

Disability

You may have heard the news yesterday regarding the case Coleman –v- Attridge Law, which potentially extends discrimination law to people who are not disabled themselves, but care for a disabled person.

Ms Coleman cares for her disabled son. She is not herself disabled. Ms Coleman wanted to take time off work to care for her son but her employer called her 'lazy' and accused her of trying to manipulate her working conditions. Ms Coleman is not herself covered by the disability discrimination legislation but brought claims under the legislation that she had suffered discrimination by association, due to her son's disability.

The Disability Discrimination Act 1995 does not cover this type of discrimination, but the European directive from which the act derives arguably does. The tribunal referred the case to the European Courts of Justice. An Advocate General yesterday gave his opinion, which was that such discrimination should be covered by the legislation. The case is now awaiting a full court hearing at the ECJ. Although the Advocate General's opinion is not binding on the ECJ, if it is endorsed, it will be sent back to the tribunal to decide whether the legislation can be interpreted to protect people like Ms Coleman. If it is not possible to interpret the legislation in this way, it is likely to be amended by Parliament together with the sex and age discrimination legislation, which is drafted in the same way.

This case means that you should be cautious when using your disciplinary procedure with a carer of a disabled person, when the reason for the disciplinary is for absenteeism or performance, which can be linked with the fact that they care for a disabled person. You should also consider carefully any request they make to modify their terms and conditions to enable them to fulfil their role as carer. This is not just because of the Coleman case but also because of last year's extension of the right to request flexible working to certain carers of adults.

Age Regulations and Recruitment

In McCoy –v- James McGregor and Sons Ltd, Mr McCoy, a 58 year old, brought a claim under the age discrimination legislation after he was rejected for two sales posts. He complained because the advert for the posts asked for 'youthful enthusiasm' in the candidates and the two people appointed to the roles were younger than him. At the interviews Mr McCoy attended, he was asked whether, at 58, he still had the motivation for the roles.

This case is an object lesson in how to get your recruitment and

advertising processes wrong. It is very important that you do not ask questions based on assumptions regarding the age of the candidate, or set age biased criteria in adverts.

New Compensation Limits come into force today

The limits for compensation increase on 1st February every year. This year, the limit on a weeks pay for calculating unfair dismissal compensation and redundancy payments has increased to £330 and the maximum compensation for unfair dismissal has increased to £63,000.

For more specific information or to discuss your requirements please call either Amanda Galashan or Julie Calleux at EmployEase on 0207 831 5052, or email us at info@employease.co.uk.

We hope you find this update useful. Should you wish to unsubscribe from this free update, please email us at the above address and your name will be removed. This e-mail does not constitute legal advice on any particular situation you may have.

© EmployEase 2008

--

EmployEase: The Employment Practice Ltd
75 Chancery Lane
London
WC2A 1AA
Tel: 020 7831 5052

Company registered in England Reg No: 2931940
Registered Office: 18a Arundel Square London N7 8AS

The information in this electronic mail message is confidential and may be legally privileged. It is intended solely for the addressee. Access to this internet electronic mail message by anyone else is unauthorised. If you are not the intended recipient, any disclosure, copying, distribution or any action taken or omitted to be taken in reliance on it is prohibited and may be unlawful.