

Contact Us
0845 610 0651

HR Helpline

Contact with HR Smart can be made via telephone, fax or e-mail.

We provide practical HR advice and answers to questions, as well as offering step by step solutions to your everyday requests.

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HR Support, whatever your concerns we can give you the legal and practical advice and support your Company needs and all for a guaranteed fixed fee.

This Edition...

In this edition of Smart News, we are focusing our attentions on the forthcoming summer of sport, managing attendance and absence in the sunshine, along with an update on the new legislative changes and some thoughts about ongoing employment matters with the new coalition government in place.

Legislative Update From April 2010

Right to Request Time off for Training

Employees may now be eligible to request time off for training. Currently, this legislation applies to companies employing 250 or more employees, but this exemption will be removed from April 2011.

The new legislation, which works along the similar lines to Flexible Working Requests, means the employer has a duty to seriously consider any requests made for training and must give a business reason for refusal, if the application is to be rejected, e.g. reasonable belief the training will not improve business performance.

The training request made by employee can include an accredited programme leading to a qualification, or for unaccredited training to help them develop specific skills relevant to their job, workplace or business.

To make a request for time to train, an individual must:

- be an employee, and
- have worked for you continuously for at least 26 weeks on the date they make their request.

In order for a request for time to train to be a valid request, covered by the legislation, it must be submitted in writing and contain the following information:

- a statement that the application is an 'application under section 63D Employment Rights Act 1996';
- the subject matter of the proposed training or study;
- where and when the proposed training or study would take place;
- who would provide or supervise it;
- what qualification it would lead to (if any);
- how the employee thinks the proposed training or study would improve their effectiveness in your business and the performance of your business;
- the date of the application;
- the date and method - e.g. email or letter - that the employee's last application (if any) was submitted

Employees can submit requests in any written form they choose as long as they contain the above information. You are only required to consider one request from an employee in any twelve month period, unless your employee has requested that you ignore an earlier request.

Fit Notes not Sick Notes

Since the 6th April 2010, there has been a change in the medical certificates provided by GP's for employees whom are unwell. The new Fit to Work Statements or Fit Notes, were introduced to replace the sick note/Doctor's certificates that have been operating since 1948. In the past the requirement of a medical certificate was to confirm that the employee was genuinely sick and unfit to attend work.

However, the new Fit to Work Notes aim to encourage the employee to return to work quickly and safely, so the GP will now be required to provide information on what the employee and employer can do in order for work to continue.

Firstly, the GP needs to make an assessment of the employee and confirm one of two statements:

- Not Fit to Work, or
- May be fit to work taking account of the following advice

If the second option is selected, where it has been identified that whilst the employee may have some health problems this may not prevent them from working in some capacity, it is then up to the GP to provide further information regarding what may and may not be possible and put forward suggestions for consideration by the employer to be discussed with the employee. The types of adjustments that could be recommended are:

- A phased or gradual return to work;
- Altered hours;
- Flexible hours;
- Time off for treatment;
- Amended duties, and/or;
- Workplace adaptations

Employers are not duty bound to follow the advice. If, after review, the business cannot accommodate the suggestions, best practice will be for the Manager to sit with the Employee to discuss the situation and put a return to work plan together before the employee resumes any duties. The GP must finalise the statement by confirming how long their advice is for.

The introduction of Fit Notes does not affect Statutory Sick Pay or the possibility of the Disability Discrimination Act applying.

On a positive...

In February 2010, the maximum compensatory award for an unfair dismissal was reduced from £66,200 to £65,300.

The statutory limit on weekly pay, used to calculate statutory redundancy pay and the basic award for unfair dismissal, was increased to £380 in October 2009 will remain at that figure until February 2011 at the earliest.

Managing Absence and Attendance



Contact HR Smart Ltd to talk through any employment issues on 0845 610 0651

In recent weeks and months, there has been a build up of focus on attendance and absence at work due to various factors such as Swine Flu, the introduction of Fit to Work Notes, pending World Cup Fever and the recent release of the UK's absence statistics. Here is our round up of all the press and statistics, along with all you need to know for managing attendance and absence in your Company.

Principles for Managing Absence

1. Establish the facts. Have written records of attendance and absence, including the reasons for absence.
2. Treat all employees equally. Have a written capability procedure, including trigger points, for unacceptable levels of attendance.
3. Ensure that all absence is supported by medical certificates, including self certificates for absence of less than seven days.
4. Undertake return to work interviews with employees to discuss reasons for the absence.
5. If absence levels do not improve, hold a formal meeting with the employee to discuss the problem.
6. Allow the employee to be accompanied at the meeting.
7. Set targets objectives for improvement and agree monitoring measures and timescales.
8. If absence remains unacceptable, seek guidance from the employee's GP or send for an Occupational Health Assessment.
9. Encourage the employee to think about how they can return to work, through light duties or reasonable, temporary workplace adjustments.
10. Make sure you are aware of the Disability Discrimination Act to remain compliant at all times.
11. Only dismiss on grounds of capability when there is no chance of any improvement in the levels of attendance at work, all reasonable adjustments have been considered and there is medical evidence to identify that the employee is unfit to resume their duties or an alternative employment, and that the situation is likely to remain unchanged for a significant period of time.

