



WORKMATTERS
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NEWSMATTERS

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WELCOME TO THE SECOND NEWSLETTER FOR 2014

Our newsletter is issued to you quarterly to ensure that you can be kept up to date with employment issues. We offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support. All newsletters are on the website www.workmattershr.co.uk ensuring easy access to current information just click on the newsletter you wish to view.

This Quarter the focus is on the changes in law which will affect your business during the next quarter.

Our helpful tip this month is giving you information about Tribunals – summary of statistics for 2012/13 and key points for Tribunals.

We think you'll find the articles interesting. Please call us on 01442 870742 to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources.

Alternatively have a look at our website www.workmattershr.co.uk and email us from there or on info@workmattershr.co.uk.

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list - thank you.

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STATUTORY PAYMENT FOR MATERNITY, ADOPTION AND PATERNITY AND SICK PAY.

- The weekly rate of SSP will rise to £87.55 with effect from 6 April 2014.
- The standard weekly rate of SMP and the weekly rates of OSPP, ASPP and SAP will rise to £138.18 (or 90% of average weekly earnings, if lower) for complete payment weeks commencing on or after Sunday, 6 April 2014.

- The weekly lower earnings limit for qualifying for SSP, SMP, OSPP, ASPP and SAP will rise to £111.00 per week with effect from 6 April 2014.

Employers who qualify for the small employers' rate of reimbursement can recover 103% of the payments of the SMP, OSPP, ASPP and SAP that they pay out.

EMPLOYMENT LAW UPDATE

Auto-enrolment time period

The time period available to employers for auto-enrolling eligible jobholders into a qualifying pension scheme increases from one month to six weeks as of **1 April 2014**.

Proposed employment tribunal claims lodged with ACAS

From **6 April 2014**, potential claimants will be required to lodge details of their proposed employment tribunal claim with the Advisory, Conciliation and Arbitration Service (Acas), prior to issuing a tribunal claim. After this happens, Acas will offer the employer and the claimant the opportunity to engage in conciliation with a conciliation officer. Acas will have up to a month to achieve a settlement. If settlement is not possible, then the claimant will be issued with a certificate enabling him or her to issue proceedings.

Potential financial penalties for employers at employment tribunal

For cases presented to an employment tribunal on or after **6 April 2014**, tribunals will have the power to order that an employer who is unsuccessful at tribunal pay a financial penalty, on top of any compensation due to the successful claimant, when the employer's breach of employment law has "one or more aggravating features". It is not yet known how this will be interpreted but earlier consultation papers suggest that this would include unreasonable behaviour such as neglect or malice. If the tribunal makes an award of compensation, the amount of the financial penalty will be 50% of the award. The penalty is subject to a minimum threshold of £100 and an upper ceiling of £5,000. However, employers will qualify for a reduction of 50% if they pay the penalty within 21 days.



Increases in employment tribunal maximum awards

On **6 April 2014**, the limits which apply to various tribunal awards and other amounts payable under employment legislation increase. In particular, the maximum amount of a week's pay for the purpose of calculating a redundancy payment, the basic and additional award of compensation for unfair dismissal and the limit on the amount of a guarantee payment increases to £464/week. As of this date, the maximum compensatory award for unfair dismissal will rise from £74,200 to £76,574.

Statutory procedure on discrimination information repealed

From **6 April 2014**, the statutory procedure that enables an employee to obtain information from his or her employer about discrimination and allows that information to be used as evidence in tribunal proceedings is repealed.

Statutory procedure on discrimination information repealed

The **regulation freeze** (The freeze that exempts businesses with fewer than 10 employees from burdensome new regulations. When new proposals are made, if unnecessary burdens on these businesses are identified, the proposals will not be introduced until an exemption is granted to the small businesses or the burdens are mitigated) will continue from **2014** and is extended to businesses with fewer than 50 employees. These businesses will be exempted from new regulations if there is any evidence that they will result in disproportionate burdens that could impede growth. Applies to new regulations which come into force after **31 March 2014**.

National Insurance reduced for small business

Under the National Insurance Contributions Act, an **employment allowance** will be introduced entitling every business and charity to a £2,000 reduction in employer national insurance contributions (NICs) bills each year. The allowance can be claimed from **6 April 2014**. HMRC have published a calculator and information on how to claim it.

Businesses won't have to pay any employer National Insurance contributions at all if they usually pay less than £2,000 a year.

