



5. There is a new requirement to publish the difference in the median bonus pay figure in addition to the mean figure. This is consistent with the requirements relating to hourly pay;
6. Data is to be published on the employer's website as well as a website designated by the Government

Taylor Walton is able to assist with any queries relating to Mandatory Gender Pay Reporting.

### Reasonable Adjustments

#### *FirstGroup Plc v Paulley*

The Supreme Court has recently considered the duty to make reasonable adjustments. Although this case did not arise out of the employment relationship, the case is likely to be taken into account by employment tribunals.

Mr Paulley wished to board a bus operated by FirstGroup. The wheelchair space was occupied by a sleeping child in a pushchair. The driver asked the child's mother to vacate the space, but she refused. The driver took no further action. Mr Paulley missed his bus, and arrived at his destination an hour later than he had planned. He sued in the county court for disability discrimination, and was awarded £5,500 in damages.

FirstGroup's appeal to the Court of Appeal succeeded and Mr Paulley appealed to the Supreme Court.

The Supreme Court did not agree with Mr Paulley that the driver should have requested that the wheelchair space be vacated by a non-disabled passenger and enforced his request if necessary. However, the Court did accept that drivers should be required to do more than simply make the request and must go as far as they feel reasonable in the circumstances to insist that the space is vacated for the disabled passenger.

The Court recognised that there will be occasions where the duty to make reasonable adjustments will put other non-disabled individuals at an inconvenience. In an employment context, this could mean that a potential detrimental impact on non-disabled colleagues should not be the deciding factor for an employer when determining whether it is reasonable to make an adjustment for a disabled employee.

### Auto-enrolment updates

The Department for Work and Pensions has announced that it will conduct a review of auto-enrolment during 2017. The review will focus on ensuring that auto-enrolment meets the need of individual savers.

The DWP has also confirmed that for 2017/2018, the earnings trigger will remain fixed at £10,000. The lower and upper end of the qualifying earnings band will continue to be set in line with the National Insurance contributions lower and upper earnings limits.

### Rest Breaks

#### *Grange v Abellio London*

In this case, the Employment Appeal tribunal considered whether an employee is required to ask for a rest break before claiming to have been refused a rest break.

The Claimant was contracted to work an eight and a half hour shift which included a 30 minute break for lunch. The Claimant was told that he should not take a break and that he could leave work 30 minutes early.

The Working Time Regulations 1998 provide that workers are entitled to a break of at least 20 minutes once they have worked for 6 hours. In this case, the Claimant made a claim based on the Working Time Regulations 1998 that he had been refused a rest break.

The employment tribunal rejected the claim. The tribunal stated that the Claimant had never asked for a rest break and therefore he had never been refused one. The Claimant appealed.

The Employment Appeal Tribunal overturned the tribunal's decision on the grounds that the instruction to work without a rest break could be construed as a refusal with or without an explicit request.

Prior to this decision, there was conflicting case law on whether the employee was required to make an explicit request for a rest break prior to being able to claim that they had been refused a rest break.

Employers should be alert to any working arrangements or practices which may enable an employee to claim that they have been refused a rest break despite the fact that they have not explicitly requested a break.

If you have any questions about these or other employment issues please call:

**Heather Cowley** (Partner & Head of Employment Law Department) on **01582 731161**.

Alternatively you can contact Heather via email at [heather.cowley@taylorwalton.co.uk](mailto:heather.cowley@taylorwalton.co.uk)