

**CIVIL LITIGATION DEPARTMENT
EMPLOYMENT LAW
STIGMA LOSS, TRAINING AND
INJURY TO FEELINGS AWARDS
NOVEMBER 2009**

STIGMA LOSS

Employees are not generally able to recover compensation for any loss sustained as a result of “loss of reputation” in unfair dismissal cases. However, in a discrimination case, the Court of Appeal have now confirmed that stigma loss flowing from a discriminatory dismissal is in principle recoverable not (generally speaking) as a separate head of loss, but as a factor in determining mitigation. So, if someone is finding it difficult to get another job and this difficulty arises from the stigma of having, for example, taken legal proceedings against their employer, the effect of this stigma will be a factor to be weighed up when a tribunal measures the efforts at mitigation. The assessment of damages is different in discrimination claims in that the loss flowing from the unlawful act need not be reasonably foreseeable and damages are uncapped, but it will be interesting to see how this argument impacts upon unfair dismissal compensation.

TRAINING

From April 2010, employees in firms with 250 or more people who have been employed for 26 weeks will have the right to request time off to undertake training if that training would make them more efficient and productive. This right will be extended to all employees from April 2011. The right will mirror the current right to request flexible working. Payment of salary during training or the training costs themselves will be a matter for the parties. If an employer fails to properly consider the request or bases its refusal on incorrect facts, an employee may be entitled to compensation from a tribunal.

INJURY TO FEELINGS AWARDS

For some years tribunals have been using the so-called ‘Vento guidelines’ in assessing awards of compensation for injury to feelings in respect of unlawful discrimination. Injury to feelings awards compensate claimants for the hurt and distress felt as a consequence of the discrimination. There are three Vento bands and their monetary value has recently been increased. The top band applies to serious and persistent discriminatory harassment or dismissals and awards are now between £18,000 and £30,000. There is a middle band for less serious cases (£6,000 to £18,000) and a lower band for one-off acts of discrimination (between £600 and £6,000).

If you require any advice or assistance about an employment matter, please contact Deborah Driscoll in our Civil Litigation Department.

Disclaimer

The content of this article is intended for general information purposes only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at November 2009 and it may be affected by subsequent changes in the law. We cannot accept responsibility for any loss as a result of acts or omissions taken in respect of this article.