



June 2017 Update

Welcome to the June Employment Law Update where we discuss the latest in legislation and guidance. But first.....

June 23 is Bring your Dog to Work Day

- Did you know that 8% of employers allow dogs at work?
- Many believe that pets improve morale and reduce stress.
- It might be calming but I suspect it would be carnage if we all took our dogs in!

In this Edition, we report on:

- Interview questions and spotting the exaggerator
- Was Psychometric testing discriminatory?
- Restrictions on holiday pay claims

Interview questions and spotting the exaggerator

In response to a request for unexpected interview experiences by the BBC, more than 1500 people responded with examples that they deemed to be "inappropriate" and "outrageous". Examples such as: Katherine being asked whether she was too old and "Wouldn't have the energy" to work as a recruitment consultant at 37 years' old (yes, you read that correctly for those over 37...)

Kevin being asked: "You used to be in the army, how many people have you killed?", to which he responded: "Depending on the outcome of this interview, the number might change."

And Jo who was asked to put a large straw hat over her face, as the interviewer said that in his experience "pretty girls" like her depend too much on their looks...

Apart from the sheer ridiculousness of some of the questions, the article provides a list of questions that perhaps employers should not ask: (<http://www.bbc.co.uk/news/business-39818120>)

Employers: There are techniques employers can use to establish when employees are lying or over exaggerating their experience in interview.

Contact us: we can train your managers and support your interview process to help you work this out.

Psychometric Testing was Discriminatory

Psychometric testing has been a way of assessing the aptitude of job applicants. But this tick-box test, marked by computers, doesn't necessarily provide a level playing field.

In the recent case of *The Government Legal Services v Brookes*, Ms Brookes had Asperger's Syndrome. The first stage of the recruitment process involved a multiple-choice test. She asked if she could respond by giving short narrative written answers. She took the test but did not do well enough to move on in the recruitment process.

The Employment Appeal Tribunal (EAT) upheld the tribunal's decision that she had been indirectly discriminated against. The 'provision, criterion or practice' (PCP) that all applicants in the trainee recruitment scheme take and pass the online test put people such as Ms Brookes at a disadvantage. The court found that a person with Asperger's lacked the social imagination to understand hypothetical situations.

That discrimination could not be justified. While the PCP served a legitimate aim, the means of achieving that aim were not proportionate. It was also found that GLS had failed in its duty to make reasonable adjustments.

Employers: Build some flexibility into your recruitment process to deal with people who may be disadvantaged by your 'standard' procedure.

Contact us: We can support your business in the interview and on-boarding process

Restriction on holiday pay claims reinforced

The latest is that the EAT has now confirmed one important principle, being that a gap of three months or more is enough to break the series of deductions for holiday claims purposes.

Where an employee has been underpaid, or has not been paid any of their holiday pay, they are entitled to bring a claim against their employer. But where there has been a gap of at least three months between these underpayments or non-payments, that cuts off their claim, the gap prevents them from claiming further back in time.

This latest decision confirms the rule that employees will only be able to claim back as far as the 'series of deductions' as long as they continued without a break of more than three months.

Employers: This is very important and in favour of employers because it reduces the scope for backdated claims.

Contact us: We can advise on holiday pay calculations

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



Silverstone

Business Forum

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