



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

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WELCOME TO THE THIRD NEWSLETTER FOR 2009

In This Issue

Our newsletter is issued to you quarterly to ensure that you are kept up to date with employment issues. We will offer helpful hints on how to handle situations within the workplace, but never be afraid to give us a call for both guidance and support.

This Quarter the focus is on changes in the law which will affect your business in the coming months.

- 1) Extra Paternity Leave put on hold along with the extension of paid maternity increasing from 9 to 12 months
- 2) Employees do accrue holiday leave whilst on long term sick leave.
- 3) Prepare for the increases in the minimum wage in October 2009

Our helpful point this quarter is about Swine Flu and what to do if it affects your business.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website www.workmattershr.co.uk and email us from there or on info@workmattershr.co.uk.

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list - thank you.

Changes in the Law:

- Extra Paternity Leave put on Hold along with the Extension of Paid Maternity Increasing from 9 to 12 Months
- Employees do Accrue Holiday Leave whilst on Sick Leave
- National Minimum Wage Increase for October 2009

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Helpful Point:

Swine Flu and what to do

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CHANGES IN THE LAW

Extra Paternity Leave put on Hold along with the Extension of Paid Maternity Increasing from 9 to 12 Months

Proposals to introduce six months' paid paternity leave for new fathers have been put on hold by the government in the light of the current economic climate. The plans would have seen parents being able to share the 12 months maternity leave between them. Plans to extend the current statutory paid maternity pay from nine months to 12 have also been put on hold.

A spokesperson from BERR issued the following statement:

"We have not yet announced a date for extending maternity and paternity rights. We are continuing to review the appropriateness of all new regulations due to come into force in the current economic climate. It is only right that in tough economic times we look afresh at the costs and benefits of new regulations."

This announcement means that new father's will not be able to take six months' paid leave to look after their baby, allowing the mother to return to work early. Many businesses will be relieved that this change is not being introduced in the current economic climate. But bear in mind that this will be coming in, in the not too distant future.

Employees do Accrue Holiday Leave whilst on Sick Leave

The House of Lords has ruled in the case of *Stringer v HMRC* that workers who are refused holiday pay while on sick leave can make a claim to an employment tribunal for an unauthorised deduction from wages (under the Employment Rights Act 1996).

This decision follows the ruling in January, by the European Court of Justice (ECJ), that employees do accrue paid holiday for their entire sick leave, and must be allowed to take it on their return to work or be paid in lieu of their entitlement if their employment ends. The ECJ ruling did not comply with the UK's existing Working Time Regulations, which require employees to use their four weeks statutory leave in the holiday year or lose it. The House of Lords has now ruled that the ECJ decision does indeed apply in the UK.

National Minimum Wage Increase for October 2009

The increase to the National Minimum Wage will be as follows:

Workers aged 22 and over:	from £5.73 per hour to £5.80
Workers aged 18 to 21:	from £4.77 per hour to £4.83
Workers aged 16 and 17:	from £3.53 per hour to £3.57

The Government has also announced that the adult rate will be extended to 21- year olds from October 2010.

Apparently this increase, like all those since 2006, is smaller to take account of prevailing economic conditions. Previously, the minimum wage had been rising faster than average earnings.

For further advice and support in changing your company policy on any of the above click on the link www.workmattershr.co.uk or call 01442 870742.

Helpful Point

SWINE FLU AND WHAT TO DO

The World Health Organisation (WHO) declared the first global flu pandemic in 40 years after an emergency meeting in June.

However, although 75 countries have officially reported cases of swine flu, the effects of the virus are currently relatively mild outside of Mexico, with just 429 deaths from over 90,000 cases worldwide. The UK has over 7,500 confirmed cases of swine flu, with only seven reported deaths.

Swine flu is a respiratory disease which infects pigs, commonly caused by the H1N1 strain of influenza type A. There are regular outbreaks among herds of pigs, where the disease causes high levels of illness but is rarely fatal. However a recent outbreak of swine fever which can be transmitted between humans has led to the deaths of more than 80 people in Mexico with thousands more made ill. Further cases have been reported in the US and New Zealand.

According to the WHO, people usually get swine influenza from infected pigs. However, in some previous human cases there has been no contact with pigs or with environments where pigs have been kept. Human to human transmission has occurred in some instances but has in the past been limited to people in close contact with each other or closed groups of people.

