EMPLOYMENT LAWYER

LEGAL COMMENTATOR

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Making sense of employment law

Holidays: A guide for employers

Minimum holiday entitlement

Workers are generally entitled to paid statutory minimum holiday, which is 5.6 weeks' annual leave. This is equivalent to 28 days for people who work five days a week. Part-time workers are entitled to 28 days' holiday reduced pro rata, depending on the number of days they work each week.

The entitlement includes bank and public holidays, and there is no specific right to time off on these days.

A worker must give notice if they wish to take statutory leave. And the notice must be at least twice as long as the length of holiday that they are requesting. So if the worker plans to take ten days' holiday, they would have to give at least twenty days' notice. However, employers may refuse the holiday request provided they give appropriate notice themselves. They must give at least as many calendar days before the start of the leave as the number of days they are refusing. Usually the minimum statutory holiday must be used up in the same leave year, though there are some exceptions. For example, employees on maternity leave or long-term sickness absence can carry over unused holiday to the next year.

Contractual holiday entitlement

Employers frequently give their staff more holiday than the minimum leave required. The holiday entitlement and the rules will usually be set out in the employment contract /staff handbook.

When dealing with holiday requests, there are no specific statutory requirements on how employers should prioritise them. Many businesses though have a policy or unwritten leave etiquette, and requests are often handled on a "first come, first served basis".

Holiday pay

Following EU law and recent cases, the first four weeks of any statutory annual leave each year must be calculated on the basis of normal remuneration which should include:

- Contractual commission payments
- Productivity, performance and incentive bonuses
- Overtime (including voluntary overtime where there is a settled and regular pattern)
- Shift allowances, premiums and travel allowances
- Standby payments

Under UK law, there are rules for calculating statutory holiday pay - which depend on whether the worker is: a) working normal working hours which do not vary b) working normal working hours which do vary or c) not working normal hours.

These requirements do not apply to contractual holiday over and above statutory minimum holiday though having different calculations could cause administrative challenges.

The law on holiday entitlement and holiday pay is notoriously complicated, and has been in a state of flux for some time. There are plenty of other matters to grapple with too, and if you are in any doubt you should obtain specific legal advice.

This guide is intended for guidance only and should not be relied upon for specific advice.
The law is also subject to frequent change. © Matt Gingell 2017

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