

Employment Law NEWSLETTER

February 2010

What's on in 2010

2010 looks to be bringing with it many new developments in the employment field, both in terms of statutory provisions and case law.

The **Equality Bill** is expected to come into force in October and will bring with it significant changes, including proposals to make gender pay discrimination more transparent, new types of disability discrimination to sidestep *Lewisham v Malcolm* and a widening of the definitions of direct discrimination and harassment to cover claims based on "association" and "perception". In addition, the Bill will broaden the scope of permitted positive action to allow employers to choose between two "equally-qualified" candidates by selecting one from an under-represented minority.

The government will be looking to change **paternity leave** on the basis that if a mother returns to work without taking her additional maternity leave to allow the father to take it instead, and will likely propose to increase the default **retirement age** following the *Heyday* case.

Employers will, come Springtime, see a new form of doctor's note coming in following employees who have been unwell - **the "fit" note**. This will specify whether the employee is fit to work, fit for some work or for no work at all. This will also include specifications as to whether any adjustments need to be made (e.g. a phased return to work or altered hours) need to be made.

As of the 6 April any business of more than 250 employees will have to allow an employee **unpaid leave to train** if the employee believes the training will improve their work and aid the business, and it is expected to extend this to all employees from 6 April 2011.

2010 will also be a particularly important year for the HR professionals and managers in the financial services sector.

The Financial Services Bill will give the Financial Services Authority greater powers to try to outline the link between risk and reward following the recent recession – giving them power to regulate remuneration in and the ability to void employee contracts if they offer prohibited types of remuneration. On the other side of the coin will be the number of bank bonus cases reaching tribunal claims following the €50 million case won against Dresdner Kleinwort last year – particularly interesting will be to see where the lines are drawn with respect to the taxpayer owned banks and their employee bonus payments.

Retirement Age

We also look forward to the final substantive decision in the *Grainger v Nicholson* case as to whether an employee's belief in climate change and their duty to live in a way to mitigate or avoid it is capable of being a **philosophical believe** under current equality regulations.



Welcome to our first quarterly newsletter which we hope you will enjoy reading. 2010 was not a good start for many as the snow created havoc for many businesses. In fact we tackled this topic in our blog – www.borgknight.com/blog. Our blog is where we post ongoing news however if you'd rather keep updated through facebook or twitter do start following us! It seems to be all about the online world and in fact we have now introduced online documents which means that you can draft your own employment documents for us to review. We hope to see you at our FREE WORKSHOP which is going to be held on Wednesday 24 February and/or at our stand at the Kent 2010.

Roselyn Knight

**FREE interactive workshop
24 February 2010
Innovation Centre Medway (ICM2)**

On recent changes in employment law and what to expect in 2010.

This workshop is aimed at employers and HR professionals/Managers with responsibility for employment law issues in their organisation.

To book a place please email us on info@borgknight.com

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Intelligently unravelling the complexities of employment law



A pregnant pause

The recent case of *O'Neill v Buckinghamshire County Council* has decided that risk assessments are not automatic for a pregnant worker and that a risk assessment is subject to a three stage test.

In the first instance the employee must notify their employer about their pregnancy. There must then also be a risk of harm or danger to the mother or baby's health, and the risk must arise from either working conditions, processes or (chemical / biological) agents in the employee's workplace.

It is worth noting that even if criteria have been met the employer is not under any obligation to provide a meeting regarding the risks though there must be information made available to the worker regarding any possible risks to her or her baby's health.

Guest Writer – Emma ,Partner at **Abandon Learning**
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Diversity issues affect every organisation. Legislation exists to protect employees from discrimination on various grounds. It is therefore important that organisations have robust policies in place to protect their employees from discrimination and to protect themselves from claims. However is this enough? How can impact assessments be adequately performed when some of the behaviours which lead to discrimination are unconscious and unwitting? How can policies 'come to life' in a way which results in each employee taking responsibility for cultivating a culture of openness?

Diversity training is not easy. Trainers can be presented with hostile, defensive delegates who bring with them the belief that they will be seen as prejudiced. The use of theatre in training can bring to life these unconscious behaviours, in a safe environment, resulting in people questioning their own contributions, attitudes, beliefs and values. Theatre can demonstrate the impact of behaviours, raise difficult and complex issues in a short period of time, explain emotions, motivations and personal thoughts, which, if facilitated sensitively can provide a catalyst for change through a process which includes open discussions and sharing of values.

With all that said, we are ultimately talking about human nature which is usually clouded by our prejudice, experiences and conditioning. Once are able to recognise this. we are able to make a CHOICE about how we behave.



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Select a document - you can read more information and preview the document before you begin, if you wish.

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After review, and/or edit, we'll upload your finalised document to your secure 'My Services' section of the website for you to download and use or we can send it to you via email - whatever your prefer.

Examples of documents include: contract of employment, compromise agreement, employee handbook and disciplinary letters.



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