



CHILTERN HR

SEPTEMBER 2015

NEWSLETTER

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1. **The National Minimum Wage Campaign**

HM Revenue and Customs has launched a National Minimum Wage Campaign.

The Campaign helps employers check they are paying their employees the correct minimum wage and gives them the chance to pay any money owed to employees. HMRC assures employers who owe money that they will not face a penalty or be named publicly on the list of employers not paying the NMW if they tell HMRC about the arrears right away.

Guidance, forms and case studies related to the Campaign can be found here <https://www.gov.uk/government/collections/national-minimum-wage-campaign>

2. **Agency workers' rights in relation to internal vacancies**

The Employment Appeal Tribunal has held that whilst an agency worker had the right to information on vacancies, when filling a vacancy, the employer was entitled to give preference to its permanent employees who were to be redeployed as a result of a substantial restructure of the organisation.

What does this mean?

The Temporary Agency Worker Directive, which has been implemented in the UK as the Agency Workers Regulations 2010, simply requires those employing agency workers to provide information as to vacancies and does not require the employer to consider the agency worker on an equal footing with existing employees or give an agency worker the right to apply as such. This means that agency workers cannot expect to have protection against losing their job in the event of redundancies.

What should employers do?

Those engaging agency workers should remember to provide them with access to any employment vacancies in the organisation, for example by posting a notice to all workers on a board or on an intranet provided the agency worker has access to it like the other workers.

3. New guidance on employing young people

ACAS has published new guidance on employing young people.

The guidance explains the special rules that apply when employing people under the age of 18. It covers hours of work, including night work, rest breaks, pay, age discrimination and health and safety. It also explains the rules on work-based training which apply in England only.

4. New discrimination guides have been published by ACAS

ACAS has published three new guides on equality and diversity in the workplace.

The first of the guides, 'Equality and discrimination: Understand the basics' <http://www.acas.org.uk/media/pdf/e/7/Equality-and-discrimination-understand-the-basics.pdf> explains what employers must and should do to make their workplaces a fair environment and comply with equality legislation.

The second guide 'Prevent discrimination: Support equality' <http://www.acas.org.uk/media/pdf/9/l/Prevent-discrimination-support-equality.pdf> explains how managers and HR personnel can encourage equality, minimise the risk of discrimination, promote diversity and manage fairly the need for different working patterns.

The third guide 'Discrimination: What to do if it happens' <http://www.acas.org.uk/media/pdf/i/t/Discrimination-what-to-do-if-it-happens.pdf> outlines the basics of what employers must and should do when discrimination happens or is alleged within the workplace. It also explains how an employee should raise a complaint of discrimination.

5. New guidance on race discrimination

ACAS has published new guidance on race discrimination.

The guidance explains what race discrimination is, how it can arise and how employers should handle discrimination complaints. It also explains how employers can manage cultural differences and languages at work, what employers should do when employing staff from abroad and contains guidance on ethnic and national origins and religion and dress codes.

A full copy of the guidance can be found here <http://www.acas.org.uk/media/pdf/h/l/Race-discrimination-key-points-for-the-workplace.pdf>

6. New guidance on sexual orientation discrimination

ACAS has published new guidance on sexual orientation discrimination.

The guidance explains what sexual orientation discrimination is, how it can happen and sets out the key areas of employment where it can happen. It also explains the importance of respecting an employee's wish for confidentiality, and has sections on 'coming out' at work, the additional protections afforded to those in same sex marriages or civil partnerships, occupational requirements of a job, and sexual orientation and religion or belief. It also provides guidance on how employers should handle discrimination complaints.

A full copy of the guidance can be found here <http://www.acas.org.uk/media/pdf/j/t/Sexual-orientation-discrimination-key-points-for-the-workplace.pdf>

7. Reporting requirement for large employers to publish anti-slavery and human trafficking statements is to be introduced

Large employers will be required to publish a 'slavery and human trafficking statement' for each financial year.

The requirement, which is being introduced by the Modern Slavery Act 2015, will apply to commercial employers that supply goods or services with an annual global turnover of at least £36 million. Those covered by the legislation, which comes into force on 1 October, will be required to publish a slavery and human trafficking statement for each financial year, setting out the steps the organisation has taken to ensure that no slavery exists in its business or its supply chains or a statement that it has taken no steps.

The statement will need to be approved and signed at a senior level within the business. For companies the statement will require approval by the Board and a director's signature.

The statement must be published on the organisation's website, if it has one, and there must be a prominent link to the statement on the homepage. If the organisation does not have a website, it will be required to provide a copy of the statement to anyone who makes a written request, within 30 days of that request.

Failure to comply with this new requirement may result in civil proceedings in the High Court for an injunction requiring the organisation to comply.

The Government has indicated that it will be producing statutory guidance to help businesses to comply with this requirement.

Reference: Part 6, the Modern Slavery Act 2015

8. Dismissal for derogatory comments on Facebook was fair

The Employment Appeal Tribunal has held that it was fair to dismiss an employee who made derogatory comments about his employer on Facebook even though the employer had been made aware of the misconduct 12 months before the dismissal.

What does this mean?

An employer who has failed to respond to an employee's earlier act of misconduct will not necessarily lose the opportunity to take action at a later date.

What should employers do?

Employers should ensure that they have an effective social media policy if they do not already have one.