



FIND ***YOUR*** FLEET

Fleet BID Business Briefing

17th February 2017

Your Essential HR Toolkit



Preventing People Problems



What has happened this year?

- Brexit becoming a reality
- Tribunal fees scrapped
- HMRC ramping up and case law on “Employment status”
- NMW
- GDPR closing in

What am I going to cover?

- Tribunal fees and system
- Employment Status
- What can you do to avoid / help in tribunal?
- Less than 2 years service
- Grievances
- National Minimum Wage
- Apprentices
- GDPR

Employment Tribunal Fees Scrapped

Avoiding Tribunals



Background

- There were 53,844 single Employment Tribunal claims in 2012-2013
- Compared to 16,895 single Employment Tribunal claims in 2015-2016

Why were Employment Tribunal Fees Introduced?

- To place some of the cost burden on those using the system.
- Employers, by contrast, typically incurred legal fees.
- The tribunal system as it was failed to discourage vexatious and weak claims.
- Fees for a full hearing ranged from £390 to £1,200.

Why were Employment Tribunal Fees abolished?

- The Court ruled that the system effectively prevents access to justice, and is unlawful.
- The introduction saw an immediate fall in the number of ET claims of more than 70%.

What is happening now?

- Seeing a 10x increase in the number of claims.
- 22% going to full Employment Tribunal
- 47% are for discrimination
- 43% are for less than a year's service

Please.....never think
*“it will never happen
to me”*....Tribunals
aren't pleasant!



What can I do to avoid an employment tribunal?

- What do you need to do?
- Have a clear Contract of Employment
- Have written policies and procedures
- Ensure all staff particularly your managers are familiar with them
- FOLLOW THEM....



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What do you need to do?





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• **FOLLOW THEM....**

I live with a very simple view of HR.....

- Parent / Child relationship

- Set boundaries A green arrow pointing left with the text "Policies & Procedures" in white.
- Explain the consequences of falling outside of the boundaries A green arrow pointing left with the text "Communicate policies" in white.
- Follow through on the consequences, if they don't comply. A green arrow pointing left with the text "Warnings" in white.
- Be fair and consistent A green arrow pointing left with the text "Apply to all" in white.

What's Next?

- Can we really stop Employment Tribunal claims?
- Can we get cost orders to cover our full cost?

When can someone bring a Claim to an Employment Tribunal?

Length of Service ?

Less than 2 years' service

More than 2 years' service



Grievances....what is a grievance?

- A complaint.....issue someone has at work
- First stage of Tribunal
- Don't ignore, always respond
- Follow Company Grievance Procedure
- Emails are included
- **Watch out for.....RESIGNATION LETTERS!!**



Employment Status and Rights

- Why is employment status important?
- Why do we get it wrong?
- What happens if we get it wrong?
- Tax law V's Employment Law

Employment Status Test



- Is there an obligation to provide person service – can they send somebody else in their place?
- Is there a mutuality of obligation – are you obliged to offer them work and are they obliged to accept?
- The individual is carrying out a business and you are the customer.
- The employer does not exert a high level of control over the individual and the way the work is done.
- The individual actively markets his services to the world in general.
- The engagement is relatively short in duration.
- The individual invoices for fees.
- The individual supplies the equipment to perform the service.
- The individual carries a level of risk, e.g. If the work is not done, the individual doesn't get paid.

National Minimum Wage

- Do you know what the National Minimum Wage is?

| | |
|---------------|-------|
| - Over 25 | £7.50 |
| - 21-24 | £7.05 |
| - 18-10 | £5.60 |
| - Under 18 | £4.05 |
| - Apprentices | £3.50 |



Where do Companies fall down?

- Deductions from Wages
 - Uniform
 - Accommodation
 - Transport
 - Training

When can I make Deductions from Wages?

- Won't reduce NMW if it is covered within their contract and:
 - Relates to conduct, misconduct and discipline
 - Repaying a loan
 - Repaying an overpayment of wages
- Deductions will reduce national minimum wage pay in the pay reference they are made, even if they are in respect of other pay periods.

Examples

- A shop worker is contractually required to make good any shortfall from his till. The shortfall results from the worker's negligence.
- A worker is supplied with PPE. Their contract stipulates that it must be returned in good condition at the end of their employment. The worker leaves the employment but does not return the equipment. The employer deducts the cost from the worker's final pay.
- What if the employer requires the worker to purchase specific items from the employer or a third party?

A Brief Guide to GDPR



What do we know?

- Comes into force on 25th May 2018.
- Maximum fines increased from £500,000 to £17,000,000.
- Includes any information relating to an identified or identifiable living person.
- The importance of pseudonymisation and encryption.
- Includes data for all EU citizens and all businesses established in the EU.
- Subject Access Requests – new rules, no fee, shorter response period.

10 Points for Action

1. Awareness.
2. Information audit.
3. Data Security – what arrangements do you have in place?
4. Subject access requests.
5. Children – are we only dealing with adults or do you process data relating to children?

10 Points for Action

6. Data breaches – do you have a system in place for dealing with this?
7. Do you need to undertake a review of that system and have some templates in place?
8. Geography – do you need to speak to any EU partners or offices and work out what they are doing?
9. Who is your Data Protection Officer?
10. Keep up to date – detail may change in coming months.

What do we need to do first?

- Data audit.
- Data minimisation – do we need to know all personal data?
- Data destruction – how is data destroyed?
- Appoint a Data Protection Officer (DPO).
- Have a separate document to replace the current data protection clause within your employment contracts to serve as a privacy notice.



If you only take a few things away?

- Have your own policies and procedures and follow them
- Ensure people in your business are on the right employment status
- Remember employees can bring a claim from day 1 and before.....
- Don't think you can have a nice chat and *"they would never do that to me"*



Thank you

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