



HR Briefing

May 2006

Welcome to the new look Berg Legal HR Briefing

Many of you will be familiar with the Monthly eMailshot which was designed to highlight key changes in Employment Law and HR practice together with a summary of key practical recommendations. We intend to continue this tradition with our new look HR Briefing, designed to set out in plain English the essential changes in the Employment Law and HR minefield and suggest key practical steps for your business.

Dealing with Redundancies – Beware the Pitfalls!

Recent case law has highlighted the need for Employers to take care when making staff redundant.. A failure to provide proper information to employees at the correct stage in the dismissal process could mean that the employee has a claim for automatic unfair dismissal, even if the Employer did have proper grounds to dismiss and could increase any compensation awarded by up to 50 per cent.

Many redundancies involve selection using appropriate selection criteria and a scoring exercise. Recent case law has confirmed that whilst there is no need to send detailed information to the affected employee right at the outset, information as to the employee's scores must be released and discussed with the employee before dismissal decisions are reached.

Redundancies and age discrimination

Employers are being warned to examine their redundancy arrangements in the light of the Age Discrimination Regulations, due to come into force on 1 October 2006. Some aspects of the redundancy process routinely used by Employers could well become unlawful.

Employers who offer more than the Government's statutory minimum redundancy payment may unwittingly find themselves on the wrong end of the law. Enhanced redundancy payments can still be made, but there are strict rules. Employers should check that any enhancements come within the rules.

Key recommendations

- Ensure that managers are aware of the correct process to follow when dealing with staff dismissals
- Ensure that your dismissal procedures encompass the statutory "3 step" dismissal process – statement, meeting, appeal.
- Allow employees to see the criteria and their own scores so that they can be discussed at the step 2 meeting, and before any dismissal decision.
- In most cases, the law does not require the disclosure of the scores of other employees.
- Check your redundancy selection criteria. Age or length of service as criteria will be

Other pitfalls include where an Employer considers only those employees over a particular age or length of service for a voluntary redundancy scheme. This will be unlawful unless it can be justified on business grounds. The Regulations will also render redundancy selection criteria such as length of service or age unlawful unless justified on business grounds. Will this be the end of "Last in First Out"?

Berg Legal – Employment Seminars and Workshops

We are planning our Seminar and Workshop topics for the Autumn. We are interested in your feedback on what HR and Employment law related topics would be of practical interest to you and your colleagues. Potential topics could include:-

1. compliance issues for company directors;
2. an update on latest statutory and case law developments;
3. age discrimination – how will the legislation effect your business?

Please let us have your thoughts and suggestions.

discriminatory. Consider removing these criteria, or justifying why the business needs them.

• Consider criteria which will not fall foul of the Regulations, such as critical skills, past appraisals, timekeeping etc

• Audit your redundancy process to check it will be compliant.

• Check any restrictions on those who can apply for voluntary redundancies.

• Check how your organisation calculates redundancy payments.

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

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