

January 2009

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Women win equal pay claim against local authority employers

A group of women local authority workers have won their equal pay claim after bonuses being paid to their male colleagues were held to be a sham.

The women involved held a variety of posts such as care assistant, area scheme co-ordinator in the housing department, office cleaner and minibus driver. While assessing their right to better pay they compared their roles and responsibilities to men doing such jobs as trade supervisor, joiner, electrician, road sweeper and refuse driver.

The women believed their workload and responsibilities to be on a par with their male counterparts. In spite of this, the men received bonuses that were not available to the women employees.

The local authority argued that the bonus schemes were designed as incentives to boost productivity.

The employment tribunal rejected this argument, however, and found that the bonuses were a sham because they could have little impact on productivity. There were examples where a bonus could be paid to someone who simply carried out the tasks he was already being paid to do anyway.

The tribunal decided in favour of the women and that decision has now been upheld by the Employment Appeal Tribunal.

There has been a large increase in the number of successful equal pay claims brought by women in recent years, both in the private and public sector.

Anyone who feels they are not receiving the same pay levels as colleagues performing equivalent work may have grounds for a claim and should seek legal advice.

Expanding HIPs must be ready when a house is put on the market

Home Information Packs (HIPs) are to be expanded to include a property questionnaire and will have to be available soon as a house is put on the market.

From 6th April sellers will have to provide a Property Information Questionnaire (PIQ) when presenting the HIP to potential buyers. The questionnaire will cover a wide range of issues such as the property's service charges, flood risk information, structural damage, gas and electricity safety, and parking arrangements.

It will be in addition to the other required documents such as the Energy Performance Certificate rating the property's energy efficiency, evidence of title, the results of standard searches and the terms of sale.

The other big change taking place on 6th April is that HIPs will have to be made available to buyers as soon as the property is put on the market. This will end the temporary concession whereby sellers could request and pay for a HIP and then start marketing their property for up to 28 days before the HIP became available.

Property Information Questionnaires will also be required for leasehold properties. The other change is that the temporary leasehold information provision was made permanent on 1st January. It means that a copy of the lease remains the only extra information needed for leasehold properties.

We are happy to offer advice on HIPs and all legal aspects of buying or selling property.

Family courts get new powers to settle contact disputes

Judges in family courts have been given more powers to resolve contact disputes between estranged parents.

It means that parents who fail to honour their commitments and responsibilities could be obliged to attend parenting classes or even undertake unpaid community work.

The new measures are contained in the Children and Adoption Act 2006 and became effective on 8th December 2008. They're intended to help resolve conflicts between parents over such things as who the child should see, how often and under what conditions.

A family court now has the power to direct a parent to undertake a contact activity, and it can attach an activity condition such as attending parenting classes to contact orders.

If one of the parents suffers financially from the other's failure to comply with a contact order then the court will be able to award compensation. The court will also be able to impose an unpaid work requirement on the person who breaches the contact order.

The Government says the background to the changes is the principle that the "well-being and interests of the child are of paramount importance" rather than the personal interests of either parent.

We are happy to offer advice on the new measures or any aspect of family law.

Add a little will power to your New Year resolutions list

The New Year often sees us making resolutions to improve our lives and our approach to various issues.

It could be to eat a little less or exercise a little more. Unfortunately, getting our legal affairs in order doesn't usually come high on the list of things we must do. However, that could cause huge problems in future, if not for ourselves then almost certainly for our families.

One of the biggest mistakes is failing to make a will. This can lead to both heartache and hardship for your loved ones after you die. It could even lead to unseemly squabbling among family members.

Many people assume that they don't need a will because everything will automatically pass on to their spouse when they die. This is not the case. If you die intestate – that is, without having made a will – then your estate will be divided in ways laid down by the law. Some will go to your spouse, some to your children, if you have any, and some may go to other family members. These could be people you may not even like and would not have chosen as beneficiaries yourself.

The only way to ensure your estate is divided in the way you want it to be is to make a will and ensure that is properly drawn up with the help of a solicitor.

People who already have a will should review it from time to time to ensure it still meets their needs and reflects their wishes. A Law Society spokesman stressed the need for regular reviews: "When circumstances change, you should contact your solicitor to see if you need to review your will. When someone is in the process of a major life-changing event such as moving into a new home or getting married, often the last thing on their mind is their will. However, it should be a high priority. Do not let it gather dust."

It's best to resist the temptation to cut corners by using DIY will kits. These may save you a little money in the short term but they are often not properly drawn up and can lead to problems after your death.

The last few years have seen a rise in the number of people challenging wills because they feel they have not been provided for in the way they expected. This can result in conflict between family members causing lifelong rifts.

Most of these problems can be avoided if you make sure your will is properly drawn up and then kept up to date to reflect your changing circumstances.

Please contact Christopher Jackson if you would like more information.

Man awarded nearly £3,000 after tripping on pavement

A 54-year-old man who injured his finger and grazed his face when he tripped on some cracked paving has been awarded £2,837 compensation.

The injuries occurred when the man tripped on a section of pavement where the tarmac had become broken leaving a deviation of more than 1.5 inches. The injured man claimed the Highways Authority was negligent and had failed in its statutory duty under the Highways Act 1980 to maintain the area properly.

The authority disputed liability saying it had inspected the area as required and complied with the Act.

The man's facial grazing healed up but he sustained a permanent minor deformity to the little finger on his right hand. He had not been able to work for a few days after the accident and then had to ask for lifts to work as he could not drive until his finger healed sufficiently.

The judge held that the authority was liable because the defects to the pavement were long-standing and so should have been rectified by the authority. By failing to carry out repairs it had failed to protect the man from a foreseeable risk of injury.

Anyone who sustains injury as a result of someone else's negligence is entitled to claim compensation. Please contact Martin Crossley if you would like more information.