

Employment Law Newsflash E Bulletin

Increased ACAS assistance

The Secretary of State for Business and Enterprise has announced that an additional payment of up to £37 million will be awarded to the employment conciliatory body, ACAS.

At present an ACAS representative is appointed to assist in the conciliation of employment claims once issued in the Employment Tribunal, often under a fixed conciliatory period.

It is envisaged that the increased funding will allow ACAS to encourage employment relations and prevent disputes happening at an early stage, thus reducing the amount of claims issued in the Tribunal unnecessarily.

The result is anticipated to save businesses over £175 million per annum, by reducing Tribunal and legal costs, and wasted commercial time spent by Managers dealing with such matters.

Expired Disciplinary Warnings

We reported in our February 2007 bulletin on the decision of the EAT in the case of *Airbus v Webb*.

This matter has now been considered by the Court of Appeal, where it has been held that an employer can take an expired disciplinary warning into account when deciding whether to dismiss an employee.

The Court of Appeal overturned the decision of the EAT, and found the dismissal to be fair. Consideration was given to the fact that in some circumstances an expired warning will be a relevant consideration in determining whether an employer has acted reasonably.

However, employers should proceed with caution as the general rule remains that expired disciplinary warnings cannot be relied on as a matter of course.

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Immigrant Workers

On 29 February 2008 the introduction of Civil Penalties for illegal workers becomes effective. This measure includes the establishment of a points based system which is based on a five tier structure.

It is envisaged that the new procedures will have a substantial effect on companies proposing to make work permit applications. Such companies will now need to apply to be licensed as a sponsor, which will impose a number of ongoing obligations for the license to be maintained.

Employers who negligently hire illegal workers could face a maximum fine of £10,000 for each illegal worker found at a business. If employers are found to have knowingly hired illegal workers they could incur an unlimited fine and be sent to prison.

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Redundancy Procedure Update

In the recent case of *Ralph Martindale v Harris* the Employment Appeal Tribunal explored the issue of offering a role to the wider workforce rather than initially ring fencing the role for employees at risk of redundancy.

The employer had decided to remove a layer of middle management. The Claimant was one of two employees whose job was going to disappear, but had the qualifications to apply for a new post of 'director and general manager'. The new post was advertised internally and a third candidate applied (but was never a serious contender). The Claimant was not appointed either.

The EAT held that the employer should not have opened up the possibility of applying for the new post to the entire workforce until it had established that neither of the employees at risk of redundancy were suitable for the post.

For any further information about employment services from mfg, please do not hesitate to contact **Sally Morris** on 0121 504 4717 or sally.morris@mfgsolicitors.com

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