Working whilst under the Influence of Alcohol

A recent survey by Drinkaware, the alcohol awareness charity, has found that over half a million employees attend work each day with a hangover. The survey also found that on average an employee arrives at work with a hangover three times per month and that one in ten employees surveyed have not made it to the end of the working day before going home as unwell. For those hung-over employees who managed to stay at work, a fifth admitted to struggling to manage their workload and making an increased level of errors.

So as an employer, what can you do:

- Have a written and clear alcohol policy, which is distributed/published to ensure all employees know what is acceptable.
- Question anyone who attends work that appears to be intoxicated. As an employer, you have a duty of care to your other employees and can ask the person to go home. However, any incident needs to be investigated fully in case there are underlying reasons for the behaviour.
- Be aware that while many people may joke about having a hangover at work, intoxicated or hung-over employees can be disruptive and unproductive, cause accidents and upset other employees.

180 MILLION SICK DAYS IN 2009

The average level of sickness per employee in the United Kingdom last year, dropped to 6.4 sick days from 6.7 days in 2008. In the private sector, the number of days' absence was down to 5.8 days per employee, but employees within the public sector were recorded as being absent 8.3 days on average.

Long term sickness absence only accounted for 5% of all absences reported in 2009. Frequent, unplanned, minor ailments were cited as being the major contributor to the

level of absence. The survey estimates that 27 million sick days were not for genuine reasons.

Back pain, other musculoskeletal and mental health issues still remain the top three reasons for long term absence. The survey noted that companies who actively managed the absence from work, who had a written policy and instigated rehabilitation plans and support in returning to work found that employees were returning to work in shorter timeframes than previously recorded.

A Summer of Sport

With the World Cup just days away and the excitement building, companies are being urged to consider what they are going to do to combat increased levels of sickness absence, last minute and increased holiday requests, disagreements between colleagues, potential abuse of internet usage or drunkenness at work. Here

are some ideas that might help:

- Do nothing - work as usual
- Flexible hours
- Shift swaps
- Special workplace screenings (but don't forget your TV Licence)
- Internet tracking

LASTLY DON'T FORGET WIMBLEDON!

EMPLOYMENT LEGISLATION — LET’S LOOKING TO THE FUTURE

Here is a short summary of some legislative changes expected in the next 18 months

The **Agency Workers Regulations 2010** are due to come into force on 1st October 2010, which will ensure that all agency workers have a right to equal treatment over basic employment and working conditions after 12 weeks in a given job, including working time, overtime, holidays, public holidays and pay, compared with their directly recruited counterparts.

The **Equality Act 2010**, which received the Royal Assent in April, will start to come into force from October 2010. The aim of the new Act is to consolidate and replace the nine current discrimination laws. However, the introduction of the Act will also see any contractual secrecy clauses in relation to the discussion of wages to be unlawful. The aim is to promote a more open culture and to make pay more transparent.

The **Default Retirement Age Review** which was brought forward from 2011 to 2010 by Labour, will continue. The new coalition Government has already outlined its intention to phase out the default retirement age, but has yet to give further details or timescales.

National Minimum Wage

From October 2010 is due to increase as follows:

Adult rate (over 22) hour	£5.80 to £5.93 per hour
Development rate (18– 21) hour	£4.83 to £4.92 per hour
16—17 year olds hour	£3.57 to £3.64 per hour

New Rights for Apprentices

The previous government accepted recommendations to introduce an apprentice minimum wage of £2.50 per hour, which will be introduced from October 2010 for apprentices under 19-years-old or those who are 19 or over, but who are in the first year of their apprenticeship.

Increased **Parental Rights** for parents or adoptive parents, of children born or placed after 3rd April 2011. The new right allows the father to take the remainder of the maternity leave of up to three months paid at the statutory rate and three months unpaid. However, this is subject to the mother ending her maternity leave early and returning to work.

Extra Bank Holiday to mark the Queen’s Diamond Jubilee will take place on Tuesday 5th June 2012, with the late May bank holiday being moved to 4th June 2012 to allow for a long weekend of celebrations

Having outlined the future changes that we are aware of, it should also be noted that on 3rd June 2010, Vince Cable, Business Secretary of the Coalition Government announced plans to reduce and review employment legislation and business regulation that is in the pipeline - so we continue to watch, listen and learn.

