



February 2017 Employment Newsletter

Welcome to the latest edition in which we hope you will find something to interest both you and your business. If there is anything in particular you would like to know more about in a future issue, do let the employment team know.

National Minimum Wage Change

On 1st April 2017 the rates for the National Minimum Wage and the National Living Wage change as follows:

Year	25 and over	21 to 24	18 to 20	Under 18	Apprentice
Oct 2016 (current rate)	£7.20	£6.95	£5.55	£4.00	£3.40
April 2017	£7.50	£7.05	£5.60	£4.05	£3.50

How to manage an employee's departure – some simple steps

- Be prepared — people leave their jobs for a variety of reasons and it is vital you have a policy in place when it happens.
- Determine which day they will actually finish — will they be working their full notice period or taking any remaining paid holiday?
- Work out what projects can reasonably be finished within their notice period and ensure that they are managing them effectively.
- Consider asking them to sign a confidentiality agreement to protect your data when they leave.
- Secure your IT — ensure that access to your systems is suspended and all relevant passwords are changed.
- Reassign work to your existing team until a replacement can be found.
- Ensure the departing employee writes a thorough handover document detailing each of their tasks and including any key contacts.

- Work out the final salary as your employee may be entitled to additional pay for untaken holiday, bonus payments or statutory sick pay.
- Hold an exit interview asking for their honest feedback on their reasons for leaving.
- Ensure any reference you provide is honest, accurate and fair.
- A valued employee's leaving can be stressful, but try to end their employment on good terms — many companies throw a party or buy gifts to say goodbye.

Cardinal Rules

Do:

- conduct an exit interview
- pay your leaving employee any outstanding salary
- provide a reference if requested

Don't:

- forget to change IT passwords
- expect your employee to manage the handover alone

Does being self-employed make for more happiness?

The UK self-employed work fewer hours, earn above average incomes and are generally happier than salaried workers according to a new study.

The Definitive Study of the Self-Employed, commissioned by Intuit Quickbooks, polled over 5,000 self-employed people in the UK and found that they make £33,623 in average annual revenues - £5,000 more than the average UK salary.

In addition, the findings show that self-employed workers work ten hours fewer than the average full-time employee. Of those who have been a salaried worker, 66% say they are financially better off or the same now that they are self-employed; and 65% feel better off in terms of "life satisfaction".

The number of self-employed workers grew to 4.77 million in January 2017; that means that 15% of the UK workforce is now self-employed. The research reveals that one age group is doing especially well in self-employment; the over-65s have annual revenues of £40,000 and work 21 hours a week.

Money and time are not the only benefits of being self-employed. Other key benefits highlighted by respondents are: control of schedule (77%), more flexibility to work on your own terms (68%), being your own boss (65%) and the lack of workplace politics (47%).

Dominic Allon, vice president and managing director, Intuit Europe, said: "People are becoming self-employed in droves. The financial rewards, extra time available and better quality of life are the headline benefits of a career and lifestyle choice that is changing the face of the UK's workforce. With more and more opportunities becoming available, all enabled by better tech and infrastructure, it's a trend we expect to increase at pace."

However, the research also revealed some of the pain points involved in going it alone including: not having a predictable income (58%), uncertainty about the future (44%) and the difficulty of managing a work-life balance (23%).

Can Gross Negligence constitute Gross Misconduct?

Yes, held the Court of Appeal in *Adesokan v Sainsbury's Supermarkets Ltd.*

The Claimant was a Regional Manager who became aware that a HR Manager had issued an email which attempted to interfere in and subvert an important management consultation exercise. Despite being aware of this email the Claimant did nothing to get it withdrawn or to remedy the situation. In a disciplinary hearing it was decided that his inaction demonstrated gross negligence which was "tantamount to Gross Misconduct" and he was therefore dismissed.

He sued for breach of contract.

The High Court held that even though the inaction of the Claimant was not deliberate his negligence was so serious that it resulted in a "loss of trust and confidence" sufficient to justify dismissal. The Court of Appeal agreed that any decision on what amounted to gross misconduct turned on the specific facts of the case. Even though courts should not easily find that a mere failure to act amounted to gross misconduct, on the facts of this case the senior position the Claimant had in the Company justified the dismissal.

111 former BHS staff sue administrators over redundancy procedures

111 former BHS workers have started proceedings against the retailer's administrators, Duff & Phelps, for their alleged failure to consult staff prior to making redundancies. Acting on behalf of the claimants, JWK Solicitors have suggested that the administrators failed to

comply with their duties, by failing to collectively consult staff under the Trade Union and Labour Relations (Consolidation) Act 1992 before BHS ceased trading in August 2016.

If successful at an employment tribunal, the retailer and the government could be ordered to pay up to 90 days' wages worth between £500,000 and £1m.

A spokesperson for Duff & Phelps has said "There are clear exemptions under insolvency legislation for redundancy consultation in insolvent companies, Duff & Phelps acts completely in line with this legislation when making redundancies in administration cases".

We hope this newsletter has been helpful and gives you peace of mind with practical advice. Please contact Michelle Morgan on m.morgan@gardner-leader.co.uk with any questions or feedback. [Click here](#) for information on the employment team.