

## Employment

September 2009

Hello and welcome to this month's D&W Vox, our regular podcast keeping you up to date with news and views in HR and employment law.

In our September Vox we take a look at:

- **How the recession is affecting older workers**
- **Sacked Christian bookshop employees win payout**
- **Why 92% of people fear workplace mental health discrimination**
- **The Government's new guide to employing children**

### How the recession is affecting older workers

A recent survey reports a 15% increase in redundancies among people aged fifty or over compared to the previous six months. The Age and Employment Network survey noted that around 360,000 people aged fifty and over are now actively seeking work. An increasing number of respondents also reported encountering ageist attitudes amongst employers. 72% of those surveyed believed that employers thought they were "too old" compared to 63% before the recession. 2949 age discrimination claims were lodged in the year ending March 2008, charting a threefold increase on the previous year's figure. The figures for 2009 have yet to be published, and with more than half of those surveyed believing they had been discriminated against because of their age, while only seven percent stated that they had never experienced age discrimination when seeking work, this figure is likely to rise again.

### How not to change contracts of employment

More than 30 bookshop workers have won what is being described as a "substantial payout" after their refusal to sign new contracts led to them being dismissed by their new employers. In November 2006 the workers were transferred from SPCK, the well known chain of Christian bookshops to the Saint Stephen the Great Charitable Trust, a charity controlled by American brothers, Mark and Philip Brewer. The new contracts gave staff longer hours, fewer holidays and poorer pension rights. 32 workers who refused to sign were dismissed, many by email. The Employment Tribunal agreed with the shopworkers' union, USDAW that the Saint Stephen the Great Charitable Trust had unfairly dismissed the employees by attempting to force staff to sign new contracts before dismissing them. Changing terms and conditions is a complex task, requiring sound business reasons and staff consultation. If employees remain opposed after consultation, dismissal and re-engagement is the last resort. Although it would appear from the press reports that there was no offer of re-engagement here, not to mention the impact of TUPE and the fact that transfer related dismissals are automatically unfair. All of which amounts to an open invitation to raise claims.

### Why 92% fear workplace mental health discrimination

Would you admit a mental health illness to a prospective employer? The recent Time to Change Report states that 92 percent of the British public believe that admitting to having a mental health illness would damage their career. Time to Change is a programme of 35 projects led by mental health charities Mind and Rethink, designed to end discrimination faced by people who experience mental health problems. The government's first ever National Strategy for Mental Health and Employment was recently launched to improve the support available for workers affected by mental illness. Time to Change warns that many people face a stark choice regarding whether or not to

admit to their mental illness in a job interview. The issue hit the headlines recently when Cheltenham Borough Council unsuccessfully sued their former Chief Executive for failing to disclose her previous history of mental illness in a pre-employment medical questionnaire. Most employers do ask for information regarding disability but this information is supposed to be used to assist with reasonable adjustments. Employers who reject a candidate because they disclose their history of mental health illness would be in breach of disability discrimination law and are likely to face a claim.

### And, finally the Government's new guide to employing children

The Department for Children, Schools and Families has published helpful new guidance to explain the law and promote best practice to those who employ children in England. Separate but similar legislation applies in Scotland. The guidance provides information on the age limits for employing children, with a useful section on work experience. It also highlights the daily and weekly limits on hours of work that children are permitted to do and the types of work they can be employed to do. A link to the guide can be found on the transcript of our podcast

[http://publications.everychildmatters.gov.uk/OrderingDownload/Child\\_employment09.pdf](http://publications.everychildmatters.gov.uk/OrderingDownload/Child_employment09.pdf)

And that's all for this month's Vox.

This Podcast Transcript 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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If you would like any further information on this Podcast or any other Employment issues, please call the person at D&W with whom you normally liaise, or one of the following specialists:

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