



HR Briefing

June 2006

Beware of retirement...

Currently, employees can be dismissed with relative impunity at the employer's normal retirement age, as employees generally have no legal recourse against compulsory retirement. However, all this is set to change as, from 1 October 2006, employees will no longer lose their unfair dismissal rights upon reaching normal retirement age and will be able to bring claims of unfair dismissal and even age discrimination.

Employers are therefore well advised to deal carefully with retirement issues and plan ahead.

The question of "normal retirement age" continues to cause difficulties. In the recent case of **Cross v BA**, the Court looked at a case where an employee had worked for a previous employer and whose terms and conditions had transferred to BA. The Court ruled that "normal retirement age" does not transfer and therefore the relevant "normal retirement age" was the one operated by BA (rather than their previous employer). This meant that the employees could not proceed with their claims of unfair dismissal since they had reached normal retirement age for that employer.

Retirement will come under the spotlight more and more since we have an ageing workforce and in general people will be financially dependant on working longer. Where disputes arise between an employer and an employee, the employee will be able to challenge their dismissal in an employment tribunal.

World Cup fever

With the World Cup already underway, employers should be aware of the tournament's impact on the workplace.

With predictions that the average organisation will lose up to £8,400 in lost production per 100 employees during the month long tournament, what steps can employers take to minimise disruption? Employers are being advised to formulate a sensible policy on allowing reasonable time

Key recommendations

- Be aware that the age discrimination regulations come into force with effect from 1 October 2006.
- Examine how your organisation currently deals with the issue of retirement.
- Plan carefully for expected retirements.
- Do not assume that employees will automatically wish to retire. Be proactive and have early discussions with employees.
- Have a mechanism in place so that employees affected by retirement receive proper advanced notice from your organisation that they are expected to retire, at least 6 months ahead and that they are informed that they can apply to work beyond the normal retirement age.

Key recommendations

- Plan ahead. Consider how you will deal with absences during key matches. Will you grant unpaid time off, and can staff make up the time?
- Ensure any such policies

off, and be as flexible as possible.

But it is not just staff absences which may cause problems. Increased internet use by employees keeping up to date with all the news can be a further drain on time and resources. Employers should ensure that staff are reminded of rules on the use of internet and email.

Overall, the message to employers during the World Cup is to strike a fair balance between maintaining business as usual whilst also recognising that some employees will be struck by "World Cup fever". You should, so far as possible, treat all employees equally and respond to absences and breaches of procedures as you normally would - fairly.

are applied equally to all members of staff.

- Remind employees of the terms of your internet policy.
- Remind staff that taking time off when not genuinely ill is a disciplinary matter.
- Investigate circumstances before imposing any disciplinary sanctions. Follow your normal disciplinary procedure.
- Remember that a constructive approach to World Cup fever can pay dividends in terms of staff morale.

To discuss how Berg Legal can assist you with these issues, please contact either Alison Loveday at alisonl@berg.co.uk or Lee Jecott at leej@berg.co.uk. Alternatively you can call Alison or Lee on 0161 833 9211.

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