



ITK

In the know newsletter provides the latest news, opinions and case law from the world of HR

Latest News & Updates

Brexit

Chancellor Phillip Hammond has given assurance to businesses that highly skilled migrant workers will be safe from post Brexit migration restrictions; this comes after the Japanese government urged the British government to "maintain an immigration system that allows the acceptance of highly skilled professionals into the banking and other sectors.

Meanwhile Theresa May has confirmed that a points based immigration system will not give the UK government control over immigration, which was a clear political outcome of the referendum.

We will await and share further details regarding migration and what this means for UK businesses, and hope a sensible approach is deployed as the recruitment of top talent continues to be a priority for many businesses.

Gender & Pay

For many years there has been a pay gap between male and female

employees, some have argued that this is due to more women being in part time and lower paid work in comparison to their male counterparts. However studies have shown that there is a gender pay gap between male and female workers doing the same job or a job of a similar nature. A new report — The Gender Wage Gap — highlights the huge disparity in pay between men and women. It shows that the average difference in hourly earnings for men and women in paid work is about 18%, but the gap widens to 33% for women after they have their first child.

A topic very close to us here at GSP Consultancy, it is clear that there are many factors influencing this gap, from the cost of childcare pricing many mothers out of work, the lack of quality part time and flexible roles available, to the increase in pregnant women experiencing discrimination at work. Many employers are now starting to offer more flexible working arrangements in order to utilise the skills of many mothers who feel priced out of work. In a bid to address

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gender pay disparities a league table type gender pay reporting system will be implemented for all companies with more than 250 employees from early 2017.

Background

Our clients are keen to get "quick" updates from the world of HR and how this is likely to impact businesses. So we'll be providing regular newsletters to keep clients In the know!



Contact Us

Do you have an employment issue? Contact us today for a confidential discussion:

[Info@gspconsultancy.co.uk](mailto:info@gspconsultancy.co.uk)

National Living Wage / National Minimum Wage.

Many small businesses we have spoken to have stated that they are feeling the impact of the National Living Wage and are concerned that they may not be able to meet the Government's 2020 target.

On 1 October, new rates will come into force for the National Minimum Wage (NMW).

- Rates for 21 – 24 year-olds will rise by 3.7% to £6.95 an hour.
- 18 – 20 year-olds will see their minimum wage increase by 4.7% to £5.55 an hour.
- Apprentices will get a 3% rise (to £3.40 an hour) and
- the minimum wage for 16 -17 year-olds will go up by slightly more, 3.4% (to £4.00 an hour).
- The National Living Wage (NLW) is likely to be increased in April 2017 in order to meet the government's ambitions for the NLW rate to meet 60% of the median earnings rate subject to sustained economic growth.

The Low Pay Commission is currently working on its report for 2017 and has



been holding meetings with employers round the country to discuss, in particular, the likely impact of the new NLW, applicable from April 2017 for workers aged 25 and over. They are arguing that "record employment and high profits" show that employers can afford an increase in the minimum wage. The net rate of profit in UK-owned companies is now 13%, the highest in nearly 20 years, the TUC has highlighted, while the service sector, which employs many workers on the minimum wage, has seen profits of 19% — the highest since records began. TUC General Secretary Frances O'Grady said: "Employers will

always protest that the minimum wage is unaffordable. We need to look beyond the rhetoric, and focus on the evidence. This is a golden opportunity to raise living standards for nearly two million low paid workers." She also urged the Government to change the age limit on the NLW and pay it to everyone aged over 21, given that under-25s face the same costs as older workers, and are highly productive.



In the Spotlight

Khan v Stripestar Ltd

Can a defective first stage disciplinary procedure be cured by a subsequent appeal?

Summary

The EAT in Khan v Stripestar Ltd has decided that a defective first stage disciplinary procedure could be remedied by a subsequent internal appeal, and importantly that there are no limits to the defects which can be set right. Facts Stripestar Ltd (S) ran a business selling and repairing cars. The Claimant, Mr Khan (K), was responsible for running the repairs workshop including the allocation of work. K reported to the Sales Leader, James Abercrombie (A) who, in turn, reported to Gordon Naismith (N). K had purchased a car from a customer and used the workshop to carry out repairs. N became aware of this and made enquiries. A subsequently held a disciplinary hearing and K was dismissed on the grounds that he had made an unauthorised purchase of a customer's car, used the customer's name on a job card to carry out the repairs and removed the car from S's premises without paying for the repairs. The hearing was found to be procedurally and substantively unfair - it lasted no longer than six minutes, and K was not given an opportunity to explain himself. 74189821.1\MH26 8 K unsuccessfully appealed. Graeme McCallum (M) conducted the internal appeal hearing and subsequent investigation which included interviewing N, A and technicians in the workshop. Two technicians informed M that J had told them not to record the job for carrying out the repairs. M concluded that K had acted in gross misconduct. K brought a claim for unfair dismissal. Decision dismissing the appeal, the EAT held that: '[t]here are no limitations on the nature and extent of the deficiencies in the first stage of the process that can be cured by a thorough and effective appeal. Whereas here, an employee is summarily dismissed without proper investigation or inquiry, that dismissal will be unfair unless it can be shown that the subsequent

procedure was sufficiently robust as to provide the overall fairness that the law requires.' The EAT noted the guidance set out in the Court of Appeal decision in Taylor v OCS Group Limited, which ETs should follow in cases such as this: that if the first stage was defective and unfair they should consider the second stage to determine whether the overall process was fair.

Action points/comments:

This is useful confirmation that the process could still be fair overall where the appeal process was "thorough and reasonably conducted against a background of sufficient evidence of gross misconduct". While it's still best practice to get it right at the first stage, this case will be useful for employers seeking to remedy mistakes.

Coming up within the next edition



- National Living Wage and its impact on small business
- Top tips for supporting women on maternity leave
- Key employment tribunal cases to keep an eye on

