

Employment Newsletter

January 2023

ACAS updates its advice on how to handle staff suspensions

ACAS has updated its advice on suspensions during investigations at work. The new advice covers the decision whether to suspend someone, the process to do so, supporting the employee's mental health during suspension as well as pay and holiday. Employers should consider each situation carefully before deciding whether to suspend a member of staff.

<https://www.acas.org.uk/suspension-during-an-investigation>

4 day week trial

Many of the companies taking part in the 4-day week trial run by 4 Week Global have indicated that they would keep the 4-day week policy after the trial ends, the BBC reports, with 95% of 41 respondents saying that productivity had stayed the same or improved during the shorter week.

Settlement agreements and future claims

In *Bathgate v Technip UK Ltd et al* [2022] EAT 155 the EAT decided that future claims cannot be compromised in settlement agreements under section 147 of the Equality Act 2010. Settlement Agreements need to be carefully drafted so they relate to the circumstances of the exiting employee.

Flexible working requests

The Government are introducing new legislation giving employees the right to request flexible working as soon as they start a new job. Currently employees can only make a request after they have been in a job for 26 weeks.

National minimum wage increase

The National minimum wage increases for April 2023 have been announced by the Government. Following recommendations from the Low Pay Commission, the National Living Wage (NLW) will rise to £10.42 from 1 April 2023, an increase of 9.7%. This ensures the NLW is on track to reach the Government's target of two-thirds of median earnings by 2024.

From 1 April 2023 the rates are as follows:

- National living wage £10.42 (was £9.50)
- 21-22 year old rate £10.18 (was £9.18)
- 18-20 year old rate £7.49 (was £6.83)
- 16-17 year old rate £5.28 (was £4.81)
- Apprentice rate £5.28 (was £4.81)
- Accommodation offset £9.10 (was £8.70)



What to expect in 2023

2022 was a slow year in the development of employment law. However, 2023 sets to be a busy year with a raft of new laws.

We have seen many Private Members' Bills receive Government backing, most notably in relation to the proposals under the Employment Bill which will progress through Parliament in 2023. The changes the Bill will bring will most likely not come into effect until later in 2023 or 2024. The Bill will deal with flexible working as a day one right, new rights to neonatal leave, unpaid leave for carers, protection from redundancy for pregnant women and new parents and fair allocation of tips.

The Government also promised to introduce a new duty on employers to prevent sexual harassment in the workplace which is also progressing via a Private Member's Bill. This Bill will also re-introduce provision on making employers liable for third party harassment.

We also have the Retained EU Law (Revocation and Reform) Bill which is currently drafted to result in any remaining EU law being abolished by the end of 2023, unless specifically retained by Parliament. It is anticipated that it may impact in regulations including those covering agency workers, working part time, part time worked, fixed term employees and TUPE. We wait to see in what format it will finally become law.

2022 did see a rise in neurodiversity-based discrimination claims. And managing any employees who have committed misconduct linked to their neurodivergence can be particularly difficult. Training and awareness are crucial in managing staff who are neurodiverse.

If you have any queries regarding this newsletter and its contents or need employment advice please contact a member of the Employment Team on employment@rowberrymorris.co.uk or by telephone on 0118 951 6625. www.rowberrymorris.co.uk