

Defending a discrimination claim brought by a former employee, which includes a claim for injury to her feelings. If I lose the case is this likely to be a substantial amount?

Although in theory compensation for all cases of unlawful discrimination (on the grounds of sex, race, disability, sexual orientation, religion or belief and age) is unlimited, the reality is that awards for injury to feelings in discrimination cases range upwards from about £500 and seldom exceed the low thousands.

For a number of years injury to feelings awards have been calculated by reference to what are known as the 'Vento' guidelines, which establish a band structure, set out in the case of *Vento*, providing for three levels of damages to compensate claimants for injury to feelings in the least serious cases (lower band) through to the most severe (higher band). In a recent Court of Appeal decision these bands have been increased to take into account the impact of inflation since they were originally set out.

The bands are now as follows:

Lower band: £600 - £6,000 (formerly £500 - £5,000)

Middle band: £6,000 - £18,000 (formerly £5,000 - £15,000)

Higher band: £18,000 - £30,000 (formerly £15,000 - £25,000)

As you can see you might be liable for a significant sum if the Employment Tribunal finds that there has been a protracted and serious campaign of unlawful discrimination such that it considers that higher band injury to feelings damages should be awarded. It is also significant to note that, in addition to injury to feelings awards a successful claimant in a discrimination claim can also recover loss of earnings and potentially compensation for personal injury if it can be shown that these arise as a result of the



Hitchin Office, 7/8 Portmill Lane, Hitchin, Hertfordshire SG5 1AS
Tel: 01462 628888 | Fax: 01462 631233

Welwyn Garden City Office, Gate House, Fretherne Road, Welwyn Garden City, Hertfordshire AL8 6RD
Tel: 01707 887700 | Fax: 01707 887701

www.hrjlaw.co.uk

discriminatory conduct. During the period 1st April 2008 – 31st March 2009 the average award made in discrimination cases by the Employment Tribunal was £18,921.33 with the maximum being £1,353,432 in a race discrimination claim.

In order to avoid this situation in future you need to ensure that you have your equal opportunity and harassment policies in place and more specifically, that you are seen to enforce them. This may well mean a crack down on inappropriate jokes, emails and banter in the workplace. I would also suggest implementing a comprehensive programme of training for all managers and staff on these issues as this can go a long way in preventing such problems arising in the first place or putting you in the best position possible to defend any claims which are brought.