



This Week in Employment Law

New 'fire and re-hire' Code of Practice on the way

Following the government's promise to tackle the use of 'fire and re-hire' practices after the controversial P&O Ferries situation, a new statutory Code of Practice is set to be introduced that will provide practical guidance for employers and promote fairness in dismissal and re-engagement procedures.

- Dismissal and re-engagement, also known as 'fire and re-hire', refers to when an employer terminates an employee's contract of employment and then offers them a new contract on new, often less favourable, terms.
- A consultation on a draft statutory Code that sets out employers' responsibilities when seeking to change employment terms and conditions ran from 24 January to 18 April 2023.
- The government has now published its response to the 50 replies it received to that consultation together with an updated draft statutory Code on dismissal and re-engagement.
- This has been laid in Parliament for approval by both Houses and, subject to that approval, it will be brought into effect later in the summer.
- The Code emphasises the importance of early and meaningful consultation, with a view to reaching an agreed outcome with employees or their representatives. Dismissal and re-engagement should only be used as a last resort.
- Employment tribunals will have the power to apply an uplift of up to 25% of an employee's compensation if an employer unreasonably fails to comply with the Code.

HR implications of this leap year

With 2024 being a leap year, this means that February is 29 days long, and the year becomes 366 days long, but how does this affect employers? Workers may ask if they get paid for an extra day in a leap year. However, this will depend on their pay structure. For example, hourly paid workers who are paid monthly will be owed an extra day's pay because they have worked an extra day. However, hourly paid workers who are paid weekly will not be entitled to extra pay because the number of days in the week (being their pay reference period) has not changed.

Did you know?

Employers should consider how the leap day on 29 February 2024 will impact their business operations and ensure that this is communicated to employees.

Record high number of long-term sick, according to figures

The February 2024 Labour Market Overview, published by the Office for National Statistics (ONS), shows that those inactive because they were long-term sick remains at historically high levels. The latest figures, available on the ONS website, reveal that the UK claimant count for January 2024 increased by 14,100 on the month and by 61,200 on the year to 1.579 million. Utilising key resources such as occupational health and Employee Assistance Programmes (EAP) can help to keep employees in work and reduce the risk of those with long-term health conditions from leaving the business.

Did you know?

The Croner Advice Service can help organisations to proactively manage long-term sickness absences and facilitate the employee's return to work.

Claimant with anti-tobacco beliefs to proceed to hearing

A claimant who holds anti-tobacco beliefs has been allowed to progress his harassment claim to a full hearing. The claimant believes that when he asserted this belief and was subjected to an investigation into that conduct after student complaints, this was unfair. The tribunal could not say that the claimant has no reasonable prospects of success in either establishing that he made a protected disclosure, establishing that he has a protected philosophical belief or in establishing causation between either of those matters and the alleged detriments.

Did you know?

We await to see whether the tribunal finds that the Claimant's beliefs are protected as a philosophical belief in this case. (McCambridge v University of York).

Considering making changes to employees' terms and conditions of employment? Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 hour advice service for advice on your specific situation before acting on the information in this publication.