



August 2016 Update

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

The top story in the news is Sports Direct needing to make back payments of over £1 million for not paying workers the National Minimum Wage.

ACAS Code of Practice does not apply to dismissals for a breakdown of the working relationship

The Employment Appeal Tribunal has confirmed that the ACAS Code of Practice on Disciplinary and Grievance Procedures does not apply to dismissals for some other substantial reason (SOSR) – this is where the dismissal is due to an irretrievable breakdown of the working relationship. For example, this may occur when the working relationship completely breaks down between a manager and a member of staff.

What this means is that where compensation is awarded to a former employee there will be no power to increase the award by up to 25% for any failure to follow the Code of Practice.

It is important to understand, however, that a fair procedure still needs to be followed when carrying out a dismissal of this type. That procedure might not need to be exactly the one set out in the ACAS Code, but the employee will still require to have a fair hearing before a decision to dismiss is made.

Included in this procedure needs to be a thorough assessment and consultation regarding any other steps that could have been taken or other roles that the employee can undertake. However, there may be many occasions where nothing more can be done if the working relationship has broken down irretrievably.

Employers: If an employer does not follow a fair procedure, the dismissal will be found to be unfair with compensation being awarded on a just and equitable basis to the former employee.

If the breakdown is due to an issue on a client site or a client wishes to have the employee removed it is wise to have a clause in the contract to deal with this.

Contact us if you need help with an employee issue

Tax on Termination Payments

Following the budget announcement and consultation on proposals to reform taxation of termination payments, the government has published its plans to change the way in which termination payments are treated for tax and National Insurance Contributions (NICs). The changes are expected to be implemented in April 2018.

Under these proposals, the £30,000 tax exemption for termination payments would remain, but both contractual and non-contractual payments in lieu of notice would be fully taxable.

Technical changes would be made to align the treatment of tax and national insurance contributions, and payments for injury to feelings (short of personal injury) would not come under the exemption for payments made on account of injury.

The proposals are out for consultation until 5 October 2016, with the expectation that any changes will come into effect from April 2018.

Employers: these proposals should simplify the taxation of termination payments, although it will bring to an end the possibility of a payment in lieu of notice being treated as damages for breach of contract and as such being paid free of tax.

Contact us if you need help the termination of an employee's contract for whatever reason

Gender Pay Reporting

The Government Equalities Office has confirmed that the publication of the final gender pay reporting regulations has been delayed.

The regulations were expected to come into force in October 2016 but the introduction is now anticipated to be April 2017. This will not necessarily affect the first reporting deadline of April 2018, so affected employers should still continue to plan for compliance within this time-frame.

On 18 August 2016, the government published a paper on closing the gender pay gap in the public sector, with the aim of introducing similar reporting obligations to those imminent for the private and voluntary sectors. The time-frame is also expected to dove-tail with that for the private and voluntary sectors.

Employers: we can assist with advice on gender pay reporting if your business is of the required size.

Contact us if your business needs to comply

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



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