

**Nockolds are proud to announce that the Firm's Employment Team has recently been listed as recommended specialists in the prestigious Legal 500 directory placing it amongst the elite of the UK legal profession in the South East region**



## **THE DAWNING OF A NEW AGE**

The new Age Discrimination Regulations came into effect on 1 October 2006. They have been hailed as 'the most significant upheaval in employment law for 30 years'. It is now unlawful to discriminate on the grounds of age. In common with existing discrimination legislation the Regulations prohibit direct and indirect discrimination, harassment and victimisation.

Young and old are protected from age discrimination and there is no minimum qualifying period before an employee can bring a claim at the employment tribunal. Furthermore, there is no limit on the compensation that can be awarded by the tribunal.

### Key Effects

- It is unlawful to discriminate on the grounds of age.
- Upper age limits for unfair dismissal and redundancy payments have now been removed.
- There is now a national default retirement age of 65 – retirement before 65 will be unlawful unless objectively justified.
- Benefits relating to the employees' length of service are only lawful in certain situations.
- There are certain limited circumstances when age discrimination is deemed to be lawful.

Employers need to thoroughly re-examine their practices across the entire spectrum of employment from recruitment to retirement. In particular employers should review their application forms and ensure all interviewers have received diversity training. On retirement, employers now have a duty to inform their employees of the intended date of retirement. Failure to follow the strict procedure introduced by the Regulations on retirement will not only render the dismissal unfair but may give rise to a claim for age discrimination.

Employers should also be aware that they are responsible for the employees' actions and therefore reasonable steps should be taken to eliminate discrimination in the workplace. We can assist in reviewing your employment practices and procedures to ensure that these comply with the new legislation.

### NEW MATERNITY RIGHTS

The Work and Families Act 2006 came into force on 1 October. The Act introduces new family friendly policies including new maternity rights. These changes only apply to employees' whose expected week of child birth is on or after 1 April 2007. They include:

- extending the maternity pay period from 26 weeks to 39 weeks.
- removing the length of service qualifying period for additional maternity leave. All women will be entitled to a maximum of 52 weeks maternity leave regardless of length of service.
- increasing the amount of notice an employee needs to give before intending to return to work at the end of maternity leave from 28 days notice to 8 weeks.
- introducing "keeping in touch" days whereby an employee can do up to 10 days work for her employer during maternity leave without losing statutory payments for that week or bringing the leave to an end.

The Work and Families Act also extends the right to request flexible working to employees with caring and responsibilities for adults. Again, this right will take effect from 6 April 2007.

### EMPLOYERS ARE OBLIGED TO ENSURE WORKERS TAKE BREAKS!

Under the EC Working Time Directive workers are entitled to certain minimum periods of rest. The UK Government's guidance stated that employers must make sure that workers *can* take their rest, but are not required to ensure that they *do* take daily and weekly rest breaks. In a recent case the European Court of Justice held that the UK's guidelines are in breach of the Directive and employers are under an obligation to ensure employees take their rest breaks.



**If you would like to discuss any issues raised in this update or any other employment related matter please do not hesitate to contact our**

**Employment Team on:-**

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