Up to 1.25 million businesses and charities will benefit from Employment Allowance. Around 450,000 businesses and charities won't have to pay any employer National Insurance contributions at all.

Use the Employment Allowance calculator to see how the allowance could affect your contributions.

EMPLOYMENT LAW UPDATE continued...

Eligibility

Employment Allowance is for nearly all employers that pay Class 1 National Insurance contributions on their employees' and directors' earnings.

This includes:

- businesses
- charities
- community amateur sports clubs

There are a small number of businesses and organisations that can't claim Employment Allowance.

How to claim

You can claim through your payroll software.

Find out more about claiming Employment Allowance and what the government is doing to make it easier to set up and grow a business at www.gov.uk/employment-allowance.

Flexible Working

The right to request flexible working will be extended to all employees with 26 weeks' service – from **30 June 2014**. A new Code of Practice and non-statutory guidance for employers will be available shortly.

Ex-Offenders

The rules on spent convictions changed on **10 March 2014**. Rehabilitation periods will start from when ex-offenders complete their sentences rather than at the date of their conviction as previously, and the length of the rehabilitation period has been reduced to reflect the original sentence more closely. It will continue to be the case that the most serious convictions will never be spent.

Excessive out-of-hours work could lead to psychological injury

Earlier this year The Telegraph ran an [article](#) highlighting a worrying trend among successful business people. The article suggested hard working employees were at greater risk of developing stress-related conditions because of increased use of the internet and digital devices allowed them to continue working longer outside normal office hours. These dangers are often overlooked by employers because those most at risk are normally their most successful employees and not seen as being a potential problem.



Illness

Employers need to consider the risks of psychological injury and the possible long-term effects of overwork. A recent Health and Safety Executive report confirmed that just under half of the 452,000 self-reported illnesses starting in 2011/2012 were caused by stress, depression or anxiety, and of all the work related illnesses, injury to mental health gave rise to the most working days lost. (91 million days a year)

In the most severe cases, stress can manifest itself into a serious psychiatric injury such as depression. If this happens, an employer may find itself subject to an employee's claim in the High Court for hundreds of thousands of pounds. (£100,000 awarded to ex-director this is exclusive of legal costs!)

Liability

The ordinary legal principles of employers' liability apply to a claim for psychiatric injury. Whether or not an employer is liable will depend on:

- whether, and in what respect, the employer was in breach of its duty to take reasonable care
- whether the injury to the employee was reasonably foreseeable
- whether the employer's breach of duty caused the harm that the employee suffered.

Psychiatric illness is harder to spot than a physical injury for obvious reasons. However, if an employee is working long hours in and out of the office then the threshold for employer liability for any illness that results could be significantly easier for a claimant to overcome. Generally more successful employees are rarely monitored and are often left to work long hours. In the short term that might work for both the employee and employer but in the long term it can be a major cause of concern.

Checklist

Employers should be more proactive in managing their employees by ensuring there are appropriate monitoring and support mechanisms in place. Organisations should:

- record employees' hours, review this data and set a threshold that would trigger a meeting. In line with the 48-hour weekly maximum set by the working time directive
- encourage employees to maintain a healthy work/life balance
- ensure that managers attend stress awareness training to enable them to spot the signs of stress and to take action to overcome it
- devise a stress policy,
- implement a working hours policy.

Employers should not ignore the risks of hardworking and successful employees developing stress-related conditions, but it is important to strike a balance before it is too late.

For further advice and support in changing your company policy on any of the above click on the link www.workmattershr.co.uk or call 01442 870742.



Helpful Point

AN OVERVIEW OF TRIBUNAL STATISTICS FOR 2012/13

Tribunal Statistics quarter 4 - Jan-Mar 2013 tables

The statistics for the fourth quarter of 2012/13 also include the annual figures for the financial year 2012/13.

Main findings

All Tribunals Combined

The statistics for the quarter 1 January to 31 March 2013 include details for new Tribunals which have recently joined HMCTS .

- Between January and March 2013 (quarter 4), there were 255,000 receipts or claims. This represents a 15 per cent increase over the same quarter of the previous year. The main reason for the increase was the large increase in appeals to the Social Security and Child Support tribunal.
- There were 202,000 disposals in January to March 2013. This was an increase of 7 per cent on October to December 2012.
- For all tribunals combined, the caseload outstanding at 31 March 2013 was 898,000 – 19 per cent higher than the previous year. The caseload outstanding has risen for all of the largest Tribunals since 2011/12: by 39 per cent for Immigration and Asylum; by 41 per cent for Social Security and Child Support by 13 per cent for Employment (ET).

