

This Week in Employment Law

Debate over Sleep-In Pay to Continue in Supreme Court

The Supreme Court has agreed to hear an appeal in the case of *Mencap v Tomlinson-Blake*, in which the Court of Appeal previously ruled that sleep-in hours did not attract National Minimum Wage (NMW). We take a closer look at this situation below:

- A number of workers across the UK regularly take part in sleep-in shifts where they are expected to sleep overnight at their employer's premises and be 'on call' to wake and perform work duties.
- Sleep-in shifts are particularly common in the care industry, however they are also often required as part of security or other emergency response jobs.
- In July 2018 the Court of Appeal ruled that staff who work sleep-in shifts did not have to be paid NMW for any time that they were asleep.
- The Court said that staff were only considered 'available for work' during this time and not 'actually working', causing confusion for employers as the Employment Appeal Tribunal previously declared NMW was payable for this time.
- However, this latest development shows that the debate is far from over and the Supreme Court's decision will have a big impact on how staff are paid for sleep-in shifts in the future.

NatWest apologise after 'vegan remarks'

NatWest have apologised to a customer after their employee told them that 'all vegans should be punched in the face'. The customer, who is vegan, was applying for a bank loan over the phone when the incident took place. NatWest have decided to provide her with financial compensation by way of an apology.

Did you know?

Employees can be disciplined for comments they make either to customers or on social media which bring the company's reputation into disrepute. However, employers should ensure proper procedures are followed despite clear evidence of the misconduct.

Prison officer suffers sexual orientation discrimination

An employment tribunal (ET) found that a prison officer working at HMP Woodhill was subjected to discrimination over his sexual orientation and unfairly dismissed. His employer's attempt to pass his treatment off as 'banter' was dismissed by the ET, who cited a 'campaign of direct discrimination'.

Did you know?

Employers should be careful not to accept workplace banter as an excuse for misconduct or discriminatory behaviour. It doesn't matter if certain words or actions were intended as a joke, employees can still make a tribunal claim if they feel offended.

Teachers experience mental health concerns at work

Nearly 3 in 5 new teachers are considering a career change, with many citing mental health problems as a reason. A study by the Independent revealed that half of newly qualified teachers suffered panic attacks or anxiety due to their job, which could create significant staffing issues in the future.

Did you know?

Providing mental health support can be a great way to reduce absences, increase productivity and retain staff. Introducing Employee Assistance Programmes (EAPs) and mental health first aiders are two common solutions which employers may use to help their staff.

The issue of pay for sleep-in shifts has proven to be a divisive topic in recent times and it will be interesting to see what view the Supreme Court take on the *Mencap v Tomlinson-Blake* case. To stay up to date with future developments, and discuss how this could stand to impact your business, 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.