

## PRESS CUTTING

### **Legal Week 11 October 2007 (pg1 of 2)**

#### **Freshfields wins Bloxham age discrimination battle**

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Freshfields Bruckhaus Deringer has won its high-profile age discrimination battle against former partner Peter Bloxham, it was announced today (10 October).

The Central London Employment Tribunal ruled unanimously in favour of Freshfields over his claim regarding a change in the firm's pension scheme. It found that Freshfields had been discriminatory on the grounds of age when the new pensions provisions were introduced, but that crucially it had been balanced in its approach when making the changes.

The tribunal dismissed the claim, considering it without foundation. It said that the test of whether the reforms were done in a proportionate manner as a means of achieving a legitimate aim was "comfortably passed".

The judgment — which was initially anticipated in late summer — will be of particular interest as it is the first major partnership case brought under new age discrimination laws introduced in the UK last year.

Bloxham, the firm's former restructuring head, had alleged Freshfields discriminated against him on the basis of age when it introduced a new, less generous pension scheme. He claims the magic circle law firm forced him to retire, affecting his entitlements.

But the tribunal ruled that Bloxham was not 'forced' to retire any more so than those partners around his age who also had to choose whether to take up Freshfields' new pension package.

Bloxham had also complained that Freshfields had not offered him a consultancy package as an alternative to leaving the firm.

In his judgment, the chairman of the case, Thomas Ryan, said: "The claimant by his responses showed at all times that he was entirely unwilling to accept such an offer and it was indeed for this reason that [Freshfields' council dealing with the changes] was not asked to give its approval to the consultancy and why more precise terms were not discussed between the parties."

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Commenting on the ruling, Ronnie Fox, employment specialist at boutique firm Fox, said: "There will be a lot of relieved senior partners around. This is an extensive case to judge and people will be looking at it for guidance of a general nature as it is the first real test of the regulations."

Farrer & Co employment partner William Dawson said: "That he was treated differently on the grounds of age was not the issue - the question was whether they could justify it."

He added: "This is a great result for Freshfields and it is the result I was hoping for. If they had come out with a different result it would have created difficulties for the profession and for all partnerships."

The nine-day hearing, which finished on 19 July, saw Bloxham accuse the magic circle law firm of offering favourable terms to influential partners as well as withholding a consultancy offer because the partner in question was making a claim, estimated to be worth £4.5m.

In a statement, Freshfields' joint senior partner, Guy Morton, said: 'It is a pity that this misguided claim was ever brought to the tribunal. We are pleased that the tribunal has recognised that both the reforms to our partner pension scheme and the procedures through which they were adopted were fair.'

Meanwhile, Bloxham is currently deciding whether he will appeal the judgement. In a statement, Bloxham's advisers, Dawsons Solicitors, said he was reviewing the implications of the result and the options open to him, adding: "Our client is naturally disappointed but his case has clarified the interpretation and application of the new law. Although the Tribunal's decision has not gone his way he was entirely justified in questioning a process that has been shown to be discriminatory."

Freshfields was represented by Lewis Silkin employment head Michael Burd and Blackstone Chambers' Dinah Rose QC. Bloxham's counsel was Tim Pitt-Payne of 11KBW.

The verdict could have an impact on former Freshfields corporate partner Lois Moore, who is bringing a similar age discrimination claim against the firm. Moore declined to comment. Her six-day hearing, which was originally scheduled for December, has been delayed earlier this month due to the illness of the chairman.