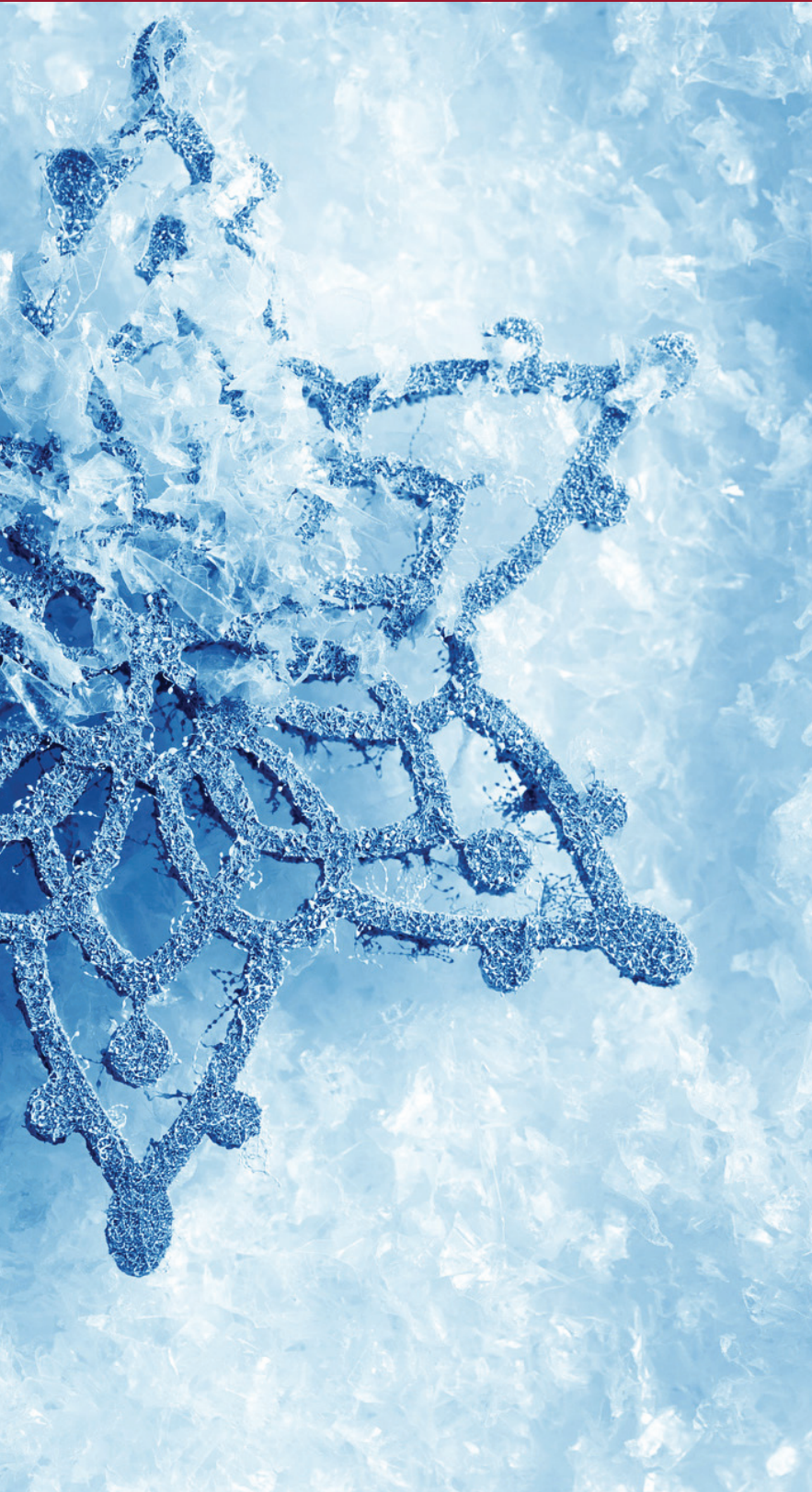


ChristmasQuiz

Winter 2011

Season's greetings from the Manches Employment Team



As it is the festive time of year again we invite you to take part in our light hearted Christmas quiz. The first five entries drawn will win a bottle of champagne. We will publish the answers in the New Year. Good luck!

Christmas Quiz 2011

Downtown Abbey in Oxfordshire is gearing up for the Christmas period. The 18th century country estate has had its doors open to the public for decades, but it is only in recent years, under the ownership of young Reginald Mothschild, that the estate has changed its commercial approach to explore new money-making ideas which he hopes will make the estate profitable. The Abbey employs over 90 people. He is, perhaps, trying to deal with too many things by himself...

