

EMPLOYERS FACE CLAIMS OF ‘DISCRIMINATION BY ASSOCIATION’

Wokingham, 1st August – Employers are now at risk of discrimination claims from staff who are caring for family members or others who are disabled, a leading local law firm has warned.

Herrington & Carmichael LLP reports that a ruling this month from the European Court of Justice has introduced the concept of ‘discrimination by association’, meaning that someone associated with a disabled person could have a claim. Previously only people who were themselves disabled could bring a discrimination claim.

The relevant piece of European legislation, the Equal Treatment Framework Directive, also applies to discrimination on the grounds of age, sexual orientation, religion and belief, and so the extended definition will apply to those categories as well, potentially opening up claims to millions more people.

It is as yet unclear whether the Government will need to change domestic law to bring it into line with the ruling, but either way the decision means that businesses will need to tread carefully when faced by requests for flexible working from staff who care for disabled relatives.

The case, *Coleman v Attridge Law*, involved a former secretary at a law firm who alleged discrimination and harassment by her former employer when she asked to take time off to look after her disabled son, for whom she is the primary carer. She claimed that she was treated less favourably than parents of non-disabled children. The European court, whose rulings are binding on the UK courts, agreed that such a claim can be brought. What was important was that disability was the reason for the alleged treatment

– it did not matter that the person who suffered the alleged treatment was not disabled themselves. The case – the full facts of which have yet to be heard – will now go back to an employment tribunal.

Ashley Holden, Employment Partner at Herrington & Carmichael, said: “This ruling will have far-reaching consequences for employers of all sizes. It significantly enhances the rights of parents and carers of disabled people, and highlights the urgent need for business to review their policies and procedures, for example in relation to flexible working requests, to ensure that they treat all staff in a fair and dispassionate manner.”

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The firm is also a patron of Surrey Chambers of Commerce. www.surrey-chambers.co.uk

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