



April 2010 HR Newsletter

Once again our HR newsletter focuses on current topical HR issues and the implementation of lots of new employment legislation this month, as well as highlighting some of the services we offer.

How to Manage Maternity – 5 top tips!

1. Have a maternity policy in place that is well communicated and accessible.
2. Ensure a maternity risk assessment is carried out where appropriate.
3. Provide 39 weeks maternity leave to all female staff who become pregnant.
4. Stay in touch whilst women are on maternity leave with company developments and provide ten keeping in touch days for them to come into the office for training, update purposes, etc.
5. Ensure women can return to work to the same or similar job on the same terms and conditions as before they left.

Companies waste £4,000 per employee due to pay inefficiency



UK companies are wasting almost £4,000 per employee – or 8% of their payroll costs – by failing to deliver their pay policies efficiently, research has revealed. Analysis of corporate pay rates, by Mercer shows that in the UK there is much over-remuneration as well as under-payment. This will impact on an organisation's bottom line and will lead to disgruntled and demotivated staff.

The inconsistency pivots around the contribution of line managers, who are often less discriminatory in distributing available pay increases than their businesses would like them to be. According to research done by Mercer companies spend nearly 40% of their revenues on employee pay, and yet they fail to deliver their pay policies effectively. Employees know that some of their colleagues are over-paid and others are under-paid: this undermines high performance and employee engagement.

Compensation is a company's biggest expense, yet often it is poorly managed. Also with the imminent implementation of the Equality Bill this year there are implications for equal pay issues. Companies should be thinking about auditing pay and benefits for both men and women to ensure that they aren't at risk of equal pay claims contributing to the rise of these claims over and above that of unfair dismissal with employment tribunal statistics. Companies can conduct an equal pay audit or job evaluation exercise to provide a defence for a claim.

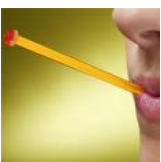
ACAS Pre-Claim Conciliation and Conciliation – Video Explanations



Since April 2009 ACAS has extended its pre-claim conciliation service which tries to stop an ET1 being submitted by an employee through telephone negotiation between employee and employer. They say they are successful in 40% of cases in settling disputes. To hear more about this service and how it works in practice ACAS have uploaded a short video onto their website. For more details see - <http://www.acas.org.uk/index.aspx?articleid=2788>.

Conciliation with ACAS as part of the employment tribunal procedure once an ET1 has been submitted and is another way to settle an employment dispute without the case having to go to court. To find out more watch ACAS' short video - <http://www.acas.org.uk/index.aspx?articleid=2826>.

Sickness Whilst on Holiday



The recent ruling of *Stringer v HMRC* centred on two key questions: are workers entitled to take paid statutory holiday while they are off sick? And are employees who have been off sick for the part or whole of a leave year entitled to be paid in lieu of accrued statutory holiday if their employment terminates? The key points determined in this case are:

- Workers accrue four weeks' holiday per year throughout any periods of sickness absence
- Workers must be allowed to take this holiday on their return to work
- Workers must be paid in lieu of this holiday if their employment terminates

- Employers must decide how to deal with the additional holiday conferred by the Working Time Directive and any contractual holiday and expressly set this out in sickness, absence and/or maternity policies

Employers must also ensure they manage sickness absence effectively and efficiently. Allowing absence to continue longer than is necessary will see workers 'racking-up' substantial holiday entitlement. This could create significant financial liabilities and, where employees seek to take significant periods of holiday following extended sick leave, it could also cause severe disruption to the business.

Holiday – Use It or Lose It

The recent ruling of Lyons v Mitie Security Ltd has ruled that healthy employees who have not taken leave by the end of the leave year may lose it if sufficient notice to the employer is not given; neither can there be no rollover. Employers should ensure that employees are actively encouraged to manage their holiday entitlement well when such a clause exists in employment contracts.

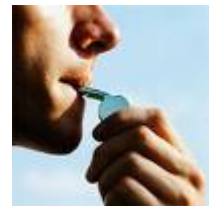
Employees Right To Ask for Study and Training



A right to request time off to undertake study or training is introduced for employees in organisations with 250 or more employees from 6 April 2010. Employers will be obliged to consider seriously requests that they receive, but will be able to refuse a request where there is a good business reason for doing so. The Regulations prescribe that the maximum amount of compensation that may be awarded where an employer does not comply with the procedural requirements in respect of a request for time off to train, or refuses an application on impermissible grounds, is eight weeks' pay with an addition two weeks where no right to a companion is given. The Regulations also set out requirements for the employee's application for the right to request time off for training. Employers should implement an appropriate policy which should follow the same process as for flexible working requests.

Tribunals To Pass On Whistleblowing Claims

From 6 April tribunal panels will have the right to pass on details of whistleblowing claims to the appropriate regulator eg HMRC, HSE, Office of Fair Trading. Employees who are dismissed for raising a whistleblowing claim and are dismissed with less than 12 months service can claim unfair dismissal. The amount of compensation available is unlimited.



Employment Status – Worker v Self-Employed

A recent tribunal ruling Autoclenz v Belcher & Others means that tribunals can look beyond the terms of the contract to see what is actually happening in practice. Companies that use self-employed contractors/consultants, etc should have an appropriately worded agreement in place which includes clauses related to freedom, substitution, tax liabilities, etc and be very careful not treat them as employees in any shape or form eg allow them to control where they work, what hours they do, etc. otherwise a company could have a claim against them in a tribunal for employment rights as well as possibly with HMRC.

HR Advice Line

Do you need a friendly ear to listen to your HR problems and give you clear practical advice to take action? We operate an HR advice line via phone and/or email 365 days per year to discuss any employment issue. This costs from £2,500.00 per year with optional on-site support for difficult meetings and employment documentation provision. If you don't have HR support call us now on 07762 771290 to discuss further.

Redundancy Management Training – Let us Help

Looking for a practical hands-on training course on managing redundancies? Want to find out the best practice legal way to terminate staff by reason of redundancy and avoid costly tribunals? Then our practical workshop is for you. The areas covered include the legal procedure and requirements, managing consultations and dismissals, reducing employment tribunal risks. We can deliver an in-house one day workshop covering all the basics for £950.00 (up to 12 delegates). Call 07762 771290 for more details.

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