A recent survey learnt that more than 1 in 4 employees are considering quitting their job in the next 12 months. The reasons for the change in employment were cited as lack of motivation, unreasonable workloads, feeling underpaid and undervalued and lack of career progression.

People, Performance, Profit

May 2010 saw the 19th anniversary of Adult Learning Week, supported by the Learning Skills Council and the Department for Business, Innovation and Skills. Here at HR Smart, we believe that your employees are one of your greatest business assets and what sets you apart from your competitors. Taken from the Leading on Learning, “A hands on guide for Line Managers”, here are some pointers that may be of interest to you.

During this difficult time, you may wish to reduce your training cost and tighten your belt. However, even through tough times it is important to continue to invest in your employees, but if you wish to ensure the return on investment then planning and evaluating training are a must, here are some key steps:

PLANNING

Hopefully, you will have a business plan and within that business plan are key targets and objectives.

Your employees are fundamental to the successful achievement of this plan, so in order to meet your targets you must

- understand the skills and knowledge that you will need, and
- what you currently have.

The gaps you identify are where there are a skill shortages and this is what you build in to your training plan. Why? - simple, without the skills you will not achieve your business plan targets.

When finding training solutions, involve your employees to ensure relevant training, purpose and importance of the training, that the training suits their needs, set learning targets and ensure they have bought into the training that is being provided.

EVALUATION

So you have paid the money and your team have been on all the training. So how do you make sure things change as a result of the investment you have made. Have you considered...

Discuss:

- What the individual learnt on their training and compare this against the learning targets set
- What other training or support do they need
- How are they going to put their learning into practice within their roles
- Encourage further development
- Recognise success and changes in the individual

CHECK FOR SUCCESS

- Name one thing that you do to encourage development
- Think of the last time that you had some training and development

Where do you come in...

As a small business, you may not have an monies for training, but as the Owner/Manager you have can have a major impact on your employees’ willingness and ability to develop. Have you thought about “free” ideas:

Performance development reviews
 Induction activities
 Identifying skills needs
 Giving access to challenging work and job rotation

Coaching and guidance
 Providing informal training
 Identify external training programmes
 Internal knowledge sharing sessions

Encourage employee career development and promotion
 Holding short hot topic training sessions
 Lead by example

Did You Know...

Employment tribunal applications are more likely to be instigated by men, managerial workers and employees aged over 45.

95% of claims are brought by people in permanent employment, 87% of which will be full time.

72% of claims came from the private sector.

27% of respondents were from companies employing between 1 - 24 people.

The average cost of the employers legal fees were £8,009

* Figures taken from 2008 Employment Tribunal Application Survey

TOP FIVE WORKPLACE GRIPS

EMPLOYERS

1. Someone else will do it, employees not volunteering or assuming someone else will.
2. Passive-aggressive notes, such as anonymous notes which cause friction such as “don’t leave your dirty cups in the sink”.
3. Internet time wasting at the end of the day.
4. Working from home, the perception remains that it’s a free day off.
5. BlackBerryitis, trying to run a meeting when everyone is distracted by their phones.

EMPLOYEES

1. Pointless meetings
2. Fridge etiquette; stolen sandwiches or mouldy foods, this exists the world over.
3. Management jargon—keep it simple
4. In-office emails, internal email sent from someone less than 30ft away from you requesting them to do something, when it would be quicker and politer to ask.
5. Pledging others time—being volunteered without being asked

Facts and Figures

STATUTORY SICK PAY (SSP)

Current Rate

- £79.15 a week for employees earning a minimum of £97 a week or more.

Payable

- From the 4th day of qualifying absence. The SSP daily rate is the weekly rate divided by the number of qualifying days. Qualifying days are the contracted days of work.

Maximum Entitlement

- 28 weeks

Right of Recovery

- Employers may be able to recover all or some, of the SSP paid through their National Insurance Contributions, subject to meeting criteria under the Percentage Threshold Scheme.

MATERNITY

Statutory Maternity Pay (SMP)

- 6 weeks @ 90% of employee's average weekly earnings or SMP, if higher.
- 33 weeks @ SMP rate, currently £124.88 per week.
- All contractual benefits, aside from remuneration, continue during maternity leave.

Leave

- Employees are entitled to paid time off to attend antenatal classes.
- 2 weeks compulsory leave from the date of childbirth.
- Statutory maternity leave is made up of 26 weeks of Ordinary Maternity Leave (OML), followed by a further period of up to 26 weeks known as Additional Maternity Leave (AML).

