

Employment

January 2010

Hello and welcome to the D & W Vox, our podcast keeping you up to date with what's new in employment law.

In this D&W Vox, prepared by our employment team, we take a look at:

- **Why ordering a trainee policeman to cut his hair was not sex discrimination**
- **Why a 42 year old bank employee is the victim of age discrimination**
- **Why German firemen are not getting any older**
- **Celebrating the Jubilee - extra Bank Holiday announced for 2012**

[Ordering a trainee Police Officer to cut his hair was not sex discrimination](#)

A trainee police officer told by his employer, under threat of disciplinary action, to cut his shoulder length hair, failed to convince the Employment Appeal Tribunal that this amounted to sex discrimination. Instead, the EAT upheld the Employment Tribunal's ruling that the police dress code was gender neutral. Mr Dansie argued that he had been unlawfully discriminated against because a female police officer would not have been required to cut shoulder length hair. The Tribunal decided that this was not a relevant comparison. It held that when assessing whether an employer's dress code is discriminatory, the dress code must be considered as a whole rather than analysed on the basis of a single issue. Viewed in this way the Tribunal decided that a dress code can be gender specific provided it is ultimately even handed between the sexes, as was the case here.

[A 42 year old bank employee is the victim of age discrimination](#)

An Employment Tribunal has ruled that London-based, German national Achim Beck, who was made redundant from his role as head of marketing for CIBC, one of Canada's largest banks, at the age of forty two, was a victim of age discrimination. Ostensibly, Mr Beck lost his job as part of a wider redundancy exercise affecting CIBC's marketing team. However, the Tribunal held that CIBC had been unable to prove that its decision to dismiss Mr Beck "was not significantly influenced by his age". An internal Bank memo, issued after Mr Beck's dismissal, and setting out the criteria for a new marketing executive, stipulated that the person should fit a "younger, entrepreneurial profile". The Bank's explanation that by "younger" they had simply meant "less experienced" did not convince the Tribunal. This case was brought against the backdrop of a rising number of age discrimination cases. 3,801 age discrimination cases were taken to Tribunal in 2008 - 2009 as compared to 972 such cases in 2006 - 2007.

[Why German Firemen are not going to get any older](#)

The European Court of Justice has held that a German law which restricts applications to join the fire service to those under 30 is justified as a genuine occupational requirement under European law. The court accepted the German government's argument that the activities of firefighters are

characterised by their physical nature. These activities include fighting fires, rescuing people, environment protection tasks, helping animals and dealing with dangerous animals, all of which require "the possession of especially high physical capacities". This meant the maximum age requirement imposed by the German government is lawfully exempt from the ban on age discrimination. This is not the view taken by the UK Government as there is no upper age limit for fire fighters in the UK.

Separately, the ECJ ruled that setting an upper age limit of 68 for dentists in the national health service could be legitimate where the aim was to open employment opportunities among younger dentists, provided it was necessary and appropriate, in terms of the labour market.

Extra Bank Holiday Announced for 2012

The Government has announced an extra Bank Holiday as part of the celebrations for the Queen's Diamond Jubilee in 2012. The traditional Late May bank holiday is being moved to Monday 4 June and Tuesday 5 June is being added as an extra Bank Holiday, to create a Diamond Jubilee Weekend. Bank holidays are a devolved matter but Lord Mandelson announced that the UK Government would "work closely" with the Scottish Government "to ensure that people across the United Kingdom can celebrate the jubilee together".

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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