees from being treated unfavourably if their employer perceives them to be disabled. It is important that employers have reasonable measures in place when employing a person who is disabled so that they are not deemed to be treating that employee unfavourably.

When will an employer be liable for the actions of it's employees?

Legally, an Employer will usually be held liable for actions undertaken by an employee during the course of their employment. The recent case of Forbes v LHR Airport Ltd [2019] however demonstrates that there are limits in which an employer will be held liable. In this case an employee made a claim for discrimination against their employer based on the actions of another employee.

The employer had even taken disciplinary action against the offending employee for their actions. Yet the Employment Appeal Tribunal held that because the actions of the employee were not conducted during the course of their employment, the employer cannot be held liable even though they disciplined the offending employee. Employers should take some comfort in the fact that there is a limit to where they will be held liable for the actions of employees.