



January 2023 Update

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

In this Edition we report on:

- How to manage employees with side work
- New statutory rates increase
- Can you refuse to employ someone with tattoos?

How to manage employees with side work

A recent employment tribunal case saw an employee win £22,000 after being advised by her boss at Halifax Bank of Scotland not to promote her own cake-making business on social media while on long-term sickness leave.

The case highlights the difficulties employers can face when managing employees who take on side work to supplement their income, as the cost-of-living crisis deepens.

Some employers may give their permission for employees to run a separate business on the side as long as it does not conflict with the main work they do.

Employers should consider the following risks when considering whether to give permission:

Reputational issues

will employee's side business bring their business into disrepute, especially if the employee works in a client facing position.

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Working Time Regulations

There is a limit of 48 hours per week which applies irrespective of the number of employers involved. A business should ask employees to declare any second jobs to consider whether they are close to this limit. The primary employer may need to ask the employee to sign an opt out.

Employee productivity

A side business may have a negative impact on an employee's performance if they are working long hours.

Competition

Particularly where services are offered is there any overlap with the employer's business.

Employers: add a clause in the employment contract to make the position clear about secondary work.

Contact us: we can assist with reviews and drafting of employment contracts

New statutory rates increase

The National Minimum Wage rates will increase from April 2023 as follows:

- Aged 23 and over - £10.42 per hour (a 9.7% uplift from the current rate of £9.50)
- Age 21-22 year olds - £10.18 an hour (a 10.9% uplift from the current rate of £9.18)
- Age 18-20 year olds - £7.49 an hour (a 9.7% uplift from the current rate of £6.83)
- Age 16-17 year olds - £5.28 an hour (a 9.7% uplift from the current rate of £4.81)
- Apprentice rate - £5.28 an hour (a 9.7% uplift from the current rate of £4.81)

The Statutory Sick Pay, Statutory Maternity Pay and other family-related statutory payments will increase in April 2023 as follows:

- Statutory Maternity Pay, Statutory Adoption Pay, Shared Parental Leave Pay and Parental Bereavement Pay will increase from £156.66 to £172.48 a week
- Statutory Sick Pay will increase from £99.35 to £109.40 a week.

Employers: make sure you adjust your payroll accordingly from the April 2023

Contact us: we can assist with policies, contracts and contractor agreements

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Can you refuse to employ someone if they have tattoos?

When it comes to tattoos, we all have our own personal opinions, but as an employer what are your rights? There are no specific employment laws about tattoos in the workplace. If you refuse someone work because of a tattoo, this does not qualify as discrimination.

Under the Equality Act of 2010, for an action to be considered discrimination, it must fall under one of the nine protected characteristics listed. Only then will it be considered unlawful, tattoos are not one of the nine listed.

If you believe that a candidate has inappropriate tattoos for your workplace, you can choose to reject the candidate for that reason.

In addition, if a prospective employee attended an interview with their tattoo covered and then revealed it after job offer, you are legally entitled to rescind the offer of employment.

According to a recent UK survey one in three working people have a tattoo. Out of this around 13% of this group have at least one visible tattoo on their head, face, neck, forearms, wrists or hands (around 1.4 million people).

Attitudes to tattoos vary by age and are changing all the time.

Some major employers, such as the police and Virgin Atlantic have relaxed their policies on visible tattoos. Most people don't see them as unprofessional, unless they are on the face or neck, distracting, or offensive.

Many employers now taken the stance that just because someone has visible tattoos, which can't be covered up, doesn't mean that they are unsuitable, perhaps just some of the more public facing roles.

Understanding is key

Engage with prospective staff on the subject. It's worth remembering that people choose to ink their bodies for different reasons. This may be for religious beliefs, particularly Buddhism and Hinduism.

As an employer, it's up to you as whether or not tattoos fit with your company image. Just don't let any unconscious bias take over the decision making.

Policies can help

We recommend that you have a dress code which details the standards you expect.

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Alternatively, if your current dress policy needs updating to reflect tattoos, then we urge you to do so.

These policies provide a framework for staff on what to wear to work.

Usually, they imply that employees wear suitable, acceptable and appropriate clothing to do the job. You should clearly set out your stance on visible tattoos and explain why you may have imposed restrictions.

Of course, different industries/sectors will have different understandings of what is appropriate, especially if staff deal with the public you may want to have a no visible tattoo policy.

Bear in mind a strict tattoo policy, might deter good candidates from wanting to work for you.

Employers: in difficult economic times, where good staff are hard to find, ask yourself if you really need to impose additional recruitment barriers?

Contact us: we can assist with drafting a dress code policy



Caroline has a wealth of experience supporting business clients with practical hands on HR and Employment Law advice. Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations. She qualified as a Solicitor in 1999 and now acts as a specialist Human Resource / employment Law Consultant to business.

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