

FISH PARTNERSHIP LLP

FISHPAY AND FISHES EMPLOYERS NEWS BULLETIN

September 2006

We hope you have enjoyed the summer and that those of you who 'feel the heat' did not suffer too much when, in July, the temperatures soared into the 30's. If you have never visited our offices, The Mill House is a listed building with a river running by. Our listed status prevents the installation of air conditioning and in case you have visions of us sitting on the river bank during July, forget it! We had the windows open, fans running and the occasional ice-lolly to keep cool, enabling us to maintain the service we promise to provide to all our Clients. Autumn will soon be here and to bring all Employers back down to earth, more new legislation to comply with in the form of the Age Discrimination Act.

We are going to use a good portion of this quarter's News Bulletin to outline the basics contained in the Act. We make no apologies for this since this Act heralds one of the biggest changes since the Employment Act 2002.

The rules within the Act are far reaching into every Employers business. It will not go away. You will not be able to sweep it under the carpet or lock it in a cabinet. You must comply. Don't forget, there is no limit on the award an Employment Tribunal can make in a discrimination claim. This includes Age Discrimination - you cannot afford not to comply.

Probably, the most concise way to present the new legislation is in the form of an action plan, starting with:

Recruitment Procedures

Even if you do not have a written procedure, Employers should review their recruitment practices. Take care when wording job advertisements. A requirement for a 'mature person' will not be acceptable. Asking for an experience requirement must be justified and not based on age. Restricting the wording in job advertisements may attract a vast number of candidates, many of which may be unsuitable. We suggest, in future, you ask prospective candidates to apply to you for an application form to complete and not to send in a CV. When you send out the application form include the Job Description, giving the prospective applicant more details of the duties to be performed thereby giving them the opportunity to decide if this is really the work they want, or are qualified, to do. If you already have a formal application form then it is best practice not to ask for a date of birth, dates when qualifications were attained or the periods of previous employments. The latter will obviously not highlight any 'gaps' in employment. Do not forget to inform and update any member of staff who is involved in recruitment with the new rules. If they discriminate against any age group during your selection process, or at interview, then it will be you, the Employer, who will bear the brunt of any claims.

..... continued

FISH PARTNERSHIP LLP

The Mill House
Boundary Road
Loudwater
High Wycombe
Bucks. HP10 9QN

Phone: ++1628 527956
Fax: ++1628 810385
E-mail: post@fishpartnership.co.uk
Web: www.fishpartnership.co.uk



Happy to Help

Contracts of Employment

These should be reviewed for potentially discriminatory clauses, in particular if you state the age of retirement. From October 2006, the default age for retirement will be 65, unless Employers can justify a lower age.

Employment Procedures and Policies

These should be reviewed and, if necessary, revised. Examples are:

Retirement Policy - If this provides for a retirement age of 65, then it must also allow for employees to request to work beyond this age and provide the procedure for submitting this request. Policies should also provide details of the notice period that the Employer will give the employee of their anticipated retirement date and similarly, the latest date for the employee to lodge their request to work beyond retirement age.

Salary Reviews - Should be based on abilities and not on length of service which may favour older employees.

Holiday Requests - Should not give preference to those with children requesting leave during the school holidays as this will discriminate against both younger and older employees. An approval system based on a 'first come' basis would be fairer.

Holiday Pay, Sick Pay, Health Insurance and Death in Service - These are examples of benefits which Employers may increase, or provide, based on length of service. Consider whether this favours older employees and whether it discriminates against younger employees. To justify these, you will need to prove increased entitlements promote loyalty, motivation, reward, experience etc.

Training - Policies should ensure that all age groups have access to training which increases knowledge, productivity etc.

Redundancy Procedures - Need to be reviewed for potential discriminatory selection criteria.

Equal Opportunity, Bullying, Harassment and Victimisation Policies - Should include age along with other potential discriminatory acts.

Appraisals

When carrying out appraisals make sure you do not take down potentially discriminatory notes, e.g. 'mature outlook on work for their age' or 'performs well for their age'.

Termination

We normally associate this with the employee tendering their resignation. Consider other types of termination such as summary dismissal, redundancy, retirement and performance or behavioural dismissals. When you have updated your policies and procedures for age discrimination, follow them and take care not to make potentially discriminatory remarks during any part of a termination procedure.

