



ActifHR

Where people matter...

February 2018 Update

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

In this Edition we report on:

- GDPR – Consent and the Problem with Relying on it
 - Government Proposals – The Good Work Plan
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GDPR – Consent and The Problem with Relying on it

Gaining consent of an employee to process their personal data was the option we all took under the Data Protection Act 1998. To prove the employee had given consent, a data protection clause was put into their contract of employment.

However, the new the GDPR changes this.

To rely on consent now, it must be:

- given freely
- specific
- informed
- unambiguous
- explicit (If you're processing a special category of personal data, previously known as 'sensitive personal data' like health data)

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Consent in employment contracts can no longer be relied upon. There are numerous alternative bases on which employers can process data of employees from May 2018, when the GDPR come into force. It is now compulsory to explain the legal bases for processing the data and make sure our company Policies are compliant with these new GDPR guidelines.

We have been composing a GDPR compliant Data Protection Policy for Employees, Workers and Consultants. In one particular section, the policy covers the reasons for which an employer may want to process a worker's data, listing separate reasons which the GDPR expects.

The policy is available for companies, as well as a Privacy Policy for your website for your customers as well as opt-ins if you need them, for a fixed fee.

Employers: We can assist you with identifying the changes or modifications you may need to make for your business in time for May 2018, and help you implement any changes in simple steps.

Contact us: For a fixed price, we can draft the documents you require and explain them to you, if required.

Government Proposals – The Good Work Plan

The Government has announced proposed changes to workers' rights, following the Taylor Review of Modern Working Practices. It claims that 'The UK will become one of the first countries to address the challenges of the changing world of work in the modern economy'.

The fine detail of how the provisions of the 'Good Work Plan' will be implemented has yet to be set out.

However, proposals include:

- Enforcing holiday and sick pay rights for 'vulnerable workers'
- Provision of 'day one' rights including sick pay and holiday pay rights
- The right of all workers to receive a payslip, including zero-hours and casual workers
- The right of all workers to request a 'more stable' contract (although there is no information as to what this will mean) with the aim that workers will have more financial security

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- Ensure that unpaid interns are not doing a worker's role (for which they should be paid)
- 'Naming and shaming' employers who don't pay Employment Tribunal awards made against them
- Increasing potential financial penalties for employers who have been found by the Employment Tribunal to have seriously infringed an employees' rights through 'malice'.

There will also be consultation on the rights and payments of agency workers and 'increased transparency' in business.

Employers: Self-employed people have been seen in some cases to benefit from holiday pay in some recent cases. It is important that you understand the work pattern, in order to avoid running this risk.

Contact us: We can assist you with preparing self-employed contracts and helping your business with employing contractors.

Increase to the National Living Wage and National Minimum Wage

The National Living Wage and the National Minimum Wage will increase in April 2018, according to the Government's Autumn budget.

The following increases to minimum hourly rates as of 1 April 2018 will be:

The National Living Wage will increase for those aged 25 + from £7.50 to £7.83.

The National Minimum Wage will increase:

- For those aged 21 - 24 years, from £7.05 to £7.38;
- For those aged 18 - 20 years, from £5.60 to £5.90;
- For those aged 16 - 17 years, from £4.05 to £4.20; and
- For apprentices, from £3.50 to £3.70.

When you calculate the National Minimum Wage, be mindful in terms of whether you add in other supplements such as 'on call' amounts, tips and shift allowances.

Employers: When younger employees move into the next age bracket, be careful as we often find employers can lose track of whether they are paying the correct National Minimum Wage.

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Contact us: We can assist you with the National Living wage, the National Minimum Wage and calculating holiday payments.

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.



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