



SmartHR is a leading provider of multi-sector outsourced HR consultancy and training solutions



## HR Consultancy:

- HR Consultancy & Advice
- Business Support Packages tailored to your needs
- HR Strategy, Audits & Planning
- Employment Contracts & Staff Handbooks (IOM and UK)
- HR Policies & Procedures
- Induction Programmes
- Performance Management / Appraisal Frameworks
- HR Projects & Interim Solutions
- Change Management Projects
- Business Restructuring & Redundancy Support
- Outplacement Services
- Online 'E-HR Shop' to purchase a wide range of IOM or UK template employment documents



## Training:

- A wide range of people management 'skills workshops'
- 1-to-1 coaching e.g. managing absence, discipline & grievances
- Bespoke courses tailored to your needs
- Employment legislation overview & update sessions

## Welcome to SmartHR's October 2014 e-Newsletter

We hope you find this e-Newsletter of interest and share it with your colleagues. Gail Yeowell Chartered FCIPD FInstAM(Dip) FCMI FIRP  
Managing Director, Smart HR Solutions Limited

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

## IOM DRAFT EQUALITY BILL 2015

The forthcoming Equality Bill 2015 is 'the next big thing' for the IOM and will impact all employers. It is largely based on the UK's Equality Act 2010 but with some adaptations, principally in respect of the enforcement structure. The 3 month consultation process closes on 14 Nov 2014.

There are 15 Parts to the draft Bill and it prohibits discrimination in relation to:

- **Employment:** including recruitment, during employment, retirement and employer pensions; and
- **Provision of Goods and Services:** e.g. education, benefit, health care and social care, housing, retail services, insurance, transport, pensions.

As with the UK, there are various 'protected characteristics', namely:

- **Age, Disability, Marriage and Civil Partnership, Pregnancy and Maternity, Race (there are exceptions re immigration/work permits), Religion or Belief, Sex, Sexual Orientation, and Gender Reassignment.**

Unlike the UK, 'caste' is included in race discrimination (the UK are likely to introduce caste discrimination in 2015).

The Bill provides protection against direct discrimination (dual discrimination included), indirect discrimination, discrimination arising from disability, harassment and victimisation. It will be unlawful to discriminate against, harass or victimise a person at work or in employment services. It also prohibits other forms of conduct, including discriminating against or harassing of an ex-employee. It contains equal pay rights for work of equal value and provisions for equal pay audits. Reasonable adjustments will be required for people with disabilities and there are provisions restricting the circumstances in which potential employees can be asked questions about disability or health. In addition, compulsory retirement ages will be abolished unless they can be objectively justified.

Enforcement is proposed via an 'Employment and Equality Tribunal' with a maximum compensation limit of £50k.

## Smart HR Solutions Limited

"Offshore HR Consultancy of the Year 2014 – Isle of Man"

"No.1 Offshore HR Consultancy 2014 – Isle of Man"

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T: 01624 619619 / M: 07624 478764 / E: [gail@SmartHR.co.im](mailto:gail@SmartHR.co.im)

[www.SmartHR.co.im](http://www.SmartHR.co.im)

## UK: EMPLOYMENT TRIBUNALS NOW HAVE THE POWER TO ORDER EQUAL PAY AUDITS

From October 2014, UK Employment Tribunals have the power to order companies that lose sex discrimination cases (in relation to contractual or non-contractual pay matters) to carry out equal pay audits. The result of the audit is also required to be published in a format accessible to all affected staff.

