



Discrimination questionnaires – A thing of the past? Almost!

From 6 April 2014 employees will no longer be able to raise a statutory questionnaire when pursuing a discrimination claim which, if it was ignored by an employer or evasive or equivocal answers were provided, allowed the Tribunal to draw an adverse inference. Instead, employees will have to rely on an informal approach, the details of which are set out in non-statutory guidance issued by Acas. Whilst no adverse inferences can be drawn under the new informal approach, a Tribunal can look at whether and how an employer has answered the questions as a contributory factor in making their overall decision on the employee's discrimination claim. The guidance issued by Acas includes advice on how individuals can ask questions and why / how employers should respond. For the full guidance, click [here](#)

Whereas the new informal approach potentially puts employers in a stronger position to take a firmer stance towards unreasonable requests it would be unwise for an employer to relax their approach entirely given that their response could still have some bearing on the outcome of a discrimination claim. Additionally, providing a reasonable response may also help to promote a quick resolution either by encouraging early settlement or simply showing the employee that no discrimination has taken place. Often it is the case that an employer holds all the information which would tend to support or disprove an allegation of discrimination. As such, early disclosure of this information may well prevent the employee from issuing unnecessary proceedings. Given the introduction of fees in the Tribunal system, it is likely that employees will be encouraged to utilise the informal approach to see if any resolution can be found before they part company with the £250 issue fee and £950 hearing fee for a discrimination claim.