



# Complete People Management

Practical, Prompt and Professional HR solutions

<http://www.completepeoplemanagement.co.uk>

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## NEWSLETTER – OCTOBER 2009

At **Complete People Management Ltd** we want you to receive a newsletter that is informative and assists you in dealing with your people matters. If you like the newsletter, tell someone about it. If you don't, please tell us. Your feedback is important to us.

In October's newsletter we cover:

- Employment Legislation Changes in October
- Recent Employment Tribunal Outcomes
- Retirement Ruling
- Question and Answer



Sue  
Schoormans  
Managing  
Director

### Employment Legislation Changes in October

**National Minimum Wage** increased on 1<sup>st</sup> October

- Over 22 year olds to £5.80 per hour
- 18 to 21 years olds to £4.83 per hour
- 16 to 17 year olds to £3.57 per hour

**Tips no longer allowed in paying the minimum wage**

Employers' are prohibited from using tips to satisfy their obligations in paying employees the National Minimum Wage from 1st October

**Increase of maximum weekly amount** to calculate awards for unfair dismissal and redundancy payments from £350 to £380 from October 1<sup>st</sup>

**Data Protection (Notification and Notification Fees) (amendment)**

**Regulation 2009** introduces a new two tier structure for the annual registration fee. £500 for businesses with a turnover of at least £25.9m and employing 250 or more employees and £35 for businesses with less than this.

### Quote of the Month

You can get everything in life if you will just help enough other people get what they want.

Zig Ziglar





## Recent Employment Tribunal Outcomes



### Da'Bell v NSPCC – Vento damages

The ruling in this case has stated that Vento damages related to injury to feelings in discrimination cases should be increased to reflect inflation.

Lower band = £5000 to increase to £6000 – awarded in less serious cases, e.g. an isolated one-off occurrence.

Middle band = £15000 to increase to £18000 – awarded for serious cases that do not warrant an award in the upper band.

Upper band = £25000 to increase to £30000 – awarded in the most serious cases, e.g. a lengthy campaign of discrimination.

The judgement takes immediate effect.

### OCS Group UK Ltd v Jones and another – TUPE out

Jones was employed as a chef supervisor by OCS Group at the BMW car plant in Cowley. Here the catering service included a restaurant, deli bar, 4 satellites and a shop. Jones was employed as a chef and prepared hot food. The contract was losing money and OCS subsequently lost the contract to MIS. The catering service changed after the transfer to pre-packed sandwiches and salads. No hot food was prepared. After the transfer Jones became a shop assistant with MIS.

Jones and others brought claims including wages, redundancy pay and unfair dismissal against OCS. OCS argued that the employees should have transferred to MIS as per the Transfer of Undertakings (Protection of Employment) Regulations 2006.

The ET and EAT found that the MIS contract was a “wholly different operation”.

This ruling gives greater flexibility to contractors awarded a contract, to change the service provision and to employ their own employees.

To keep up to date with ET cases visit here:

[http://www.completepeoplemanagement.co.uk/24/?form\\_16.userid=4&form\\_16.replyids=10](http://www.completepeoplemanagement.co.uk/24/?form_16.userid=4&form_16.replyids=10)



# Retirement Ruling



## The Heyday Case – retirement at 65 illegal?

The Employment Equality (Age) Regulations 2006 states that the compulsory retirement age is 65

Following the long running Heyday legal case ruling, retirement at the age of 65 is lawful and companies can force employees to retire when they reach 65 years old. However the forced retirement must comply with the associated statutory procedures under the Employment Equality (Age) Regulations 2006 and it is recommended that employers seriously consider whether such practice and policy is in the company and country's best interests.

The key facts related to retiring an employee are as follows:

- ❖ No more than 12 and no less than 6 months notice must be given to employees due to reach retirement age;
- ❖ Retiring employees have the right to request to work beyond the retirement age;
- ❖ Employers must consider employee requests and respond to them within a reasonable time frame;
- ❖ Employers must hold a meeting with employees who make a request to work beyond the retirement age;
- ❖ Employees have the right to appeal against their request to work beyond retirement age;
- ❖ Failure by an employer to follow the statutory procedure could result in a tribunal award of 8 weeks pay and compensation for unfair dismissal and/or age discrimination. The latter is limitless in compensation.

In the event that:

- ❖ the 6 month period to notify has lapsed the employer must still give at least the required 6 months notice to avoid a claim and the respective ET compensation;
- ❖ the company has no set retirement age the default retirement age of 65 can be used;
- ❖ an employee passes the default or company set retirement age the employee can still be retired provided that the procedure is followed;
- ❖ an employee's request to work beyond retirement age is granted the usual procedure to retire the employee after this date must be followed.

To learn more about managing retirement contact Sue on 0208 8168 726 or at [sue@completepeoplemanagement.co.uk](mailto:sue@completepeoplemanagement.co.uk)



## Question and Answer



At **Complete People Management Limited** we want to help you manage your people effectively. If you have a question that you want answered simply ask us. We will not disclose your identity.

What have you got to lose?

***It's free!***

### **Question: Do verbal warnings still exist?**

#### **Answer:**

In April 2009 the Dispute Resolution Regulations 2004 ceased to be in existence and were replaced by the Employment Code of Practice (Disciplinary and Grievance Procedures) Order 2009. This now means that formal disciplinary proceedings are no longer necessary to issue an employee with a verbal warning unless the company's discipline procedures and employee's term and conditions of employment or other legally binding documentation state otherwise.

We recommend that if you have not done so already that you amend your grievance and discipline policies and procedures in line with the new legislation. Put simply it will in the long run save you time and money.

**Contact us at [sue@completepeoplemanagement.co.uk](mailto:sue@completepeoplemanagement.co.uk) or on 02088168726 if you wish to amend your discipline and grievance procedures**

The newsletter includes information about employment legislation changes and top tips on an employment subject in a concise format. Further advice must be sought before any subsequent action is taken. The information published is without responsibility on our part for loss occasioned to any person acting or refraining from action as a result of information published herein.

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