



Welcome to SmartHR's December 2011 E-Newsletter

We hope you find this newsletter of interest and share it with your colleagues. Gail Yeowell Chartered FCIPD FInstAM(Dip) FCMI FIRP
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SmartHR provides a wide range of professional and effective outsourced HR solutions to businesses and individuals. With almost 20 years' HR management experience, we utilise our skills and knowledge to assist clients in 3 areas: Recruitment, HR Consultancy and Training.

Season's Greetings!



As we approach the end of 2011 there have been various employment legislation changes for the IOM and UK. Some of these are highlighted overleaf. The UK Government is also in the process of reviewing UK employment legislation to potentially streamline this and make it less burdensome in some circumstances.

Previous editions of our e-newsletter can be viewed on the 'Articles' page of our website at: http://www.smarthr.co.im/page_140149.shtml

Recruitment:

- Executive Appointments
- **General Recruitment**
- Interim Positions

HR Consultancy:

- HR Consultancy and Advice
- **Tailored Business Support Packages for a fixed monthly fee**
- HR Healthchecks and Planning
- **Employment Contracts and Staff Handbooks (IOM and UK)**
- HR Policies and Procedures
- **Induction, Performance Review and Succession Processes**
- Ad hoc / Interim HR Projects
- **Online E-HR Shop to purchase template employment documents**

Training:

- 'Skills Workshops' to improve people management skills
- **Coaching e.g. managing absence, managing discipline & grievances**

Are you confident that your employment documentation, HR policies and procedures, and day-to-day people management practices comply with employment legislation?

Why not make an early New Year's Resolution to contact us and arrange a FREE 1 hour HR Healthcheck

Call 619619 or email gail@SmartHR.co.im

Read our Client Testimonials here: [Testimonials](#)

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Potential future changes for the UK include:

A Private Members Bill being debated regarding the introduction of maximum compensation awards for employment tribunal compensation awards (including unlawful discrimination - these are currently unlimited); the introduction of mandatory equal pay audits for employers who are found by an employment tribunal to have discriminated on grounds of sex in relation to pay; proposed extension of the right to request flexible working; a new system of flexible shared parental leave; reviewing TUPE legislation; and an amendment to working time regulations in relation to the rules on annual leave and sickness absence.

The UK Government has confirmed extending unfair dismissal protection rights from 1 year to 2 years – this is due to take effect in April 2012; and introducing a fee for bringing a tribunal claim (consultation on this is due to commence shortly).

Reviewing the findings from employment tribunals and employment appeal tribunals can also help when assessing whether changes to your HR policies need to be made e.g. reviewing the wording of your Disciplinary Policy and IT Policy re the use of social media sites.

Regularly reviewing and updating your HR policies will enable you to ensure that you comply with employment legislation, minimise the potential risk of employment claims; and ensure that your HR policies, procedures and day-to-day people management practices are appropriate and suitable for your business.

Need support? Contact SmartHR!

SPECIAL FEATURE:

The importance of regularly reviewing and updating your HR policies

Not only is it important to regularly review your HR policies and update these where necessary to ensure that you comply with ever changing employment legislation, it is also important to review that your policies and procedures meet your business requirements and support your business strategy.

This year, there have been a number of changes to employment legislation in the IOM and the UK, including:

IOM:

- An increase to the minimum wage level for adults.
- Civil Partnership Act 2011 – this has changed some aspects of employment law including:
 - The Control of Employment Act 1975 - allowing the civil partner of either a permit holder or an exempt person to be granted a section 3A permit;
 - The Employment (Sex Discrimination) Act 2000 - a person in a civil partnership is protected against direct and indirect discrimination; and
 - The Employment Act 2006 – the right to request flexible working has been extended to include the civil partner of the particular employee.

IOM Work Permit consultation occurred regarding the Control of Employment Bill and Regulations.

Consultation is currently underway in relation to the proposed introduction of disability legislation on the Island. The proposed new proposed Equality Bill will deal with discrimination on the grounds of race, religion, sexual orientation, age, disability and gender reassignment.

UK changes include:

- Increases in minimum wage levels.
- An increase in UK tribunal compensation limits.
- Equality Act 2010 provisions allowing positive action in recruitment and promotion coming into force.
- The introduction of Additional Paternity Leave and Pay.
- The introduction of the Agency Workers Regulations 2011.
- The default retirement age of 65 being abolished – unless an employer can objectively justify having a compulsory retirement age
- The introduction of the Bribery Act 2010

UK: Bribery Act 2010 - first conviction is a 6 year sentence

You may recall I reported previously on Munir Patel, a magistrate's court clerk who accepted a bribe to get rid of a speeding fine and not enter it on the court database.

