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Newsletter – June 2010

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EQUALITY ACT CONSULTATION

The Government Equalities Office (GEO) has launched a consultation on the draft paperwork for obtaining information about potential discrimination and equality of term cases. The new paperwork will come into use when the Equality Act 2010 is introduced. Discrimination law currently provides a process for a person who thinks that he or she may have been unlawfully discriminated against, harassed or victimised to obtain information from the person they think has acted unlawfully against them. The process allows an employee or a consumer of a service or goods for example to request information before deciding whether to present a claim to an employment tribunal or court.

A prospective claimant can ask to obtain background information to assist their claim, e.g. relative numbers of men and women in the workplace, or their racial background, or ask about the reasons for the particular action which may be discrimination. The questions and the answers are admissible as evidence in a case brought under discrimination law and the court or tribunal may draw inferences from a failure by the respondent to answer the questions posed or from evasive or equivocal answers. The person may ask questions either on a form prescribed by the Government or in some other way, for example by letter. There are currently nine different sets of forms covering all the current equality strands. These include forms for possible sex discrimination, race discrimination, age discrimination in employment only, equality of terms etc.

One of the ways in which the Equality Act 2010 streamlines discrimination law is by replacing this series of nine individual questionnaires about possible discrimination with a single set of paperwork (guidance and forms) for all types of discrimination. There will also be new guidance and forms for equality of terms issues (formally known as the equal pay provisions).

The GEO is seeking input on this streamlined paperwork. The consultation closes on 13 July.



Earlier this week the date when the Equality Act will begin to be phased in was brought into question. The Act received Royal Assent in April and is due to be implemented from October this year. However, *Personnel Today* magazine noted that the implementation date had this week been removed from the GEO website.

The [factsheet on the Equality Act](#) now states: “ The provisions in the Equality Act will come into force at different times to allow time for the people and organisations affected by the new laws to carefully prepare for them.”

A spokesperson for the GEO said a statement on scheduled implementation would be made in due course.

NHS DATA SECURITY BREACHES

The Information Commissioner’s Office (ICO) remains "highly concerned" that data breaches involving people’s personal information are continuing to occur in NHS organisations, it has said this week. A quarter (250) of all data breaches reported to the ICO are from the NHS.

NHS Stoke-on-Trent and Basingstoke and North Hampshire NHS Foundation Trust are the latest NHS bodies found to have breached the Data Protection Act (DPA). Both NHS organisations’ chief executives have signed formal Undertakings outlining that they will process personal information in line with the DPA.

Mick Gorrill, Head of Enforcement at the ICO, said: “Everyone makes mistakes, but regrettably there are far too many within the NHS. Health bodies must implement the appropriate procedures when storing and transferring patients’ sensitive personal information. We have taken a number of steps to explain the importance of personal data to NHS bodies and help them comply with the law. We will continue to do so.”

2,000 paper physiotherapy records were not filed within NHS Stoke-on-Trent’s archive system and may have accidentally been destroyed or misfiled. At Basingstoke and North Hampshire NHS Trust, an excel spreadsheet, containing 917 patients’ pathology results, was emailed via an unsecure address to another department. The spreadsheet was not password-protected and the receiving department had no business need to have access to the excessive amount of clinical records. The NHS organisations have agreed to implement a number of security measures to protect personal information more effectively. All staff will be made aware of the organisations’ policies for the retention and use of personal data and will receive training on how to follow those policies.

NHS Stoke-on-Trent will also apply physical security measures in respect of paper medical records, particularly when they are in transit. Basingstoke and North Hampshire NHS Trust has pledged to only extract and transfer the minimum amount of personal information necessary for any processing requirement. With immediate effect, it will encrypt all portable and mobile devices used to store and transmit personal data.

DRIVERLESS TUBE TRAINS

The union RMT has reacted angrily to news of plans leaked to the BBC to axe all train drivers and operators on London Underground and to move the entire tube system to a driverless operation. It has called the proposal “lethal and unworkable” and warned of “the mother of all industrial relations disputes” if the plans are taken forward. The leaked report from the Conservatives in the London Assembly to London Mayor, Boris Johnson, recommends sacking all of the 3,525 train drivers and operators, estimating that it could result in savings of £141m per annum, and prevent strike action.



The memo says that driverless trains are safer, faster and more efficient and says that the Victoria line and the Circle line already use technology which has “reduced train drivers to door openers”. It adds: “Such a system would end the strangle-hold militant unions have on the city's tube network and seriously curtail their ability to bring London to a standstill” and solve the “poor state of industrial relations between London Underground management and train operators”.

RMT General Secretary, Bob Crow, said: “Under normal circumstances I would be tempted to dismiss this leaked report as some kind of a joke, cooked up by anti-union fantasists, but in the current climate of cuts and attacks on public services we are taking it very seriously. People only have to look at the footage of the carnage down the tube after the 7/7 bombings, and the brave and critical role played by train operators and platform staff in dealing with that emergency situation, to see why these crew are so vital to the safety of Londoners. The people behind this Tory Party report not only want to get rid of the drivers but they want no staff on the tube trains at all. That just proves that they have no understanding of the tube system and a complete and utter disregard for passenger safety. It may well be that some junior politician is simply flying a kite to make a name for themselves but RMT will not sit back and allow this lethal and unworkable idea to gain any traction whatsoever. We are already involved in a battle to defend Tube Lines, station and platform jobs and our fight for safe staffing levels across London Underground, including the use of industrial action, will continue.”

A Transport for London (TfL) spokesman said: " The Victoria and Central line trains are the only ones currently in operation on the Tube network that are automatically operated; however on these lines a train operator is in the cab. Having a member of London Underground staff on a train helps give reassurance to passengers, ensures prompt opening and closing of doors, speedy boarding and alighting of passengers and departure of the train."

Boris Johnson's office has not commented so far.