

## New Statistics show Changing Trends at Tribunal

Latest provisional figures from the Employment Tribunal Service indicate that the number of Tribunal claims submitted for the 11 months to February 2009 was significantly down on the previous year. "Like for like" figures suggest a drop of almost a quarter. Interestingly, the most common types of claim presented at Tribunal had also varied significantly in 2008. As you might expect unfair dismissal and in particular, redundancy-related claims had increased, including an 80% increase in claims for failure to inform and consult on a redundancy situation. There was also a significant reduction in sex discrimination and equal pay claims on the previous year.

With regard to outcomes, it is reported that approximately 34% of all claims submitted were withdrawn, 32% settled with ACAS assistance and only 13% of claims were actually successful.

## Update on Heyday Challenge

The European Court of Justice has now given its verdict in the *Heyday* retirement case. It has taken the view that a national rule which permits employers to dismiss employees by reason of retirement when they reach a default retirement age of 65 or over can, in principle, be justified.

The Heyday ruling in the European Courts is positive news for UK employers. However, the case now returns to the High Court for a determination as to whether the current UK law, which permits the retirement of workers at the age of 65, can in fact be justified (ie whether it is an appropriate and necessary means to achieve a legitimate aim).

Whatever the Court decides, employers should note that the Government plans to review the national default retirement age of 65 in 2011 anyway and so the defence may no longer apply after that time.

## HR Forum Seminar - The new ACAS Code of Practice

**Date:** 28<sup>th</sup> April 2009      **Venue:** Worcester Rugby Club

Many employers will be glad to see the back of the statutory dispute resolution rules but will need to get to grips quickly with the new revised ACAS Code of Practice which replaces them. In particular, they will want to understand what changes, if any, the Code will require to their current practices, when dealing with disciplinary and grievance matters. In addition, there are some transitional arrangements about which employers must be aware.

Thursfields' Michelle Chamberlain will be speaking about the new ACAS Code of Practice and the anticipated changes at this month's HR Forum, run by the Chamber of Commerce in conjunction with Hewett Recruitment.

**To book a place:** Contact Alastair Druett at the Chamber of Commerce on 0845 641 1497 or email [alistaird@hwchamber.co.uk](mailto:alistaird@hwchamber.co.uk) or Nicki Jones at Thursfields on 01562 512470 or email [njones@thursfields.co.uk](mailto:njones@thursfields.co.uk).

## Employment Law Update - April changes

### Holiday Entitlement

Amendments to the Working Time rules mean that workers are now entitled to a maximum of 5.6 weeks' paid holiday (or 28 days for a full-timer) per year. This can be inclusive of bank and public holidays. Part-time workers have a pro-rata entitlement. BERR has a holiday calculator:

*Law: Working Time (Amendment) Regulations 2007*

### Flexible Working

From 6 April 2009, the right to request flexible working is extended to parents of children up to the age of 16.

*Law: Flexible Working (Eligibility, Complaints and Remedies) (Amendment) Regulations 2009*

### Discipline and Grievance Issues

April sees the much anticipated demise of the Statutory Dispute Resolution rules - the Employment Act 2008 repeals the statutory dismissal and grievance procedures. In future, employers must now adhere to a revised ACAS Code of Practice on discipline and grievance. A failure to follow reasonably the ACAS Code of Practice could lead to a 25% uplift on Tribunal compensation. (For more information, see Seminar details above).

*Law: Employment Act 2008; Employment Code of Practice (Disciplinary and Grievance Procedures) Order 2009*

### Changes to Tribunal Rules

For those who find themselves before Tribunal, there are a number of changes to the rules of procedure, these include:

- Changes for legally represented Respondents when requesting an extension to the 28 day limit for presenting an ET3;
- Changes in relation to the issue of default judgments;
- Clarification around the rules following withdrawal of a Tribunal claim;
- Allowing for a claim to be automatically dismissed following an ACAS settlement.

*Law: Employment Tribunals (Constitution and Rules of Procedure) (Amendment) Regulations 2008*

### National Minimum Wage

Changes to the rules on National Minimum Wage enforcement are introduced – this includes new rules for calculating arrears of National Minimum Wage and a change to the existing enforcement and penalty notice system, which is to be replaced by a new single notice of underpayment.

*Law: Employment Act 2008 (Commencement No. 2, Transitional Provisions and Savings) Order 2009*

**DISCLAIMER:** The content of this publication is for general information purposes only. It does not constitute professional advice (legal or otherwise) nor should it be used as such. We cannot accept responsibility for actions based on the material contained herein.