



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

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WELCOME TO THE FINAL NEWSLETTER FOR 2016

Our newsletter is written quarterly to ensure that you are kept up to date with employment issues, back copies are available on the website so you never miss out on the ever changing aspects of employment law. We offer helpful hints on how to handle situations within the workplace, but feel free to give us a call for both guidance and support.

This Quarter the focus is on changes in the law which will affect your business immediately and a look at tattoos and dress codes which have come under scrutiny recently by the Government and a look at Apprenticeships for small to medium sized organisation.

- 1) The increases in the minimum wage in October 2016
- 2) Employment Law changes
- 3) Brexit
- 4) Tattoos and Dress codes

Our main topic this quarter is about Tattoos and dress codes which are currently under discussion.

We think you'll find the articles very 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 carolinebrode@gmail.com

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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CHANGES IN THE LAW

New Minimum Wage Rates

The National Minimum Wage will again increase again on the 1st October 2016.

- Adults hourly rate will increase from £6.70 to **£6.95**
- 18 – 20 year olds hourly rate will increase from £5.30 to **£5.55**
- 16 – 17 year olds hourly rate will increase from £3.87 to **£4.00**
- Apprentices hourly rate will increase from £3.30 to **£3.40**

If you take on an employee who is of compulsory school age they are not entitled to the National Minimum Wage.

Apprentices aged 19 or over who have completed at least 1 year of their apprenticeship are entitled to receive the full minimum wage applicable to their age.

The Low Pay Commission, which advises the government on the NMW rate, has been asked to also recommend appropriate levels for the NLW.

Employers are required to keep records sufficient to show they are paying workers at least the NMW. The records must be kept for three years and they may be kept on a computer or as a hard copy. However you choose to keep them you must be able to produce a single document when requested by HM Revenue & Customs or by the employee.

National living wage – for workers aged 25 and over, to run alongside the national minimum wage. The national living wage will continue at £7.20. The government expects the rate to rise to over £9 by 2020.

This is the last time to expect minimum wage hikes in the Autumn. Future changes to the national minimum wage and the national living wage will take place at the same time in April each year, from April 2017.

All young people to be in education or training until the age of 18 (England)



Employment Law Update

1. English-language requirement for public-facing workers in the public sector

Immigration Act 2016

Workers in the public sector who are required to speak to members of the public will need to speak English fluently (in Wales they need to speak English or Welsh).

A draft code of practice to help public authorities comply with the new condition has been published. It is anticipated that this requirement will be introduced in October 2016, but this has yet to be confirmed.

2. Employers using foreign workers illegally face closure

In an attempt to stop employers turning a blind eye to illegal working, new powers are introduced to serve employers with a closure notice where illegal working is suspected. This will prevent access to the firm's premises for a maximum period of 48 hours.

A further order can then be made to prohibit or restrict access to the employer's premises for a period of 12 months.

Again, there is no confirmed implementation date, but it is widely expected that these new powers will be created soon.

3. Immigration skills charge comes into force

The Government aims to reduce employers' reliance on migrant workers, by imposing a visa levy on organisations that sponsor workers from outside the European Economic Area and Switzerland.

The Government has indicated that the immigration skills charge will be implemented in April 2017.

4. Gender pay gap reporting established

Employers with 250 or more employees will be required to publish details of their gender pay gap and gender bonus gap on a yearly basis.

It is expected that the first reports will need to be published by April 2018.

However, the pay information will need to be based on payments made over the employer's pay period every April, beginning in April 2017.

The bonus information will need to cover the preceding 12-month period, beginning with the 12 months leading up to April 2017.

5. Changes to apprenticeships introduced

All large employers will be required to pay an apprenticeship levy, set at 0.5% of the employer's payroll. The money gathered via this scheme will be distributed to fund the cost of apprenticeship training and assessment.

Other reforms to the rules applying to apprenticeships include that, to protect the term "apprenticeship", training providers will be unable to describe a course as an apprenticeship where the course or training is not a statutory apprenticeship.

In addition, public-sector bodies in England with 250 or more employees will be subject to an apprenticeship target. Apprenticeship starts will need to comprise at least 2.3% of the total workforce each year.

The apprenticeship levy is expected to come into force on 6 April 2017, but there is no confirmed commencement date for the other measures.

6. New rules on public-sector exit payments implemented

If an employee earned £80,000 per year or more, employees who return to work in the public sector within one year of leaving they will need to repay any exit payment made by their previous public-sector employer.

The amount to be repaid will be tapered depending on the length of time since leaving the role. The requirement to repay will apply whether or not the employee returns to the same part of the public sector.

There will also be a new cap on the amount of public-sector exit payments, which will be set at £95,000.

It is anticipated that these reforms will be introduced soon, but the Government is yet to provide a commencement date.

