

**CIVIL LITIGATION DEPARTMENT
EMPLOYMENT LAW
OCTOBER 2010**

**EMPLOYEE THEFT, HEALTH CHECKS ON RECRUITMENT
AND THE NEW EQUALITY ACT**

DISCIPLINARY PROCEEDINGS FOR THEFT

Dismissals arising from missing money are common occurrences. In a recent Employment Appeal Tribunal, a Mrs Celebi was charged with 'loss of money' but dismissed for theft. The employee succeeded in her appeal because of the lack of clarity in the charge. The golden rule is: make sure the dismissal is for a reason contained in the original charge or, put more simply - *if you think it is theft, say so*.

RECRUITMENT HEALTH CHECKS

From **1 October 2010** an employer must not ask about the health of an applicant before offering work to them, unless the employer is:

- a) Finding out whether they need to make reasonable adjustments for the applicant in the selection process,
- b) Establishing whether the applicant can carry out an essential part of the job,
- c) Monitoring diversity,
- d) Taking positive action to assist disabled people or
- e) Establishing disability when disability is an occupational requirement.

EQUALITY ACT 2010

Large parts of this Act become law on **1 October 2010**. Amongst other things, it harmonises equality law in that it mirrors and incorporates much of the existing legislation by protecting certain characteristics (sex, race, disability etc.) against discrimination.

For the time being, where the discriminatory conduct occurs wholly before 1 October 2010, previous legislation will apply. Where the discriminatory conduct is a continuing act beginning before 1 October 2010 and continues on or after that date, the new Equality Act will apply.

**If you require any advice or assistance about an employment matter,
please contact Julie Granger or Daniel Crook 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 October 2010 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.