



September 2023 Update

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

In this month's edition, we report on:

- Flexible working update
 - Dealing with salary dissatisfaction
 - Do employees take all their annual leave?
-

Flexible working update

The Employment Relations (Flexible Working) Act 2023 has completed its passage through Parliament and now awaits Royal Assent.

There are several things it changes about the current flexible working regime as follows:

- Employees will now be able to make two flexible working requests in any 12-month period.
- Requests must be dealt-with by employers within 2 months of receipt of a request unless an extension is agreed (previously 3 months).
- Employers can't refuse a request until they have 'consulted' with the employee' (although there is no guidance on what 'consultation' needs to include).
- Employees will no longer need to explain in their application what effect the employee thinks agreeing to the request would have and how any such effect could be dealt with.

What it doesn't do:

- Not making flexible working a 'Day 1 right'. Employees still need to have 26 week's service before making a request.

- It doesn't require employers to offer a right of appeal if a flexible working request is rejected (the right of appeal is recommended in the ACAS Code of Practice on Flexible Working only).
- There is no requirement that consultation with the employee is substantive or covers the options available. There is no minimum standard of consultation set out at all.

Employers: we will update you as this guidance comes into legislation.

Contact us: we can assist with guidance

Dealing with salary dissatisfaction

A recent survey found that that 61% of UK workers feel they are not paid fairly at work, but only a quarter (24%) admitted that they will ask their employer for a raise in 2023. But thanks to the cost-of-living crisis, wage discontent in the UK is at its highest level.

Many businesses are not in a financial position to keep pace with increasing salary demands. Regardless of whether there is scope to increase salaries or not, it's important employers are available to listen, understand and then do what is necessary to ensure that an employee feels heard and supported.

Here are a few tips that may help.

1. Listen to what they have to say and find out more about their personal circumstances. Discover whether it's pay that's the problem or whether there's something more that needed addressing.
2. Gather the facts. Compare the employees' salary to market rates, making sure that your business pays the market average or above for your industry. It is important to be able to know how and why the business arrived at the salary bracket.
3. Keep on top of employees' performance. Evaluate the employee's work performance, identifying strengths and weaknesses. Are they exceeding their current responsibilities and demonstrating a greater skill set than what's currently expected of them, or not?
4. Make sure that any employee who is awarded a pay rise and/or promotion meets quantifiable and widely understood KPI's.

5. Relook at your benefits package. Could you introduce more meaningful and valuable benefits instead of just increasing pay, such as access to employee assistance programmes, higher pensions contributions, more flexible policies and better annual leave allowance?
6. Create staff development opportunities. If there is room for employees to grow within your business, work with the employee to develop and improve new skills.
7. Put processes in place to increase salary honesty, openness and transparency.

Employers: ensure you are on top of salary benchmarking and personal objectives to tie these into salary levels.

Contact us: for updates to company policies

Do employees take all their annual leave?

Feeling too busy, the cost-of-living crisis and “the fear of falling behind” are factors causing workers to feel they cannot afford to take all their annual leave.

This decline in annual leave risks leading to decreased levels of productivity and can lead to rises in sickness absences because of heightened levels of stress.

For some, they might not feel like they have enough time to take annual leave to fit in their current workload and so are hesitant to take all their annual leave.

Work culture could also impact the level of holidays taken. If employees aren't actively encouraged to take annual leave, staff may feel unable to enjoy their time off. Not taking leave could be a form of 'presenteeism', where employees want to be seen to be working, even if they are unable to work at their full capabilities.

Employers need to make sure all team members, both senior and junior, are setting the right example and fostering a culture where people take all their leave.

Flexible working arrangements and hybrid working may also be masking overtime and blurring the lines between working hours and leisure time.

It is vital to keep on top of your holiday records so you can see who has taken leave as well as those who have considerable amounts of leave stored up.

Employers: regularly review holiday taken to manage employee time off.

Contact us: we can support your teams

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



Disclaimer: This newsletter is provided for general information only and does not constitute legal or other professional advice. If you require advice on a specific legal or HR issue, please contact enquiries@employmentlawsupport.co.uk.

Employment Law Support accepts no responsibility for any loss which may arise from reliance on information contained in this newsletter.

Employment Law Support Principal: Caroline Robertson
Solicitor Non-Practising