

At Apex HR, we want to keep you updated with the latest developments. Our Newsletter will inform you of Employment Law changes and we will keep you 'in the know' with current and relevant topics that hit the headlines.

In this edition

- The future of Workers Rights after Brexit
- Why more companies are moving to a 4-day week and the benefits
- Illegal working practices which are still happening in workplaces
- Age discrimination and what it looks like in the workplace

What is the future for workers' rights after Brexit?

As the current Brexit deadline of 31st October approaches, We have received a number of enquiries about what happens to UK employment law after Brexit? Given much of our employment derives as an extension from the European Union and the European Courts of Justice, there are legitimate questions about the pathway the UK will choose in the future regarding workers' rights and employment protection. Both main parties have different views on what they would do for the future of workers' rights if they are in power. The Labour leader Jeremy Corbyn promises radical action under a Labour government by driving up wages, improving job security and giving staff more say in how their companies are run. He also announced that a Labour government would set up a Ministry for Employment Rights with the focus of improving pay and conditions of workers across the UK. They would also appoint a Secretary of State for Employment Rights and a Workers Protection Agency to enforce rights and standards in the workplace.



Under Teresa May's Conservative's government, she welcomed the influence of the EU on workers' rights in the future, promised an expansion of workers' rights, including protections for people working in the gig economy, a statutory right to training and other additions to statutory leave to care for relatives. Since Boris Johnson has become prime minister, the Conservative party are not so welcoming of the European influence on UK employment laws. Boris Johnson's newly appointed chief negotiator for Brexit, David Frost said, "business organisations have often criticised in the past the EU's drift towards heavy labour market regulation, I would take some persuading for this to be a good outcome if the EU is able to set new UK labour market rules without any UK say with a no deal Brexit. The legal opinion concludes after Brexit and in the absence of any continuing jurisdiction of the European court of justice (ECJ) on UK law after Brexit, the fact that workers' rights can no longer ingrain decisions of the national authorities, it seems the level of protection for workers' rights in the UK may decline compared to the level of protections which would be maintained in the EU. It is a very uncertain time for employment law, workers' rights and business in general across the UK. The implications of a no deal Brexit could be wide ranging and it is currently unclear how areas of employment law will be affected as a result. Overall, we still expect that existing employment law will experience very little change straight away, and all current legislation will remain the same and stay in place. It is important as business organisations to keep up to date with the latest developments as Brexit deadlines approach and ensures that their workforces receive information they may require.

Summer is all but over and
Autumn is in full swing!



Although the sun has faded, there has been a drop-in temperature and the joys and fun of a beautiful summer is a distant memory.

Returning to work after the summer holidays is always difficult, while holiday blues sets in business still goes on.

Going into the next seasons there are exciting business opportunities to be had and the inclusion and engagement of the staff will help focus them on these opportunities.

What is the reality of a 4-day working week?

Did you know that the average UK full-time employee clocks up 42.5 hours a week versus an EU average of 41.2?

Increasing number of organisations are rethinking their approaches to optimum work patterns. Increasing numbers of organisations are considering or have implemented a 4-day full time working week.

Recently the Labour party announced at the conference that they would cut the full-time working week to just 32 hours within 10 years under a Labour government. This would effectively reduce the working week to 4 days which could be done with no loss of pay. John McDonnell, shadow Chancellor who announced this, commented, “we should work to live, not live to work” which is a common phrase used by people centred organisations.

Some companies have already switched to a 4-day working week such as:

- Synergy Vision, a medical communications agency,
- Elektra Lighting, a lighting design company,
- Lara Intimates, which makes underwear,
- Intrepid Camera company, which makes and exports photographic equipment
- Portcullis Legal, legal advice and guidance in specialist areas

Studies and trials have found that this change has had a positive impact on workers and the way they perform. Organisations have seen a significant rise in productivity and output from their staff whom took part in the trials, and where organisations found this to be positive, they have now made this permanent. Having implemented this, it has created increasing work-life balance where workers are productive and fulfilled within their work.

There is a common pattern whereby you work a set working week and by the fifth day your whole enthusiasm for work diminishes by the hour, sometimes people are left clock watching and your productivity levels are virtually nil. There have been successful organisations both in UK and abroad that have adopted this new way of working. Critics may say that in time will the feeling of a four-day week may eventually resemble how we feel about a 5-day week and how will organisations be able to manage this? This may well be the case in the future; however, the working environment is ever evolving, and new ways of working are always being tried and experiments take place to meet business needs and the work-life needs of individuals.

If you are interested in how to implement a four-day week in your organisation contact us at Apex for advice, guidance and support on this.

Progress on IR35 rules for private sector companies

In recent months there has been progress on the IR35 rules for the private sector, the reformed rules have been in place for the public sector organisations since 2017 and from April 2020 the private sector firms organisations will have to check whether contractors need to pay income tax and national insurance contributions, this will shift the responsibility for carrying out checks from the contractor to the organisation using their services.