Employment Tribunals

The employment tribunals are independent judicial bodies which determine disputes between employers and employees over employment rights.

- Between January and March 2013, Employment Tribunals received 57,737 claims in total – 36 per cent more than in the same quarter of 2011/12. The increase was driven by an increase in claims under Working Time Directive, which doubled over the period, and accounted for just over a third of claims.

- There were 27,778 disposals made by Employment Tribunals - a 3 per cent decrease on the number for the same quarter of 2011/12. The number of single disposed claims decreased by ten per cent, whilst those for multiple claims increased by six per cent.

First Tier Immigration and Asylum Tribunal

All references to Immigration and Asylum refer to the First-tier Tribunal (Immigration and Asylum Chamber). It is an independent Tribunal dealing with appeals against decisions made by the Home Secretary and Home Office officials in immigration, asylum and nationality matters.

- Compared with the same quarter of 2011/12, there was a decrease of 14 per cent in the overall number of Immigration and Asylum receipts, to 23,844 – continuing the downward trend. The largest decrease was in the Family Visit Visa category, which has halved over the year. This was partly due to the Immigration Appeals (Family Visitor) Regulations 2012 which came into force on 9 July, which restricted the right of appeal to a narrower definition of family visitor.
- The number of Immigration and Asylum disposals was 26,673 between January and March 2013, 11 per cent fewer than in the same quarter of 2011/12.

Social Security and Child Support

The Social Security and Child Support (SSCS) appeals jurisdiction, part of the First Tier Tribunal, arranges and carries out independent hearings for appeals on decisions made by the Department for Work and Pensions. This includes Jobcentre Plus, Child Maintenance Group and Disability and Carers Service), as well as other government departments (HM Revenue and Customs) and local authorities.

- For SSCS, there were 155,235 receipts between January and March 2013. When compared with the same quarter for the previous year, the number of receipts increased by 52 per cent and this was mainly as a result of the increased number of Employment and Support Allowance appeals, which more than doubled.
- There were 130,517 disposals made by SSCS, 19 per cent more than the previous year.

Helpful Point continued...

- There were 104,572 SSCS hearing clearances (those cases disposed of at hearing) during January to March 2013, 18 per cent more than in the same quarter of 2011/12.

The bulletin is produced and handled by the ministry's analytical professionals and production staff.

Overview of the Tribunal Procedure

Key points

- Employment tribunals have jurisdiction to hear more than 80 types of statutory employment-related claims.
- Certain types of claims are specifically excluded from the tribunal's jurisdiction, such as those relating to restraint of trade, breach of confidentiality or personal injury.
- In the majority of cases the time limit for starting proceedings in the employment tribunal (ET) is three months from the date of the act complained of, or where dismissal is involved, three months from the effective date of termination (EDT).
- Fees to issue a claim in the Tribunal were introduced on **29 July 2013** and have dramatically reduced the volume of claims nationally.
- From **April 2014** anyone wanting to bring a claim will have to engage with Acas in the first instance through an early conciliation process.
- The procedure for bringing a claim to tribunal requires the aggrieved person (the claimant) to lodge a complaint on the prescribed ET1 form, setting out particulars of the act(s) complained of and to pay a fee.



- A sift process takes place at the tribunal where an employment judge reviews the initial paperwork. The judge can dismiss a claim or employer's response where it has no reasonable prospects of success.
- A claim or a defence can be struck out at any time if it is scandalous, misconceived or vexatious, or if the conduct of the case has been scandalous, unreasonable or vexatious.
- An employment tribunal can require the attendance of any witness including a party to proceedings.
- Parties are encouraged to prepare and exchange witness statements in advance.
- Failure to appear at the tribunal hearing without giving any notice to the tribunal may result in the case being dismissed or a judgment being given in favour of the party in attendance.
- There is a right of appeal to the Employment Appeal Tribunal (EAT) from a decision of the employment tribunal on a point of law only. An appeal cannot be lodged just because one of the parties is not happy with the tribunal's decision.
- An EAT's decision can be the subject of a further appeal to the **Court of Appeal** (England) or the **Court of Session** (Scotland), but only with permission from either the EAT or the Court of Appeal (England) or the Court of Session (Scotland). An appeal from a decision of the Court of Appeal or the Court of Session is to the Supreme Court.



Thank you for taking the time to read our Newsletter which I hope you found informative An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of July 2014.