

Working smarter, not harder



4 DAY WEEK

5 DAY WEEK

Could your business operate as successfully or even more so, by adopting a four day working week?

Around 70 businesses in the UK with a combined workforce of about 3,000 are currently taking part in the world's largest working hours' pilot scheme over the next six months. Workers will work a four day week but receive the same amount of pay as they do for working five days.

The experiment is part of a worldwide project being managed by academics from Oxford and Cambridge Universities and experts at Boston College in the US, in partnership with the think tank Autonomy. Similar trials are running in Ireland, the US, Canada, Australia and New Zealand.

The theory behind the trial is that many workplaces, especially white collar workplaces have a lot of activity taking place which isn't productive and this can be reduced or eliminated without harming the output of the business. In fact, it might just increase it.

Working weeks have changed over the last couple of centuries. It was mill and factory owners in the UK who first introduced a half day on a Saturday to help deal with Monday absenteeism due to 24 hours of 'partying' on the only non-work day of the week, a Sunday.

And a mill owner in the US first introduced a full two day weekend at the turn of the 19th century, to allow Jewish workers to observe the Sabbath. But we can thank car maker Henry Ford for making the five day working week and two day weekend for staff as we know it now, along with a 40-hour week as early as 1926. This was officially adopted by the US Government in 1932 and a similar time here in the UK.

Whilst a four day working week might not suit every profession, especially those such as healthcare or teaching where they are already short staffed, in the longer term it is expected there will be lower sickness rates, fewer staff leaving and it will make businesses that offer greater flexibility more attractive to work for.

Businesses could consider adopting a four day week by allowing staff to choose which of the five days they work, so that their business doesn't come to a complete standstill. Whilst

others might all want to work the same days to avoid the need to contact people trying to take a day off.

Before embarking on such a big change, it is recommended that employers consult with their employees to find out their views about it, whether it is something they would be interested in trialling and what outcomes would be needed to determine success and make it a permanent arrangement.

Employment contracts, employee handbooks and other documents and procedures will need to be reviewed and updated.

Once clearly communicated to all staff, managers should also receive training to ensure they are familiar with the new procedures and in particular how to handle any issues they might have with staff performance and productivity.

Getting into a pattern is important to make such a big change successful in any business and there are bound to be teething troubles. If you are considering a change in the way your team works and would like legal advice, please get in touch today.



Employing younger workers

With it getting harder for many businesses to fill temporary and seasonal roles, some employers might be considering employing younger people in the workplace to fill the shortfall.

It is possible to employ workers in the UK from the age of 13 where limits on working time, work during term time and enhanced health & safety duties are observed along with any additional restrictions imposed by the local authority.

However, a employment tribunal ruling in 2021 found in favour of one of the youngest successful claimants, after the judge in the case refused to accept the manager's evidence that she was unable to cope with the 'severity' of the job.

Miss Cassidy, a 14 year old schoolgirl was fired from her Saturday job at the Daimler Foundation's café. Miss Cassidy was aged 14 when she was interviewed for the position of part-time waitress and she provided her age when applying for the role online. Following her appointment, she also filled in a form which included her date of birth.

On her first day at work, she was told it would be a trial and she was shown how to use the till, wait on and clean tables, work the till and loading the dishwasher. The front of house manager Mr Easy commented at the end of her shift that he was 'pleased with her work'.

Miss Cassidy understood she had passed her trial period and would be working on Saturday's between 10am and 2pm with the potential for extra shifts if needed. However, on her second day of work, Miss Cassidy was approached by the owner's partner whilst taking an order at the till

and was told she shouldn't be on the till. Later that day Miss Cassidy and another member of staff were told by Mr Easy they could leave as it wasn't too busy. Miss Cassidy cleaned cutlery while she waited to be collected.

A few days later Miss Cassidy received a call from Mr Easy who said he enjoyed working with her but she could not continue working at the café. He informed her she 'was too young for health and safety reasons' to work there and he also assured her she hadn't 'done anything wrong'.

