



Human Resources email shot

In this email shot we look at three issues, Statutory Grievance Procedures; and two recent changes in the law under the Disability Discrimination Act and the Civil Partnership Act 2004.

Statutory Grievance Procedures: Failure to comply with the Statutory Grievance Procedure that came into force in October 2004 could result in an increase in the amount of compensation awarded by an Employment Tribunal by as much as 50%. Employers would be well advised, therefore to ensure that they follow the procedure. This will oblige employers to meet with an employee who has submitted a grievance (in writing) to discuss their complaint.

The EAT has recently clarified what could constitute a statutory grievance. They have indicated that it is sufficient if the employer can understand the general nature of the complaint being made. There is no need for the letter to specifically state that the employee is submitting a grievance, nor for the employee to have followed the contractual grievance policy (which you may find surprising). Examples of written documents which have been found to satisfy the statutory procedure include a resignation letter, and a solicitor's letter before action. Neither specifically referred to the complaint as a "grievance".

Action required: You should pay careful attention to any correspondence received from an employee, or sent on the employee's behalf, which sets out some dissatisfaction on the part of the employee, as this may amount to a grievance. Ensure that your organization is clear about the procedure for dealing with any such grievances and that your procedure complies with the statutory requirements. Appropriate staff training for dealing with grievances is essential.

Disability Discrimination Act provisions now in force: The first raft of provisions under the Disability Discrimination Act 2005 are now in force. The amendment to the DDA's definition of disability means that HIV, cancer and multiple sclerosis are automatically included within the scope of the Act. This means that people diagnosed with one of those conditions will benefit from protection even before showing signs of their illness.

Another important amendment is that mental illnesses no longer have to be 'clinically well-recognised' to benefit from protection. There is likely to be a flurry of case law before it becomes clear precisely how this definition will be applied in practice - on the face of it, this amendment would appear to significantly increase the number of individuals who will gain protection under the Act.

Action required: You should consider your existing policies relating to disability discrimination and ensure that they comply with the recent changes to the law in this area. Appropriate information to staff, and training should be given.

Civil Partnership Act 2004 provisions now in force: The Civil Partnership Act 2004 enables same-sex couples to register as civil partners and enjoy employment, social security and tax benefits previously only available to married couples. The Act entails consequential amendments to employment law, so that civil partners benefit from protection from discrimination in employment similar to that enjoyed by spouses. For example, S.3 of the Sex Discrimination Act 1975 is amended so that protection from discrimination on the ground that a person is married will be extended to include those having concluded a civil partnership.

Action required: You should review and revise all policies, guidance, forms and other material to reflect the new arrangements and make clear that wherever 'spouses' and 'marriage' are used that that includes 'civil partners' and 'civil partnerships'. Appropriate information should be given to staff and they should be reminded not to discriminate on the grounds of actual or perceived sexual orientation.

To discuss how Berg Legal can assist you with these issues, please contact Alison Loveday at alisonl@berg.co.uk, our partner in our Human Resources Department. Alternatively you can call Alison on 0161 833 9211.

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