**Businesses that are ordered to conduct equal pay audits could also be fined up to £5k by an Employment Tribunal if they fail to adhere to the requirements.**

**An employer will only be able to avoid the publication requirements in cases where there would be no means of avoiding a breach of a legal obligation.**

## UK: NEW NATIONAL MINIMUM WAGE RATES FROM 1 OCT 2014

£6.50ph - Adult rate (age 21 and over)

£5.13ph - Youth development rate (aged between 18 and 20)

£3.79ph - Young workers rate (aged under 18 but above compulsory school age who are not apprentices)

£2.73ph - Apprentices aged 16 to 18 & those aged 19 or over in their first year (all other apprentices entitled to minimum wage)

## IOM: NEW NATIONAL MINIMUM WAGE RATES FROM 1 OCT 2014

£6.65ph - Aged 21 and over

£6.40ph - Aged 18 to 20

£4.67ph - A worker who has attained school leaving age but not 17

£5.24ph - Aged 17 years but not 18

£5.24 - A worker aged 18 or over receiving DED accredited training who is within the first 6 months of employment

## WHAT'S NEW FROM OCTOBER 2014...?

### UK: New rights for fathers and partners to attend antenatal appointments

From 1 October 2014, eligible employees and agency workers (qualifying individuals - see below) have a right to accompany their wives, partners or expectant mothers to antenatal appointments. They will be allowed to take unpaid leave to accompany a pregnant woman to two antenatal appointments – for up to a maximum of 6.5 hours for each appointment and are protected from any detriment due to exercising their statutory right (a dismissal would be automatically unfair).

Qualifying individuals are:

- The baby's father;
- The expectant mother's spouse, her civil partner, or partner (of either sex) in an enduring relationship; or
- Intended parents of a child in a surrogacy arrangement if they expect to be entitled to and intend to apply for a parental order in respect of the child.

Employers can ask the employee for a signed declaration stating the details of the appointment, that they meet the eligibility criteria and that they are taking the time off to attend an antenatal appointment – but will not be entitled to ask to see the antenatal appointment letter or card.

### UK: Changes in respect of Military Reservists

If a military reservist is called up they are paid by the MoD and an employer can claim expenses for additional costs incurred in replacing the individual – up to a maximum of £110 per day.

**From 1 October 2014, SMEs will be able to receive up to £500 per month for each full month a military reservist is absent from work – pro-rated for part-time workers or part months worked.**

In addition, an employee will not need to have 2 years' continuous employment to be able to qualify to make an unfair dismissal claim if the dismissal is connected to the individual's membership of the Reserve Forces – they can make a claim from their first day of employment.

### UK: Future Data Protection change

From 1 December 2014, there are changes to Data Protection legislation. It will be a criminal offence for employers to require prospective employees (or existing employees applying for new roles) to seek and disclose the results of a data access request from the police as a means of checking their criminal records, and e.g. obtaining details of 'spent' convictions or cautions.

The change is being introduced as part of the reforms covering the rehabilitation of offenders. Employers who need to conduct DBS checks can still do so, and there is an exemption to the above if the relevant record is required by law or where it is justified in the public interest. The Information Commissioner's Office will publish guidance in the future.

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## **UK: RULING THAT OFFERING BASIC PATERNITY PAY BUT ENHANCED MATERNITY IS NOT DISCRIMINATION** **Shuter v Ford Motor Co. Ltd**

In this case Mr Shuter worked for Ford who offered maternity leave of up to 52 weeks at full pay. Mr Shuter took 26 weeks' additional paternity leave and was paid statutory paternity pay. He subsequently raised a claim of direct and indirect sex discrimination.

**The Employment Tribunal found that there was no case for direct discrimination as he was treated in the same way as a woman would be who took additional paternity leave.**

**Mr Shuter stated that he was indirectly discriminated against as Ford had a policy of paying women for longer than 20 weeks after the birth of a child and he did not receive that.**

Ford was able to justify their policy (which the ET accepted was indirectly discriminatory) on the basis that it was aimed at recruiting and retaining women within the company and that by providing enhanced maternity benefits this had increased the number of women employed by the company. Ford backed this up with statistics.