The tribunal didn't accept Mr Easy's account of events and concluded that Miss Cassidy had established a prima facie case and on first impression age was 'at least a factor' in the decision to end her employment. The Judge said Mr Easy gave evidence which indicated he was 'not enamoured of employing staff as young as (Miss Cassidy) and that her age was a factor in ending employment for the claimant'.

The judge also noted the case was 'unusual' given the claimant's age and the short duration of her employment.

Miss Cassidy was awarded just under £3,000 for injury to feeling and direct discrimination with an additional interest of £300.

Direct age discrimination (unlike other protected characteristics) can be justified if an employer can show its treatment of the employee was a proportionate way of achieving a legitimate aim. In this case however the employer failed to submit a justification defence.

Employing younger workers might be a different experience for many businesses, so it is important to make sure you get it right and that management are trained on how to approach and deal with working with younger workers.

Summer holiday woes and employees stranded overseas



Whilst the world has post Covid opened for travel, it is taking airlines and airport operators much longer than expected to catch up with the surge in demand. As we have seen recently over the half term break, many people have been left stranded overseas due to flight cancellations and delays and this looks likely to continue throughout the summer months. So how do you deal with this issue if your employees are caught up in it and late from returning from holiday leave?

If an employee doesn't turn up for work as expected it could mean they are absent without leave and therefore not entitled to pay. The employee could take the time as additional holiday so they don't miss out on pay (if they have not used all of their holiday entitlement for the year) or they could take it as unpaid leave, as long as both the employer and the employee agree to this. The employee is also unlikely to be able to work productively remotely unless they are properly equipped so employers might want to discourage this option.

Business owners are therefore advised to communicate to all staff what their procedures are in the event that they are caught up in travel disruption and the responsibilities of the employee, which could include calling or emailing with details about any activities, meetings or events they are missing to allow for other employees to be deployed to take their place.

In addition to the options of paid and unpaid leave a business could consider offering employees the opportunity to make up the time lost over the following weeks.

If the employer is approaching a crucial time and it is concerned about the absence of employees then it could also consider warning against foreign travel and the consequences for the employee if they go against this advice.

It is worth noting that employees are likely to feel stressed and anxious if they find themselves in this situation, but following well-documented procedures and taking a fair and equal approach is essential.

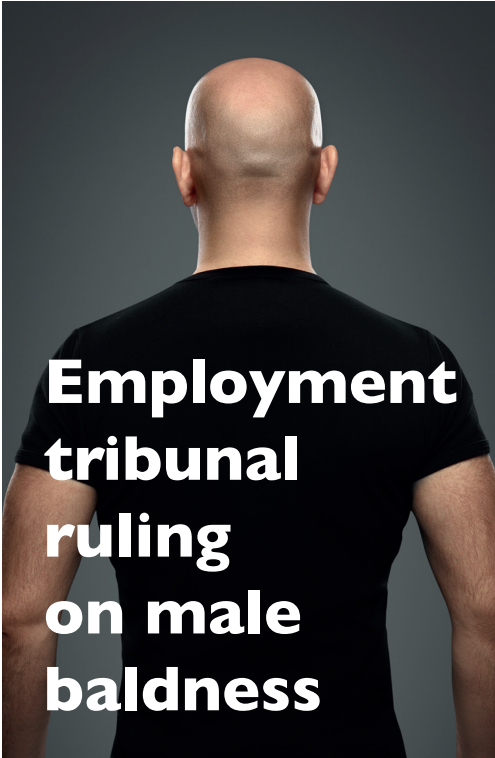
An employment tribunal has recently ruled that it is sex-related harassment to call a man bald, as hair loss is more prevalent among men than women, therefore using it to describe someone is a form of sex-related harassment.

The case was successfully brought by Tony Finn who had worked for a Yorkshire based company for nearly 24 years before he was fired. Mr Finn claimed among other things that he had been a victim of sex-related harassment after an incident where the factory supervisor referred to him as bald followed by a swearword.

The tribunal considered several issues including whether remarking on Mr Finn's baldness was simply insulting or if it was actual harassment and found: "We have little doubt that being referred to in this manner was unwanted conduct as far as (Mr Finn) was concerned. Although we find industrial language was commonplace on this West Yorkshire factory floor, in our judgement Mr King crossed the line by making remarks personal to the claimant about his appearance." Mr Finn had not actually complained about the swearing but was upset about being called bald.