Is this a new type of swine flu?

The WHO has confirmed that at least some of the cases are a never-before-seen version of the H1N1 strain of influenza type A. H1N1 is the same strain which causes seasonal outbreaks of flu in humans on a regular basis. This latest version of H1N1 is different in that it contains genetic material that is typically found in strains of the virus that affect humans, birds and swine.

What are the symptoms?

Symptoms of swine flu in humans appear to be similar to those produced by standard, seasonal flu. These include fever, cough, sore throat, body aches, chills and fatigue.



Helpful Point continued...

As an employer questions need to be asked some of which are listed here:

Q. Is it discriminatory to protect some staff and not others?

A. Failing to protect some staff while protecting others may constitute less favourable treatment which could render an employer liable for unlawful discrimination unless they can show that the failure was in no way tainted by discrimination. Employers must be careful to ensure that they behave consistently and that there are good business reasons for protecting some staff and teams and not others.

Q. Are there special duties to protect vulnerable staff such as pregnant women or those who are HIV positive?

A. The Health and Safety at Work Regulations 1999 imposes a duty on employers to conduct a risk assessment, if working arrangements could involve risks to an expectant mother or her unborn baby. A tribunal would expect an employer to pay particular attention to safeguarding the health of pregnant women.

An employer has a duty to make reasonable adjustments under the DDA1995 for those who are HIV positive or otherwise protected by disability discrimination law, and this may entail the employer taking special measures to protect staff in this category.

Q. Can employees refuse to attend work if they think they are at risk?

A. No, unless employees can show it was reasonable for them to believe that, by attending work, they would be exposed to "serious and imminent danger" as the Employment Rights Act 1996 puts it.

Q. Is it an unfair dismissal to sack those unwilling to work for fear of contracting swine flu?

A. Employees who are able but unwilling to work because they fear (for no specific reason) being infected could be dismissed fairly for misconduct, provided the employer has taken reasonable steps to ensure the workplace is safe, including following government guidance, and follows a fair procedure. Employees may claim unfair dismissal if they believed, with reason, that they would be exposed to "serious or imminent danger" by working. In most circumstances, this will be hard to prove.

Q. Can employees be refused time off to care for dependents who contract swine flu?

A. No. The law entitles all employees to take reasonable time off to deal with a sudden or unexpected problem concerning a dependent, such as a child falling ill.



Q. Does data protection law prevent discussion of who is affected by pandemic flu?

A. Information on health is "sensitive data" under the Data Protection Act 1998 and in normal circumstances should not be disclosed. However, when the health of another person may be affected, as in the case of a pandemic, disclosure can be made to protect others. The employer should try to obtain consent for disclosure but, if this is not possible, an exception can be made. A refusal to give consent can also be overruled by the employer in some circumstances.

What should you do as an employer in relation to a potential threat of a flu pandemic?

- Be prepared: develop a contingency plan in case the risk of swine flu in the UK increases.
- Create a policy allowing staff to do home-working if it is conducive to the business.
- Review your communications policy and look at ways of introducing video links and teleconferencing which can help limit the amount of face-to-face contact.
- For service/customer facing organisations explore the possibility of increasing the amount of online transactions as well as self-service options for customers.
- Have in place plans that will enable the organisation to operate on a skeleton staff.

- Identify key roles that must be carried out and identify those individuals who have a wide range of skills who can fulfil more than one function.
- Ensure that procedures are developed to ensure smooth handovers for employees who are filling in for colleagues in unfamiliar roles.
- Regularly review information issued by the Government.

What should employers do if a flu pandemic is confirmed?

- Communicate clearly and consistently to minimise the chances of misunderstanding and needless worries among employees.
- Advise unwell employees to seek appropriate medical advice at the earliest opportunity.
- Provide clear advice on the importance of employees staying at home if they are beginning to feel unwell and start suffering from symptoms of flu such as fever, cough, sore throat, muscle aches and conjunctivitis.
- Postpone/cancel face to face training courses, unnecessary travel and work-related social events.
- Follow advice issued by the Government.

Thank you for taking the time to read our Newsletter which I hope you found informative
An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company.

Have an enjoyable quarter and we look forward to issuing you with our next newsletter in the early part of October 2009.

