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## February 2018 Update

Welcome to this month's update - where we discuss the latest legislation and guidance. In this Edition, we report on:

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- GDPR – Consent and The Problem With Relying On It
- Government Proposals – The Good Work Plan
- Increase to National Minimum Wage and National Living Wage

### GDPR – Consent and The Problem with Relying on It

Getting the consent of an employee to process their personal data was the option we all took under the Data Protection Act 1998. We're all used to putting a data protection clause in the contract of employment, which is then used to prove the employee had given consent.

But the GDPR changes this.

To rely on consent now, it must be:

- freely given
- specific
- informed
- unambiguous
- explicit (If you're processing a special category of personal data, previously known as 'sensitive personal data' like health data)

We can no longer just rely on consent in employment contracts. There are several alternative bases on which employers can process data of employees from May 2018, when the GDPR come into force. We have to explain the legal bases for processing the data and make sure our Policies are compliant with these new GDPR guidelines.

We have been putting together a GDPR compliant Data Protection Policy for Employees, Workers and Consultants. One of the sections in the policy covers the purposes for which an employer might want to process a worker's data, listing separate reasons which the GDPR expects.

The policy is available for companies, as well as a Privacy Policy for your website for your customers as well as opt-ins if you need them for a fixed fee.

**Employers:** We can help with identifying the changes you may need to make for your business in time for May 2018, and help you put these in place in simple steps.

**Contact us:** We can draft the documents you need and explain these to you for a fixed price.

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## Government Proposals – The Good Work Plan

Following the Taylor Review of Modern Working Practices, the Government has announced proposed changes to workers' rights. This follows claims that 'the UK will become one of the first countries to address the challenges of the changing world of work in the modern economy'.

The fine detail of how the provisions of the 'Good Work Plan' will be implemented has yet to be set out.

However, proposals include:

- Enforcing holiday and sick pay rights for 'vulnerable workers'
- Provision of 'day one' rights including holiday and sick pay rights
- The right of all workers to receive a payslip, including casual and zero-hours workers
- The right of all workers to request a 'more stable' contract (although there is no information as to what this will mean) with the aim that workers will have more financial security

- Ensure that unpaid interns are not doing a worker's role (for which they should be paid)
- 'Naming and shaming' employers who don't pay Employment Tribunal awards made against them
- Increasing potential financial penalties for employers who have been found by the Employment Tribunal to have seriously infringed an employees' rights through 'malice'.

There will also be consultation on the rights and payments of agency workers and 'increased transparency' in business.

**Employers:** Self-employed people have been seen in some cases to benefit from holiday pay in some recent cases. Be careful that you understand the work pattern so you do not run this risk.

**Contact us:** We can help with drafting self-employed contracts and helping your business with employing contractors.

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## Increase to National Minimum Wage and National Living Wage

The Government's Autumn budget confirmed that the National Living Wage and the National Minimum Wage would increase in April 2018.

The following increases to minimum hourly rates as of 1 April 2018 will be:

The National Living Wage will increase for those aged 25 + from £7.50 to £7.83.

The National Minimum Wage will increase:

- For those aged 21 - 24 years, from £7.05 to £7.38;
- For those aged 18 - 20 years, from £5.60 to £5.90;
- For those aged 16 - 17 years, from £4.05 to £4.20; and
- For apprentices, from £3.50 to £3.70.

Be careful when you calculate the National Minimum Wage in terms of whether you add in other supplements such as 'on call' amounts, tips and shift allowances.

**Employers:** We often find employers can lose track of whether they are paying the correct National Minimum Wage when a younger employee moves into the next age bracket.

**Contact us:** We can assist you with the National Minimum wage, the National Living Wage and calculating holiday payments.

**For more information or assistance Email:** [enquiries@employmentlawsupport.co.uk](mailto:enquiries@employmentlawsupport.co.uk)

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**Silverstone**  
Business Forum

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