7. Trade union law reformed

Unionised environments will need to get their head round important changes to trade union law made via the Trade Union Act 2016.

The majority of the changes are to the rules on industrial action, including the introduction of new voting thresholds. It is anticipated that the changes will come into force soon, but as yet there is no confirmed date for implementation.

8. Rights of Sunday shop workers enhanced

Shop workers will be given greater protection under new rules. They include a new right for shop workers to object to working more than their normal hours on a Sunday; and a reduction in the notice period for shop workers in large shops to opt out of Sunday working. A start date for the changes to the rules has yet to be disclosed.



9. Tax-free childcare scheme comes into force

In families where both parents work and each parent earns less than £100,000 per year, and a minimum weekly income at least equivalent to 16 hours at the rate of the national minimum wage, the Government will pay 20% of their yearly childcare costs (capped at £2,000 for each child). The scheme will apply to parents with children aged under 12. The Government has said that the scheme will be introduced in early 2017.

3. BREXIT

What Impact will Brexit have on Employment Law?

There will be no immediate changes to UK employment law as a result of the outcome of the referendum on the UK's membership of the EU. The UK will have a period of up to two years within which to negotiate the terms of its withdrawal. This period begins when the UK triggers article 50 of the Treaty on European Union; it is not yet known when this will happen. It is possible for the two-year period to be extended only with the unanimous agreement of the other EU member states.

Although much UK employment law is derived from EU law, the UK's withdrawal from the EU is unlikely in itself to have an immediate impact on employment law as most EU Directives are implemented in the UK by regulations or Acts of Parliament. For example, even if the UK is no longer required to comply with the EU equality Directives, the Equality Act 2010 will remain in place. It will be for Parliament to decide whether to retain, amend or repeal domestic legislation.

Commentators have identified the harmonisation of contracts after a TUPE transfer; the calculation of holiday pay; agency workers' rights; and the introduction of a cap on compensation in discrimination claims as examples of areas, currently governed by EU law, where changes could be made in the future by a Government looking to roll back employment regulation.

There are unlikely to be any changes to the immigration rules in the short term, and until the UK actually leaves:

EU citizens (plus those from Iceland, Liechtenstein, Norway – the EEA countries – and Switzerland) will continue to have the freedom to live and work here

Workers from outside the EU will continue to require visas, typically under the UK's five-tiered points based system.

In the longer term, if the EU's freedom of movement principle falls away post-Brexit, new immigration arrangements will be needed for EU workers wishing to work here. It is likely that the points-based system will be expanded to cover both EU and non-EU nationals, which will mean that skilled EU workers will need to be sponsored by a UK business under Tier 2. The situation regarding lower-skilled workers is more uncertain.

Although the government wants to control immigration, the UK currently relies on EU workers for many lower-skilled and lower-paid jobs, particularly in the hospitality, retail, agriculture, and food and drink manufacturing industries. While Tier 3 of the points-based system does technically cover low-skilled roles for non-EU workers, it has never operated as these roles have been filled by EU workers. In the event that all non-UK citizens needed immigration clearance to work here, the obvious option would be to open Tier 3 to both EU and non-EU workers, possibly with a cap on numbers.

While the current uncertainty continues, there are steps that both EU employees working here and their employers can take.

EU employees could:

- Start collating documentation now (such as bank statements, tenancy agreements, payslips and so on) as any application for immigration permission will require supporting evidence
- Apply for a registration certificate, confirming that the holder is an EU national exercising his or her right to freedom of movement in the UK (this may be helpful evidence for proving UK residency)

- Apply for a permanent residence card, confirming the EU worker has unrestricted rights to live and work here (permanent residence is automatic after five years for EU workers but there is likely to be a flood of applications for the card and processing times could be lengthy)
- Apply for British citizenship if one year has elapsed since they obtained permanent residence status (subject to certain eligibility requirements) and have a permanent residence card (but employees should check their home country's rules before applying for British citizenship as some countries don't recognise dual nationality).

Employers should:

- Audit their workforce to establish the degree to which they are reliant on EU workers, both for lower- and higher-skilled roles

- Provide reassurance, guidance and support to EU employees (for example, pointing them to useful websites, providing a Q&A sheet, or paying external advisors to provide assistance for key employees)
- Draw up strategies for future recruitment and workforce planning, and consider whether there are changes that can be made to the business model in the event of a shortage of workers in a particular area (this might include workplace relocation, apprenticeship schemes to grow local talent, retention and incentive schemes for employees, and outsourcing).

It is possible that the UK will be required to continue to implement elements of EU legislation as a condition of a negotiated trade deal between the UK and EU.

4) Tattoos, Piercings & Dress Codes

Tattoos and Piercings

Acas gives up to date guidance on tattoos and piercings

Explicitly visible body tattoos and pierced eyebrows may fulfil dress code requirements if you work in a tattoo parlour but what about in the average office?

