



ActifHR

Where people matter...

March 2016 Update

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

Maternity Leave – discontinuation of childcare vouchers

In a recent case, the Employment Appeals Tribunal (EAT) overturned a tribunal's decision that it was discriminatory for an employer to allow the scheme to have a condition of entry that vouchers could be suspended during maternity leave.

It could not have been Parliament's intention to require employers to continue providing vouchers at a time when there was no salary that could be sacrificed in respect of them (such as when on maternity leave). The key question was whether the vouchers constituted 'remuneration', which does not need to be continued through maternity leave.

Employers: Many employers provide vouchers as a benefit in addition to salary and, in such cases, Regulation 9 of the Maternity and Parental Leave Regulations 1999 requires that the benefit continue during maternity leave. However, in most cases the vouchers are provided by way of salary sacrifice, thus the vouchers represent part of salary that has been diverted before appearing in the employee's pay packet. So, such vouchers are properly to be regarded as part of 'remuneration', which may be discontinued during maternity leave under Reg 9.

Contact us if you need any help with maternity leave or childcare voucher schemes

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'Pulling a Sickie' is Grounds for Dismissal

We are often asked about sickness and sick pay. Should a company give a set number of sick days paid a year? Will some employees perhaps treat this as extra holiday?

It seems that 'pulling a sickie' is viewed by some workers as not particularly serious – however, an important Employment Appeal Tribunal (EAT) decision has emphasised that such dishonesty can amount to gross misconduct and give grounds for dismissal.

A bus driver alleged that he had slipped over on spilt water in a workplace toilet and badly injured himself. He went on sick leave, claiming that he was incapable of doing his job. However, his employer suspected that the accident had been staged, or that he had exaggerated his injuries, and placed him under covert surveillance.

He was dismissed on the basis that he had tried to perpetrate a fraud. The EAT overturned a Tribunal's decision and found that anyone who dishonestly states that they are unfit for work through illness or injury is guilty of a fundamental breach of the trust and confidence which lie at the heart of any employment relationship.

The employer had a genuine and reasonable belief, based on reasonable investigation, that the man had attempted to commit fraud and, in upholding his claim, the ET had substituted its own view of the facts for that of the employer.

It is important to ensure periods of sickness are either covered by a self-certification note or a doctor's note depending how long an employee is off work sick for

Employers: in this example the employee had deliberately misled the employer with his sickness. It is more likely that an employee will perhaps take a day or two off sick when it is not valid, although some employees have been caught posting their activities when off sick on facebook.

Contact us if you need help dealing with sickness or sick pay issues

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Modern Slavery Act Statement

The government recently introduced The Modern Slavery Act 2015, which came into force in October last year and applies to financial years ending on or after 31 March 2016.

The Act requires large organisations doing business in the UK with a minimum total turnover of £36 million per year to publicly state each year the action(s) they have taken to ensure that their supply chains are slavery free.

The slavery and human trafficking statement **must** include either a statement:

- of the steps the organisation has taken during the financial year to ensure that slavery and human trafficking is not taking place in any of its supply chains, and in any part of its own business; or
- that the organisation has taken no such steps.

The statement **may** contain other information, such as the organisation's structure, its due diligence processes in relation to slavery and human trafficking and any training on the subject that is provided to its employees.

While there is no prescribed time limit in which to make the statement, the Home Office guidance provides that a business is encouraged to make it within six months of the end of the previous financial year.

If the organisation has a website, it must publish the statement on that website and include a link to the slavery and human trafficking statement in a prominent place on the homepage.

Employers: even smaller companies are being asked to publish a Modern Slavery Act Statement if they are tendering for work with certain customers.

We can provide further information on this topic and can also assist organisations in preparing a compliant statement.

Contact us if you need help with a Modern Slavery Act Statement

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Caroline Robertson, CEO

Qualified as a Solicitor in 1999.

Caroline has a wealth of experience supporting business clients with practical hands on HR advice.

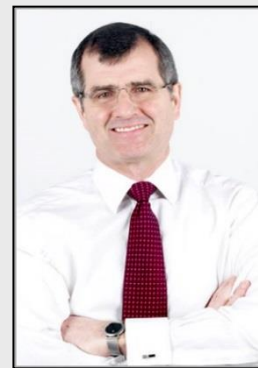
Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations.



John Wade

John has successfully led several small and medium-sized businesses as Operations Director and COO. His experience includes managing businesses and coaching business owners through development.

John has led redundancy, disciplinary and grievance procedures. He is renowned for solving problems quickly, efficiently and fairly.



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