He is thought to have manipulated the system for his own benefit over 50 times. He has now become the first person to be sentenced under the UK's new Bribery Act 2010 which came into force this year. He has been sentenced to 3 years for bribery and 6 years for misconduct in public office. The sentences will be served concurrently.

GPs may no longer be able to sign off the long-term sick

Recommendations have been made that independent assessors will review long-term sick workers. Under the proposals, fitness assessments would be made by a specialist Government-funded service. The assessment would look at whether the worker is fit to work, fit to work with some adjustments, or should be signed off sick.

Pensions auto-enrolment is to be delayed for UK employers with less than 50 employees

Firms with fewer than 50 employees have had the timescale for pension auto-enrolment extended from April 2014 to May 2015.

To find out how SmartHR can add value to your business call Gail on 619619, email gail@SmartHR.co.im or visit our website at www.SmartHR.co.im

An interesting Court of Appeal finding...

Willoughby v CF Capital

Background: Willoughby discussed the possibility of becoming self-employed as a way of avoiding a redundancy situation with her line manager, wanting to know more about the opportunities open to her. Her employer wrote a letter dated 22 Dec that terminated her employment on 31 Dec. This was on the assumption that she would then be re-engaged on a self-employed basis – the terms of which were included in a written agreement with the letter. Willoughby did not accept the self-employment suggestion, but accepted that she had been dismissed by the company. Her line manager tried to solve the situation after Xmas by stating Willoughby could return to her old job. Willoughby subsequently brought a claim for wrongful and unfair dismissal.

CF Capital argued at tribunal that Willoughby had resigned rather than being dismissed. The ET decided that due to the “special circumstances” exception (the “special circumstances” exception entitles the recipient of the notice not to take what is stated at face value) the letter did not terminate her employment as there had been a genuine misunderstanding and a reasonable person would have concluded that there must have been a mistake. Also, that the employer had taken steps to try to resolve the situation.

At appeal, the EAT found that Willoughby had been dismissed and that the mistake by the employer was not a “special circumstance”.

CF Capital appealed, but the Court of Appeal held that the line manager intended to dismiss Willoughby re the letter of 22 Dec, which was unambiguous and clear, and that this could not be unilaterally withdrawn on the basis of making a mistake.

According to the Court of Appeal, the “special circumstances” exception will almost invariably arise in situations where notice has been given verbally in the heat of the moment, following which it is quickly regretted. In a situation like this the ‘notice-giver’ should be allowed a cooling off period. Case ref: 2011 EWCA Civ 1115

UK Govt to consult on ‘protected conversations’

The UK Government is due to launch a consultation process on ‘protected conversations’. The intention is that either the employer or the employee could request a meeting and a frank conversation is held (for example: regarding retirement, performance concerns) ‘off the record’ – i.e. without fear of anything said or discussed at the meeting being used as a reason for legal action at a later date or to form part of an unfair dismissal claim.

And some other areas being considered for change in the UK...

Potential changes to collective redundancy consultations

The UK Govt is reviewing whether to potentially reduce the consultation period from 90 days to possibly 60, 45 or 30 days for collective redundancies.

Potential 'Rapid Resolution' scheme could replace employment tribunals for straightforward claims

The UK Govt is considering the use of a 'Rapid Resolution' scheme for dealing with claims such as a dispute over holiday pay, as a cheaper alternative than an employment tribunal. Over 200,000 employment tribunal claims were made last year. Any scheme would be subject to public consultation before being implemented.

Possible no-fault dismissals for micro-firms

The UK Govt is seeking views on introducing compensated no-fault dismissals for employers with 10 or fewer staff. It is also working with ACAS to make changes to their Code.



SmartHR's Recruitment Services

Whether you are an employer looking to fill a specific job vacancy, or a candidate seeking a new opportunity, we will work in partnership with you to understand your needs and provide you with a *professional, confidential and dedicated personal service.*

Contact Gail on 619619 / 478764 to discuss your requirements

Visit our Recruitment Page at <http://www.SmartHR.co.im/recruitment>

SmartHR delivers a range of 'Skills Workshops' in order to enhance people management performance:

- **Essential HR for Line Managers**
- Effective Recruitment & Selection
- **Coaching & Feedback Skills**
- Effective Team Meetings
- **Effective Time Management**
- Delegation Skills
- **Negotiating & Influencing**
- Managing Absence
- **Managing Stress**
- Team Building
- **Managing Performance**
- Managing Discipline & Grievances
- **Managing Performance Problems**
- Effective Appraisals & Objective Setting
- **The Emotional Cycle of Change & Managing Resistance**
- Train the Trainer
- **Customer Care, Telephone & Time Management Techniques**

For a cost effective quote to deliver any of the courses internally, please email gail@SmartHR.co.im

Further details can be found at www.SmartHR.co.im

