

This Week in Employment Law

What Is the Extent of Harassment?

Most will understand harassment as offensive or intimidating behaviour that is related to an individual's protected characteristic. However, the extent of protection goes wider than most often realise. We take a closer look at this below:

- Under the Equality Act 2010, harassment is unwanted conduct related to a protected characteristic.
- Age, disability, race and sex are amongst the protected characteristics covered by the Act.
- Even if a person does not possess a particular characteristic themselves, there is still a risk of harassment if they find certain behaviour offensive e.g. a white employee may claim harassment if they are offended by a colleague's racist comments about a black employee.
- Perceived protected characteristics are also covered e.g. a heterosexual employee can claim harassment if he is subjected to unwanted jokes about his sexuality because others wrongly perceive him to be gay.
- The law would also cover a mother of a disabled child when others make offensive remarks about the disability.
- It is therefore important to train staff on the various types of workplace harassment, including the dangers of workplace banter which can easily qualify as harassment under certain circumstances.

Asda suffers fresh blow in equal pay dispute

The Court of Appeal has dismissed Asda's attempt to block a claim that their predominantly female store workers should be paid the same as predominantly male warehouse staff. The store workers will now have to prove both roles are of equal value and that the pay disparity is tantamount to sex discrimination.

Did you know?

When faced with an equal pay claim the Courts will assess whether a comparator is paid more for work that is similar in nature, rated as equivalent or of equal value – it doesn't need to be exactly the same work. Several other supermarkets are also facing similar claims.

Hermes offer self-employed staff extra rights

Delivery firm Hermes will offer self-employed drivers the chance to opt into new contracts which give them the right to receive guaranteed earnings and holiday pay. By agreeing to this, couriers will be recognised as 'self-employed plus', which is believed to be a first in the gig economy.

Did you know?

This decision is in response to a 2018 ruling which found that Hermes drivers ought to be recognised as workers rather than self-employed. Other gig-economy firms may want to consider reviewing their own workforce to guard against potentially costly employment status disputes.

Hundreds of working carers forced to quit every day

A study conducted by Carers UK has found that 600 people a day are leaving their jobs to care for older and disabled relatives. It is said that over 2.6 million people have given up work in the past 6 years as they are unable to balance their work and care commitments effectively.

Did you know?

Taking a positive approach towards flexible working will support carers and encourage them to stay with you. Switching to part-time work, or working from home, can be beneficial in enabling staff to balance work and care commitments and help you retain good staff.

Workplace harassment can be a complicated matter especially as individuals do not have to possess protected characteristics themselves to bring a successful claim to tribunal. For assistance with guarding against harassment or for help dealing with an alleged incident give us a call using our 24 hour Advisory Service.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.