This will affect medium and large-sized private sector clients and there are certain rules that apply, such as an annual turnover of 10.2 million, a balance sheet total of more than £5.1 million and/or more than 50 employees. You will also need to determine the employment status of a worker, pass for determination and the reasons for the determination, make sure detailed records of employment status of determinations and have a process in place to deal with any disputes that may arise from your determinations.

Ensure you prepare yourself if you consider your organisation falls into the above rules, if you want more advice and guidance on this please come and talk to us at Apex HR.

Illegal working practices by employers

There are a significant number of workers in the UK who are being subjected to illegal working practices. Recent research carried out over a 3-year period by think tank The Resolution Foundation found illegal non-payment of holiday, non-receipt of a pay slip or even receiving the minimum wage for their age and status.

The research carried out suggests that 23% of workers aged 25 and over covered by national living wage were unpaid in 2018. Other types of workers that were most at risk of underpayment of the National minimum wage/ National living wage (NMW/NLW) were those working in smaller firms and working in key services sectors. However, sources suggested that under 25's, zero-hour contract workers and those on temporary contracts that would be covered by NMW/NLW are the most at risk of underpayment.

The research also showed that a breach of a day one right to paid leave was an issue. It revealed that under the current law all except self-employed have a right to paid leave but the research shows that people over the age of 65, full time students or people working in the hospitality sector are most at risk to not having paid holiday leave.

Furthermore, another breach of legal working practice is workers not receiving a payslip, despite this being a mandatory practice for a long time now and from April 2019 this requirement has been extended to all workers. Figures show that close 1 in 10 workers have reported that they are not given a payslip.

It appears from the research carried out that many of the same groups (young people, older workers, smaller firms and working in atypical way) are at the greater risk of each type of labour market violation.

Full-time employees and workers have the right to 28 days of paid leave year which will be pro-rated for part time employees and workers. They also have the statutory right to receive a written itemised statement before or at the time of the payment of their wages or salary. Finally, they have the right to be paid the statutory NMW/MLW for their age and status.

It is important that organisations should review and audit that they are complying with their legal obligations including the provision of holiday pay, paying the NMW/NLW and issuing payslips. Since the employment tribunal fees were abolished in 2017, employment claims have continued to rise and therefore the financial cost and reputational damage to the organisation in some cases may be significant.

If you need help and support in reviewing and auditing your working practices come and talk to us at Apex and we can support you with the relevant advice and guidance.



Whilst we're in employment there are a number of protected characteristics that apply to us as employees. Over the course of the next issues of HR Matter we will explore the individual protected characteristics that apply within the law of Employment. The Characteristics that are protected are:

1. Sex
2. Age
3. Gender Reassignment
4. Married or in a civil partnership
5. Disability
6. Race
7. Religion
8. Sex
9. Sexual Orientation

Age Discrimination

In the last newsletter we covered sex discrimination and what this looks like and who can be affected by this. In this edition will cover Age discrimination and what this looks like and the statistics behind age discrimination.

In the modern world people are living and therefore working longer than before. More people are choosing to work beyond what was previously an expected retirement age. Sometimes people continue to work well into their 70's if not 80's or even their 90's if they so wish. In the next decade a third of employees will be 50 + and half of those aged 60+ are not ready to retire.

In some cases, workers can experience negativity in the form of age discrimination. It is not just the older generation that can be affected by this, younger people can be affected by age discrimination also.

Year on year age discrimination claims have risen and there has been a spike in claims since the tribunal fees were abolished back in 2017. In a recent survey it has been reported that 44% of people say that they or someone they know experienced age discrimination in the workplace; 19% believe their age has been a barrier in career progression and or development; 26% feel there is some risk they could lose their job because of their age and 1 in 3 workers feel their age has prevented them from getting a job since turning 40. Many people feel that their younger co-workers stereotype them by assuming that they are resistant to change, don't understand technology and or are difficult to manage, older employees can feel they have skills, experience and knowledge which is not valued by their co-workers. Significant numbers of older workers felt they had been overlooked for promotion specifically because of their age.

It is unlawful for employers to discriminate against their employees either directly or indirectly, Age discrimination in the UK which is covered by the 2010 Equality Act states that a person cannot be treated differently due to his or her age.

Employers must be aware when carrying out certain activities within the workplace that they are not directly or indirectly discriminating against their employees, this could be key areas such as:

- Recruitment
- Training & Promotion
- Performance management
- Managing Performance
- Retirement

Using certain language can also be considered as discriminatory, such examples of derogatory and abusive terms may include a younger employee telling an older employee they are 'over the hill' or an older employee saying to a younger employer 'you poor little one'. How these words are perceived by the recipient more than the intention of the person saying the words will be considered as discrimination.

If you need any advice and guidance on how you can build a diverse and inclusive workplace culture and avoid age discrimination in your workforce or encourage better working relationships come and talk to us at Apex HR.



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So, call or email us at Apex HR and we will be able to discuss the best support package for your business.

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