

Welcome to the October edition of the ELiAction newsletter for 2010, providing you with useful information regarding changes to employment legislation and best practice.

EQUALITY ACT 2010

Many sections of the Act came into force on the 1st October 2010. On the 12th October the Equality and Human Rights Commission published extensive Codes of Practice in relation to the new Act and these can be found in full by following the link below:

<http://www.equalityhumanrights.com/legal-and-policy/equality-act/equality-act-codes-of-practice/>

We described the key provisions of the Act in some detail in our July Newsletter but have put a list at the end of this Newsletter setting out the key provisions which are now in force and those which are not.

If you would like assistance in updating your policies and agreements to ensure they refer to the new legislation and the new concepts introduced or would like us to provide some training for HR and managers please do contact one of the ELiAction team.

NEW GUIDES PUBLISHED

Stress At Work - A joint effort by ACAS, The Health and Safety Executive, and the CIPD has produced a guide on employers' legal duties to reduce work-related stress and where possible to prevent it from impacting on the health of their employees. The guide can be found by following the link below:

<http://www.cipd.co.uk/subjects/health/stress/work-related-stress-what-law-says.htm>

Absence Management - ACAS has produced a helpful guide entitled Managing Attendance and Employee Turnover which has some very practical guidance around managing sickness absences and unauthorised absences. The guide can be found by following the link below:

[Acas - Advisory booklet - Managing attendance and employee turnover](#)

EMPLOYEE BENEFITS - VAT ON RETAIL VOUCHERS

A recent European case requiring VAT to be paid on retail vouchers given to employees under salary sacrifice schemes has caused some uncertainty as to whether VAT will be due on other benefits. One of our business contacts FosterDenovo (employee benefit specialists) sought advice via their partner Redbourne and that advice is now published at <http://www.redbourne.com/doc/docview.rhtm?docID=365426> . Should you require further information there are contact details on the site or else please contact david.pugh@fosterdenovo.com.

FIXED TERM CONTRACTS AND CONTINUITY OF EMPLOYMENT

The recent case of Hussain v Acorn Independent College looked at how continuity of service between separate fixed term contracts can be bridged so as to give an employee the required one year's service generally needed to bring an unfair dismissal claim. The Employment Appeals Tribunal held that a school's summer holiday bridged the gap for a teacher even though there was no expectation at the time the first temporary contract ended in July that he would come back in September. The decision applies in the education sector but could be important for other seasonal workers where

employers have sometime relied on not promising future work to break continuity.

GOVERNMENT CONSULTATIONS

Default Retirement Age. As the Coalition government is committed to phasing out the DRA, the current Consultation focuses on how best to overcome the potential consequences. Our clients will have received a separate email on this but a reminder that any contributions to the consultation need to be submitted by 21st October.

Flexible working. The right to request flexible working is currently limited to employees with caring responsibilities for children or dependent adults. A consultation will be launched later in the year with a view to extending the right to others in the workforce.

The right to request time to train. Employees in businesses with more than 250 employees have had this right since 2010 and it was due to be rolled out to smaller organisations. However the Department for Business, Innovation and Skills is now reviewing whether the right should be repealed, retained for large organisations or extended to smaller organisations as previously planned.



If you would like assistance in updating your policies, would like advice on any employment issues, or would like to discuss any other HR and legal requirements please contact Employment Law in Action Limited on 01494 817193 or email info@ELiAction.com.

In giving comment and advice in the newsletter, we do not assume legal responsibility for the accuracy of any particular statement. If you have specific views which you wish to discuss we would be pleased to assist you.

THE EQUALITY ACT 2010

Provisions in force as at 1/10/10

The new concept of "**protected characteristics**" covering all the old equality "strands" i.e. age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation

- Pre-employment **health questions** limited
- **Pay secrecy** clauses limited
- **Wider powers** for Employment tribunals to make recommendations
- Employees can make complaint of **harassment** related to a protected characteristic where it is **not directed at them**.
- Liability for **harassment by third parties** e.g. where a customer harasses a member of staff. Whilst covered by previous legislation, the Equality Act 2010 provides that the employer will be liable if there have been two previous incidents (not necessarily by the same customers) and where it has failed to take steps to prevent the harassment

Not yet in force

- The socio-economic duty on public authorities
- Dual discrimination -claims based on two protected characteristics
- Disclosure by employers of information about the gender pay gap in their organisation
- Allowing voluntary positive action in recruitment and promotion where two candidates are as qualified as each other
- The prohibition on age discrimination in the provision of services and public functions