

Welcome

Welcome to the Autumn edition of In Focus, our quarterly update keeping you informed of developments in employment law.

For further information on employment issues, please email roger.bull@burgess-salmon.com

Shared parental leave

The Shared Parental Leave Regulations are expected to come into force on 1 December 2014, not 1 October 2014 as was originally stated.

Acas have published a **Good practice guide for employers and employees on shared parental leave and pay**.

The government has also produced an **Employers' technical guide to shared parental leave and pay**. This adds to the information in the previously produced **Employer guide on shared parental leave and pay** and is intended to assist employers



in implementing policies on the new shared parental leave system. Whilst the guidance is not quite as detailed and user friendly as originally promised, it does contain some helpful and practical information.

Shared parental pay

Employers considering what arrangements to put into place for shared parental pay, will be interested to know that a recent employment tribunal decision held that an employer's failure to pay male employees enhanced additional paternity pay was not direct or indirect sex discrimination.

In this case, *Shuter v Ford Motor Company Limited*, the employer paid employees on maternity leave up to 52 weeks' full basic pay (inclusive of SMP). However, whilst it paid full basic pay to those employees taking ordinary paternity leave, employees taking additional paternity leave received the only the statutory rate. A male employee claimed this was discriminatory.

The employer argued that the aim of its maternity policy was to promote recruitment, retention and

development of women within a male dominated work force. The tribunal took account of this and also the fact that more favourable treatment of women during maternity leave arose simply due to the fact of pregnancy and childbirth.

Although this is only an employment tribunal decision, and so it is not binding on another employment tribunal, it is an interesting decision for those employers with enhanced maternity pay who are currently considering whether to enhance shared parental pay to match their maternity provisions. The particular circumstances of this case will not apply to all employers and, if you would like advice about your proposed approach to shared parental leave or pay please contact Luke Bowery.

Pregnant pause

From 1 October 2014, prospective fathers and partners of pregnant women have the right to unpaid time off work to attend up to two antenatal appointments. There is a maximum six and a half hours for each appointment. Acas has published an **employer guide on time off to accompany a pregnant woman to ante-natal appointments**.

A similar right will be introduced for adopters to take time off to attend appointments to meet the child they intend to adopt from 5 April 2015. This right to time off will also be subject to a maximum of six and a half hours for each appointment.

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I'm watching you

A recent decision from the Employment Appeals Tribunal (EAT) has highlighted the importance for employers to have clear policies and procedures regarding the use of the company's email system to send personal messages and how this use is monitored.

In this case, *Atkinson v Community Gateway Association*, the use of emails by an employer discovered in the course of a disciplinary investigation were held not to amount to an unjustified interference with an employee's private life, contrary to Article 8 of the European Convention of Human Rights (ECHR). Mr Atkinson was aware of the company's email policy and none of his emails had been marked private or confidential and so

Mr Atkinson had no reasonable expectation of privacy in relation to these emails.

This is in contrast to a previous case, *Copland v United Kingdom*, where Article 8 was held to have been infringed where there was no workplace email policy and the employee had not been told that emails might be monitored.

It is therefore important that employees are aware of the company's policy and how use of the email system will be monitored. If you would like any further advice about putting into place an IT and communications policy, please contact Roger Bull.

Bring your own disaster?

The government has issued some **Guidance** on the increasingly common practice often referred to as "bring your own device" (BYOD), where employees are allowed to work using personally owned devices, such as smart phones and tablet computers. This might mean that individuals' own devices are being used to access and store corporate information.

The guidance sets out best practice for ensuring device

security and designing work architecture in order to prevent devices accessing particularly sensitive data. It contains examples of scenarios that a company may face and highlights the risks associated and recommendations for minimising the risks.

The guidance should be read in conjunction with the **BYOD Guidance** already issued by the Information Commissioners Office.

News in brief

- The Department for Business, Innovation and Skills (BIS) has announced a wide-ranging employment review to clarify and potentially strengthen the employment status of workers.
- Acas has published a **good practice guide on Managing bereavement in the workplace**.
- From 1 October 2014 employment tribunals are obliged to order employers who lose an equal pay claim to carry out equal pay audits in certain circumstances. This applies to all equal pay claims presented on or after 1 October 2014.
- The national minimum wage rates increased on 1 October 2014. For an adult worker, the national minimum wage rate increased to £6.50 per hour (from £6.31).

Email alerts and articles

To access our recent email alerts please visit www.burges-salmon.com/practices/employment/news/default.aspx.

If you are interested in reading some of the articles that have been written recently by our team for *Personnel Today*, please see, **Top ten tips for employers at the start of a new term** and **Long-term sickness absence: five tricky issues for employers**.

Seminars

For more details on how to manage absence effectively within your workforce to minimise exposure to legal claims, please reserve a place at one of our seminars:

Bristol seminar – 18 November

London seminar – 25 November

Alternatively, please contact:

seminars@burges-salmon.com

In the office

Welcome to **Annelise Tracy Phillips** who joins the employment team as a Senior Associate.

Congratulations to **Catharine Cooksley** and her husband George on the birth of their first child, a boy.

The employment team embraced the American convict look to volunteer at a Changing Lives warehouse in Clevedon. The team split their efforts over two days in order to paint the inside of the 4,000 sq ft building.



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