..... continued



So, to conclude, revise all your employment procedures and introduce those you do not currently operate. Don't forget to update all your Employees on the new legislation and how it will/may affect them during their employment. Finally, remember - you cannot afford not to comply!

If you require any assistance or advice, or would like us to review and revise your current procedures and policies, or draft new procedures and policies on your behalf, then please call our Employers Advisor, Janet Ellis, on 01628 527956.

IN BRIEF

Smoking - apart from the health risks, we are all aware that smoking is an expensive habit. But do your employees know that just one cigarette could cost them £50? From Summer 2007, employees caught smoking in the workplace face a £50 fine and, wait for it, if the employer fails to stop employees smoking in the workplace, they face a £2,500 fine! The exemption by providing 'smoking rooms' will be removed so it looks as though the only permitted area will be outside, come rain or shine. Details are available from the Health & Safety Executive website at www.hse.gov.uk.

Bullying - It would appear that Employers now not only need to have eyes in the back of their heads, but be psychic as well. Claiming ignorance to bullying in the workplace is no longer a defence which can be used if an employee brings a case against their Employer.

National Insurance Numbers - Due to a loophole, some 3,300 suspected illegal immigrants have been issued with National Insurance Numbers (NINO's) by Job Centres. Government Ministers are now taking steps to amend the law and close this loophole. Opposition Parties have criticised this as staggering incompetence on behalf of the Home Office which has enabled illegal immigrants to access jobs, benefits, pensions and NHS treatment. It is an offence to employ anyone in the UK who does not have a right to work here. All Employers should take care that they make the necessary document checks required under Section 8 of the Asylum & Immigration Act 1996, as well as retaining certified copies of these documents throughout employment, plus a further three years after termination of employment. Be warned that the penalties for taking on an employee, without the right to work, carries a maximum fine of £5,000 per illegal employee. For further details of the requirements under this Act, please telephone Janet Ellis, our Employers Advisor, on 01628 527956.

Farewell to the CSA. In July 2006, the Secretary of State for Works and Pensions, John Hutton, announced the winding up of the Child Support Agency (CSA). The reason given was the failing of the system which was costing the tax payer 70p for every £1 maintenance collected. It is hoped the new system, as yet unnamed, will be up and running in 2008 with the CSA continuing to operate in the meantime.

..... continued



IN BRIEF *continued*

Paid Holiday Entitlement. The Working Time Regulations 1998 gave all full-time workers the right to 20 days (4 weeks) paid holiday per year. Most, but not all, Employers have allowed their employees to take paid Bank Holidays in addition to the 20 days. Current consultations propose that all full-time workers will be entitled to 28 days paid holiday per year, including Bank Holidays. If this proposal is agreed, the extra entitlement could be phased in over one or two years. Those Employers who already allow paid Bank Holidays in addition to at least 20 days paid holiday, will not be affected by the changes.

There has been a lot to take on-board in this quarter's Employers News Bulletin, particularly with the new Age Discrimination legislation, so let's conclude on a slightly more light-hearted note, whilst retaining a reference to age:

- ⇒ *Old accountants never die, they just lose their balance.*
- ⇒ *Old architects never die, they just lose their structures.*
- ⇒ *Old bankers never die, they just lose interest.*
- ⇒ *Old bookkeepers never die, they just lose their figures.*
- ⇒ *Old doctors never die, they just lose their patience.*
- ⇒ *Old electricians never die, they just lose contact.*
- ⇒ *Old farmers never die, they just go to seed.*
- ⇒ *Old garage-men never die, they just retire.*
- ⇒ *Old investors never die, they just roll over.*
- ⇒ *Old lawyers never die, they just lose their appeal.*
- ⇒ *Old printers never die, they're just not the type.*

WE'RE ON THE WEB!
Find us at
www.fishpartnership.co.uk

FISH PARTNERSHIP LLP
The Mill House
Boundary Road
Loudwater
High Wycombe
Bucks.
HP10 9QN

Phone: 01628 527956
Fax: 01628 810385
Email: post@fishpartnership.co.uk
Web: www.fishpartnership.co.uk

Disclaimer – for information of users

This newsletter is published for the information of Clients. It provides only an overview of the regulations in force at the date of publication, and no action should be taken without consulting the detailed legislation or seeking professional advice. Therefore, no responsibility for loss occasioned by any person acting or refraining from action as a result of the material contained in this newsletter can be accepted by the author or the firm.



Happy to Help