

## **Employers Discriminate at their Peril**

The latest statistics from last year's Employment Tribunal cases have now been published and these show some alarming results which employers cannot afford to ignore. There has been an increase of 29% in the number of claims for unfair dismissal whilst claims alleging a failure to inform and consult on large scale redundancies have gone up by more than 200%. These figures will of course be no more than a reflection of the current economic crisis.

As far as compensation is concerned, employers may be interested to hear that the average award for unfair dismissal was just under £8,000 last year and indeed of all claims for unfair dismissal, only 10% of these resulted in a win for the employee. This is largely explained by the fact that approximately only 25% of cases reach a full hearing as the vast majority are disposed of by way of settlement or are simply withdrawn at an early stage in the proceedings.

However, as far as discrimination is concerned, the picture with regard to compensation is very different. Discrimination claims which include sex (and pregnancy related situations), race, disability, religious belief, sexual orientation and age always pose an additional headache for employers as claims are often brought against a number of individuals within the company and if successful, compensation is unlimited and will always include an award for injury to feelings.

Tribunals have a broad discretion to award compensation as they see fit depending upon not just loss of earnings but also their assessment of the hurt suffered by the individual and whether "aggravated damages" for particularly offensive and high handed treatment is justified. The figures over the last year bear this out. For example, the average award for race discrimination was over £32,000 with the maximum award being a whopping £1,353,432.00 in one particular case.

Employees who are discriminated against by reason of a disability can expect on average to receive £27,000 in compensation with a similar figure for successful claims of religious discrimination and discrimination on grounds of sexuality. By contrast, age discrimination, the "youngest" of UK discrimination laws, only attracts an average award of just under £9,000.

These figures will increase again next year as a recent case has just decided that the guidelines for assessing awards for injury to feelings (known as Vento) will be amended to increase the 3 bands of compensation available.

Employers should be aware that they will be liable for discrimination carried out by their employees whether they knew about it or not unless they can show that they have policies and procedures in place and that the workforce is trained and monitored in this area. Forthcoming changes in this area of the law next year with the introduction of a new piece of legislation on equality will further highlight the need for employers to ensure that their house is well and truly in order to avoid costly and often embarrassing experiences not to mention becoming a statistic in next year's Tribunal report.