

Statutory Sick Pay for Agency Workers

On 27 October 2008 changes to the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002 will mean that agency workers on contracts of less than three months are not excluded from statutory sick pay.

Increase in National Minimum Wage

The National Minimum Wage for all workers will increase on 1 October 2008 from £5.52 to £5.73 per hour for those aged 22 and over, from £4.60 to £4.77 per hour for 18 – 21 year olds and from £3.40 to £3.53 per hour for 16 – 17 year olds.

All workers in the UK are entitled to be paid at least the national minimum wage.

Maternity and Adoption Leave

Women whose expected week of childbirth falls on or after 5 October 2008 and those with a child expected to be placed with them for adoption on or after this date will have the right to the same terms and conditions during additional maternity leave (AML) as they currently enjoy during ordinary maternity leave (OML).

What will this mean for employers?

- As of 5 October 2008 employers will be required to provide contractual annual leave above the statutory minimum along with other benefits such as health insurance, company cars etc.
- The change in the law will mean that employers will be prohibited from discounting periods of AML for the purposes of calculating certain contractual benefits, such as pay awards or holiday entitlement based on length of service.
- There is a potential risk that women may bring discrimination claims if employers fail to pro-rata a discretionary bonus which should include the 2 weeks of compulsory maternity leave.

Time off for training

New legislation is in the pipeline which will mean that employers will be obliged to seriously consider requests from employees for time off to undertake training. Employers will be able to refuse a request where there is a good business reason for doing so and they will not be required by law to meet the salary and training costs in order to enable a request for time off for training to be met.

Reminder: Increase in Minimum Statutory Holiday Entitlement

From 1 April 2009 the statutory entitlement to paid holiday increases from 24 days to 28 days.

Claiming expenses could prove expensive!

A lecturer has been awarded £10,000 in libel damages after his university employer falsely accused him of making up expenses claims.

When he had his £180 travel expenses claim rejected Dr Tom McMaster assumed there had been a mistake. However, when he queried it with his finance department he received an email from the finance director claiming that he had been exaggerating his expenses and accusing him of fraud.

Dr McMaster instructed solicitors to write to the finance director to ask for an apology but he is said to have repeated the allegations. The lecturer then made a claim for damages against the finance director and against the university and went to the High Court in an effort to clear his name and to seek damages.

An application by the university to have the matter thrown out on the grounds that it was a “frivolous” action was thrown out by the judge and they made an offer to settle the case for £10,000 which Dr McMaster accepted.

If you require any assistance with your company’s expenses policy please contact Victoria Edwards.

Owners of restaurants, cafes, bars, hairdressers beware!

Changes in the law set to come into force next year will ban employers from using tips and service charges to “top-up” staff pay in order to meet the national minimum wage. This will benefit workers whose employers are currently allowed to divert tips into takings.

The unions have welcomed the move and they intend to introduce a Fair Tips logo in bars and restaurants across the UK showing that staff receive at least the minimum wage as well as all tips.

Salon manager “sexually harassed” hairdresser

An employment tribunal has heard that Shaun Massey, a salon manager is said to have rubbed against hairdresser Martine Rodda’s chest and bottom as he reached for her hairdryer or scissors. Miss Rodda claimed that Mr Massey would “wolf whistle” at her and talk about her inappropriately.

Miss Rodda left her job in December 2007 and is claiming constructive unfair dismissal and sexual discrimination. She claimed that after she rejected her boss’ advances he turned “nasty” and told colleagues that she was “promiscuous”. Mr Massey also allegedly asked Miss Rodda during her interview for her position why she had split from her husband and if she had a boyfriend.

Mr Massey denies all the allegations and has stated that the hairdresser has “fanciful recollection” of what happened and that she never made any complaints when she worked at the salon.

The hearing continues.

Recruitment – the cost of poor procedures

Following a unanimous ruling by an employment tribunal, Warwick University has agreed to pay £35,000 to Patricia Walls for her case for race discrimination. Dr Walls, who was from Northern Ireland, made a claim when the university gave the post which she applied for to a less qualified candidate.

Dr Walls was interviewed by a four-person panel for a research post within the centre for research in ethnicity and mental health. It was found that

Dr Walls was not only better qualified than the successful candidate but her CV was incredibly detailed whilst the other applicant did not provide a CV at all.

The panel did not follow the advertised criteria for the position but instead made their decision on the candidates’ interview performance alone. During her interview, Dr Walls discussed the project and suggested widening the scope from Afro-Caribbeans and South Asians to also include Irish communities and Chinese.

The tribunal discovered that one member of the interview panel had “flicked through” the university’s equal opportunities and recruitment policies and two others had never read them. It was concluded that the panel’s decision was based on an assumption that Dr Walls would not be interested in the research position unless it included the Irish communities. They said that this assumption would not have been made of a non-Irish person.

Payment of the compensation is on hold pending an appeal.

Everyone involved in recruitment of staff has a responsibility to ensure that all candidates are treated equally and fairly and that decisions are made objectively and in line with the organisation’s equal opportunity and recruitment policies. Both direct and indirect discrimination must be avoided in the job description and person specification as well as in the questions asked at interviews and further selection decisions. Candidates should be assessed against the selection criteria and not against each other. Decisions should be objectively justifiable.

If you would like any further information about recruitment procedures please contact Victoria Edwards on (01384) 216840 or vedwards@hawkinshatton.co.uk.