

Employment Update

This month we will look at further details published by the government on the increase in the qualifying period for unfair dismissal claims and guidance from ACAS on the Olympics.

Unfair dismissal qualifying period

As expected, subject to parliamentary approval, the new two-year qualifying period will only apply to those employees whose employment starts on or after 6 April 2012. This mirrors the approach taken by the Conservative government in 1985 when they last raised the qualifying period.

This means that an employee who starts work on 5 April will gain unfair dismissal rights the following April, but those who start on or after 6 April will have to wait two years before they qualify. You may wish to take this into consideration if you are recruiting around March/April time this year. As an employer, it is preferable, subject to any other commercial considerations, to delay the start date until on or after 6 April. However, don't forget that there is no similar qualifying period for discrimination claims.

The Olympics

Hardly a day goes by at the moment without some story about the Olympics making headline news. Be in Boris Johnson's advice on how to avoid the crowds on the tubes or some story about the cost of hosting the events, the Olympics are hot news. With less than 200 days to go, employers need to make sure they are prepared for any employment issues which may arise.

ACAS have published guidance to assist employers. As the ACAS Chief Executive said 'employers should have plans for managing employees' involvement whether volunteering or those watching the events.' So what are the issues employers need to consider?

- 1 Holiday requests
- 2 Volunteers – what rights do they have?
- 3 Travel problems

Holiday requests

The end of July and early August are a busy period for holidays in a normal year but are likely to be more so this year. Employers will need to ensure that they retain enough employees at work at any one time to facilitate the smooth running of the business. You may therefore want to ask employees to submit their holiday requests a little earlier this year so that you can assess any potential difficulties.

As an alternative, you may wish to provide television coverage of key events at your workplace. If doing so, you will need to make it clear whether employees are expected to make up any time by, for example, working through their lunch break or staying late. You may also want to place a limit on the number of events or time an employee can take to watch events. Managers may need to set up a rota system so that enough employees are left at their work stations at any one time.

Volunteers

Those who wished to volunteer at the Olympics were required to apply by October 2010. However, successful applicants will not be told their shift allocation until April 2012. Each volunteer or 'Game Maker' will undergo a three day training period and must work for at least ten days during the Olympics. A sensible step to take at this stage is therefore to ask your employees whether they have applied to volunteer and to ask any who have to confirm their shift allocation as soon as they are notified. This will give you an idea of the scale of any issues in your organisation.

An employee does not have a right to take time off to volunteer. However, many employers are allowing employees time off this summer with or without pay. You will need to decide whether you will require volunteers to use their holiday entitlement or allow them additional time off with or without pay. ACAS state in their guidance that many employers allow employees an agreed quota of days off each year to volunteer. They suggest two days each year. Employers are not however under any obligation to follow this.

Before allowing employees time off to volunteer at the Olympics, you may wish to consider a broader volunteering programme.

Travel problems

Transport for London has predicted severe delays around certain hotspots during the games, particularly at peak times. If any of your staff are likely to be affected by this, you may consider allowing them to work flexible hours so as to avoid the peak times, or to work from home. As with any changes to an employee's working arrangements, it is a good idea to have a policy in place before offering these options. You will need to consider what equipment the employee will need at home, whether there are any health and safety issues and how you will manage your employee from home. You will also need to make clear to the employee how long the arrangement will last.

If your business makes deliveries or you visit customers or clients in the Olympics area, you will need to review the road closure and loading bay restrictions. You may need to change your delivery times. If this involves changing employees' hours of work, you will need to consult with your employees. If you impose a change in hours unilaterally without consultation and agreement, you risk facing claims of constructive unfair dismissal.

As with all employment matters, the key is to be prepared. Take time now to consider what issues will be relevant to your business and how you intend to tackle them. If you would like help introducing a flexible working or home working policy or further advice on any of the issues raised, please contact me or one of the employment team.

The Olympic Games - Acas

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