



Cutting the red tape

The government has announced a number of consultations following a review of equalities legislation under the Red Tape Challenge.

In summary, the key consultations seek views on proposals to:

- Remove the employment tribunals' power to make wider recommendations in discrimination cases (such as recommendations which apply to all staff of an employer), on the basis that this is unlikely to serve a practical purpose or to be an appropriate remedy.
- Remove the statutory questionnaire procedure (which provided for statutory questionnaires to be answered by employers in potential discrimination cases in order to encourage pre-hearing settlements), because it has not had the desired effect of reducing tribunal loads.
- Repeal the provisions in the Equality Act 2010 which make employers liable for harassment of their employees by third parties over whom they do not have direct control, such as customers or clients. The Government argues that employees are already sufficiently protected against such behaviour by employers' legal duty to take reasonable care of the safety of their employees, constructive dismissal law and the Protection from Harassment Act 1997.

The removal of the statutory questionnaire procedure could be particularly interesting. The serving of such a questionnaire by an employee or job applicant who thinks they may have been discriminated against frequently causes employers additional workload, and often the answers are so brief that they do not assist the potential claimant in determining whether they have sufficient chance of success to bring a tribunal claim. They also often make parties' positions more entrenched, which hinders, rather than assists, potential settlement discussions. It will be interesting to see the outcome of the consultations.