

Gravitate HR: HR and Legal Update

Summer 2010

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Can you identify what each of these symbols represent within our HR support services? Find out further into our newsletter.....

Introduction

Welcome to the 7th edition of Gravitate HR's quarterly newsletter, our Summer 2010 edition. Each edition will detail up and coming legal changes, implications for your organisation, and Gravitate HR case studies.

Forthcoming Legal Timetable

The following section details some **key** legal updates for employers to recognise:

October 2010: The Single Equality Act may be introduced. Depending on the succeeding Government's plans, the new Single Equality Act will come into force in October, which seeks to harmonise the discrimination law on all the protected characteristics. One key aspect of this is not being allowed to ask health questions before offering a position to a candidate. Other provisions apply to organizations with more than 250 employees.

October 2010: National Minimum Wage increases £5.80 per hour to £5.93 per hour and the development rate from £4.83 per hour to £4.92 per hour. The rate for workers aged 16 to 17 years increases from £3.57 to £3.64 per hour.

October 2010: The conduct of employment agencies is set to change, and in October, a number of their obligations, such as carrying out identity checks of their candidates. Adverts will no longer have to state that the agency is recruiting for another organization, but they do have to state whether it is temporary or permanent.

April 2011: Increase to national insurance contributions of 1% will apply to those employees with an annual income of over £20,000. It will also apply to employers.

April 2011: Maternity Leave is allowed to be transferred to the father, even when working for another employer. Applies to babies born after 3rd April 2011.

December 2011: Parental Leave increases from 3 to 4 months.

October 2012: NEST comes into force which makes provisions for an automatic enrolment into an employer's pension scheme or a new national saving scheme (see our special feature below!)

National Employment Savings Trust (NEST) – the Government's solution to better future saving - what does this mean to you as an SME?

As part of the Pensions Reform Act 2008, the Government will be introducing a new regime in 2012 where employers will need to automatically enroll their staff (new and existing) into a 'qualifying pension scheme' and will include a minimal level of employer contribution. Employers will be staged into the new system dependent on number of employees (sourced by PAYE) with larger organisations first, and companies of up to 250 staff being required to phase in their 'qualifying scheme' from March 2013.

There currently is no legal requirement for employers to contribute into a Pensions Scheme, and the introduction of the mandatory stakeholder scheme in 2001 did not have the anticipated uptake of pension schemes as hoped. As such there is a big concern about an ever increasing number of people reaching retirement age without any financial support for the future.

NEST is proposed as the alternative, new, low-cost pension scheme, targeting millions of low and moderate earners into saving for retirement. It outlines the basic requirements for a 'qualifying scheme', of which employees do have the option to opt out of should they not want to participate, but there will be automatic re-enrolment every 3 years. This scheme is as follows:

- For employees between the age of 22 and state pension age
- Defined contribution: total contributions of at least 8% with a minimum of 3% employer contribution
- Contributions will be based on qualifying earnings between £5,035 - £33,540 (including salary, overtime, bonuses and commissions)

The Pensions Regulators will ensure that employers comply with the new regime so it is integral that employers are informed well in advance of the proposed dates, what their obligations will be around this and how to start preparing for the implementation.

Implications for SME's

Whilst most of our clients have quite some time before required implementation, it will be important now to begin the review current pension arrangements on offer to ensure you are financially and administratively capable to take this on and can meet the requirement as set out by the Pension Regulations.

Many of our clients do not have a company pension arrangement in place and may only offer a stakeholder pension, the uptake of which is minimal and as such a minimal financial and administrative cost to the employer. What employers must be aware of is that the regulations do not allow employers to offer inducements to employees to opt out and as the first organisations start to implement this process, we will potentially see the pitfalls of introducing the scheme, including adverse reactions by staff to reductions in pay, employers having to pull their purse strings and source finances from various avenues, and increasing costs and time in administration of a pension scheme.

Introducing a new pension scheme will also amount to a changes in terms and conditions of employment, and as such will require consultation and agreement to new terms. Therefore a review of what is currently stated around your pension's arrangements in your contracts could allow you to introduce some flexibility for when the time comes to phase in the new scheme.

As we get closer to the proposed staging dates, Gravitare will be able to provide support and advice to help manage the consultation process and ensure an easier progression into the new regime. Meanwhile, please look out for our blog and future memos regarding updates and review of current practices in relation to NEST.

