

Ronnie Fox, Principal - Fox

to the point
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Plumbers flush pay privacy down the pan

Most employers go to great lengths to ensure that the basic salary and annual bonus of every member of the workforce remains confidential. Time and again we see pay secrecy clauses in contracts of employment and staff handbooks. There are good reasons for this, says Ronnie Fox, Principal at lawyers Fox.

Many employees regard their own earnings as personal information not to be shared with others. There are significant data protection issues which are relevant in this connection. Furthermore, even when two employees are doing very similar jobs, rarely will they both be performing to an identical standard. If one of them finds out that he is earning less than the other, for whatever reason, he is bound to be concerned. That can easily create friction between colleagues.

To date the main argument against pay secrecy clauses has been based on fear that the effect might be to cover up unlawful discrimination. Under the Equality Act 2010 pay secrecy clauses are now unenforceable if the result might be to hide the fact that the employer is discriminating between employees for an improper reason. While it is not unlawful to include a pay secrecy obligation in a contract of employment, an employee can simply ignore the clause without fear of retribution in the context

of an enquiry about unlawful discrimination (i.e. on the grounds of age, disability, gender reassignment; marriage & civil partnership, pregnancy & maternity; race, religion/ belief; sex, or sexual orientation).

Pimlico Plumbers, a London plumbing company, has gone much further. A television programme broadcast on Wednesday 11 July showed Managing Director, Charlie Mullins, challenging the workforce to reveal to each other how much they earned. He said that this would help establish a fairer system of pay. He wanted employees to understand what their colleagues' jobs involved and each to assess if he or she was worth more or less than what they were currently paid. Mullins admitted that the exercise was a risky one and had caused him a few sleepless nights. Nonetheless afterwards Mullins insisted that the outcome was a lot of happy people and a fair bit of positivity; he said employees' willingness to talk about their own pay demonstrated the pride they had in their jobs. I do

not go along with that, I suspect that a number of Pimlico's employees were unhappy about having to reveal their remuneration to others but felt unable to say as much. And perhaps more of them would have been upset to find out that colleagues were earning than they were.

It is hard to believe that sharing information of this kind will lead to a happier working environment. Every month I see senior executives in the financial services deciding to look for another job, or feeling they have no real choice other than to move firms, after discovering that somebody who they regard as a peer has received a higher salary or a larger bonus. Mr Mullins described his efforts to push employees at Pimlico Plumbers to reveal their remuneration to each other as "an experiment" and made it clear that he was delighted with the outcome. Personally I doubt whether many companies will repeat the exercise. An employee is rarely able to assess objectively and critically the economic value

of his own job, his own level of performance or the appropriateness of his own rate of remuneration. To my mind the television programme was highly theatrical; it was more like an indifferent piece of drama than a documentary report of a groundbreaking approach to employee relations. I am not persuaded that sharing remuneration information within the workforce really will lead to fairer pay or a happier workforce. A good test will be to measure the rate of staff turnover: I forecast a material increase at Pimlico Plumbers as a result of this experiment.



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