

Transcript of Podcast

January 2008

Hello and welcome to this month's D&W Employment Vox, our regular podcast designed to update you on news and developments in the field of employment law.

My name is Alasdair Anderson and in this D&W Vox, prepared by our employment team, we take a look at a selection of news highlights;

- **Straight bouncer wins claim against gay-club employer**
- **Damages awarded to pregnant employee who was told she 'would never be the same again'**
- **Which? warns that employers continue to ask inappropriate questions at job interviews**

But first, 2008 has got off to a groundbreaking start with the first heterosexual to sue for harassment under the Sexual Orientation Regulations winning £6,000 in damages. Sharon Legg, a married mother, began working at the gay nightclub, Dreams, in Bournemouth in 2005. She was rapidly promoted to head of security but shortly afterwards her boss began to make derogatory comments to her, including calling her a 'breeder'. Fellow doorstaff also began to refuse her instructions and make life difficult for her. In 2006 Ms Legg was sacked without warning following a dispute with a colleague. Ms Legg raised Tribunal claims for harassment and also unfair dismissal. The Tribunal awarded her £3,000 for injury to feelings in terms of her harassment claim and £3,222 for unfair dismissal because the company did not follow proper procedures.

The Employment Equality (Sexual Orientation) Regulations 2003 protect employees from discrimination on the basis of their sexual orientation. This is defined as "a sexual orientation towards persons of the same sex; persons of the opposite sex; or persons of the same sex and of the opposite sex". While gay men, lesbians, bisexuals and heterosexuals are all therefore protected it is understood that this is the first time that a heterosexual person has brought such a claim.

A study carried out by the Institute of Employment Studies on behalf of Acas showed that between January 2004 and September 2006, 470 individuals brought employment tribunal claims where the main complaint was discrimination on the grounds of sexual orientation. The majority of these claims were based on bullying and harassment. Steps employers can take to reduce the likelihood of such behaviour arising within their organisation include: implementing diversity training, ensuring that staff are aware of the meaning of 'harassment' and ensuring that equal opportunities policies cover discrimination on the grounds of sexual orientation.

From a case that crosses new frontiers to one of blatant discrimination and behaviour we all thought had gone out with the dark ages! When Louise Manning, a saleswoman who earned £55,000 per annum, told her boss at Safetell that she was pregnant she was told that she would be 'useless' and would 'never be the same again'. She was then asked to give up a recent promotion on the basis that she would be 'hopeless in two months time'. During her maternity leave she was demoted and when she eventually returned to work her boss tried to make her work part-time. Eventually she was signed off with stress and she then resigned. Unsurprisingly she won her claim for sex discrimination and, if press reports are to be believed, is in line to receive up to £200,000 in damages. The exact amount will be set next month when the

Tribunal will consider her further claim of constructive dismissal.

As the Tribunal remarked 'It is not often that the tribunal is faced with such a blatant response to notification of pregnancy!' While changing social attitudes, increased training for managers and effective maternity policies have all served to make such behaviour rare this case is a salient reminder of the potentially expensive outcome of discriminating against pregnant staff.

For those of you looking to take on new blood in 2008, the consumer group Which? have, this month, warned that employers continue to ask inappropriate questions on application forms and at interview. Applicants are urged to learn their rights and to politely decline to answer if they are asked a question that makes them feel uncomfortable. The most commonly asked 'banned' question is, apparently, asking whether the applicant is thinking about starting a family. Other popular 'no go' questions include:

1. Are you married?
2. What are your childcare arrangements?
3. Are you gay?
4. Are you a member of a trade union?
5. What political party do you support?

Employers should remember that job candidates can raise Tribunal claims if they feel they have been discriminated against during the recruitment process on the grounds of their race, sex, age, sexual orientation, religious belief, disability or trade union membership. To avoid such claims it is best practice to ask the same questions of all applicants and make sure these are lawful. Also prepare questions in advance, avoid asking about hobbies, social activities or religious or cultural beliefs unless these are demonstrably relevant to the job and use an agreed scoring system. Good luck with your hunt!

And that's the D&W Employment Vox News for January 2008.

Each month the employment team take an in depth review of a practical issue in their written bulletin.

And if you want to find out how to access our bulletin or find out more about any of the issues covered in this D&W Vox please contact **Catriona Aldridge** on **020 7240 2401**. Details on how to subscribe to our written bulletins can be found on our website at www.dundas-wilson.com. Each D&W employment Vox will also be archived on the website in case you want to listen again or tell a colleague about us. Our website also contains information on future events and seminars.

And that's all for this D&W Vox.

This podcast is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

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