

## *This Week in Employment Law*

### Pregnant Police Officer Suffers Discrimination

**An employment tribunal (ET) found that a female police officer was discriminated against because she was pregnant. Here, we take a closer look at the case:**

- The police officer worked as part of a front line Response Team for the Devon and Cornwall Police.
- When she became pregnant a risk assessment was carried out which concluded that she could continue to work as part of the team on 'restricted duties'.
- Despite this she was transferred to a desk based role, against her wishes, because of her employer's policy to automatically transfer staff who had been placed on 'restricted duties' for more than 2 weeks. The employer claimed the reason for the move was her "restricted duties" status and not her pregnancy.
- Her claim for pregnancy discrimination was successful: the ET said that it was artificial to say that the reason for the move was not pregnancy; the employer could not hide behind the "restricted duties" status when it was her pregnancy which caused the status.
- This decision shows the difficulties employers can face in managing pregnant employees when attempting to protect the safety of the employee without discriminating against her. Importantly, however, the employer had ignored its own risk assessment result.

#### New minimum wage rates introduced this week

1st April 2019 saw an increase to the National Living Wage (NLW), with those aged 25 and over now entitled to a minimum of £8.21 per hour. National Minimum Wage (NMW) rates saw similar increases across all age bandings, including an uplift to the apprentice minimum hourly wage to £3.90.

##### **Did you know?**

These new minimum rates will be effective for all pay periods beginning on or after 1st April 2019. Therefore, if you are midway through a pay reference period at the date of introduction you will not need to increase an individual's hourly rate until your next pay reference period begins.

#### Gender pay gap reporting deadline is approaching

The deadline for private organisations to publish their latest set of gender pay gap reports falls this week; Thursday 4th April 2019. There is likely to be a lot of scrutiny aimed at those who have failed to address any significant pay gaps since the first reports were published last year.

##### **Did you know?**

Those with 250 or more employees are legally required to publish their gender pay gap reports, however, others may volunteer as a commitment to gender equality. The Equality and Human Rights Commission can issue an unlimited fine to those who ignore their legal obligation.

#### EAT offer respite in NHS discrimination dispute

The Employment Appeal Tribunal (EAT) has refused to agree that the NHS discriminated against an employee on maternity leave by sending an email regarding her redundancy to the wrong email address. Previously the ET had held that the action was discriminatory.

##### **Did you know?**

To succeed, the employee has to show that the reason for the action was her maternity leave, and not simply an administration error. Nonetheless, it is vital that extra considerations are given to staff on leave for family friendly purposes during redundancies to avoid discrimination claims.

Managing pregnant employees at work can be a difficult task for employers, who can often be caught between wanting to protect the individual from harm whilst also ensuring they are not unfairly denied certain opportunities. Therefore, if you need assistance managing a pregnant employee, call 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.