



Significant Changes introduced by Equality Act 2010

*Changes resulting
from the Equality
Act will be
automatically
incorporated into the
Contracts of
Employment and
Staff Handbooks of
MGHR Retained
Clients*

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Welcome to the first edition of MGHR's newsletter for this year. 2011 will see significant changes in employment law which will have far reaching implications for employers. This newsletter is slightly longer than the normal 2 pages due to the volume of changes taking place in the spring.

1. Abolition of Default Retirement Age from 1st October 2011

First up, the current default age whereby employers can compulsorily and fairly retire staff at of 65 will cease to operate on 1st October. After that date, employees will be able to work as long as they are fit and want to work, as long as work is available.

1.1 Transition between 30th March and 1st October 2011

The current legislation requires 6 months notice of retirement at 65. **Therefore**, where employers are considering retiring staff who reach 65 before the 1st October 2011, right to request working beyond retirement notices must be issued and the procedure started before 30th March. If not then retirement cannot be enforced.

The right to work beyond retirement will no longer have any application after 30th March. Employees may of course still decide to retire voluntarily after that date, but with the abolition of the statutory retirement procedures, conversations about this topic initiated by the employer will be risky.

1.2 Capability and performance management

After 1st October the avenues open to employers to manage performance-related issues of staff over 65 will be either capability or disciplinary policies and procedures. However, in the interests of fairness and in order to avoid potential cases of age discrimination, these policies and procedures should not focus entirely or even predominantly on older staff but should apply consistently across all staff. In addition, 'reasonable adjustments' (e.g. to performance standards) may be need to be made to take account of fact that various disabilities can increase with age.

1.3 Effect on recruitment and promotion

A consequence of the change is that employers will no longer be able to refuse to employ or promote a suitable job applicant who is less than six months from the current retirement age of 65. Failure to consider suitable candidates aged 64 and six months or more could lead to allegations of age discrimination, and any policy of a maximum recruitment or promotion age will need to be objectively justified.



The average direct cost of recruiting a replacement member of staff is estimated at **£2500**

What our clients say about us

“Great workshop and thank you, I look forward to reading your newsletters.”

*Centre Manager
Charity*

“Very inspired by your session with us today – many thanks.”

*Director
Consulting company*

The main basis for reaching recruitment and promotion decisions, as always, will be against the skills, knowledge and experience requirements of the job.

2. Other changes being introduced in April 2011

2.1 Eligibility to request flexible working

The right to request flexible working will be extended to parents of children under 18 on 6th April. It currently applies to parents of children under the age of 17, or 18 if the child is disabled.

2.2 Maternity and paternity leave provisions

Fathers of babies born on or after 3 April 2011 will be allowed up to 26 weeks' additional paternity leave, if the mother returns to work before using her full entitlement to statutory maternity leave.

2.3 Increases to statutory payment rates

Redundancy: The maximum statutory week's pay in the calculation of redundancy payments and various Tribunal awards increased from £380 per week to £400 per week with effect from 1st February 2011.

Statutory maternity pay (SMP), statutory paternity pay (SPP), statutory adoption pay (SAP) and statutory sick pay (SSP) will come into force on 6th April.

- SMP, SAP and SPP rates will increase from £124.88 to £128.73
- SSP will increase from £79.15 to £81.60.

The weekly earnings threshold for the SMP, SPP and SAP payments will also increase from £97 to £102.

3. Royal wedding

A public holiday has been announced for 29th April 2011. Employees may assume that, as it will be a bank holiday, they will be entitled to take this day as paid leave. In fact, employees do not have an automatic right to paid leave on bank holidays and it will depend on the wording of their employment contract.

4. And finally, a 'Heads Up':

- the government is currently consulting on the Employment Tribunals Claims Process with a view to simplifying and making the whole process more efficient
- From 1 October 2011, under the Agency Workers Regulations 2010,

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agency workers will be entitled to equal treatment on basic employment conditions, such as pay and holidays, after they have worked in a role for 12 weeks.

More information on these in future editions of the newsletter.

If you would like help with or more information about any of the above please call or email me

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New Clients Welcome: This newsletter only goes out to clients or existing contacts of MGHR. However, if you know of someone or an organisation who would be interested in becoming a client or who would like a copy of the newsletter, please pass our details on or email Jim with their details and we will be delighted to contact them.

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