

Fish Partnership LLP Payroll and Employment Services EMPLOYERS NEWS BULLETIN

CONGRATULATIONS!

It's always good to have something to celebrate. In June this year, Janet Ellis, our Payroll Manager and Employers Advisor, was formally invited to become a member of the Institute of Payroll and Pensions Management. Janet's wealth of experience in the Payroll profession, coupled with her qualifications and commitment to our Clients and the Practice as a whole, gained her this award. Janet's comments were: "I received notification at home, through the post one Saturday morning, and those who I could not speak to immediately were promptly emailed. I was delighted of course but I couldn't have achieved this without the Partners who have supported me and provided my training requirements. I feel quite important now that I can put the letters MIPPM after my name!"

STEP BY STEP GUIDE AND CHECKLIST—DISCIPLINARY PROCEDURES

In our June edition of the Employers News Bulletin we announced that we were working on a checklist to help guide Employers through a Disciplinary Procedure. This is now complete and it has been designed to be used in conjunction with our FISHERS Disciplinary, Grievance and Appeals Procedure. It is a comprehensive, twenty-five page, document geared to the most common need to conduct a disciplinary, i.e. conduct or capability cases.

The document is indexed and presented in a file folder, which gives easy reference to the various steps. There are sample letter formats, a simple suggested interview procedure and cautionary notes at the end of each part of the procedure.

If you are interested in this document and would like to see a sample of the layout and a typical letter format then please contact our Employers Advisor, Janet Ellis, on 01628 527956.

HOLIDAY PAY

A case involving the right to Holiday Pay when an employee is on long-term sick leave has been taken to the Court of Appeal. The Court held that the right to four weeks paid holiday, under the Working Time Directive Regulations, **does not** accrue whilst an employee is not working, i.e. in this case, off on long-term sick leave.

In short, the argument behind the decision was based on a worker's entitlement to four weeks paid holiday, to fulfil a health and safety need. It was considered that a worker on long-term sick leave does not need holiday leave as they are not physically working.

There are, of course, more details behind the decision and connotations for Employers who have, or may have, an employee on long-term sick leave. Janet Ellis, our Employers Advisor, will be happy to provide extra information and advice on this matter.

AGE DISCRIMINATION

As reported in previous News Bulletins, legislation regarding Age Discrimination is due to fall into Employers laps in October 2006. The draft format for consultation has now been issued and we thought Employers would be interested to read some of the main provisions incorporated within the draft. We have split these down under four main headings:

Retirement

- The default retirement age to be 65 years
- Compulsory retirement under this age could be considered discriminatory if not justified by the Employer
- Compulsory retirement over this age would not be considered discriminatory provided the Employer has followed the 'duty to consider procedure'
- The retirement age of 65 years will be reviewed by the Government in 2011.

Unfair Dismissal/Redundancy

- The Statutory Dismissal Procedures, as contained in the Employers Disciplinary, Grievance and Appeals Procedure, will not apply to retirement dismissals.
- There will be no upper age limit for claiming unfair dismissal and statutory redundancy pay
- Length of service will still be used when calculating unfair dismissal claims and redundancy pay but the maximum number of qualifying years will be restricted to twenty.

Length of Service Benefits

- A requirement of 5 years service, or less, will be permitted
- Any other benefits that require a period of length of service, in excess of 5 years, will have to be justifiable, e.g. a loyalty reward.

Recruitment, Selection and Promotion

- Employers should not actively discriminate on age grounds when selecting for recruitment or promotion
- Employers will only be able to eliminate a candidate from their recruitment process on the grounds of age if they can justify their decision.

We will report again when the Age Discrimination Regulations have passed through the draft stage and are confirmed.

FLEXIBLE WORKING

Eligible employees who request flexible working hours can apply to work at home. The Employer needs to consider requests in the same manner as other flexible working requests. Additional considerations would be health and safety issues and insurance coverage. Once an arrangement has been agreed, the Employer should make formal variations from the employee's current Contract of Employment.

Obviously, an agreement of this nature requires mutual trust and a method of managing employees who operate remotely. It may be necessary, depending on the type of work carried out, to perform a health and safety risk assessment in their home. It needs to be made clear who owns any equipment which may be used to facilitate the work from home and how any confidential information should be stored.

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Flexible Working continuation

Clearly, there are extra considerations to this type of request compared to a simple request to say, starting half an hour earlier in the morning to enable the employee to leave early at the end of the working day.

FISHES has a standard Flexible Working template covering the procedures and incorporating standard letter/application formats. If you would like further details or advice on this topic, please call our Employers Advisor, Janet Ellis, on 01628 527956 or by email to janete@fishpartnership.co.uk.

IN BRIEF

Redundancy:

If you are making redundancies in one department but have a suitable alternative vacancy in another area, you should bring the vacancy to the attention of the potentially redundant employee/s.

Working Time Opt-Out:

By forming a blocking group with other member countries of the European Union, we have retained the right to allow workers to opt-out of the Working Time Directive which caps the maximum number of hours an employee can work to 48 per week over a 17 week reference period.

Disciplinary & Grievance Procedures:

The recent case of Skiggs v South West Trains Limited found that the employee did not have a right to be accompanied at the preliminary investigation meeting. The purpose of the preliminary meeting is to discuss the matter in question and take on any evidence etc. It is only after the conclusion of this preliminary meeting that a decision will be made as to whether there is a need, or requirement, to go down the formal disciplinary or grievance route. Any meetings which form part of a formal disciplinary or grievance procedure carry with them the right for the employee to be accompanied.

FISHES has a Disciplinary, Grievance and Appeals Procedure template. If you are interested in purchasing a copy, please contact Janet Ellis, our Employers Advisor, on 01628 527956.

IN BRIEF continued**On-Line Filing:**

The Revenue have confirmed that Small Employers and/or their Agents who received a 'successful submission' confirmation from the Revenue when they submitted their 2004/05 Employers End of Year Returns can go ahead and claim the cash incentive. This can be claimed by deducting £250 from the next PAYE and NIC payment to the Inland Revenue. FISHPAY Clients will either receive a letter to this effect or will see that we have deducted this incentive from the Payroll Taxes Statement of Account. However, those who have little or no liability in this current tax year to offset the cash incentive against, will have to wait until the Revenue issue a formal confirmation letter before the incentive can be claimed. We understand this could be as late as January 2006! If you are unsure as to whether you are entitled to the incentive then please contact Julie Stroud, our Payroll Administrator on 01628 527956 who will be happy to advise.

And Finally -

Brown Preparing to Raid Banks. This is not an employment related topic but we thought it worth a mention. In Gordon Brown's 2005 Budget he announced the Government's intention to redistribute to charities the money held in "bank accounts that have not been used for three years or more". The whole scheme has yet to be agreed but the Treasury hopes to make a formal announcement at the Pre-Budget Report in October or November this year. So - that account you may have set up for a 'rainy day' may be empty when it starts raining!!



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