

Contact US

In This Edition

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Wal-Mart opposes class action sex-bias case in US Supreme Court

Wal-Mart Stores have argued in the U.S. Supreme Court that the largest class-action sex-discrimination lawsuit in history by female employees, who seek billions of dollars, should be halted. Wal-Mart contends that the suit cannot stand, as hiring practices and anecdotal evidence of discrimination cannot be tied to the company, which has an official policy of non-discrimination which applies across the whole of the organisation.

Draft guidance on Agency Workers Regulations published

The Government has published draft guidance on the Agency Workers Regulations 2010, which are due to come into force on 1 October 2011. The BIS has invited comments on the draft guidance to be received by 15 April latest, with final guidance expected to be published around the end of April 2011.

Government consults on EHRC reform

The Government has launched a consultation which sets out its plans to reform the Equality and Human Rights Commission (EHRC) to ensure the EHRC no longer carries out those activities which the Government do not consider to be their core activities and which can be done better or more cost effectively by others.

One in six UK employees suffer because of favouritism

A new study from the Employers Forum on Age (EFA) revealed that one in six workers feel they have been discriminated against when applying for a job or promotion at some point in their career because of favouritism in the workplace. Age is the most common reason (17%), closely followed by favouritism and/or the other candidate fitting the company's 'personality' better (16%).

Belief in animal rights constitutes a philosophical belief

Joe Hashman, a gardener, has won the right to pursue a claim against his former employer that he was discriminated against contrary to the Employment Equality (Religion or Belief) Regulations 2003, when his was dismissed, allegedly, because his pro-hunting bosses discovered that he was an animal rights activist.

Worker Registration Scheme to close

The Government has announced that the Worker Registration Scheme will close on 30 April 2011. Currently, nationals of what are referred to as the 'A8' countries must register under the scheme if they commence employment in the UK.

Newsflash

The Government has announced that it will not be bringing the dual discrimination provisions in the Equality Act 2010 into force and will consult to remove what it considers to be the "unworkable" requirement in the Act which requires employers to take reasonable steps to prevent persistent harassment of staff by third parties over whom they have no control. In addition, the Regulations giving the right to request flexible working to parents of 17 year olds, planned for April, have been revoked. However, consultation will take place on extending the right to all employees.

Wal-Mart opposes class action sex-bias case in US Supreme Court

Wal-Mart Stores have argued in the U.S. Supreme Court that the largest class-action sex-discrimination lawsuit in history by female employees, who seek billions of dollars, should be halted. Wal-Mart contends that the suit cannot stand, as hiring practices and anecdotal evidence of discrimination cannot be tied to the company, which has an official policy of non-discrimination which applies across the whole of the organisation.

The six plaintiffs are seeking lost pay and damages. They want the US Supreme Court to allow the case to proceed as a class action lawsuit against the company. A class action suit would cover any woman who has worked for, or works for, one of more than 3,400 Wal-Mart stores since December 1998. Two lower courts have allowed the suit to proceed, but Wal-Mart appealed to the Supreme Court.

Supreme Court justices questioned whether female employees could show that a common discriminatory policy governed the company's pay and promotion decisions, which echoed Wal-Mart's argument that the suit could not stand as hiring practices and anecdotal evidence of discrimination cannot be tied to the company, which has an official policy of non-discrimination. The plaintiffs allege that Wal-Mart allowed great discretion to local managers to make pay and personnel decisions and instilled in those managers - "the Wal-Mart way" - that was used to pay women less than men who were doing the same work in the same facilities at the same time and provided fewer opportunities for promotion.

The key issue before the Court is not whether Wal-Mart is guilty of discrimination, but whether the women suing have made a compelling case that a jury should hear the issue. The Court's ruling is expected in late June and could affect the future of other class-action lawsuits that pool modest individual claims into a single action that creates the potential for a large compensation judgment.



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The Regulations will give temporary agency workers the right to equal treatment in comparison to permanent workers as regards basic working conditions. The aim of the [guidance](#) is to help both employers and the recruitment sector to understand and implement these Regulations effectively. Each section covers the key provisions of the Regulations and, where possible, is accompanied by useful links and related flowcharts and desktop downloads.

The Guidance confirms that the Regulations are not retrospective and for those agency workers already on assignment, the 12 week qualifying period will start from next October. Agency workers will also be entitled to access to facilities and information on job vacancies from Day 1 of their assignment.

This is draft guidance and therefore the final position may change. Those wishing provide feedback must respond to the BIS by Friday 15 April 2011.

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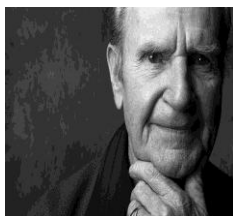
The consultation sets out the Government’s vision that the EHRC should become a valued and respected national institution, focusing on its core role as a strong, modern equality regulator and UN accredited National Human Rights Institution. It should champion effective implementation of equality and human rights law, work strategically with a wide range of partners to build capacity, hold Government and others to account for their performance on equality and human rights and build and use a strong evidence base. The reforms also set out how the Commission needs to ensure it safeguards and uses public money wisely, since, in the Government’s view, the EHRC has "struggled to deliver against its remit and provide value for money" and "not been cost effective for the taxpayer".