The World Cup & Other Disruptions



In the past year employers and employees alike have had to deal with the swine flu pandemic, the severe winter weather and volcanic ash cloud, creating travel chaos for many people on holidays. Further, we are now well under way with the 2010 World Cup. Many employers have found these types of disruptions have created high numbers of staff absence through ill health or travel. Having now had first hand experience of these types of situations, many employers could put in place a number of measures to help pre-empt and tackle events re-occurring. Firstly, employers can review and update their company policies and procedures including absence and sickness, flexible working/working from home, travel, and drugs and alcohol misuse. The intention is to reflect official advice or to improve the procedures within the company. Companies could also devise action plans for re-occurring events such as severe weather or the World Cup. Simple plans could include, ensuring that staff that could be required to carry out unfamiliar jobs are given appropriate training to cover those who are absent. Consider adopting IT systems whereby people can work from home and keep an up to date record of emergency contacts and contact information for all staff. Managing potential absences throughout the World Cup can be achieved by allowing people to take annual holidays or unpaid holidays for matches, or allowing staff to have flexible hours during this period, swapping of shifts, installing a TV or radio into the workplace. Obviously these are suggestions and would only be applicable where appropriate to do so.

If incidents like the swine flu pandemic re-occur, employers have a duty to protect the health and safety of their employees. If necessary, a risk assessment should be conducted to ensure employees are not vulnerable to any infections. They should inform and update employees of any government advice and the latest position. Employers should place notices around the workplace to remind employees of their responsibilities. Dealing with higher levels of staff absence, combined with health and safety issues during these times means employers have to plan and effectively manage absence within the workplace. This can be achieved by ensuring good communication with staff throughout and is a key consideration for employers. Informing staff of their intentions as a company and how they propose to deal with such situations and the outcomes.

Here are the answers from earlier.....



HR Resources



HR New Businesses



HR Support



HR Consultancy

Find out about the range of services we can offer on our website.

Work Experience / Interns

Recently, there have been articles written in the news surrounding the treatment of 'Interns' whether they are unpaid or not. Internships can prove to be an invaluable opportunity for young graduates who are seeking experience within their chosen career path, especially when the current climate in the job market for full time employment is poor. It has been mentioned in the news that if the interns are unpaid this could in fact be illegal.

An 'internship' is a broad term which can result in different possibilities or outcomes. Employers should be cautious when taking on interns, as there is a risk that the intern could be considered a worker and should receive the National Minimum Wage.

A **worker** is an individual who has entered into or conducts work under a contract of employment or undertakes to perform work personally for another person and the relationship is not genuinely one of a client or customer on the one part and a profession or business undertaking on the other. A worker would also be believed to be an employee if there is an employment contract based on mutuality of obligation; whereby the employer and employee are obliged to provide and conduct work respectively.

Employees are also protected from unfair dismissal, eligible for the minimum wage and meet the requirements for working time and paid holiday rights.

Many Interns on the other hand, are expected to work full-time office hours, Monday to Friday, with a list of individual duties, which does not include shadowing a member of staff or light work experience duties. The legal definition of what comprises work involves having pre-determined hours; being engaged for an extensive period of time and being given a distinct role rather than just observing.

The law states anyone who is "working" must be paid the national minimum wage.

Employment Case LawDid you know.....?

- The maximum discrimination award has **no limit** and this is a day one employment right for all employees.
- The maximum basic tribunal award for 2010 is **£11,400**.
- The median unfair dismissal award is **£4,269** whilst the average is **£7,959**.
- **151,000** claims were accepted to the employment tribunal service during 2008/9.
- Claimants tend to be **older, male**, come from **managerial** positions and come from **hotel, restaurant** and **financial** sectors.
- A disproportionate number of **small employers** are involved in employment tribunals.
- UK average absence rate is **7.4 days** per employee – private sector **6.4** where as public sector is **9.7** days.
- Long term absences tend to be related to **back, neck, repetitive strain injuries** and **stress**.

Sourced from:

- Tribunal Service – Employment Tribunal and EAT Statistics 1 April 2008 to 31 March 2009
- Survey of Employment Tribunal applications 2008, Department for Business, Innovation and Skills
- CIPD – Annual Survey Report 2009 Absence Management – based on 642 responses from organisations employing a total of 1.9 million people



It has been quite an eventful time at Gravitare HR over the Spring months. At the end of May, Elaine Burns joined the team taking on the role as an HR Assistant and has settled in well.

Gravitare HR News!

Jennifer Taylor from Mary Erskines School joined us for a week on her work experience placement at the Start of June. Jennifer shadowed the team, going on client visits and also attended an employment law seminar. To find out more about her placement have a look at her blog post [by clicking here](#)

Margery and Heather have been training hard for the MoonWalk most weekends and at times coming into work on Monday morning with sore feet. It was all worth it when they crossed the finish line and raised the sum of £1,100 for Walk the Walk. Well done to both. On Sunday 13th of June 2010 Jennifer ran her first 10k in the Race for Life, fantastic achievement for Jennifer who crossed the line in 58 minutes. Jennifer raised £70.00 for charity.

Finally, our team away day this year was with Bluesky Experiences in Perth, which involved the team completing a low ropes assault course in the morning, with memorable forward rolls and crate stacking. The sun stayed out for the whole day which was lovely especially for our barbeque lunch and then in the afternoon we split into two teams to tackle the ultimate puzzle zone, which tested all physical and mental abilities around a series of different scenarios.

"A great day had by all"