It went on to say: "It is difficult to conclude other than Mr King (the supervisor) uttered those words with the purpose of violating (Mr Finn's) dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for him. Of his own admission, Mr King's intention was to threaten (Mr Finn) and to insult him. In our judgement there is a connection between the word bald on the one hand and the protected characteristic of sex on the other."

This is a ruling that business owners should take note of, as while comments about male baldness may be commonplace in 'workplace banter', the tribunal has found it is 'inherently related to sex'. It wouldn't be tolerated for example to comment on female attributes in a similar way. This conduct was found to be a violation of the claimant's dignity, which created an intimidating environment for him. At the time of writing compensation is yet to be awarded for the claim.



**Employment
tribunal
ruling
on male
baldness**



Calling time on drinking in the workplace

The issue of drinking in the workplace has been in the media spotlight for much of this year following the 'partygate scandal' and the subsequent publication of the Sue Gray report on the activities that took place in Downing Street during the pandemic. It also highlights how for some, drinking is normalised either in the workplace or during working hours.

Drinking in the workplace isn't against the law, however employers also need to be aware of their obligations under sections 2, 3 and 4 of the Health and Safety at Work Act 1974. If employers knowingly allow an employee under the influence of alcohol (or drugs) to continue working and this places the employee or others at risk, they could be liable to charges.

The cost to businesses from employees drinking is well publicised with increased work absences and reduced productivity. The physical toll on employees is also considerable and alcohol abuse is a leading cause of disability, ill health, and death in the UK.

The pandemic has also made it easier for many employees to drink while working from home and if employers haven't yet reviewed and addressed this issue then now is a good time, especially as hybrid working arrangements continue for many.

It is certainly going to be harder for managers to detect if employees are drinking whilst on the job if they are

meeting them less frequently face to face. There should be signs to look out for and reviewing employment policies and improved training might be needed to help them to deal with it. It might also be sensible to provide workplace counselling and support networks for employees who might be concerned about their own alcohol use before it becomes a disciplinary issue.

Options for employers are to review and update employment policies to ban the consumption of alcohol during working hours (including breaks) and this applies to those working in the workplace as well as those working from home. This needs to be clear if it applies to all employees or to possibly exclude some roles where employees might be entertaining clients for legitimate business reasons, as long as it doesn't affect their ability to work.

If hosting a work event where alcohol is available, those responsible for it should place sensible limits on the amount available and also make sure no and low alcohol drinks are available.

Whatever approach you take your employee handbook should be very clear in stating what the consequences are for any employee who reports for work when they are under the influence of alcohol or suspected to be under the influence of it and the disciplinary process that will follow.

It is always better to consider these issues regularly, so taking time to review and update your employment policies is sensible and we can provide advice and support on the best way to approach this.

Quick reference section

Statutory minimum notice periods:

An employer must give at least:

- One week's notice to an employee who has been employed for one month or more, but less than two years.
- One week's notice for each complete year of service for those employed for more than two years.
- Once an employee has more than 12 year's service, the notice period does not extend beyond 12 weeks.

National Minimum Wage

April 2022

Apprentices	£4.81
16-17	£4.81
18-20	£6.83
21-22	£9.18
National living wage	£9.50

Statutory Sick Pay (from April 2022)

Per week £99.35

Statutory Shared Parental/Maternity/Paternity/Adoption Pay

(basic rate) (from April 2022) £156.66

Statutory Holiday

5.6 weeks for a full time employee. This can include bank and public holidays.

Redundancy Calculation

- 0.5 week's pay for each full year of service when age is less than 22.
- 1 week's pay for each full year of service where age during year is 22 or above, but less than 41.
- 1.5 week's pay for each full year of service where age during year is 41 and over.

Calculation is capped at 20 years. Maximum week's pay is capped under the Statutory Scheme for dismissals after 6th April 2022 at £571.00.



CONTACT

If you would like any additional information on any of the subjects discussed in this newsletter please do not hesitate to contact us.



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