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## September 2022 Update

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

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In this month's edition, we report on:

- Interview tips
  - Stress related absence – practical steps
  - Working visas
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### Interview tips

As the war for talent shows no signs of waning, many businesses will be thinking about what they can do to attract the very best talent. But it's not just about getting people applying for roles. It's also about keeping them engaged during the hiring process.

Usually, a lukewarm response from a candidate is the result of one of two things: either they realised the role wasn't right for them or they had a bad interview.

Banal and unimaginative interview questions leave candidates rehearsing the same spiel that's already outlined on their CV and cover letter. These types of questions do nothing but reveal a candidate's ability to regurgitate the obvious.

It deprives candidates of the chance to be creative in their answers and leaves the interviewer none the wiser about the candidate's competence

So, what is a bad question? These are known as knowledge-based question. For example, *'tell me about yourself? Why do you want the role? How many years of experience do you*

*have?* All these should have been addressed in the initial correspondence or, at the very least, a pre-screening questionnaire.

Don't be mistaken: one or two knowledge-based questions can be beneficial.

*'What do you think of the role?'* for instance, or *'what did you most like about our recent project for xyz?'* helps to determine whether the candidate has done their homework.

But too many generic knowledge-based questions make interviews painful for both parties.

The right kind of interview question will test the candidate – not to intimidate them, but to get a sense of their working style, their personality and how creative they can be in a short space of time. These are known as personality-based questions.

Examples of these types of questions might include *'How would you deal with x situation? How would you approach a project that involved y? We see you've worked on this project in the past; if you did it again, what would you do it differently?'*

These allow the candidates to demonstrate independent thinking and problem solving. And you'll get some interesting, varied answers. They can also reveal whether a candidate might turn out to be confrontational, evasive or micro managerial.

This speaks to the value of an incisive personality-based question. There's no sense in asking them indiscriminately. For example, *'What motivates you?'* might seem incisive, but is arguably too broad and abstract to elicit an informative answer. Coffee is motivating. The point is, a question like this one is likely to receive similar answers from everyone asked. A good personality-based question should aim higher and deeper than the boilerplate

A jobseeker worth their salt will have put hours into preparing. For the interviewer to ask questions that could be asked of anyone not only deprives the candidate of a chance to reveal who they really are, but also gives the impression that that the interviewer hasn't spent much time learning about the candidate in advance. Instead of *'what motivates you?'*, they should consider asking *'Why were you motivated to do xyz?'*

We'll be in touch. A good interview should enable the interviewer to say the above words and mean them. The talent shortage – particularly in tech – has forced employers to compete fiercely for the talent they need.

**Employers:** workplace perks and culture, hybrid working and good HR support are only some of the ways of doing this. But the humble interview, so often overlooked, is a good place to begin.

**Contact us:** We can assist with interview, onboarding and induction.

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## **Stress related absence – practical steps**

With workers increasingly off sick with stress, employers should be aware of the risks and what they can do to minimise claims.

An employer has a duty to ensure that the tasks allocated to an employee do not damage their health. If an employee has gone off sick with workplace stress and they are brought back to the same environment, without changing anything that made them sick the first time, and they become ill again, that's potentially a breach of the duty.

If a stressed employee (with at least two years' service) is dismissed and claims there is no fair reason for dismissal, and/or the employer did not follow a fair procedure, they may bring an unfair dismissal claim. Alternatively, an employee may resign and claim unfair constructive dismissal if they consider they had an excessive workload.

Workplace stress can result in anxiety and depression which could be classed as a disability. This may allow them to bring a disability discrimination or harassment claims depending on how they are treated by their employer.

### **What should employers consider in practical terms?**

1. check the sickness absence policy to see if a framework is set out about contacting the employee when they are off sick.
2. Try to gain a better understanding of what is causing the employee's stress and whether it is related to the workplace or a private matter.
3. Consider whether any reasonable adjustments can be made to the employee's workload or working schedule.
4. Consider an occupational health referral depending upon their length of absence.

### **What are the main options if the employee is unable to return to work?**

1. Is there another job within the business that might be more suitable for the employee and keep a record that they have considered alternative employment. There is no duty to create a new job.
2. Check whether the employee is covered by their PHI scheme as these can cover mental health conditions.

3. Consider whether there are any options of early retirement under the pension scheme.
4. Seek medical reports and at some point consider whether dismissal is appropriate if related to long-term absence.

In each situation it will be important that a fair procedure is followed to best protect the employer against successful claims.

**Employers:** an employer may want to consider whether to use a settlement agreement to settle any potential claims

**Contact us:** we can assist with advice on sickness issues.

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## Working visas

The Scale-up route for visas is open to applications from 22 August 2022. The scheme was set up to make it easier for UK businesses experiencing rapid growth to hire the best skilled labour from around the world.

Applicants in this route must have a sponsored job offer from an authorised UK Scale-up company. To register for this route and be able to sponsor job offers, companies will need to demonstrate an annual growth of at least 20% for the previous three-year period in terms of turnover or staffing.

Companies will also need to have had a minimum of ten employees at the start of this three-year period.

**Employers:** uniquely, the rules allow scale-up visa holders to leave their sponsored role after 6 months and switch to an unsponsored role.

**Contact us:** we can assist drafting and reviewing employment contracts

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

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