

Employment Law News for Employers – Winter 2015/2016

Early Conciliation



Since 6 May 2014 Mandatory Acas early conciliation has been in place. This means a worker/employee must report a complaint to Acas prior to formally issuing an Employment Tribunal Claim. It is worth remembering, however that it is not obligatory for an employer to engage in conciliation. If you are contacted by Acas regarding a complaint seek our advice on the merits of the complaint having any legal basis before making that decision. Acas will most certainly assist the parties in reaching a resolution but they cannot advise.

No increase to benefit rates in 2016



The Department for Work and Pensions has determined that for the tax year beginning on 6 April 2016 there will be no increase for Maternity Pay and Statutory Sick Pay.

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Holiday pay



What do you pay your staff when they are on holiday? They are entitled to “normal remuneration” during periods of statutory annual leave. This means that if part of their normal income is made up of, for example bonus, commission, overtime or other allowances for performing their duties this should also be paid whilst on statutory annual leave.

We have expertise in dealing with holiday pay cases so consult us for advice to avoid a claim.

Minimum wage - increase

The national minimum wage was increased on 1 October 2015.

The standard adult rate (for workers aged 21 and over) rose by to **£6.70** an hour

The youth development rate (for workers aged between 18 and 20) rose to **£5.30** an hour.

The young workers rate (for workers aged under 18 but above the compulsory school age who are not apprentices) rose to **£3.87**

The rate for apprentices rose by 2% to **£3.30**

Automatically Unfair Dismissals

Are you aware that certain reasons for deciding to dismiss an employee render a dismissal automatically unfair? This means that the employee does not need the usual two years' continuous service to be eligible to bring a claim. The following are examples:-

- part-time status
- pregnancy, child birth or maternity leave
- health and safety
- whistleblowing

Settlement Agreement



These agreements replace Compromise Agreements that existed previously. They achieve the same objective - a binding agreement between the employer and employee (or other parties to a statutory claim) to settle a case or refrain from instituting or continuing with certain employment related proceedings.

A Settlement Agreement cannot be scribbled on a scrap of paper as part of a "golden hand shake" on the departure of an employee. For the Agreement to be valid it is important that the statutory measures are complied with, to include independent legal advice for the employee.

There are circumstances where, as an employer, it is worth giving some consideration to terminating employment with the use of a Settlement Agreement. We will advise you about the terms to consider and ensure whatever is agreed it is legally binding.

Work life balance



The European Commission has launched a public consultation on possible action addressing the challenges of work-life balance faced by working parents and caregivers. The consultation opened on 18 November 2015 and will close on 17 February 2016.

Remember you have a legal obligation to **consider** requests received for flexible working from employees that have worked for you for more than 26 weeks. An eligible employee may request a change relating to:-

- hours they work.
- the times when they are required to work.
- A change to the place of work

However, it is worth noting that there is no legal obligation to grant the request. There are permitted reasons prescribed by law for refusing a request. To refuse for any other reason is unlawful. Therefore, contact us should you be unsure how to deal with a request. The law makes it clear that requests cannot be made more than once per year.

Jennifer Carpenter is our employment law specialist. She has been practicing as a solicitor for over 15 years and has extensive experience advising and representing employers and employees in a wide range of situations. There are some companies and organisations that have instructed Jennifer time and again. She prides herself on achieving a swift resolution to issues and disputes for her clients.

"I thank you for your helpful explanations and swift manner in which you finalised the case for me" Mr S from Cambridgeshire Nov 2015

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