

“ Plain speaking legal advice ”

Employers Risk Claims of ‘Discrimination by Association’

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Until now, only people who were themselves disabled could bring a discrimination claim. But following a recent ruling of the European Court of Justice, those associated with a disabled person – such as the parent of a disabled child – could have a claim too. Every employer in the land should take note of this radical extension of the law.

The decision has introduced the concept of 'discrimination by association'. 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.

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 secretary 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, agreed that a claim of discrimination by association 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.

This has far-reaching consequences for all employers. It significantly enhances the rights of parents and carers of disabled people, and highlights the urgent need for businesses 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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This publication is written as a general guide only. It is not intended to contain definitive legal advice, which should be sought as appropriate in relation to a particular matter.

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If you would like to discuss any of the issues arising from this case then please contact Ashley Holden on 0118 9774045 or email ashley.holden@herrington-carmichael.com

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