

# hasslefree Human Resources & Health and Safety



hasslefree 

Do you employ staff?

## September Employment Law Update

### Preparing for Brexit

On the first day of the month a new “Get Ready for Brexit” advertising campaign was launched; with the purpose of informing business owners and the general public of the steps they need to take to be “ready” for Brexit by 31<sup>st</sup> October 2019 (although there are parliamentary discussions that the Brexit deadline **may** now be moved to January 2020). The Government has created a helpful tool that asks employers questions about their business, to help provide information on the steps they need to take to ensure they are fully prepared for when we leave the European Union. This service can be found via [www.gov.uk/brexit](http://www.gov.uk/brexit). We will endeavour to inform you of any additional Brexit news that impacts employment law if / when it becomes available.

### “The Sexual Harassment at Work Legal Advice Line”

You may have heard recently about the free new service that has been put in place in England and Wales to support those who perceive themselves to be the victim of sexual harassment in the workplace. The helpline is provided by the charity Rights of Women and has been funded by the campaign group Time’s Up, the charity Rosa, and donations from members of the public as well as celebrities. Actress and Activist Emma Watson has been notably involved with support for and the introduction of this helpline.

The purpose of the helpline is to:

- Helps users to identify sexual harassment within the workplace
- Help users understand what their rights are
- Help users to make informed decisions should they want to take action
- Empower users to exercise their legal rights

The helpline is currently operated by a small team that ensures there are always two female lawyers available to respond to queries, however it is hoped that this service will expand in the future.

This service is the first of its kind within the UK and it is hoped that it will help people to feel safer and more confident within the workplace. Actress and Activist Emma Watson has worked with Time's Up to push for this service since 2016 research from the Trades Union Congress and the Everyday Sexism Project showed that 52% of women have experienced sexual harassment within the workplace.

Employers are encouraged to make their employees aware of the helpline and how to use it. The helpline can be accessed via 02074900152.

### **Some Employees Still Not Receiving the Correct Holiday Entitlement**

A recent report by the Trades Union Congress has found that approximately two million UK employees are not receiving their minimal legal entitlement to paid annual leave. The same research has also shown that approximately one million UK employees are not in receipt of any paid leave from work at all. The Working Time Regulations 1998 state that all UK workers are entitled to a minimum of 5.6 weeks (or 28 days) of paid leave each year. The purpose of this leave is to ensure the health and safety of all workers, as it helps to ensure that people get adequate rest periods away from work every year.

The two million employees affected amounts to 7% of all UK employees, however when we look at these statistics more closely, we can see that 8.3% of women surveyed were affected as opposed to 5.9% of men, so there is a noticeable difference between genders. The report has identified the following causes of employees not receiving their full holiday entitlement:

- Unnecessary pressure to remain at work so they can be viewed as "hard working" employees
- Unrealistic workloads, which results in people feeling unable to take time off
- 50% of people surveyed claimed to be made to feel guilty or uncomfortable for requesting time away from the workplace
- Employers not fully understanding what annual leave entitlement should be offered, or how to calculate the pay employees should receive

The research has also shown the most affected industries are Education, Retail and the Health and Social Care services.

Employers should ensure they are aware of what leave and pay their employees are entitled to. Whilst employees are responsible for requesting their leave, they do need to be given sufficient opportunity to take any annual leave. A written policy is not always enough, the communication needs to be clear so employees can be fully aware of their rights and what they are entitled to. Whilst there are steps employers can take to prevent employees taking annual leave in the busiest time of the year, this needs to be clearly stated and communicated as early as possible, and employees need to be encouraged to use their annual leave, not discouraged from doing so. A failure to give employees adequate opportunity to use their annual leave could lead to an employee raising a claim for "failure to provide statutory entitlements" in an Employment Tribunal.

Finally, as well as providing the correct amount of annual leave, employers need to ensure they are paying employees the correct amount. Holiday pay should be calculated on “regular earnings”, so regular overtime or regular commission / bonus payments should be taken into consideration. When calculating regular earnings, employers should use the average amount earned over the last 12 weeks.

### How Can We Help?

If you have any queries relating to any of the above, please don't hesitate to contact us at [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk)