

Our Newsletter keeps you informed of Employment Law changes and the latest developments in the world of HR. We will keep you 'in the know' with current and relevant topics that hit the headlines.

Most talked about Employment Law topics!

## Health and Wellbeing of our employees.

### Should there be flexibility for women going through the menopause?

Recent news reports have suggested that the government has urged organisations to create more menopause-friendly work practices to support female employees going through menopause. The menopause is a natural part of ageing that causes physical and emotional symptoms that can differ in individuals. The menopause is a very private and sensitive issue to women and is best supported through the employer understanding what can be put in place for the employees.

Workplaces can consider making supportive changes for this sensitive issue by training managers to hold sensitive discussions and will respond in a supportive, empathetic and constructive manner, or considering allocating a manager or contact within HR for employees to have personal discussions. Other changes that may be considered could be, desk fans, review of ventilation, clean and well-equipped toilet facilities or creating a quiet resting or break area.

Further considerations may be organisations responding constructively to flexible working requests, which may include adjusting working patterns to reduce the negatives effects of sleep loss or fatigue.

For more information on how to support employees on personal sensitive issues such as menopause contact us at Apex HR to discuss further.

### Supporting Employees with Cancer diagnosis

The health and wellbeing of organisation's people should always be a top priority, there are many conditions that affect people throughout their lives and there is a big emphasis on mental health and mitigating work related stress, but how do employers support employees who have had to receive the news of a cancer diagnosis? This could be a personal diagnosis or someone close to that person who has received a diagnosis. Whatever the size of the organisation there is a high chance that someone within the organisation may receive the diagnosis of cancer or be impacted by someone close to them receiving such a diagnosis.

#### So how can you support that person?

It all starts with being human, empathising and showing care and understanding for the individual you are supporting. Employers have a duty of care to their people to ensure that they are supported in times of need. It is unlawful for an employer to discriminate on the grounds of disability, people with the diagnosis of cancer, MS, HIV/Aids are covered by the definition of disability in the Equality Act 2010 from the date of diagnosis. Employers should support each individual case with compassion and keeping close contact with that person. Advice can be obtained Occupational Health and it is important to ensure appropriate work patterns and adjustments are made. When individual cases are well supported, employees remain engaged with the organisations and there can be a positive impact on morale within the whole team.

Cancer treatments and outcomes are improving over time and increased survival rates means that people can return to their jobs to full capacity and appreciate the support they have received through a difficult journey they have encountered.

An example of good support from employers is given below;

An employee had been diagnosed with a complex cancer condition, whereby it has meant that the person has had several scans, numerous visits with consultants, a robust treatment plan and also the after effect of the treatment. Not only did this affect the individual but their close family members. The support of the employers of these individuals was amazing. They allowed a sense of normality outside of the difficult journey they were on. The individual's employer allowed flexibility in the workplace whereby they would keep in contact with their immediate line manager and discuss on a regular basis what work was achievable whilst on treatment plans and the time needed away from the workplace. The employer was fully supportive of this and was able to accommodate this given the thorough communication throughout. This meant that the individual wanted to do more and was motivated to do more when they felt well enough in between treatment rounds. Likewise, the close family members were supported by their employers, whereby they were able to attend appointments with the individual and support them through the treatment and the allowed flexibility meant they were motivated and were able to accommodate other work demands as and when they felt appropriate.

If employers are compassionate and supportive towards their employees in times of needs, employees are more likely to remain loyal and motivated to support the needs of the business.



Apex are experts on worker rights and employment law to be able to support our organisations. We mitigate business risk to ensure the best and fairest outcome for both business and people in business.

Employment Law is a topical debate within parliament frequently. Certain statute of employment law is constantly being updated, changed or repealed. It is always good to be in the know with these updates, changes or repeals. As your HR provider, HR Matters issues will supply you with this information on current and relevant updates, changes or repeals.

## Legislation Changes- Off-Payroll working Rules (IR35)

From April 2020 IR35 rules apply to medium and large organisations outside of the public sector. These rules were introduced to the public sector in 2017 and following further consultation the government has extended these rules to the private sector.



HMRC has developed the 'Check Employment Status for Tax (CEST)' service to help organisations determine whether the off payroll working rules apply to them, HMRC are continuing to enhance CEST and develop new guidance before the reform comes into effect in April.

The below guidance from the HM treasury factsheet indicates at first glance how to determine whether the engagement is 'Employed or Self Employed'

### **Alan would be considered self-employed for his contract**

*Alan is taken on by a manufacturing firm to design and build a new website. Alan and the firm have agreed a price for the job and when he will deliver the new website. Alan will mainly work at home, using his own equipment to complete the task. Alan is free to work for other clients but faces a contractual penalty if he doesn't deliver the website on time, to the agreed standard. This represents a significant financial risk to Alan if he fails to deliver the final product as agreed.*

### **Zainab would be considered an employee for this contract**

*The manufacturing firm needs someone to maintain and update the new website. It hires Zainab to work for three days a week, eight hours each day. The firm provides Zainab with a laptop so she can work at its offices or at home with permission. She reports to the head of the IT department and must follow their style guide and format to update the website. The firm is responsible for providing and updating the software Zainab needs to do her work. If Zainab has to work longer than her contracted hours, she will be paid overtime. Zainab can work elsewhere on the days she is not working at the firm, with their agreement.*

Now is the time for medium and large organisations to determine employment status and to start to implement changes prior to the reform coming into effect in April 2020.

Other legislation changes due to come into effect in April 2020 are:

- Parental Bereavement Leave and pay
- Changes to Written statement of Particulars
- Changes to agency workers' rights
- Changes to holiday pay calculations

We will provide an update in our March 2020 newsletter of the changes to the above. For more information on the off-payroll rules and support with how you determine these, contact us as Apex for more information.



The Christmas season is a time of celebrations and to reflect on the working year. It is a good opportunity to let your workforce have fun and socialise away from the working environment. Equally it is a time to remind your workforce to stay safe and to look out for each other to ensure the wellbeing of individuals.

## Festive Cheer!

Christmas is fast approaching and so the festive cheer and excitement increase. This is the time of year when the workplace Christmas party or gathering takes place and organisations should remember the workplace expectations in particular regarding conduct and discipline extend to social gatherings.

The experience of the Christmas party is an opportunity for the organisation to reward and engage with their workforce on a social level. In some instances, such social gatherings at this time of year can also be the cause of significant issues if not managed properly. In a relaxed social environment coupled with alcohol can influence situations and decisions which would not occur in everyday working, which at an extreme level can include violent or aggressive behaviour or claims of bullying and harassment.

Such behaviour has the potential to damage the reputation of the company where they display poor behaviour towards their colleagues or the general public. In some instances, organisations can be liable for the actions displayed by their people extended outside of the workplace on workforce social gatherings. Employers should remember that there is a legal duty to protect the health and safety of their workforce at all times.

For many employees, the highlight of the season is the company's Christmas party.

If you would like advice and guidance on how to arrange and manage a successful but fun festive gathering for your workforce come and talk to us at Apex HR.





Finally, employers,  
Are you confident that you understand the rights and responsibilities of the employer and your employees?

It doesn't have to be a confusing and problematic area, just a good understanding of effective practices in the context of your business.

## Typical Tribunal Cases Put Forward

### An example of tribunal cases:

#### Facts

After a company-organised Christmas party, the organisation's Managing Director (MD) paid for taxis to take a number of attendees, including staff, to a local hotel. A group stayed in the hotel lobby drinking alcohol which was mainly paid for by the MD. The conversation turned to business plans for the following year around 2am. A sales manager, Mr Bellman, brought up the issue of a recent staff appointment which was proving controversial. The MD, who was now very intoxicated, became annoyed. The MD summoned the remaining company employees and began lecturing them on his authority to make monetary and recruitment decisions about staff because he owned the company and was in charge.

Bellman, in a non-aggressive manner, challenged his decision about the new recruit's work location, and the MD assaulted Mr Bellman twice. As a result of the assault, Bellman suffered a severe traumatic brain injury with subsequent cognitive, emotional and behavioural consequences, with the result that he was unlikely to return to paid employment. He sought damages from the employer, on the basis that the firm was vicariously liable for its managing director's actions.

The high court determined that there was not a sufficient connection between the MD's employment and the assault therefore making the judgement that the employer was not vicariously liable. The court of appeal allowed an appeal to go forward on the base of the MD's activities, and the court of appeal found that there was a sufficient connection between the activity and the assault. They considered that regardless of the timing and location of the assault, the assault took place whilst the MD was exercising his managerial authority over junior employees by giving a lecture on his authority.

#### Note for employers

*Each case brought to court is individual and the example provided should not set a precedent on outcomes for other similar incidents or cases. However, employers who arrange social events can communicate a reminder to their staff that their attendance at such events are voluntary. Anyone who does attend will be treated equally and professional standards should continue to apply at social gatherings outside of the normal workplace.*



A selection of yummy cakes was available on our event!



## Charity Event Cake sale

We recently engaged with Children's Hospice South West in order to raise funds for this worthy cause. We hosted two Coffee and Cake days and invited people to join us.



There was an array of cakes both homes baked and bought, a yummy selection including Carrot cake, chocolate fudge cake, rock road, Banana loaf and many more.

Our last day was super busy with the regiment from the army reserve centre popping in (all 30 of them) and enjoying the hot drinks and selection of cake, plus all of the other visitors that also popped in. We managed to raise £240.00 across the two days and we fully enjoyed hosting and bringing the surrounding business community together. A big Thank You from Apex HR to everyone who has supported such a wonderful local charity.

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## Top Tip of this Month

### 'Humanising Your Workplace'

The language we use in HR is important. Too often, we can rely on traditional terms or use a narrative that might not feel applicable in 2019. It can all feel a bit tired and dated. So, Apex is helping many organisations modernise outdated HR approaches and inject some fresh thinking.

Within each HR Matters, we'll focus on a specific HR term or policy and suggest a more human alternative. We find that humanising workplace cultures happens when lots of small, regular steps are taken which focus on building a positive, more human employee experience. The language and communication we use is a key element in this.

The grievance procedure or policy can seem a little too formal for some workplace conflicts. On some occasions conflict between people may just need to be aired and talked about rather than following a formal complaint procedure.

We like to call our grievance procedure → 'Resolution of Employment Concerns.' Resolution of employment concerns means that a more informal approach can be sought to resolve any conflicts or employment concerns before a formal procedure needs to be applied. In some circumstances it may be that the informal approach is not applicable, and the more formal process is required, however in the first instance it is always best to try to understand and mediate between the conflict or concerns beforehand.

In most cases, people just want to be heard and raise their concerns without consequence and this approach allows this to happen.

We believe this approach feels much more human and is more constructive in finding a resolution. It sets a positive tone and intention in responding to any concerns that are brought forward.

Please contact the Apex team for more inspiring ideas on how to humanise your workplace culture!

## Contact Us

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*Apex offer many HR packages that support with your HR business needs. We are able to provide you with advice and guidance on many areas.*

*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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