

Moon & Co

Solicitors

Employment Newsletter Highlights November 2007

Welcome to our e-newsletter. This is a brief look at new cases and employment related matters, which are likely to be of interest to many. As a slight change to the previous format the articles in this issue are introduced but more detail can be obtained by clicking on the link to our web page. Please let us know how you feel about this format
If you want more information or have specific concerns phone me on **01233 714055** or e-mail.

kirsten@moon-and-co.co.uk

Data Protection: End of grace period.

You may have forgotten but the Data Protection Act came into force in 1998. For various reasons manual data which was not being processed at that time (or since been added to) was not subject to the act. However from 24 October 2007 the 8 data protection principles apply to all data held in a relevant manual storage system. What this could mean for you.....

First check whether what you hold is in a relevant filing system as covered by the act. In practice if the data is held in a form where information about an individual can be looked up it is covered. E.g. personnel files for individuals in alphabetical order. On the other hand piles of unrelated or chaotically heaped papers won't be a relevant filing system. Then check you comply with the 8 data protection principles which apply to all processing of data (e.g. collecting, storing etc.) The principles can be summarised as follows

1. All person data must be processed fairly and lawfully
2. The information must be obtained for a specific lawful purpose and processed in way that is compatible with that.
3. The information gathered must be adequate, relevant and not excessive for the specific purpose
4. The information must be accurate and where necessary kept up to date
5. The information must not be kept longer than is necessary
6. The data controller must observe the data subject's rights
7. The data controller must take appropriate steps to guard against unauthorised access, damage or loss of data
8. The data must not be transferred out of the European Economic Area unless adequate protection is available.

To meet the overriding principle of legality and fairness certain conditions must be met in relation to the data, e.g. the data subject must have consented to it being held or processing is necessary for compliance with legal obligations. In the case of sensitive personal data (e.g. health information) further conditions apply. Individuals can also seek details of the data you keep about them and subject to a fee (maximum £10) you must produce the data and give certain information within 40 days. Remember that employees have used these rights to get access to information which has shown they were not offered a job or passed over for promotion. I suspect with the introduction of anti age discrimination legislation there may be a new spate of data subject requests so now might be a good idea to review whether you have new files which are now caught by the act and that all your records comply with the act and you don't create data which would be an embarrassment in future. For more information contact us or go to the Information Commissioners web site at

<http://www.ico.gov.uk/>

More cases than ever.

The annual report of the Employment Tribunal shows that the number of cases in 2006/7 went up to over 238,000 an increase of 15% though much of the increase may be due to

equal pay claims against local authorities. In the first six months of the new anti age discrimination legislation 972 cases were filed.

Holiday and Pay Increases

Don't forget that the statutory holiday entitlement rose from the 1 October 2007 to 4.8 weeks and goes up again in April 09 to 5.6 weeks paid annual leave. To help you calculate the amount due have a look at the Business Link web site ready reckoner

www.businesslink.gov.uk/annualleave

Don't forget the minimum wage also went up from the beginning of last month. For details

The rate per hour for workers aged 22 or above will rise from £5.35 to £5.52; for workers aged 18 to 21, the rate will rise from £4.45 to £4.60; and for workers aged under 18 who have ceased to be of compulsory school age, the rate will rise from £3.30 to £3.40.

Recruiting.

Are you being careful not to discriminate in your recruiting practices? It may be difficult to keep all the potential pitfalls in mind. Experience required could work against the young, specific qualifications may exclude overseas groups etc. However another way of vetting potential candidates was questioned recently by recruitment firms. A higher percentage of prospective employers than might be expected check out potential employees by

looking at their profiles on social networking sites such as Facebook. However warnings are being sounded that taking account of such profiles could lead to discrimination. Some suggest that having a profile could be to the prospects advantage or disadvantage particularly when some social groups are more represented than others. For example the majority of Facebook users are under 50 though with Saga launching a new site for the over 50's that may well redress part of the balance.

Nights drawing in don't be SAD get out on the range.

It is recognised more now that people can be genuinely affected by the weather and length of day. Seasonal Affective Disorder can affect some people when the weather gets hotter and they long for the cool of autumn. However most of those affected dread the shortening days and some employers make adjustments just like the change from BST. For instance.....some allow working more flexible hours. This fits in with the recent Commute Smart Week which encouraged further flexibility in working in the UK where we have longer commuting times than the rest of Europe. Flexible hours including longer days and shorter weeks may reduce peak journey time traffic hold ups and over crowded trains. On the other hand even more drastic changes to office arrangements are said to increase turnover. Free range offices with more space, mobile technology and flexible hours are said to increase productivity over 400% and lower stress levels compared to small desk bound battery type arrangements.

Specialist advice should be obtained before taking or refraining from taking action based on comments in this newsletter, which is only intended as a brief note.

E-mail me to cancel at any time.

www.moon-and-co.co.uk

Partners: Kirsten B. F. Moon, Kevin G Moon. Regulated by the Solicitors Regulations Authority

26 MOON & CO Applewood House, The Hill, Charing, Kent TN27 0LU
Telephone: +44(0)1233 714055 The Partners: Kirsten B F Moon; Kevin G Moon
This firm is regulated by the Solicitors Regulations Authority

This e-mail and any attachments are confidential and may contain information that is privileged. If you are not the named recipient, or responsible for delivering the message to the named recipient, you must not

disclose, distribute, forward, copy, store or use this e-mail or its attachments in any form. If you have received this communication in error, please accept our apologies and promptly inform the sender by e-mail or by telephoning the above number. Please also immediately delete this message and any attachments from your systems. Thank you.

Although this e-mail and its attachments may have been checked by an up-to-date virus-checking program before transmission, it is your responsibility as recipient to ensure they are actually virus free when received