

Same sex couples

New rights in the work place

Like many employers UK businesses are in no different a position when it comes to respecting the rights and freedoms of employees in relation to their (Human Rights Convention) right to a private life. This right to private life is due to be bolstered this December by The Civil Partnership Act 2004. This will come into force on 5 December 2005. It has implications for all employers (regardless of size of business) who have employees who are part of a same-sex couple, whether their partner is an employee of the same business or not.

The Act enables same-sex couples to form a "civil partnership" akin to marriage by formally registering as civil partners. The Act also makes provision for civil partners to be treated in the same way as married spouses in relation to certain benefits and obligations, including those related to employment.

Same-sex couples that have entered into a civil partnership are given the following rights:

- Extension of the entitlement to paternity and adoption leave and statutory paternity and statutory adoption pay.
- Extension of the statutory right to request flexible working arrangements, to cope with children in their care.
- Not to be treated less favourably than a married partner.
- To be able to bring a claim for discrimination on the grounds of their sexual orientation.

It is not possible to justify less favourable treatment of a civil partner as compared to a married partner unless the employer can show that being heterosexual is a "genuine occupational requirement", which may be something that businesses need to consider and justify externally.

Businesses should now carry out an audit of their formal and informal policies and procedures to ensure that they are worded in such a way that benefits offered to married partners are also made available to civil partners. This might include items such as private health insurance, life assurance, time off for weddings, even the provision of a wedding gift say from a staff collection held in their honour.

For help with carrying out of an audit ahead of 5 December 2005, contact Nick Hobden of Thomson Snell and Passmore's Employment Department at nick.hobden@ts-p.co.uk or 01892 701326

This information sheet has been prepared to highlight some key issues relating to same sex couples and new rights in the work place. It is intended to be for general guidance only and is not a substitute for specific advice. It is based upon our understanding of the legal position as at October 2005 and may be affected by subsequent changes in the law.

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