



ActifHR

Where people matter...

September 2017 Update

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

In this Edition we report on:

- The approaching new General Data Protection Regulations
 - Part-time workers' discrimination
 - Grievances – Issues with confidentiality?
-

The approaching new General Data Protection Regulations

The General Data Protection Regulations (GDPR) is set to be implemented on 25 May 2018. It increases the obligations on all businesses to ensure the safety of personal information of individuals stored on their systems, whether they are customers, suppliers or employees.

The GDPR will apply to data 'controllers' (employers) and now data 'processors' (employees) In the past, the Data Protection Act only applied to controllers. Controlling involves manipulation in terms of interpretation or decision based data. The role of the processor involves the storing, retrieving and erasing of data.

The GDPR applies to personal data, but the definition is wider than under the current Data Protection Act (DPA) The regulations place greater emphasis on the documentation that data controllers must keep, to determine their accountability.

Tel: 01327 317537

M: 07947567661

E: caroline.robertson@actifhr.co.uk/info@actifhr.co.uk

ActifHR Ltd, Innovation Centre, Silverstone Park. NN12 8GX

Many of the main principles of the GDPR's are similar to those in the current Data Protection Act (DPA) so if your business is complying accordingly with the present law, then most of your current compliance will remain valid and can be the starting point to build from.

However, there are new factors and significant enhancements. Your business will have to do some things for the first time, and a number of things differently. It is essential to start planning your approach to GDPR compliance now, with the rules coming into effect in May 2018.

To start with, you will need to gain 'buy in' from key people in your organisation. You may need, for example, to put new procedures in place to deal with the GDPR's new transparency and individuals' rights provisions. The complexity of your business will depend on the cost.

One key new feature is having to show how you conform with the rules. Evidencing compliance is known as the 'accountability' principle.

Employers: to start with we suggest that you undertake a Gap Analysis to review your current processes against the GDPR requirements.

Contact us: we can assist with GDPR compliance.

Part-time workers' discrimination

What happens if a part-time employee works more than 50% of full-time hours, but is paid only 50% of the full-time salary? Could this be seen as unfavourable treatment against the Part-Time Workers Regulations 2000? The Employment Appeals Tribunal (EAT) in the case of *British Airways v Pinaud* found that it was.

The full-time crew worked a 6/3 pattern. Six days on, three days off, giving 243 available days and 122 days off each year. Part-timers worked a 14/14 pattern with ten available days needed each fortnight. This worked out as 50% of full-time availability (243) is 121.5 days. However, it seemed that the part-time employees had to be available for 130 days, 3.5% more.

BA argued that the bidding system for work and choices created this anomaly but the EAT maintained that this was plainly less favourable treatment, which could not be justified.

Tel: 01327 317537

M: 07947567661

E: caroline.robertson@actifhr.co.uk/info@actifhr.co.uk

ActifHR Ltd, Innovation Centre, Silverstone Park. NN12 8GX

When looking at the justification, it was suggested that increasing part-time pay to 53.5% would "cure" the discrimination. However, the EAT held that this "simple expedient" oversimplified the matter and the statistical evidence would need to be reviewed carefully.

Employers: even if it is not clear from the shift patterns or way of working, the impact of this decision is that a worker should not be worse off financially by working part-time.

Contact us: we can assist with part-time workers payments.

Grievances – Issues with confidentiality?

Dealing with employee grievances can be problematic for managers. The issue of confidentiality plays a serious role, as employers juggle the obligation to the employee who brought the grievance, and other employees who are involved in the complaint.

Here are some top tips:

*** Keep the pool small**

Limit the number of people who are aware of the grievance and the information that each person has access to. It is best to keep the matter as confidential as possible.

*** Work with the aggrieved employee**

If you expect that confidentiality is going to be a problem, it is important to ensure that the employee in question fully understands the grievance procedure and how the company intends to handle confidentiality. A good plan would be to suggest a list of people that you think need to be aware of, or involved in the grievance.

*** Need to know**

If someone needs to know the details, be careful about just how much detail that individual is given. It may not always be vital to give full details. The line manager may not always be involved in the grievance as it depends on the nature of the complaint. Of course, if the grievance relates to the line manager, then this must be dealt with tactfully.

*** Confidentiality for witnesses**

If witnesses are being interviewed, it is imperative that they understand how their evidence will be used to avoid misunderstandings. This particularly involves how their evidence will be shared, as this could create problems.

* Access to data

What an aggrieved employee is entitled to see in the context of their grievance is often in dispute. Be aware that the notes and other information collected could also be sought by way of a subject access request under the Data Protection Act.

Employers: each grievance raises various issues. Practice confidentiality from the outset, which will assist resolving further disputes.

Contact us: we can assist with investigations and disciplinary procedures.

Caroline Robertson, CEO

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.

She qualified as a Solicitor in 1999 and is able to assist Businesses on all aspects of employment law and HR.





You are receiving this e-mail from ActifHR Limited. To stop receiving these emails, please send a return email with 'unsubscribe' in the title.

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 Human Resource issue please contact caroline.robertson@actifhr.co.uk. ActifHR Limited accepts no responsibility for any loss which may arise from reliance on information contained in this newsletter.

Tel: 01327 317537

M: 07947567661

E: caroline.robertson@actifhr.co.uk/info@actifhr.co.uk

ActifHR Ltd, Innovation Centre, Silverstone Park. NN12 8GX