Returning to Work

- There is a right for the employee to be able to return to work in the same or similar job, on the same terms and conditions.
- No notice is required to return to work unless wishing to return earlier than the time-scales outlined above.
- Employees must give 8 weeks notice to return to work early.
- Employees are allowed to attend the workplace, up to 10 working days during the maternity leave, known as Keeping in Touch Days.

PATERNITY

Statutory Paternity Pay (SMP)

- 1 or 2 weeks leave to be taken within 56 days of the birth or adoption. If the employee opts to take 2 weeks, then they must be taken together at the same time.
- SPP is paid at 90% of employee's average weekly earnings or SPP, if higher.
- SPP rate is currently £124.88 per week.
- All contractual benefits continue.

Eligibility

- Anyone who is the father, partner of the mother and those expected to be responsible for the upbringing of the child.
- Applies to both male and female employees,
- Must have a minimum of 26 weeks continuous employment by 15th week before birth or placement of the child.

Returning to Work

There is a right for the employee to be able to return to work to the same job on the same terms and conditions.

PARENTAL LEAVE AND PAY

Eligibility

- A parent named on the child's birth certificate,
- Named on the child's adoption certificate.
- Have legal parental responsibility for a child under five (18 if disabled).
- Have one or more year's continuous employment.

How Much Parental Leave

- A total of up to 13 weeks' parental leave for each of your children up until their fifth birthday.
- For adoption, a total of up to 13 weeks' parental leave can be taken until the fifth anniversary of their placement or until their 18th birthday, whichever comes first.
- Up to 18 weeks' parental leave until their 18th birthday for a disabled child.

Purpose

The purpose of parental leave is to care for your child. This means looking after their welfare and could include making arrangements for the good of your child.

Caring for a child does not necessarily mean being with the child 24 hours a day.

Fallback Scheme

- One week blocks at a time.
- Capped at four weeks per annum.
- Employer must be given 21 days notice of intention to take time.
- Employer can postpone leave for up to six months in certain circumstances.

Returning to Work

- There is a right for the employee to be able to return to work to the same job on the same terms and conditions.

FLEXIBLE WORKING

Eligibility

- Be an employee, who has 26 weeks' continuous employment before applying.
- Not made another application to work flexibly during the past 12 months.
- Be the parent/guardian/special guardian/foster parent/private foster carer or the holder of a residence order or the spouse, partner or civil partner of one of these and applying to care for the child and have or expect to have parental responsibility of a child aged 16 or under or a disabled child under 18.
- A carer of, or expected to be caring for, an adult who is a spouse, partner, civil partner or relative; or who although not related to you, lives at the same address as you.

Procedure

- Apply in writing to employer
- Meeting to take place within 28 days
- Decision to be placed in writing
- Right of representation and right of appeal
- Refusal must be for specific reasons only

ADOPTION (SAP)

Employees who are adopting a child should notified their employer that they have been matched with a child or received official notification that they are eligible to adopt a child.

- Employees, subject to meeting the qualifying conditions, are entitled to a maximum of 39 weeks SAP.
- The weekly rate payable is the lesser of £124.88 or 90% of the employee's average weekly earnings.

FUNDING OF SMP/SPP/SAP

All Employers are entitled to recover 92% of the SMP/SPP/SAP they pay.

Qualifying Employers for Small Employer's Relief are entitled to recover 100% of the SMP/SPP/SAP, plus 4.5% for payments made on or after 6 April 2010. The Small Employer's Relief Threshold is £45,000 for payments made on or after 6 April 2010.

National Minimum Wage

From 1 October 2009

Main rate £5.80 per hour (aged 22 years and over)

18–21 year old rate £4.83 per hour

16–17 year old rate £3.57 per hour (for workers under 18 who are above compulsory school leaving age).

These rates are likely to change from 1 October 2010.

Mileage payments

The following rates are used to calculate the maximum amount that can be exempted from tax and NIC's for business miles travelled in the employee's own vehicle.

Motor cars and vans

First 10,000 business miles*	40p per mile
Over 10,000 business miles	25p per mile

Motorcycles 24p per mile

Cycles 20p per mile

Additional Passenger Payments Employers can also pay up to **5p** per mile free of tax and NICs for each employee who travels as a passenger and is also on a business journey.

Pay As You Earn (PAYE)

Thresholds

The PAYE thresholds (the level of earnings at which tax becomes payable) are: £125.00 weekly or £540.00 monthly.

Rates

The tax rates are:

Basic rate 20% from £1 to £37,400

Higher rate 40% from £37,401 to £150,000

Additional rate 50% from £150,001 and above.

K codes

Tax codes starting with a K have a regulatory limit of 50% of an employee's gross pay in the pay period. This limit restricts the amount of tax that is deducted from the employee's pay to ensure that they retain a certain amount of take home pay.

Emergency tax code

The emergency tax code is 647L.