



September Bytesize Employment Law

Read all about it? Employment tribunal decision to go online

A new online database of employment tribunal decisions will be available to all to search on the internet from Autumn 2016. Currently, paper copies of judgments from England and Wales are stored separately to those from Scotland whereas the new database will cover judgments in both England Wales and Scotland.

Although the new database will initially cover new judgments, the decision is still to be made on whether existing judgments will be converted and made available online.

Human error remains main cause of data breaches, ICO data shows

In the 448 incidents of data breach recorded by the UK regulator during the first three months of 2016, most incidents could be attributed to human error according to data released by the regulator.

Of the incidents, 74 were recorded as a loss or theft of paperwork. A further 74 were cases where data was posted or faxed to the wrong recipient. In 42 cases, data was emailed to the incorrect recipient. Unencrypted devices were either lost or stolen on 20 occasions, and 24 cases concerned insecure disposal of paperwork.

Is the handbook part of the employment contract?

In a recent case, the Court of Appeal had to consider when terms in a handbook are incorporated into a contract of employment. They decided that the absence management policy did have contractual effect.

It is a handy reminder that employers should always make it clear which provisions in the handbook are intended to be contractual and which are not. If you are in any doubt, you should seek legal advice. It is a good idea to have handbooks reviewed from time to time to ensure any legislative changes are made, for example in relation to family friendly rights which have been the subject of much change over the past few years.

The case was the Department for Transport v Maureen Sparks and Ors [2016].



Warning from experts over auto enrolment

Experts have warned that fines for noncompliance have increased hugely over the past 12 months as we reach the staging dates for SMEs. The Pensions Regulator issued 2,234 fixed fines in March 2016 compared with 367 in the same quarter in 2015.

The Pensions Regulator is available to give firms assistance but the message is start early so that issues can be addressed before failure to comply gives rise to a fine.

Rise in maternity discrimination

Research from Citizens Advice shows that there has been a 60% increase in the number of women seeking advice on discrimination around maternity and maternity leave issues in just a year.

The most common issues it dealt with included redundancy, reduction in hours including being moved to a zero-hour contract and having a role changed upon return to work.

Disability discrimination – maintaining pay protection can amount to a reasonable adjustment

A recent case has found that the maintaining of pay protection can amount to a reasonable adjustment. The EAT decided that an employee whose condition meant that he could no longer do his original role due to not being able to do heavy lifting or work in confined spaces, was entitled to pay protection for the newly created key runner role which involved driving to the engineers in the field delivering parts and keys.

The new role had no requirement for engineering skills as the original role had and the employer argued that a lower rate of pay should be applied to the new role. The EAT decided that the employer was required to employ him at his original rate of pay as a reasonable adjustment under section 20 of the Equality Act 2010. The duty to make reasonable adjustments envisages cost to the employer.

The tribunal concluded that it was possible to envisage cases where pay protection was a reasonable adjustment to get an employee back to work or keep an employee in work as required by the legislation. Clearly it will depend on the individual circumstances but employers need to be aware of this development.

The case was G4S Cash Solutions (UK) Ltd v Powell.



Taxation of employment termination payments – Changes from April 2018

The Government has published the response to its consultation on the treatment of employment termination payments. The good news is that the current tax exemption of £30,000 for termination payment is being preserved.

However, the changes mean that the exemption will no longer cover any pay, bonuses or benefits which would have been earned in the notice period. There is further consultation on going but the changes are proposed to take effect from April 2018.

Employment & HR – we can help

Our team of employment lawyers don't just provide legal advice on all people issues.

We spend our time learning about your business and understanding your objectives - enabling us to provide commercial solutions, delivered on time, and tailored to fit.

We'll advise throughout the employment relationship from recruitment and selection through to discipline and dismissal - and everything in-between.

Experience

Our clients are a mix of small to medium sized, owner managed businesses and large, household names. As a result, we are used to dealing with, and tailoring our language and approach to meet the needs of both growing businesses and large organisations, dealing with directors and HR professionals.

Stay up to date

Employment is one of the most rapidly developing areas of law. To help guide you through, we'll ensure you are kept up to date with all the latest changes through our series of email updates and regular breakfast seminars.



Training courses

We provide a range of training courses tailored to meet your needs. Our aim is to equip delegates with the skills to be able to deal with new and difficult employment and HR issues.

Through case studies, covering real life transactions, we'll bring the topic to life and provide delegates with an opportunity to put their training into practice!

Included below is a snapshot of some of the training courses we have run in the past, and we can also create specific training courses.

Conducting employee investigations	Managing a TUPE transfer	Dealing with discrimination	Managing sickness absence
Managing poor performance	Family friendly rights	Dealing with discipline & grievance	Essential employment law
Managing stress	Avoiding unfair dismissal	Data protection	Navigating the employment tribunal

Key contacts



Claire Bell
 Director
 T: 0115 8448 350
 M: 07725 592 658
 E: claire.bell@actons.co.uk
 Twitter: @HR_law_news

Claire has over 20 years' experience acting for employers in all types of employment disputes. She has particular expertise in more complex cases involving multiple redundancies, collective consultation, TUPE, data protection, whistleblowing and discrimination claims.

Claire joined Actons in 2004 having previously worked at national firms DAC Beachcroft and Shoosmiths.



Nic Elliott
 Director
 T: 0115 9100 253
 M: 07736 764 170
 E: nic.elliott@actons.co.uk
 Twitter: @NicEActons

Nic deals with a broad range of employment law issues, regularly advising on complex and commercially sensitive litigation.

He advises on the exit of senior employees and directors, complex absence management issues and provides general advice on day to day employee relations matters.

He also runs and advises on employee investigations.

He joined Actons in 2012 after 8 years at international law firm, Wragge & Co.