

Keeping up to speed with employment law

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It's crucial employers have the correct policies and procedures in place, writes employment lawyer David Hoey



*David Hoey said there have been a number of developments in legislation which employers must be aware of.
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EMPLOYMENT law continues to grow. In addition to the increase in legislation governing employment issues, case law continues to interpret existing concepts and change practice.

A number of significant developments have occurred over the course of the year, which are relevant to employers in the licensed trade sector.

Some of the changes include:

- shared parental leave – qualifying parents gained significant new rights in the course of the year. Employers should ensure their policies and procedures take account of the new rights and staff should be trained in dealing with the new rights, which are wide ranging.
- holiday pay – the thorny issue as to what workers should be paid when on holiday continued to develop this year. This included considering what 'normal remuneration' means and also gave rise to legislation limiting the amount of back pay that could be sought. Employers must

ensure they fully consider how staff are paid when they take annual leave.

- working time and travel time – a recent issue that has arisen is whether the time spent travelling to work amounts to 'working time' for the purposes of the Working Time Regulations (which governs entitlement to breaks and holidays, etc.). A recent case confirmed that commuting could potentially amount to working time for these purposes. Care is needed to consider the impact of this, and whether that could have knock-on effects with regard to pay.
- employment protection – the law of unfair dismissal continues to develop and employers should ensure that advice is taken prior to dismissing staff to minimise the risk of claims arising. While the government's introduction of tribunal fees and the ACAS Early Conciliation regime have had an impact (and reduced the number of claims that arise), the costs of failing to properly manage the situation can be high, and often avoidable by taking expert advice. The Scottish Government recently indicated that it intends to abolish fees which, if implemented, would create a significant difference in approach within the UK.
- National Minimum Wage – leaving aside issues as to the living wage, the national minimum wage continues to increase. On October 1, 2015 the rates increased such that workers aged 21 and above are entitled to £6.70 per hour; those aged 18 to 20

are entitled to £5.30 an hour and those aged 16 or 17, £3.87 an hour.

Managing staff within your organisation is key.

This includes the need for proper performance management schemes (to encourage optimum performance from all staff) in addition to robust absence management (to facilitate attendance at work and swift returns following illness).

Employment law continues to expand and is as complex as ever.

Having the right expert advice on hand is critical and a sound investment.



As ever, failing to prepare is preparing to fail.

Top tips include:

- avoid uncertainty – make sure all staff have proper and up to date written contracts of employment that deal with all the material issues and avoid any uncertainty.
- manage attendance and performance – by adopting proper procedures for attendance and performance and properly applying such procedures, staff – a business's biggest asset – can provide sound returns.
- pay what's due – the correct amount of holiday pay for all workers should be identified and a system adopted that is compliant with the up to date legal position.
- working time – an issue related to holidays is ensuring that proper rest breaks are given and accurate records are taken of the breaks to which all staff are entitled.
- culture, culture, culture – think about the right culture for your organisation. Those employers who create the right environment that treats all staff with respect, and gives staff the best possible opportunities in their professional life, often find an increase in productivity and morale.
- David Hoey is a partner in BTO solicitors' employment law team.

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