

Employment Law Discussion Summary

Four themes ran all through the discussion on employment law. They were:-

1. The DTI's own survey in 2004 showed that people preferred to work for small firms as they were respected as individuals.
2. Laws and regulations burden the law abiding business owner. The cowboys still don't take any notice.
3. Employers are increasingly being held to account for the activities of their staff, but staff escape responsibility.
4. Changes in holiday rules and National Minimum Wage (NMW) are increasing the costs of those sectors least able to bear them, namely retail and the care industry.

The DTI's own survey in 2004 showed that people preferred to work for small firms as they were respected as individuals. One of the reasons for this is that employees find small firms more flexible over meeting their caring needs than large firms (72% compared with 54% in large firms). Despite this, Government included small businesses in the flexible working laws and these have been expanded to include carers.

The latest suggestion is that parents be given time off to look after sick children. Members' concern arose from 2 aspects; another rule to find out about and understand and the extra uncertainty this will cause in running their business. As one member put it 'At the end of the day I have a business to run and I need my staff to be at work when they are supposed to be here.'

Laws and regulations burden the law abiding business owner. The cowboys still don't take any notice. Some members were able to quote the impact some rules had on their businesses. The increase in NMW forced one member to make some staff redundant. Even with the help of the 'superb service from the FSB Legal Advice Line', it still took some 4 hours a week for 2 months of the member's time. The increasing burden of running the payroll is forcing many small businesses to outsource this. Good business for accountants, but an extra cost for the business.

The new cloud on the regulatory skyline is the issue of taking breaks and the working time directive. Members were asked to comment on the UK's court defeat over its current advice on taking breaks. At the moment, it states that businesses should enable employees to take breaks. The Court did not think that was sufficient! Members were aghast, wondering how such a proposal would or could be enforced when staff themselves preferred to 'work through'. Naturally this led to the third theme.

Employers are increasingly being held to account for the activities of their staff, but staff escape responsibility. While this arose over the question of breaks and their enforcement, it has impacted members on Health and Safety matters. A member was prosecuted because a staff member permitted another member of staff to operate a machine for which he was not only not trained for but actually under the legal age to operate. The member of staff giving permission knew the situation. The staff member was not prosecuted. Where an employee is at fault, Government must make them at least as liable as the employer.

Changes in holiday rules and NMW are increasing the costs of those sectors least able to bear them, namely retail and the care industry. Bank holidays are to be excluded from the

20 days holiday a year businesses are legally required to give their staff. Effectively this is a 40% increase in the legal holiday requirement and will put wage costs up by over 3%.

The NMW has been increased by more than the rate of inflation each year since it started. While low wages can undermine good businesses through unfair competition, the FSB is now finding that whole industry sectors and significant parts of the country are feeling the pressure. Those most affected are retail and the care industry. Significantly, one reason why the care industry is so badly affected is because local councils will not increase fees by more than the rate of inflation and the government has outlawed parents 'topping up' payments to nurseries.

The SW FSB welcomes the restriction of the next NMW increase to the rate of inflation, but calls on the Government and local authorities to pay the proper price for private sector services, a price which will allow legal requirements to be met.

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3rd May 2007