- I. This year, the farm shop in the grounds has been renamed the "Christmas Cavern" selling Christmas trees grown in the grounds of the estate in addition to locally sourced food and home made gifts. Due the high volume of customers, Downtown Abbey has taken on three temps to assist in the shop. They will work the same number of hours as the full-time shop assistants who are employed by Downtown Abbey. The temps have been provided through a local recruitment agency and have contracts with the agency. Which of the following statements is false?
 - a. The temps will be able to make use of crèche facility which is provided to all full-time workers of Downtown Abbey, from the first day of working in the shop.
 - b. Downtown Abbey should inform the temps of any job vacancies on an ongoing basis throughout their assignment.

- c. From day one, the temps are entitled to the same basic working and employment conditions that they would get if employed direct by Downtown Abbey.
- d. After 12 weeks of working at Downtown Abbey, the temps will be entitled to the same pay as the full-time farm shop employees who are doing the same job.

2. Mr Mothschild decides to pop in to Christmas Cavern unannounced. He is pleased to see that the shop is full of families browsing the gifts and there is a long line of customers waiting to pay at the till. However, he spots one of his full-time shop assistants, Miss Stick, sitting in the back office updating her facebook status. Mr Mothschild can see that she has posted derogatory comments about her colleagues who have all recently put on weight following a charity Christmas cake eating competition. He considers whether he should speak to her about this. What should Mr Mothschild say?

- a. I have no choice but to dismiss you, I will not stand by and let you insult your colleagues in this way. You have brought the name of Downtown Abbey into disrepute!
- b. Ignore it – the staff really have let themselves go a bit, and besides it's only a bit of harmless chat.
- c. As we do not operate a social media policy, I am not entitled to make enquiries into your comments online, but it might be better if you tried to separate your work life from your social life.
- d. I have seen the comments you have posted on facebook about your colleagues, please could you come over to my office this afternoon and we can talk about it.

3. A number of grounds keepers employed by Downtown Abbey, have been deployed as tree fellers for the Christmas period. Their job is to select and fell a variety of pine trees from the estate's woodland, for sale in the Christmas Cavern shop. Mr Mothschild is having concerns about Mr Titchbog, a very knowledgeable 65 year old grounds man who has been an employee of the Abbey for around 35 years. Mr Mothschild is of the opinion that Mr Titchbog is not physically up to the job of felling the trees and dragging them down to the shop for sale - particularly in light of a recent heart attack he has suffered. He decides to retire Mr Titchbog. Is this action potentially:

- a. Age discrimination under the Equality Act 2010.
- b. Age discrimination under The Employment Equality (Age) Regulations 2006.
- c. Neither a or b, as it is safe to retire employees at 65 years old.
- d. Age discrimination under the Equality Act 2010, however Mr Mothschild will be able to objectively justify Mr Titchbog's dismissal.

4. Mr Mothschild makes his way back to the main house as it begins to snow. On his way he receives a call on his mobile from Mr Sewell, the chief curator who also manages the tour guides employed by Downtown Abbey. He wants his advice. One of the guides is the primary carer for her disabled daughter and occasionally needs to take time off due to her daughter's medical needs. As Mr Sewell has agreed in the past to being flexible in his approach to her hours, he has decided that because of this he will not to offer her the promotion to team leader that he had mentioned was on the cards last year. She has told him that he can't do this as he is discriminating against her - is she correct?

- a. Yes – it is direct discrimination on the grounds of disability.
- b. Yes – it is discrimination on the grounds of maternity.
- c. No – it is not discrimination as it is the daughter who is disabled and not the employee.
- d. No – it is not discrimination as she will not be able to continue her flexible working in a more senior role.

5. After the phone call Mr Mothschild remembers that he has another tour guide who has been off sick for nearly four months with depression and has been signed off by her doctor. He has been putting off making a decision as to how he should deal with her absence, but the remaining team members have been increasingly stretched in the weeks running up to Christmas and are in need of another pair of hands. What should Mr Mothschild do?

- a. Follow the Acas Code and dismiss her for capability reasons.

