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Inner Peace...

If you can start the day without caffeine or chocolate,
 If you can always be cheerful, ignoring aches and pains,
 If you can resist complaining and boring people with your troubles,
 If you can eat the same food every day and be grateful for it,
 If you can understand when your loved ones are too busy to give you any time,
 If you can take criticism and blame without resentment,
 If you can conquer tension without medical help,
 If you can relax without alcohol,
 If you can sleep without the aid of drugs....



Then you are probably.... the family dog! (and you thought I was going to get all spiritual!!)

Terry, Minnie and I would like to wish you a *Merry Christmas & Happy New Year*. Thank you for your continued support in 2011 and we look forward to working with you in 2012.

We will be closing down on Thursday 22nd December and reopening on Wednesday 28th December. If you have a desperate emergency on 23rd December please ring 07720135343 and I will do my best to guide you through it.

Jubilee Bank Holiday June 2012

It's the Queen's Diamond Jubilee next year and this will affect the Bank Holidays again. The late Spring Bank Holiday normally taken on the last weekend in May has been moved to Monday 4th June 2012. An extra Bank Holiday will fall on Tuesday 5th June 2012.

It will depend on your contract of employment as to whether you will have to give this as an extra day's holiday. **If you are in any doubt – give us a call on 01202 848129.**

Are They An Employee?

We get lots of calls about people you want to work for you but you don't want them to be an employee. You want them to be self employed. This year yet another case in the tribunal blew through sham situations. The case involved car valeters. The courts took the view that what happens in reality outweighs any sham self employed contract terms.



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If you can answer yes to the following questions the person you wish to work for you will be an employee:

1. Do they have to do the work themselves rather than sending someone else to do it for them?
2. Can you tell them at any time what to do or when and how to do it?
3. Are they paid by the hour, week or month?
4. Do you pay them overtime?
5. Do they work set hours, or a given number of hours a week or month as instructed by you or your workflow?
6. Do they work at your premises or at a place you decide?
7. Do they use your equipment, tools etc?

Employment Tribunal Changes

We can never take away the risk of an employment tribunal claim from a disgruntled employee. Thankfully, things are changing to hopefully reduce the number of vexatious claims made. This year a tribunal awarded £100,000 costs to an employer who considered he had been subjected to a 'litany of lies'. The employee's case was branded by the tribunal as a 'waste of time'.

Tip: If an employee threatens you with a claim, or you receive one, consider putting them on notice that you reserve the right to seek a tribunal costs order if you win the case.

Tribunal Fees

The Government has confirmed that fees will be introduced for making claims to employment tribunals with effect from April 2013. There will be consultation over the exact amounts of the fees and the payment arrangements. It has been suggested that there will be an initial fee of £250 charged for lodging a claim, then a further £1000 to pay if the case proceeds to a hearing. Another option is to charge more to claimants who are seeking an award of £30,000 or above. If the claimant succeeds in his or her claim, the money will be refunded, but if he or she loses, it will be forfeited.

It is proposed that no fees will be charged on claimants who cannot afford to pay; if this part of the proposal is carried through to implementation it would mean that those recently dismissed (and who have not secured new employment) would in all likelihood be exempted from paying.

Unfair Dismissal

As from April 2012, the qualifying period of service required for unfair dismissal claims will rise from one year to two years. The increased period will apply in respect of employees dismissed on or after 6 April 2012.

Discrimination claims do not require any minimum period of qualifying service and there is no proposal to change this.

Social Networking

Technology and social networking has grown dramatically over the past few years. It is estimated that 90% of employers don't have a policy to deal with it. The problems include:

- Employees posting derogatory comments about colleagues, customers, the company in the public domain
- updating comments in 'real time' as they work
- breaching confidentiality particularly if they upload photos of colleagues and adding name tags without prior permission
- surfing the internet and auction sites during work time.

Action Point: *If we haven't developed a policy with you as yet- get in touch with us on 01202 848129 or email joy@jcv-consulting.co.uk.*

Family Friendly Legislation – The Future?

Here at JCV Consulting we like to keep our finger on the pulse. This autumn we have attended a seminar about the future of flexible working. There is no doubt that the social demand for more flexibility in the workplace is growing. Men increasingly want to take a greater role in the care of their children and those without children are saying – and what about us? The following proposals are being discussed and considered:

- to extend the right to request flexible working to all employees not just those with children or caring responsibilities.
- Shared parental leave whereby both parents could be away from work concurrently
- Right for fathers to take time off for antenatal classes.

O2 are currently piloting a 'working families contract'. This allows groups of working parents to decide between them how they will cover shifts over a month. They have total flexibility so they can factor in school runs, holidays and family emergencies. It will be interesting to see how successful it is.

Additionally, the EU are proposing giving:

- new mothers the automatic right to work part time for a full year after having a baby
- all mothers returning to work full time the right to take up to 2 hours per day for one child and an extra half hour for a second to breastfeed.

Whether any of these proposals are practical, affordable and will be adopted remains to be seen. We will keep you posted.





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Sickness Absence and Accrued Holiday

As we have advised previously the European courts ruled that workers on long term sick leave can carry over their statutory holiday and take it when they return to work. They never confirmed if this right expired. The Advocate General has said that it can. Her opinion was that 18 months should be used as a “guideline” and that a period of 6 months would be insufficient. As a result the Government has proposed amending the Working Time Regulations to allow the carry-over of holiday for workers on long-term sick leave.

Now a more recent decision of the ECJ has said that employers have the option of limiting the period for which a worker on long-term sick leave can carry-over their accrued holiday entitlement. In this case, the ECJ held that the Directive does not require that workers on long-term sick leave retain a year's holiday entitlement (or, indeed, a right to a payment in lieu on termination in respect of such entitlement) indefinitely. The ECJ considered that there must come a time when one of the purposes of the leave (to give the employee a break from work) can no longer be met. The ECJ therefore decided in this case that it was lawful under the Directive to time-limit the carry-over of holiday in cases of sickness to 15 months after the end of the relevant leave year.

☞ **Action Point:** We will keep you posted about what happens next.

Health & Safety News

Yuk!

Swabs taken from 300 desks revealed that staphylococcus and micrococcus bacteria were present on every one. Mould and urine were also discovered on several computer keyboards. The main source of all these 'nasties' - employees eating and drinking at their desks and not following basic hygiene rules.

According to Wikipedia Staphylococcal toxins are a common cause of food poisoning, as it can grow in improperly-stored food items. Micrococcus likes to attack weak immune systems.

Perhaps a New Year health resolution for us all – let's stop eating and drinking at our desks. Now, where's my anti-bacterial spray?

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