Tattoos and piercings

It's widely accepted that tattoos in general are far more popular today than they were 15 years ago. About one in five British people are thought to have one, and they're most popular among 30 to 39-year-olds, with more than a third admitting to being inked, according to one survey.

As for piercings, one in ten people in the UK are thought to have a piercing somewhere other than their earlobe. The practice is evidently extremely popular among women aged 16 to 24, as almost a half (46 per cent) are alleged to have a non-earlobe piercing, or so one study says.

This suggests that managers in the average office may at some point have to think about dress code policy for tattoos and piercings.



Some organisations may feel that tattoos and piercings are at odds with the ethos or image they are trying to project. They might as a result ask workers to remove piercings or cover tattoos while in the workplace.

But employers are urged to 'carefully consider' the reason behind imposing a rule - as there should be 'sound business reasons' for it.

This could, for example, be a valid health and safety reason, such as keeping dangling piercings away from factory machinery. Employers should also remember that dress codes must apply to men and women equally, although they may have different requirements and they must avoid unlawful discrimination.

Dress Codes

Dress codes are often used in the workplace and there are many reasons why an employer may have one, for example workers may be asked to wear a uniform to communicate a corporate image and ensure that customers can easily identify them. Often an employer will introduce a dress code for health and safety reasons, for example health care workers may not be allowed to wear jewellery for safety reasons when around patients and certain clothing may not be allowed in factories while operating machinery.

Key points

- Employers must avoid unlawful discrimination in any dress code policy.
- Employers may have health and safety reasons for having certain standards.
- Dress codes must apply to both men and women equally, although they may have different requirements.
- Reasonable adjustments must be made for disabled people when dress codes are in place.

A dress code can often be used by employers to ensure workers are safe and dressed appropriately. It should, however, relate to the job and be reasonable in nature, for example workers may be required to tie their hair back or cover it for hygiene reasons if working in a kitchen.

Employers may have a policy that sets out a reasonable standard of dress and appearance for their organisation. Any dress code should be non-discriminatory and should apply to both men and women equally, but standards can be different for example a policy may state "business dress" for women but may state for men "must wear a tie".

Employers may adopt a more casual approach to dress during the summer, but this may depend on the type of business. Some employers may require staff to wear business dress all year because of the nature of the work, for example sales representatives who meet with clients will need to maintain a certain standard. Employers may have a "no flip flop" policy as a health and safety precaution, but any restrictions should be clearly set out in the organisation's policy.

Employers should consider the reasoning behind changes to a policy or the introduction of a policy. Consulting with employees over any proposed dress code may ensure that the code is acceptable to both the organisation and employees. Once agreed it should be communicated to all employees. When setting out a policy employers should take into account employees who may dress in a certain way for religious reasons. However, workers can be required not to wear certain items that could be deemed a safety risk, for example loose clothing may be a hazard if operating machinery.

If employees do not comply with the standards it may result in a disciplinary hearing.

Exceptions to the rule

There may be times when employees wish to support different charities, and they would like to ask for exceptions to the normal dress code rules, for example jeans for jeans day, Christmas jumper day etc. and on these occasions people should ask their line manager if it would be ok to take part.

Tattoos and body piercings

Employers may wish to promote a certain image through their workers which they believe reflects the ethos of their organisations. Sometimes this can mean that they ask workers to remove piercings or cover tattoos while at work. Employers may believe they have a reasonable business reason for this especially when employees are dealing with customers. However, employers should carefully consider the reason behind the rule as they should have sound business reasons for requiring these dress codes. If an employer does decide to adopt a dress code or appearance code it should be written down in a policy which should be communicated to all staff so they understand what standards are expected from them.

Religious Dress

Some employers may wish to cover issues around religious dress within their policies, however, employers are advised to tread cautiously in this area as they should allow groups or individual employees to wear articles of clothing etc. that manifest their religious faith. Employers will need to justify the reasons for banning such items and should ensure they are not indirectly discriminating against these employees. Any restriction should be connected to a real business or safety requirement. Some recent legal decisions in this area suggest that people should be allowed to demonstrate their religious faith through their dress, for instance by wearing an unobtrusive cross symbol to denote Christianity or wearing a Yarmulke or Kippah (skull cap) as part of the Jewish faith. However, there have been other rulings based on different circumstances that may appear to conflict with this position.

In many cases the display of religious faith may be subtle and fit well with business or corporate dress. Employers are therefore advised to think about the image they want to convey and about how they can work with employees to allow them to manifest their faith in a way that does not conflict with this image, or health and safety requirements, rather than provide a very strict and limiting dress code.

Consulting with employees over proposed dress codes is good practice. Once an agreement has been reached, it should be written down in a formal policy and communicated to all staff 'so they understand what standards are expected from them'.



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 January 2017.

May you have a Happy and Prosperous New Year.