



Legal Seminar – Enforcement of equality and anti-discrimination law 28 November 2014

CASE STUDY

Workshop: Parental leave and the reconciliation of work and family life (including relevant provisions of Directive 2010/18/EU)

Mr S, a train guard, sought to take a single day's parental leave in order to provide care for his two year old son who lived with Mr S's former partner, Ms A. Ms A had informed Mr S that she would be unable to look after the child on a particular day and Mr S had notified his employers of this fact some three weeks prior to the date on which he sought to take leave. His employers refused him permission to take the leave on the basis that domestic law permitted them to demand that parental leave be taken in one-week blocks, and Mr S had sought to have only one day off. (Note that, under domestic law, there was no entitlement to payment during periods of parental leave.) Mr S took the day off anyway and was subject to disciplinary proceedings as a result.

Mr S claimed that he had been unlawfully subject to a detriment by reason of having taken parental leave contrary to the domestic (UK) provisions implementing Directive 96/34/EC (now Directive 2010/18/EC).

1. In your view, ought his claim to have succeeded?
2. Would it succeed in your jurisdiction?
3. Would your answer differ had Ms A given Mr S a shorter period of notice of her unavailability to care for their son?
4. What, if any, are the limitations of the right to *force majeure* leave in your jurisdiction?
5. In your view, should Mr S be permitted to bring a sex discrimination claim in these circumstances?