

PROBLEMS AT WORK?

This factsheet intends to give brief guidelines to employees on their rights at work, and how to approach problems arising in the workplace. The factsheet presents an overview only, and should not be relied upon to resolve employment disputes. An employee faced with any of the difficulties outlined below should obtain advice from a trade union representative, a Citizens' Advice Bureau, a Law Centre or a solicitor at the earliest possible opportunity.

STARTING WORK

Contract of Employment

A contract of employment comes into existence as soon as an employee performs work for an employer and receives payment for that work. This contract can be written or verbal. Verbal contracts have the same status as written contracts but are harder to prove. Every employee is entitled to receive, within two months of the start of their employment, a written statement of their particulars of their employment.

Employees have access to personal data held by an employer about them under the Data Protection Act 1998. Employees can seek corrections of inaccurate information.

An employer can only change the terms in an employment contract by agreement. Where an employee does not accept the changes proposed by an employer he or she should:

- Not sign any new contract without first obtaining legal advice;
- Not start working under the changes as this might indicate acceptance of them;
- Ask for time to consider the proposed changes;
- Ask the employer in writing what will happen if he or she does not accept the changes, and ask for the employer's response in writing, or get a friend or trade union representative to be a witness;
- Seek legal advice at the earliest possible opportunity.

Hours and Pay

The majority of workers are entitled to:

- The national minimum wage (where he or she is over compulsory school age and works or ordinarily works in the United Kingdom);
- The minimum holiday entitlement of four weeks paid annual leave. The employer can include bank and public holidays within those four weeks;
- Limits on the number of hours worked during the week and breaks during their working hours.

Men and women are entitled to equal pay for like work or work of equal value.

Employers are not permitted to make deductions from wages unless there is a statutory requirement to make deductions, there is a term in the employment contract, or where the worker has agreed in writing to the deduction.

DISCRIMINATION

Generally

An employer may not treat an employee less favourably on the basis of their sex, race, disability, sexual orientation or religion. This applies to recruitment, to the period of employment, at dismissal, or, in some cases, after leaving employment.

Sexual Orientation Discrimination

Employers may not discriminate on the basis of sexual orientation. An employer may not:

- Treat an employee differently on the basis of his or her sexual orientation;
- Apply a requirement or practice which has the effect of disadvantaging an employee on the basis of his or her sexual orientation;
- Treat an employee differently for bringing a complaint of sexual orientation discrimination;
- Harass an employee on the basis of his or her sexual orientation.

There are some exceptions. The most important is that an employer does not discriminate against an employee where he or she provides a benefit to married employees only. Although lesbians, bisexuals and gay men cannot marry their same-sex partner, this does not amount to sexual orientation discrimination.

Another exception is that in very limited circumstances an employee's sexual orientation may be essential for the job in question.

Disability Discrimination

The legal definition of disability discrimination is wide, and may include illnesses or conditions not necessarily considered to be 'disabilities'. Employees who experience less favourable treatment because they are HIV positive may be able to claim disability discrimination. More detailed guidance can be found in the publication "HIV & Employment: Your Rights at Work".

PRACTICAL STEPS

Many employers have Equal Opportunities Policies (EOPs) that make a commitment to ending discrimination against lesbians, bisexuals and gay men, particularly public sector and large private sector employers. It is easy to find out before applying for a job what a company's EOP includes by looking at its website or by speaking to the personnel department.

Membership of a trade union entitles a member to free support, advice and representation, even where the employer does not recognise that union. All unions affiliated to the TUC are required to have an EOP which recognises sexual orientation. Many unions have LBGT officers or groups. The TUC provides help in finding out which union would be the most suitable.

Where an employee feels that an employer has not complied with his or her rights, or that he or she feels badly treated, or that he or she is being discriminated against, early action is crucial. An employee should take the following practical steps:

- Keep a diary to help remember dates and events;
- Obtain legal advice as early as possible. The law places limits on when complaints can be made to the Employment Tribunal. In general, a complaint must be made within 3 months of the action complained of.

What if events get out of hand?

- If the employer asks the employee to resign rather than be dismissed, the employee should obtain legal advice;
- Where the employee resigns as a response to an employer's poor treatment, he or she may be able to claim constructive dismissal at a tribunal;
- Where an employee is dismissed, he or she should seek legal advice as a matter of urgency. The law places limits on when complaints can be made to the Employment Tribunal. In general, a complaint must be made within 3 months of the action complained of.

FURTHER INFORMATION

Advisory, Conciliation and Arbitration Service (ACAS)

Telephone help line offering advice and help with individual complaints. Seventy-five per cent of cases are resolved by ACAS without reaching an employment tribunal. ACAS also works with companies promoting good practice and finding solutions to problems.

ACAS has issued guidance on the Regulations available from their website.

Help line: 08457 474747

www.acas.org.uk

Citizens Advice Bureau (CAB)

For advice on your rights at work.

www.adviceguide.org.uk

Commission For Racial Equality (CRE)

Information about legal advice, good practice and full details of Race Regulations 2003.

www.cre.gov.uk

Department for Education & Skills (DfES)

The department will tell you about your rights at work as the law stands.

www.dfes.gov.uk

The Employment Tribunals

What they are and how to apply for one.

The enquiry line number is *0845 795 9775*, minicom *08457 573 722*.

www.employmenttribunals.gov.uk

Equal Opportunities Commission

The leading agency working to eliminate sex discrimination. Up-to-the minute advice and information, including wage gaps and family-friendly workplaces.

Tel: 0845 601 5901

www.eoc.org.uk

Community Legal Service Direct

The Community Legal Services' Web Site. Information about certain areas of the law. Has a directory of over 15,000 advice agencies and solicitors with the CLS quality mark. It also has an extremely good search engine. You can obtain the name of an organisation in your area who handles employment law work from their website or by phoning their helpline or directory service.

Helpline. *Tel: 0845 345 4 345.*

Directory: *Tel: 0845 608 1122*

www.justask.org.uk

Law Centres

Free and independent professional legal advice.

Tel: 020 7387 8570

e-mail: info@lawcentres.org.uk

www.lawcentres.org.uk

Legal Services Commission

How to find legal assistance.

For leaflets. *Tel: 0845 3000 343*

www.legalservices.gov.uk

Public Concern At Work (PCAW)

An independent authority on whistle-blowing at work, including information about the law to protect you.

Tel: 020 7404 6609

e-mail: whistle@pcaw.co.uk

www.pcaw.co.uk

Trades Union Congress (TUC)

Contact details for your union and information about general rights at work.

Tel: 0870 600 4882 (8am to 10pm Mon to Fri)

www.tuc.org.uk

Women & Equality Unit

Government body committed to achieving equal rights for women.

Tel: 0845 001 0029

www.womenandequalityunit.gov.uk