



Gender pay gap rules could see rise in discrimination claims

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- Cases expected to broaden to age, race and gender discrimination claims

Following the publication yesterday of ACAS guidance on rules requiring large companies to publish the differences between average pay and bonuses of their male and female employees, **Paul Quain, Partner at GQ Employment Law, says:**

“We may start to see more group discrimination claims in the future as employers watch what is happening in the market nervously.”

“Everyone wants to see the gender pay gap closed but, unless employers are careful, these new rules could also provide some ammunition for discrimination claims to be brought against them.”

“Where these occur, employers could find that claims are not limited to straightforward gender bias.”

“It is also possible that historical needs of the business may have led to an imbalance in the workforce structure which has led to pay differences which could now be difficult to justify.”

“Employers could also see a rise in race and age discrimination claims being brought against them if employees with these ‘protected characteristic’ see that their income falls markedly below that of their colleagues – and are not reassured that issues are being addressed.”

“There is also the possibility of a group discrimination claims if large numbers of employees with common ‘protected characteristics’ become disgruntled and look to bring cases against their employers on matters of pay.”

“As recently experienced by Asda and other supermarket chains and companies such as Uber and Deliveroo, group claims, including



group discrimination claims, are the most expensive and complex types of claims for a business to defend.”

“Generally speaking, there is theoretically no cap on the amount of compensation an employee can receive for discrimination claims.

“In equal pay claims tribunals can award damages to account for the pay differential over a period of time and can sometimes go back six years.”

Paying attention to the narrative

“This means that, where they exist, employers need to take careful steps to manage communication around pay gaps – either reassuring employees that they are for a good reason or, alternatively, that existing issues are being remedied.”

“Employees that feel that their concerns are being taken onboard are less likely to seek compensation by bringing a claim against their employer.”

“It is essential that employers build a sense of trust amongst their employees – so that those who may be upset by the published figures are still made to feel valued and their concerns acknowledged.”

“Companies may also wish, on a voluntary basis, to provide more granular data to explain and justify apparent disparities in the headline figures. How the message is communicated to staff will be key.”

New rules: New headhunting tools

“Disparities between pay in rival businesses may allow head hunters to more easily tempt those missing out on higher salaries away from their current positions.”

“For firms dependent on ‘elevator assets’ – such as those in knowledge based industries – this could be damaging to businesses paying less than their competitors.”

“Reassuring employees of their value to the company and listening to their concerns regarding pay can help reduce the chances of employees looking to move.”

The rules are due to come into effect on 30 April 2017 for companies employing a minimum of 250 employees.

Press enquiries

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