

Employment E-Brief No 57

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CAN REQUIRING MALE EMPLOYEES TO WEAR A COLLAR AND TIE AMOUNT TO DISCRIMINATION?

Last year Jobcentre Plus was held by an Employment Tribunal to have discriminated against a male employee on the grounds of his sex by requiring him to wear a collar and tie, when women were not required to. The Tribunal felt that it imposed a higher level of smartness on the man, which was indirectly discriminatory.

That decision has now been overturned by the Employment Tribunal who have sent the matter back to a new Tribunal for reconsideration. The correct question to ask is whether, applying contemporary standards of conventional dress wear, the level of smartness required of all staff could only be achieved by men if they wore a collar and tie. If that level of smartness could be achieved without a collar and tie, then imposing the condition on just men is discriminatory in that it gives them less flexibility than women. It is not correct simply to ask whether or not asking a man to wear a collar and tie imposes a higher level of smartness for men than women.

An further E-brief will follow once the EAT's decision is known.

In the meantime, employers ought to ask themselves the question as to whether or not the standard they require of all staff can only be met by men wearing a collar and tie.

It is also important to recognise that the new rules prohibiting discrimination on the grounds of religion and belief are now in force, which could impact upon dress codes and require some flexibility from employers. Policies on this ought to be reviewed, so as to ensure they are not discriminatory.

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