

In the Know....



Acas: “Relax Tattoo Rules”

Acas has urged employers to relax their rules on tattoos in the workplace because they may be missing out on talent. Here, we take a look at the reason behind their new guidance.

“Negative attitudes”

Acas research shows that employers risk losing talented young employees because of their negative attitude towards visible tattoos. The research showed that a wide range of private sector employers raised concerns about the perceived negative attitudes of potential clients or customers towards tattoos. Even public sector workers felt that people would not have confidence in the professionalism of a person with a visible tattoo.

Dress codes

Dress codes can be an important part of a company brand or reputation and employers have historically tried to govern how their employees represent that brand to the public, even to the point of how they wear their hair. Tattoos have also commonly been governed by dress codes, with the general position being that they should be covered up. Almost one in three young people have a tattoo and whilst all tattoos will not be visible when wearing conventional work wear, those on hands, face and neck will be seen.

The legal position

It is perfectly legitimate for employers to place restrictions on tattoos being visible whilst at work provided there is a good business reason which is formulated appropriately and not in accordance with a business owner’s personal preference.

Any risk of discrimination?

For an individual to make a claim of discrimination in an employment tribunal, they would generally need to assert that they had been treated less favourably than someone else because of a

protected characteristic that they possess, or because an apparently neutral rule which was applied to everyone disproportionately affected them as being a member of a group with a protected characteristic. The protected characteristics are sex, race, disability, sexual orientation etc. A claim of indirect discrimination (the neutral rule method) is the more likely route in relation to a blanket ban on visible tattoos in the workplace, however, it is difficult to see which protected characteristic someone could attach a claim to.

Owing to the Acas statistics, it may theoretically be open to a young person to make a claim of indirect age discrimination. Additionally, although bodily disfigurements are protected as a disability under the Equality Act 2010, tattoos are specifically excluded from the definition of disfigurements.

Acas Guidance

Acas has amended its guidance on dress codes to direct employers to the negative press attention that tattoos have recently received and suggested that employers may want to take this into consideration when recruiting employees.

The content of this briefing is correct at the time of publishing.

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