**Whilst additional maternity leave will be abolished in the near future, shared parental leave and shared parental pay will be effective from 5 April 2015 so it will remain to be seen whether there are any other future developments in this area.**

**Need help with HR matters – call Gail on 619619 / 478764, email: [gail@SmartHR.co.im](mailto:gail@SmartHR.co.im) or visit our website at [www.SmartHR.co.im](http://www.SmartHR.co.im)**

## **UK: SHARED PARENTAL LEAVE AVAILABLE FROM 5 APRIL 2015**

**A new system of Shared Parental Leave (SPL) and Shared Parental Pay (ShPP) will be available to employees whose babies are expected on or after 5 April 2015, or who are matched with a child for adoption on or after this date.**

A high level summary of the new Shared Parental Leave Regulations is detailed below:

- SPL and Shared Parental Pay (ShPP) to be taken between the baby's birth and 1<sup>st</sup> birthday (or within 1 year of adoption)
- Employee can start SPL if they are eligible and they or their partner end maternity or adoption leave or pay early
- Remaining leave available as Shared Parental Leave
- Remaining weeks of pay will be available as Shared Parental Pay
- Employee can share leave with their partner if they are also eligible for SPL and choose how much leave each will take
- The employee has the right to take SPL in 3 separate blocks
- Mother must take a minimum of 2 weeks' maternity leave
- Employee to provide their employer with 8 weeks' notice to take SPL
- To qualify for SPL the employee must share the care of the child with either - their husband, wife, civil partner or joint adopter; the child's other parent; their partner (if they live with employee and child)
- Employee or partner must be eligible for maternity pay or leave or maternity allowance or adoption pay or leave
- The employee must have been employed continuously for at least 26 weeks by the end of the 15<sup>th</sup> week before the due date (or by the date matched with their adopted child) and be employed by the same employer whilst they take SPL
- Partner's eligibility – during the 66 weeks before the baby is due they must have worked at least 26 weeks (these do not have to be continuous) and earned at least £30 a week on average in 13 of the 66 weeks
- As well as being able to take up to 10 'Keeping In Touch' (KIT) Days (e.g. as an employee could during maternity leave or adoption leave), they can also take up to 20 'Shared Paternity Leave In Touch' (SPLIT) days without it affecting their right to Shared Parental Pay

**If you need assistance in drafting a Shared Parental Leave Policy and Procedure, please contact SmartHR.**

## UK: ACAS Guidance on Dress Codes

ACAS has published guidance on dress codes, including tattoos and body piercings, and religious dress. It can be found at: <http://www.acas.org.uk/dresscode>

## UK: Capability Dismissal after 6 weeks' suspension was unfair – NHS Fife Health Board v Stockman

In this case, Stockman was convicted of driving whilst under the influence of alcohol. His registration with the General Medical Council was suspended on an interim basis for 18 months. He was signed off work as unfit whilst he underwent treatment for alcoholism. His employer said he would have to be dismissed due to capability grounds if he could not be redeployed. Stockman was subsequently dismissed after a period of suspension. He appealed internally but this was not upheld. The matter progressed to the Employment Appeal Tribunal who upheld the ET's decision that the employer had applied its policy in such a way as to make its decision to dismiss inevitable, it did not conduct a reasonable investigation or obtain an up-to-date medical report to consider what actions would be reasonable under the circumstances. The EAT considered the employer had not acted fairly in all the circumstances and that Stockman's dismissal was unfair. ***This case shows the importance of gaining up-to-date medical opinions / reports to aid decision-making before taking a decision to dismiss.***



**Are you complying with employment legislation?**

**Have you reviewed your employment contracts and HR policies recently?**

**Would your business benefit from HR expertise?**

**Do you need HR support on a flexible basis?**

SmartHR can provide onsite and offsite HR outsourcing support on an interim or longer-term basis to deal with day-to-day HR management matters, restructuring, HR projects etc.

Contact Gail on **478764 / 619619**

email **[gail@SmartHR.co.im](mailto:gail@SmartHR.co.im)**

or visit our website and view our testimonials at:  
**[www.SmartHR.co.im](http://www.SmartHR.co.im)**

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

- **Essential HR for Line Managers**
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- **Effective Appraisals & Objective Setting**
- **Managing Performance**
- **Negotiating & Influencing**
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- **Managing Performance Problems**
- **Managing Discipline & Grievances**
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- **Effective Time Management**
- **Delegation Skills**
- **Managing Stress**
- **Customer Care, Telephone & Time Management Techniques**
- **Train The Trainer**

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