



## April 2023 Update

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

In this Edition we report on:

- Swearing at work
- Proposed legislation changes
- Retained EU Law

### Swearing at work

The starting point is that swearing at work is unacceptable.

However, depending on the context, swearing may have become commonplace and socially accepted between colleagues.

Conversely, of course other employees can find such behaviour unprofessional and offensive, thus leading to potential disciplinary action.

Establishing a standard with your employees ensures that everyone understands what is acceptable. Though even if swearing may be tolerated to some extent in a workplace environment, care has to be taken that by allowing such a culture some employees may take offence.

Of course, even in such cultures, a manager swearing at an employee could be viewed as an abuse of power or authority and be considered a breach of employee rights.

When employees swear at each other, it will again depend on the context of the conversation as to whether it constitutes abuse.

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Swearing between friends in a joking manner is unlikely to be considered abuse. Intimidating language between colleagues will often be found to be abuse.

### **Training**

To ensure staff are aware of employer expectations, employers should ensure everyone in the workplace is aware of their policies and expectations.

Any incidents of verbal abuse should be dealt with swiftly and appropriately.

Awareness can be achieved through training sessions or inductions, giving employees a chance to ask questions and get clarification on what type of language is acceptable.

It's important to remember that even if swearing isn't accepted in the workplace, it doesn't mean that employees won't engage in such behaviour.

They may do so out of frustration or even as a form of humour. It's therefore up to employers to establish clear lines between acceptable and unacceptable language.

### **Acceptable language policies**

It is worth considering creating an acceptable language in the workplace policy. This helps avoid misunderstandings and inappropriate behaviour between employees.

This clear guidance can protect employers from potential claims by staff who may have been subjected to verbal abuse or offensive language.

**Employers:** companies and workers must fully consider the consequences of their language before engaging in disrespectful conversations with their staff or their colleagues.

**Contact us:** we can assist with guidance and policies.

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## **Proposed legislative changes**

Changes anticipated to pass into law during 2023:

### **1. Redundancy protection for pregnancy and family leave**

At present, during any redundancy process an employer must offer those on maternity leave, adoption leave or shared parental leave suitable alternative employment (if it exists) as a priority over other employees provisionally selected for redundancy.

The Protection from Redundancy (Pregnancy and Family Leave) Bill proposes to increase this protection so staff are protected from the point at which the employee tells their employer they are pregnant/will be taking adoption or shared parental leave.

### **2. Carers leave**

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The Carers Leave Bill proposes introducing a right for employees to take at least one week's unpaid leave to either arrange or provide care for a dependant with a long-term care need.

### **3. Neonatal leave**

The Neonatal Care (Leave and Pay) Bill makes provision for up to 12 weeks statutory leave and pay for employees whose children are admitted to neonatal care for at least seven days.

For those who qualify, this would become a day one right.

### **4. Harassment protection**

The Worker Protection (Amendment of Equality Act 2010) Bill seeks to introduce a requirement for employers to take all reasonable steps to prevent both third-party harassment and sexual harassment during the course of employment.

### **5. Flexible working**

Currently, employees who have worked for 26 weeks can make a flexible working request (for any reason) once per year

The Employment Relations (Flexible Working) Bill proposes:

- making the ability to request flexible working a day one right;
- introducing a new requirement for employers to consult with employees when they intend to reject a flexible working request;
- allowing two statutory requests a year;
- requiring employers to provide a decision within a period of two months; and
- removing the existing requirement for an employee to explain what effect, if any, the change requested would have on the employer and how that effect might be dealt with

### **6. Predictable working patterns**

If passed as currently drafted, the Workers (Predictable Terms and Conditions) Bill would allow workers and agency workers with more than six months' service to ask for a more predictable working pattern.

**Employers:** when these changes go through then businesses will need to amend their contracts of employment and policies to reflect this.

**Contact us:** we can assist with amends to documents

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## **Retained EU Law (Revocation and Reform) Bill**

The Retained EU Law (Revocation and Reform) Bill is also going through the House of Lords and aims to abolish all EU law that is not specifically reinstated or replaced by the end of 2023.

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This will likely impact the following regulations:

- \* Working Time Regulations 1998,
- \* Agency Worker Regulations 2010; and
- \* the Transfer of Undertakings (Protection of Employment) Regulations 2006.

Although it is not yet clear which (if any) will be reinstated and if not, what will replace them.

The implications of this and how it will affect employers and employees could be profound and the proposed deadline seems particularly ambitious. For this reason it is likely to be extended to June 2026.

**Employers:** we will keep you informed of any major changes to these key regulations.

**Contact us:** we can assist with amends to policies.



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.

**Caroline Robertson, Director**

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