

Dress Sense?

The matter of dress codes and whether they constitute sexual discrimination at work is a confusing issue. Matters have been confused further by two high profile cases recently. In the case *Caldicott v HM Prison Service* a prison officer was told that having to wear a tie is definitely not sexual discrimination against male workers. Since an Employment Tribunal's decision is not binding on other employment tribunals, a worker in the Job Centre was told one week later that he had in fact suffered sex discrimination as a result of being forced to wear a collar and tie at work (*Thompson v Department of Work & Pensions*). So can employers lawfully require men to wear a collar and tie at work?

The Employment Appeal Tribunal's opinion in the case of *Schmidt v Austrik Bookshops* in 1977 was that: "...an employer is entitled to a large measure of discretion in controlling the image of his establishment, including the appearance of staff and especially so when, as a result of their duties they come into contact with the public".

Simply treating male and female employees differently – eg allowing one sex to wear trousers but not the other – is not necessarily sex discrimination. Section 1(1)(a) of the Sexual Discrimination Act provides sex discrimination will occur if an employer "on the grounds of her sex, treats a woman less favourably than he treats or

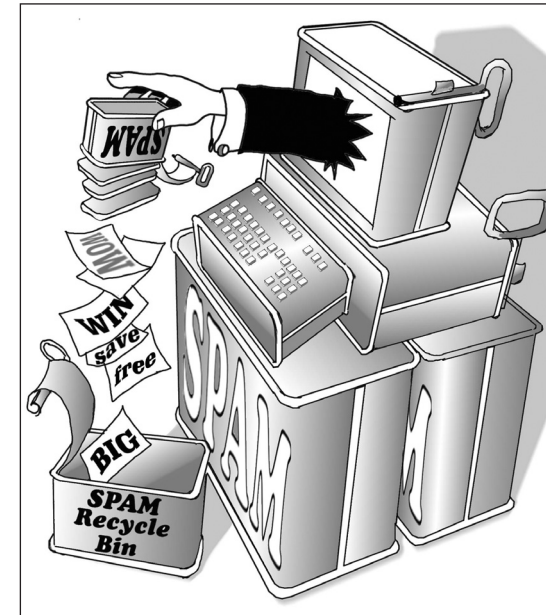
would treat a man" (or vice versa). The employer can avoid liability if he can demonstrate that the reason for any such unfavourable treatment was not because of sex.

Consider these points:

- *Is the dress code applicable to men and women?*
- *Is the dress code enforced equally and consistently?*

This is a sensitive and still uncertain area of the law. As such, employers must ensure they have considered the implications when introducing or amending a specific dress code and must also deal with any complaints and queries consistently and sensitively, to avoid claims.

Spam has had its Chips!



The Government says that new legislation to curb the problem of unsolicited emails, commonly known as spam, should come into force by the end of October. The EU Privacy and Electronic Communications Directive is out to consultation in the UK, but industry minister Lord Sainsbury expects it to be in force by October. It is thought that half of all UK emails are unsolicited.

we keep you informed

Victory in Trial by Jury!

You may recall from our last newsletter that not long ago John Weatherall acquired his Higher Courts (All Proceedings) Qualification. He is now the only Solicitor Advocate in Weston-super-Mare, the other Solicitor Advocate now having retired from practice. John has appeared in the Crown Court on a number of occasions since his qualification, and has recently undertaken his first jury trial. The hearing, which lasted 4 days, resulted in acquittal for our client. Given that the barrister for the prosecution was extremely experienced, this is a huge feather in John's cap, and we are all very proud of him.

Bare Necessities

The new Sexual Offences Bill has been amended to make sure naturists don't unintentionally fall foul of the law. After extensive lobbying by naturist groups, the Government has removed the word "reckless" from a clause in the Bill. It will now only apply to those who "intentionally expose their genitals to cause distress and alarm".

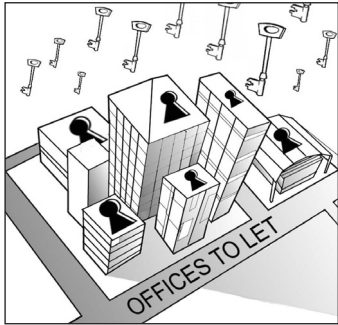
Licensing vs Shorthold Tenancies

Private landlords – are you giving your tenants more than they are entitled to? Many landlords offer tenants shorthold tenancies bought off the shelf when the tenants are in fact only entitled to a bare licence. Licences to occupy bring far fewer rights to the tenant (or, strictly, the licensee) and can prevent the need for costly eviction proceedings later on. Ring Russell Dean on 01934 637 930 or e-mail dean@powellslaw.com.

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This newsletter is a service provided by Powells Solicitors. All information is correct at time of going to press.

New Rules for Contracting Out



The Government has proposed to abolish the current system of contracting out under Part II of the Landlord and Tenant Act 1954. Rather than court approval, the tenant can be given a 'health warning' by the landlord informing the tenant of the rights he or she is giving up. However, until the new rules come into force, the old procedure will apply.

If you are a landlord wanting to restrict the rights of tenure your business tenant may otherwise obtain, or a business tenant who wants to know whether your rights exclusions are enforceable, contact Russell Dean on 01934 637930 or e-mail dean@powellslaw.com.

Stamp Duty Update

Transfers of non-residential properties, or interests in land, where situated within a designated disadvantaged area are from April 2003 now exempt from Stamp Duty regardless of the amount of consideration. It should be noted, however, that in the case of leaseholds this related to premium only and not to rent. We are led to understand that there will be changes later concerning Stamp Duty on rent.

The last budget did not change the position as regards residential land within designated disadvantaged areas. Stamp Duty is not chargeable on such property where the

consideration does not exceed £150,000.

There are problems searching for areas that are exempt because postcodes and electoral wards do not always coincide. A useful way of indicating whether or not property being purchased might be in a designated disadvantaged area is to log on to www.inlandrevenue.gov.uk/so/pcode_search.htm.

The new regime certainly has created a number of interesting anomalies. Even your favourite firm of Solicitors are now, it seems, disadvantaged!

For more info contact Nick Gilson on 01934 637 913 or e-mail gilson@powellslaw.com.

Online Property Searches

The need for speed!

We at Powells like to be a forward-thinking firm and already offer online property searches through a provider, TM. TM is a channel which is licensed by the Government to access their National Land Information Service, through which conveyancing searches can be obtained.

Compared to laborious paper searches which can take anything up to several months, online property searches are blazingly fast, often completed within minutes. Online searches are also cheaper; both these factors offer obvious benefits to you, our clients.

Many changes are being made, particularly at the Land Registry, of which more can be said when the position becomes clearer. Fortunately at Powells our IT is right up-to-date and we are fully prepared for any changes which will be coming our way. We will continue to offer e-conveyancing as part of our range of services to you.

For more info contact Nick Gilson on 01934 637913 or e-mail gilson@powellslaw.com.

Staff Focus

Russell Dean



Russell has just joined Powells' Litigation and Disputes department as a qualified Solicitor.

Many of you will know him already, as Russell undertook his training at Powells.

Julian McCarthy



Julian has just joined Powells as a trainee Solicitor. He starts in the Family and Crime department, having a keen interest in Criminal law. He has already become a valued member of the Powells team.

we keep you informed online @ www.powellslaw.com

contact

01934 623 501

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INVESTOR IN PEOPLE



Lexcel
THE LAW SOCIETY

7-13 Oxford Street
Weston-super-Mare
North Somerset BS23 1TE

Tel: 01934 623 501
DX: 8405
Fax: 01934 635 036
Email: info@powellslaw.com