- b. Obtain an accurate medical diagnosis of her condition, find out if there is any real chance of her returning to work, consider reasonable adjustments, then follow a fair procedure before dismissing her for capability reasons if appropriate.
- c. Follow a fair procedure, and then dismiss her due to her conduct.
- d. He should not consider dismissing her as this could be direct discrimination on the grounds of disability.
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6. In Downtown Abbey's busy café, Amelia Smythe the chief cook who is in charge of a team of four kitchen and waiting staff, has been busy making batches of mince pies all morning. She works for Castle Catering, but has heard on the grapevine that her job may be under threat as Mr Mothschild is going to cancel the contract with Castle Catering. He intends to bring the running of the café back in house. It's lunchtime and Mr Mothschild drops by the café for a well earned break. Before he leaves, Amelia calls him over and asks whether she will lose her job when the contract is cancelled. What should he say?
- a. You will continue to be employed as chief cook but will be employed directly by Downtown Abbey. Your terms and conditions of employment will remain the same.
- b. You will continue to be employed as chief cook but will be employed direct by Downtown Abbey. Your pay will be decreased by 10% in order to harmonise the terms of your employment with other employees of Downtown Abbey.
- c. You are employed by Castle Catering and they will find you other work.
- d. Unfortunately, you will not continue working for Downtown Abbey as we are in-sourcing the catering contract and TUPE does not apply.
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7. Mr Mothschild heads to his study to catch up on some paper work. He has an email from an employee, Mrs Pughes, who is keen to know whether Downtown Abbey will contribute to her pension scheme. Currently all employees are provided access to a stakeholder scheme, and Mr Mothschild is keen to keep arrangements as they are. He doesn't want to make contributions and is not even sure if the Abbey can afford to do so. Which of the following options best outlines the Abbey's current legal obligations with regard to pension provision?
- a. They are not legally obliged to provide a pension to the employees.
- b. They must provide access to a stakeholder pension scheme but do not need to contribute to it.
- c. They must enrol all employees in a pension scheme that satisfies certain criteria set by the government and contribute to this scheme on behalf of the employees.
- d. They should have been making employer contributions to the stakeholder pension scheme, and as they have not been doing so they are non-compliant with the legislation.
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8. It's mid-afternoon and Mr Mothschild has finished his work for the day, so heads outside into the main courtyard where visitors are being entertained by a group of carol singers, employed by the Abbey, to perform every day during the Christmas period. It's all very festive and everyone is enjoying the music. The singers have been supplied Dickensian period costumes to wear. Mr Mothschild notices that one of the costumed singers is wearing a turban and has balanced a top hat on top of it. He really thinks that this is distracting from the overall look of the choir, so as soon as they finish singing he asks the man if he could refrain from wearing the turban in future performances or he will have to dismiss him, as "it really is ruining the look of the costume". Should he have said this?
- a. Yes – as an employer he is entitled to enforce a strict dress code.
- b. No – a requirement for the employee to remove his turban or be dismissed is likely to be discriminatory on the grounds of religion.
- c. Yes – it will not be religious discrimination as he is the only one effected by request.
- d. No – employers should not tell employees what they can, and can't wear.



9. That evening at the staff Christmas Party, one of the new Christmas Cavern temps is placed next to Mr Sewell and she begins to flirt outrageously with him. This does not go unnoticed by Mr Mothschild who shouts over to her "You're wasting you're time, he's gay you know". As Mr Sewell had been very open about his sexuality in the past at work, Mr Mothschild did not think twice about making the comment. However, Mr Sewell felt immediately uncomfortable with what had been said, as he didn't know if everyone there knew he was gay and so he got up and left the party early. Is this likely to be:

- Direct Discrimination and harassment on grounds of sexual orientation.
- Indirect Discrimination and harassment on grounds of sexual orientation.
- Victimisation on grounds of sexual orientation.
- None of the above.

10. It is late and the party has come to an end. Mr Mothschild retires to his room – he can't believe how busy the day has been. Just as everyone is leaving Jamie Bend, a security guard, arrives at Downtown Abbey's gate house to do his night shift. The Abbey employs a number of security guards who work on shifts as the estate requires a permanent security presence. When he is on duty, Mr Bend is to remain on call to members of the household and has a duty to stop anyone who approaches the main gates. After 6 hours on duty he

is allowed a 20 minute break during which time he can leave his post, however he must remain contactable by phone during his break and must continue to stop all people who arrive at the gates. As his break is frequently interrupted by visitors and phone calls, Mr Bend has complained that he is not getting the breaks he is due by law. How should this be dealt with?

- Allow him the 20 minute break free from work for each 6 hours worked, as required by the Working Time Regulations, during which time he can ignore all enquiries.
- Confirm that the current arrangements are within the Working Time Regulations, as there is an exception in the Regulations which states that the break does not apply to employees engaged in security surveillance requiring a permanent presence.
- Tell him that he is lucky to get a break at all, as most other staff members don't take one.
- Allow him to re-start his 20 minute break if he gets interrupted by work.

For a chance to win, simply email your answers with your contact business address and phone number to rachael.kemp@manches.com before 5pm on Friday 16 December 2011.



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