



Employment Law update July 2018

Are you monitoring your employees' email activity?

A recent survey reported that employers are likely to monitor emails in the workplace, web history and internal chat systems. The research examined responses from U.K. companies with over 500 employees, finding that 98% of companies monitor their employees' digital activity.

Whilst most companies will have a policy on IT usage and monitoring in the workplace, outlining their expectations of staff and being open about monitoring certain activity, 11% of employees aren't aware that their company captures digital activity at all. 11% of respondents said that employees would be "horrified" by the amount of digital activity their companies captured, while 65% of employees would be "concerned."

The monitoring of employee communications (Internet, email, and other social media) will be governed by the Data Protection Act 1998. The Information Commissioner's Employment Practices Code sets out the requirements for lawful monitoring which should:

- be carried out for a legitimate reason
- be proportionate to the aims for which it is being processed
- have the consent of employees who should be informed about:
 - the reason and circumstances surrounding the monitoring
 - matters of disclosure; ie those of whom it may be disclosed
 - how the data will be protected

Therefore, employers should go beyond simply informing employees that their communications are being monitored.

In addition, employers should carry out an impact assessment prior to any monitoring to ensure that it strikes a balance between the rights of the employee and those of the employer. So essentially, employees should be informed of any monitoring, its purposes and circumstances, and the level and areas of control that employees have over their data. Employers need to have a reason for looking at email and other communication – a reasonable belief of wrongdoing or a report of something suspicious, rather than simply going on a "fishing" expedition".



Interviewing top tips

The best recruitment interviews allow candidates to demonstrate why they would be a good fit for the business while understanding the business from the employer's perspective.

However, occasionally the employer fails during the interview process leaving the candidate disillusioned with the opportunity.

Know your business

Make sure you are ready for candidate questions about the business and sound knowledgeable and confident when talking about business plans and its future.

Be honest about the terms and conditions

Make sure that candidates are not lulled into a false sense of how the business works. If it is a tough environment, call it out. If you expect overtime, tell them. Give them an example of a typical working day and week so they have clear expectations of the role.

Don't make the job harder than it really is

Don't make the job more complicated or difficult than it really is, to impress the candidate. In reality this is more likely to put them off and you will still be looking for the ideal candidate long after the last interviewee has left!

Give candidates your time

Allow time for the interview and for questions – don't cut the candidate short. Their questions can be highly enlightening and tell you what motivates them. Make sure you really listen to answers, funneling more questions based on their answer rather than rushing onto the next question on your list!

Remote working – make sure you have considered all angles

Last year, IBM to call people back to the office in a bid to encourage greater collaboration, claiming that remote working was not having the expected benefit to productivity and, in some cases, workers were reporting feeling isolated or left out.

The latest figures compiled by the Office for National Statistics (ONS) show the number of people working remotely has grown steadily. Remote working opportunities are being used widely by small and growing businesses. In an effort to optimise work space and reduce costs, remote working has become a standard part of their work plans, and, as long as candidates are recruited on this basis, the benefits of operating in this manner should outweigh any downsides.



But managers have think about the effect of remote working on collaboration, meeting attendance or interaction with teams. Employers must also perform a risk assessment of home-based work stations and take steps to make sure they will be working in a safe and secure environment. If remote working involves working away from home and accessing company information via unsecured networks – for example, in coffee shops or other public places – security policies may need strengthening to meet data protection requirements.

In reality, few roles can be done from home all of the time. However, most jobs will include occasional remote working, where necessary or where it makes sense to do so. Whenever considering remote working, employers should take a step back to assess whether it would be a good fit for specific job roles or tasks. By viewing remote working as a valuable option, employers can organise their businesses in a way that drives productivity, without exposing them to increased risk or undermining teamwork and innovation.

Online complaints' service has increased claims from underpaid workers

An online complaints service has helped to double the number of underpaid workers recouping money from their employers, according to new statistics. In 2017-18, HM Revenue and Customs (HMRC) identified £15.6 million in wages owed to 200,000 low-paid workers. Workers can either contact ACAS or complete an HMRC online form which the government says has contributed to the increase in complaints.

Many businesses have misunderstood the national minimum wage rules and the average amount refunded last year was £78. On top of the refunds, employers also face fines of up to 200% of the arrears and public 'naming and shaming'.

The points below may help reduce the risk of minimum wage breaches:

1. Pay workers no less than the legal minimum for their age and update this amount when the rate rises each April.
2. Ensure hourly earnings are averaged over their pay period so that they add up to at least the minimum wage.
3. Reimburse for any uniform if their average earnings in that pay period would end up below the legal threshold. Unbranded items such as black trousers, skirts or shoes and discounted clothing from a retailer's own range count as uniform.
4. Pay for all of the time workers are expected to be in work, even if they are not physically working: training time, security checks at the end of the day, travelling between assignments all count as working time.
5. Exclude any income from tips when working out the legal minimum.

If you have a particular question that you would like answered email training@scottishwholesale.co.uk or call 0800 9995 121 and we will publish next month – all names will be removed to ensure confidentiality