



Human Resources email shot

In this email shot we look at two issues, personality dismissals and new family friendly proposals.

Personality Dismissals: The Court of Appeal has handed down its judgment in *Perkin v St George's Healthcare NHS Trust*. It stands as authority for the proposition that employers are entitled to dismiss employees for having a difficult personality, even when they are technically good at their jobs and there are no criticisms of their integrity, on the grounds of 'some other substantial reason'.

It is also authority for the proposition that, in an appropriate case, it is possible to: have a finding of 100% contributory fault; and because of the aggressive way in which the employee defended himself (making allegations of fraud against the Chief Executive of the NHS Trust), any disciplinary panel - even if not chaired by the biased chairperson - would be 100% certain to have dismissed him on the grounds he would not be able to continue working with senior executives of the Trust.

Action required: When considering dismissal of employees, ensure that your actions can be justified and that you can provide a fair reason for dismissal of the employee, having followed all the correct statutory disciplinary and grievance procedures.

New Family Friendly Proposals: The government has just announced its new family-friendly proposals, following extensive consultation. They will appear in the Work and Families Bill, to be published soon.

The new/changed laws will be:

- extending Statutory Maternity Pay and Maternity Allowance to nine months from April 2007 with the ambition of moving to a year by the end of the Parliament;
- a power to introduce new paternity leave for fathers, enabling them to benefit from leave and statutory pay if the mother returns to work after six months but before the end of her maternity leave period;
- extending the right to request flexible working to carers from April 2007;
- measures to help businesses manage the administration of Statutory Maternity Pay, Statutory Paternity Pay and Statutory Adoption Pay;

- introducing 'keeping in touch' days so that where employees and employers agree, a woman on maternity leave can go into work for a few days, without losing her right to maternity leave or a week's statutory pay;
- extending the period of notice for return from maternity leave to two months enabling employees and employers to more effectively plan for return to work;
- making clear in the regulations that employers can make reasonable contact with their employees on maternity leave to help employers plan and ease the mother's return to work.

Action required: You should consider your existing policies to assess what impact the Work and Families Bill is likely to have on your business. The area that may cause greatest concern to businesses is the potential logistical issues that could be posed by the government's proposals. It will be important for businesses to get to grips with the new/changed laws in this area and keep a close eye on any further amendments to the bill in the coming months, which may effect the way in which your business deals with implementation.

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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