



June 2016 Update

Welcome to this month's update - where we discuss the latest legislation and guidance.

What now for Employment Law – following Brexit

It will take business and industry some time to come to terms with the implications of the vote for the UK to leave the European Union. For many employers, the main concern at this stage may be their ability to trade freely in the European market, rather than the implications for UK employment laws.

Predicting exactly what changes might occur for UK Employment Law and the timescale is very difficult at this stage. It is unlikely that anything of substance will change very quickly. UK courts and tribunals will remain bound to interpret our employment laws to conform with EU directives and regulations until our membership of the EU comes to an end. This will take a minimum of 2.5 years, and possibly considerably longer.

No UK employment laws will disappear. So TUPE, the Working Time Regulations, the Agency Workers Regulations and other similar EU-derived employment laws will remain on the statute books unless or until the UK parliament decides to change them.

One thing that may change following Brexit being concluded is that UK courts and tribunals will no longer have to interpret UK laws in a way that conforms with EU law. So for example the current wrangling on Working Time Regulations to ensure that holiday pay must be paid at average earnings (to include commission) may be subject to review.

Of course whether our employment laws are strengthened or weakened will depend on the political party in power. Still, one might expect at least some of the following to be under consideration:

- Placing a monetary cap on the value of discrimination claims, as is already the case in unfair dismissal claims.
- Relaxing the laws on working time and rest breaks.
- Repealing the Agency Workers Regulations.
- Allowing 'harmonisation' of terms and conditions following a TUPE transfer.

Two other potential issues may also affect our employment law such as firstly, further Scottish independence referendum might have consequences for UK employment law and secondly, part of the price for post-Brexit UK to obtain a trade deal with the EU on favourable terms might be to voluntarily agree to maintain the core of EU-derived social and employment protections.

Employers: although UK employment law is not immune from the longer term uncertainty that Brexit may bring to UK business and industry, nothing is likely to change very quickly and employers should have time to prepare for any changes to come.

Contact us if you need help with an employment law issue

When, and When Not, to ask Health Questions

Many employers do not realise the pre-employment health questionnaire is long gone. It used to be a mechanism for employers to unearth relevant facts into a job applicants' circumstances before offering a position – this is no longer possible after the Equality Act 2010.

Unless an exception applies, employers must not ask job applicants about their disability or health – including previous sickness absence – until they have offered them a job. This includes asking the applicants' current / former employer for the information. Apart from establishing whether reasonable adjustments need to be made to the interview process the main exception to asking about health is to establish whether the applicant will be able to carry out a particular task that is intrinsic to the job. Such as if you are needing mechanics to lift equipment in the workshop it would be acceptable to ask questions that

relate to their ability to do these tasks.

If you are going to ask health questions, word them very carefully. 'Do you currently suffer from...' is better than 'have you ever suffered from...'. Also keep questions specific and confined to the recruitment stage and to the intrinsic parts of the job.

Employers: if you need to ask questions about health make sure you stick to the questions that are an intrinsic part of the job and don't get drawn into general health issues.

Contact us if you need help with pre-employment health questions

What to do when an Employee complains about their Manager

We often deal with issues where an employee complains about their line manager which can be difficult to handle. The employee sometimes expects the employer to step in and either get rid or 'deal' with the manager.

Having the support of an external HR advisor gives the company a buffer to help deal with the problem. Often the employee may only see the issue from their side and not realise the following:

1. The manager is actually acting in the best interests of the business;
2. The employee may actually be the problem;
3. The manager may be new and have a different management style.

However, it may be that the manager needs support with management skills and handling employees and that both manager and employee are actually working against each other.

Employers: we can assist with training and support or hear grievances if it comes to that. We also can undertake DISC behavioural profiling for staff and job applicants so you can get the right team fit.

Contact us to ensure your teams are performing at their optimum level.

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



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