



EmployNet

Civil partnerships - implications for employers

Have you checked that you have amended your Company policies to take into account the civil partnership rules (The Civil Partnership Act 2004) which became law in December 2005?

Under the regulations same-sex couples are afforded legal recognition for their relationship and the same relationship rights as heterosexual couples. These changes have implications for employers, employment related benefits and their obligations to civil partners including:

- Protection from marital status discrimination
- Differential treatment compared with married persons could result in a discrimination claim on the grounds of sexual orientation.

Key areas where civil partners will be entitled to equal treatment:

- Pensions
- Employee benefit schemes
- Adoption pay and leave
- Tax, inheritance, liability for maintenance and child support
- Flexible working schemes
- Paternity pay and leave
- Benefits provided to traditionally married employees

The legal obligations only apply to same-sex couples that have entered into a civil partnership. Any benefits offered to unmarried couples of the opposite sex must be made available to same-sex couples who have not entered into a civil partnership.

Our advice to employers:

- Audit and amend policies to ensure the same benefits apply to all married couples and civil partners
- Revise practices and procedures to ensure civil partners are included
- Consider staff awareness training about civil partnerships
- Review pension scheme rules and ensure changes are implemented to comply with the new legislation
- Take sufficient measures to protect the privacy of "sensitive personal data" if an employee informs you that s/he is a civil partner as per data protection legislation

In-house skills

If you identified a project or task that required completing, would you pick up the phone to hire in contractors or consider auditing the skills you have in-house? A recent survey by InfoBasis found that 75% of companies use contractors without first carrying out audits to see whether they have the existing skills in-house. Not only are contractors an additional cost but many employees question their value to the company when they know they are able to do the work without outside help.

The Investors In People (IIP) accreditation recommends many ways and practices for companies and employees to work effectively, one such way being the adoption of a skills matrix.

Meet the team

Andrew & Co. have a dedicated team of employment specialists available to help you. Please contact us if you need assistance.



Phillip Hoskins

Phillip is Managing Partner of Andrew & Co and Team Leader for the Employment and Dispute Resolution Team.

Phillip specialises in employment law, general commercial work and commercial disputes.

He deals with the drafting of employment documents and policies and also handles employment disputes right across the employment law spectrum including cases on TUPE and union cogtion.

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Annette P Wood

Annette is a Solicitor in the Employment and Dispute Resolution Team; she is also an accredited Commercial mediator.

Annette specialises in employment law, general and commercial disputes, particularly property and partnership / business disputes.

She drafts employment contracts and policies and advises generally on non-contentious employment matters, but also employment disputes. She regularly advises regarding compromise agreements.

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Increased rights for carers and parents

From April next year, **carers of adults** will be given a right to request flexible working for the first time, recognising the difficulties many carers face in juggling work with caring responsibilities. Potentially this could make the difference between giving up work and staying in work for upwards of 1.5 million carers.

The Work and Families Act was given Royal Assent in June 2006, and the right to request flexible working for carers comes into force in April 2007. Employers will have to take the request seriously. Many employers are already changing their procedures now so they are not caught off guard when the legal right comes in. The employer will have the right to refuse a request for flexible working from a carer, but must demonstrate clearly their reasons for refusal.

In draft regulations the definition of a carer is limited to people caring for relatives, partners, and people living with them, but carers' organisations are lobbying hard to widen this definition to include people who care for adults not living with them.

Working parents also stand to benefit from new rights to more maternity and paternity leave and pay. The Act extends the maximum periods allowed for maternity and adoption pay to nine

months from April 2007 with the aim of increasing this to a year's paid leave by the end of the Parliament. The act also introduces 'Keeping in Touch' days so that where employees and employers agree, a woman on maternity leave can go into work for a few days, without losing her right to maternity leave or a week's statutory pay. To assist employers in planning returns to work, the act also features a two month notice period for women changing their return to work dates from maternity leave.



Enhanced benefits for working parents

There will also be a new right to an additional period of paternity leave for fathers, which will be introduced alongside the extension of Statutory Maternity Pay, Adoption Pay and Maternity Allowance to 12 months. This will enable them to benefit from leave and statutory pay if the mother returns to work after six months but before the end of her maternity leave period.

Our solicitors are on hand to advise you on the implications for your business.

New retirement regulations

Under the Employment Equality (Age) Regulations 2006, which come into force on 1st October 2006, the default retirement age will be set at 65, but employers will be under a duty to consider requests to work beyond this. Key implications of this legislation include :

- Enforced retirements where the employee does not want to retire will constitute a dismissal and possibly an act of discrimination
- Employers will be able to set a retirement age lower than the national default age only if they can satisfy a general test of objective justification

There will be a need to distinguish from Genuine Retirements and Unfair retirement/dismissals. Employers are protected from claims if:

- The employment ends genuinely on the grounds of retirement
- If the retirement occurs on or after the default retirement age or a lower age which can be objectively justified and
- There is compliance with the new procedural requirements, known as "Duty to Consider".

Although these regulations do not come into force until October, we strongly recommend you speak to your lawyer before this date to ensure you understand the new procedures and guidelines and how they may affect you when any of your employees near retirement.

The future of work?

A recent study has found that many employers, often driven by employee requests, are starting to adopt more flexible working methods. This includes boosting staff productivity through their only working at times when they are most productive, known as "deep time". Many employers also reported more staff working from home, aided by mobile technology.

Standard Life commissioned The Future Laboratory to carry out the study into new working models and forecasts that although the number of companies currently adopting these models is relatively small, mainly within the media and IT sector, within 15 years the figure will have increased and spread across all industry sectors and a much larger proportion of the working population. Food for thought.

News in brief

Acas confirms increased demand for services

Conciliation service Acas recently reported record numbers of people requesting advice and guidance on employment relations issues. Its 2005/6 annual report, published in July, revealed that it received more than 900,000 calls last year.

The top three worries for employers and workers were discipline and grievance; maternity and paternity; and redundancy/layoff issues. There was also a rise in the number of people using the Acas website, to 1.7 million visits.

This rise reflects the overall growth in tribunal cases. Official figures from the Employment Tribunals Service show that 115,039 applications were registered in 2005-06, compared to 86,181 the previous year. Unfair dismissal continued to be the largest category of complaint with 35,944 applications.

However, there was a slight fall in the number of large-scale disputes that Acas dealt with, from 1,123 in 2004/5 to 952 last year.

UK unemployment rises

Unemployment levels in the UK have risen to the highest levels for six years. Official figures show there were 1.65 million people classed as unemployed in the three months to May - a 90,000 increase over the quarter.

The Office for National Statistics claims this figure was the highest since Spring 2000.

Work in progress

Fire Safety Rules

The Regulatory Reform (Fire Safety) Order 2005 comes into force on 1st October 2006. It replaces fire certification and shifts responsibility from local brigades to company bosses.

Amendment to National Minimum Wage

The National Minimum Wage rate will increase from 1st October 2006. The main rate will rise to £5.35 per hour and the development rate to £4.45 per hour.