

EmployNet update

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Employment law cases 2016: decisions to look out for



Significant employment law decisions are expected in 2016, with cases pending on holiday pay, redundancy consultation, whistle-blowing, employment tribunal fees and equal pay. These are expected to have a far-reaching and wider impact on businesses.

Holiday pay

British Gas Trading v Lock and another (EAT)

The Employment Appeal Tribunal (EAT) heard the appeal in this important holiday pay case and considered the application to UK law of the European Court of Justice (ECJ), ruling that commission must be included in holiday pay calculations.

Redundancy consultation

United States of America v Nolan (Court of Appeal)

The *United States of America v Nolan* is likely to be the big redundancy consultation case in 2016. The UK Supreme Court has finally ruled that the redundancy consultation obligations do apply and this case now goes back to the Court of Appeal to consider the timing of the redundancy consultation.

Whistle-blowing

Chesterton Global (t/a Chestertons) v Nurmohamed (Court of Appeal)

An important change to whistle-blowing legislation that took effect in June 2013 provides that a disclosure is not protected unless the employee reasonably believes the disclosure is being made "in the public interest". The Court of Appeal is expected to decide whether or not the EAT's liberal interpretation in *Chesterton* of what that phrase means is the correct one.

Employment tribunal fees

R (on the application of Unison) v Lord Chancellor and another (Supreme Court)

In 2016, Unison will have one last go at challenging the introduction of fees for bringing an employment tribunal claim in the Supreme Court.

Equal pay

Brierley and others v Asda Stores (employment tribunal)

With gender pay reporting regulations on their way in 2016 for large employers, all eyes will be on two group equal pay claims expected against Asda and Sainsbury's. These "work of equal value" claims may be two of the highest-profile employment cases in 2016.

For more guidance or information about any of the issues tackled in these employment law cases and how they could set precedents for the wider business community, contact our team of specialist solicitors.

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Pension Freedom

From the 6th of April 2017 tax restrictions for people looking to sell their annuity will be removed, giving five million people with an existing annuity, and anyone who purchases an annuity in the future, the freedom to sell their right to future income streams for an upfront cash sum.

Under the new changes retirees will be able to take the annuity as a lump sum, or place it into drawdown to use the proceeds more gradually.

Flight of the baby boomers

UK employers are anticipating a significant skills gap when baby boomers retire over the next 2-5 years and are already taking steps to mitigate the risk.

Companies are preparing for the loss of older workers by increasing training and development programmes; enhancing benefit programmes to retain baby boomers; hiring mid-level talent to develop a skills pipeline; increase mentoring programmes and knowledge transfer; hire senior-level talent to replace retiring employees and offer flexible and/or part-time work arrangements to attract and retain baby boomers.

Zero hours contracts

The CIPD survey suggests that, on average, zero-hours contract employees experience similar levels of job satisfaction, work-life balance and personal well-being to employees on permanent, full-time contracts as well as comparable satisfaction levels in their relationship with managers and colleagues.

Penalties to be doubled for flouting national living wage

The Government has now published legislation that brings into force the new national living wage next year

From 1st April 2016, the National Minimum Wage (Amendment) Regulations 2016 introduce the new rate of £7.20 for workers aged 25 and over.

The Regulations also double the financial penalties for which employers will be liable if they are found to have paid any workers below the compulsory minimum.

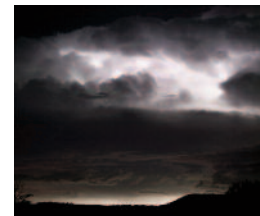
The other wage bands will be as follows:

- £6.70 for a worker who is aged 21 years or over (but under 25);
- £5.30 for a worker who is aged 18 years or over (but under 21 years);
- £3.87 for a worker who is aged under 18 years; and
- £3.30 for an apprentice.

According to a recent survey by the CIPD, some employers have expressed concerns about the impact the new statutory minimum could have on budgets while larger organisations including supermarket chain Lidl and retailer Oliver Bonas, have already committed to paying in excess of the national living wage.

Nearly a quarter of UK employers affected by Seasonal Affective Disorder

Nearly a quarter of UK employers have encountered Seasonal Affective Disorder (SAD) in the workplace, new research has revealed.



In a study commissioned by employee health risk specialist Willis PMI Group, 23% of UK HR professionals said employees had reported suffering from the condition.

SAD is a medically recognised condition, believed to be caused by reduced sunlight levels affecting hormone production, that comes and goes in a seasonal pattern and is sometimes known as 'winter depression' because symptoms tend to be more severe during winter.

74% of the HR professionals surveyed noticed a downturn in mood among staff during the dark winter months. Furthermore, 43% said they also noticed a downturn in staff productivity during winter.

However 74% of HR professionals surveyed do not know the recommended treatment for employees suffering from SAD.

Lifestyle measures, including getting as much natural sunlight as possible, exercising regularly and managing stress levels, as well as light and talking therapies can have a significant impact in reducing symptoms.

West Country home to the friendliest workers in the UK

Surprisingly, or perhaps unsurprisingly, depending on your current location within the country, it has been revealed that the South West is home to the UK's friendliest workers. The area also boasts one of the lowest unemployment rates in the UK.

The East Midlands comes out as the UK's most unfriendly working region, with only 25% of its workers considering some of their colleagues as friends, followed by London at 29%.