Key proposals are that the EHRC would concentrate on promoting awareness of equality legislation so that everyone understand their rights and obligations, work in partnership with organisations to highlight good practice, build their capacity to eliminate unlawful discrimination and advance equality of opportunity, monitor compliance with equality legislation and hold government and public bodies to account for their performance on equality. The Government also suggests that there should be a statutory requirement for the EHRC to lay an annual business plan before Parliament to show how it intends to spend its budget.

One in six UK employees suffer because of favouritism

A new study from the Employers Forum on Age (EFA) revealed that one in six (16%) workers feel they have been discriminated against when applying for a job or promotion at some point in their career because of favouritism in the workplace. Age is the most common reason (17%), closely followed by favouritism/the other candidate fitting the company’s ‘personality’ better (16%).



The findings from the research back up a theory that there is a tendency for people to recruit workers who bear similarities to themselves or to others in their company and this is done, for the most part, unconsciously. In total, over a third (35%) of respondents felt they have been discriminated against when trying to move company or applying for a more senior position in the same company. Age is the most common reason (17%), closely followed by favouritism/the other candidate fitting the company’s ‘personality’ better (16%). Workers in the North were most likely to feel they had fallen victim to favouritism, with 22% in the North East, 20% in Wales and 19% in the North West believing that they had been discriminated against for this reason, compared to 11% in Northern Ireland and 12% in the South West.

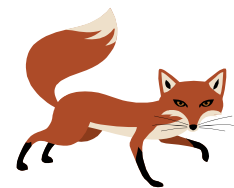
The study also found that 62% of employees said that all, most or some of their colleagues are similar to them. When asked what it is they had in common with their co-workers, age was found to be the most common factor (68%), followed by gender (62%) and social background (53%). In addition, unconscious bias in the private sector is more prevalent than the public sector with 29% v 35% respectively saying they felt part of a very varied workplace.

Belief in animal rights constitutes a philosophical belief

Joe Hashman, a gardener, has won the right to pursue a claim against his former employer that he was discriminated against contrary to the Employment Equality (Religion or Belief) Regulations 2003, when he was dismissed, allegedly, because his pro-hunting bosses discovered that he was an animal rights activist.

Joe Hashman claims he was sacked from his job as a designer at a garden centre, because the owners and a board member, who was a joint master of the hunt, were unhappy that he was working at the centre when they found out that he was an animal rights activist and hunt saboteur.

The employer contends that his dismissal was nothing to do with his beliefs but was because his vegetable patch was not generating enough money. But they argued as a preliminary issue that Mr Hashman's beliefs were "incoherent, inconsistent, politically motivated by class war and that they endorsed violence" so were not worthy of respect and therefore did not qualify as a philosophical belief under the Employment Equality (Religion or Belief) Regulations 2003.



Mr Hashman gave evidence that he was firmly against hunting and had protested, demonstrated, sabotaged, monitored, infiltrated, filmed undercover and worked politically against it since 1982. The tribunal ruled that the Mr Hashman had demonstrated a belief in the sanctity of life. He believes that people should live their lives with mindful respect for animals and we all have a moral obligation to live in a way which is kind to each other, our environment and our fellow creatures. This belief extends to his fervent anti-foxhunting belief (and also anti-hare coursing belief) and such beliefs constitute a philosophical belief for the purposes of the Employment Equality (Religion or Belief) Regulations 2003. Therefore, the case could proceed to a full hearing. The judge emphasised that his decision was based very much on the facts and not everyone opposed to fox hunting necessarily holds a philosophical belief within the meaning of the law.

Worker Registration Scheme to close

The Government has announced that the Worker Registration Scheme will close on 30 April 2011. Currently, nationals of what are referred to as the 'A8' countries must register under the scheme if they commence employment in the UK.

The Worker Registration Scheme is a transitional scheme, which was introduced in 2004 when the following countries (known as the 'A8' countries) joined the European Union: Czech Republic, Estonia, Hungary, Latvia, Lithuania, Poland, Slovakia and Slovenia. The scheme was set up to allow the Government to monitor where A8 citizens are coming into the labour market, the type of work they are doing, and their economic impact. Between May 2004 and the end of 2010, 1.1 million A8 nationals registered under the scheme.

Under the terms of the Treaty of Accession, the UK cannot apply transitional restrictions on A8 nationals' access to the labour market for more than seven years. This means that A8 nationals will be able to access the labour market on the same terms as other EU Nationals (except Bulgarians and Romanians) from 1 May 2011. A8 work-seekers will also have the same entitlements to out-of work benefits as other EU Nationals. Guidance for employers and individuals affected will be published soon by the UK Border Agency.

