



Employment alert

What a difference a day makes

Forcing an employee to retire is the starkest form of ageism. Although 75% of employers no longer have a forced retirement age the government knows that the rest will not change their practices overnight. Currently you can still retire employees forcibly without committing age discrimination as long as you follow the statutory retirement procedure to the letter.

A tribunal has reminded us (in the case of *Plewes v Adams Pork Produce*) how strictly this procedure must be followed. The employer was not allowed to rely on the law allowing forced retirement when it retired an employee on the day before his 65th birthday.

The law allowing forced retirement only applies where the employee retires on or after their 65th birthday. The employee won his claims of discrimination and unfair dismissal even though he was re-engaged through an agency two weeks after his retirement, albeit on a lower salary.

The employer fell into this trap because it did not revise its employment contracts when the retirement laws changed in October 2006. The contracts said that employees would be retired on the day before their 65th birthday.

The employee was awarded approximately £36,000. £7,500 was for injury to feelings, £14,500 for loss of wages, £2,000 as the unfair dismissal basic award and £12,000 was the uplift for failing to follow the statutory dismissal procedure.

A handwritten signature in black ink, appearing to read "Stephen Conlan".

Stephen Conlan
Partner



BrookStreet des Roches LLP

For further information concerning any matter raised in this alert or other employment advice please contact Stephen Conlan at BrookStreet des Roches LLP, 25 Milton Park, Abingdon, Oxfordshire OX14 4SH Telephone No. 01235 836659 or alternatively e-mail Stephen direct at stephen.conlan@bsdr.com

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