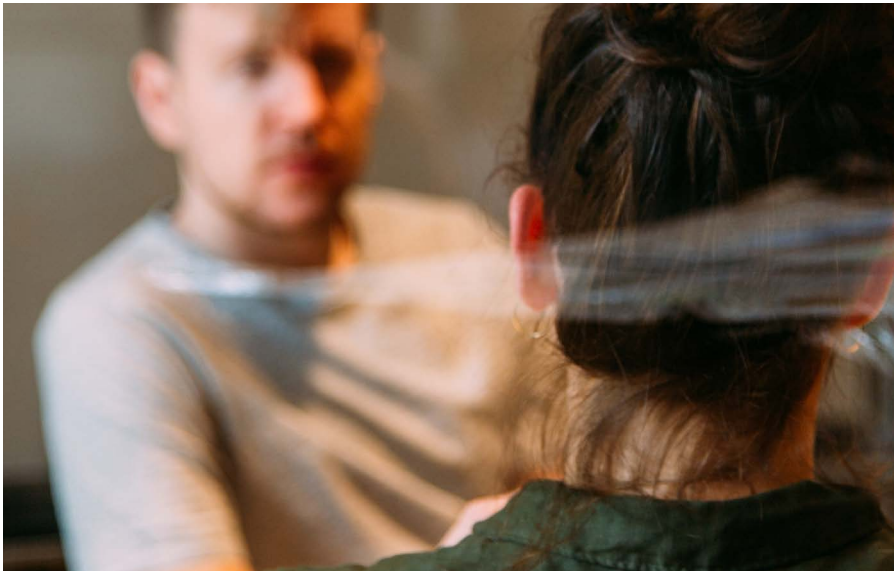


# Employment Tribunals



Since employment tribunal fees were abolished in 2017 there has been a remarkable increase in the number of employment tribunals cases as there is no barrier if employees feel they have been unfairly treated at work and Acas has just published its 2018-19 Annual Report, which highlights the consistently high demand for their early conciliation services. The demand for early conciliation rose by over 20% compared with last year, with 133,000 requests for Early Conciliation (of which 2.9% were requested by the employer). ETIs were subsequently presented in just over a quarter of them (26.8%).

Employers should ensure that employee relations cases are well documented, managed effectively and that policies are adhered to. It is estimated that businesses face an average cost of £8,500 to defend themselves against an employment tribunal.

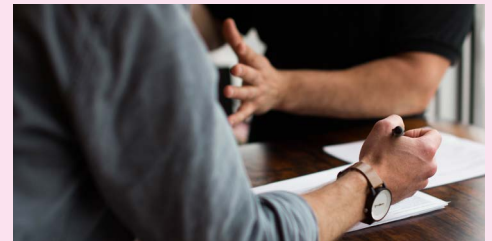
Employment contracts and policies are vital documents and it's important that there is no ambiguity over aspects such as working hours, notice periods, disciplinary and grievance procedures. Having all this information readily to hand ensures that managers are clued up on the correct procedures, which minimises the risk of employees successfully challenging actions such as dismissal.

Developing a culture of informal resolution is of the upmost importance for employers. If employees feel that they can raise concerns without the fear of reprisals, then managers are able to mediate the situation before it escalates into a formal complaint.

Having well trained managers who understand their employment obligations and are sensitive to dealing with issues fairly and consistently will help reduce employment tribunal claims.

121 is running Disciplinary and Grievance workshops in Dundee and Glasgow on 10th and 26th September – see further information overleaf!

## Induction and Onboarding



When a new employee joins an organisation, or an internal employee gets promoted, a level of onboarding is required from the employer to ensure the employee is integrated with support and is aware of the expectations of their role.

Onboarding is often associated with new employees, however, providing support and guidance to internal employees taking on a new role is just as important in order for clarity and success.

In order to onboard employees successfully and reduce these risks for an organisation, there are key factors which can be addressed in the process:

- Clearly explaining job expectations
- Providing guidelines around the organisation's culture
- Introducing the employee to team members and other specific individuals who they may come into contact with (such as key suppliers or clients)
- Outlining important policies and procedures in the business and ensuring that the employee understands how to request holidays, when to take breaks and what will happen regarding feedback and support in the role.

The focus of onboarding should be to build a support system which adds value to an organisation with the aim to reduce employee turnover and enable employees to have a greater chance of success because they have clear expectations from the outset of how the organisation works and what is expected of them in their role.

# Employers are Vicariously Liable for Actions of Employees



**A supermarket sales assistant suffered sexual harassment when colleague at the store she worked at made explicit sexual remarks towards her while on the job and an employment tribunal has ruled that the supermarket chain Sainsbury's was vicariously liable for the acts of sexual harassment made by one employee to another.**

The Judge said there was evidence that Sainsbury's "failed to take any steps in relation to training of equality and harassment issues", and that there was "no evidence of

any relevant equality training for managers organised by Sainsbury's". As a result of this, the supermarket chain was liable for the acts of sexual harassment carried out by the employee. Evidence was heard that the employee reported her concerns to supervisors, but no action was taken at the time. The harassment continued and the employee eventually reported it to the store Manager. There was no written record of the incident having been reported, nor of any action taken as a result. Eventually a grievance hearing was arranged but the employee felt that

her grievance was not appropriately managed and raised a claim of sexual harassment.

The judge in his findings, emphasised failures by the employer to cover equality issues during staff and manager training and awarded the claimant £9,585 for injury to feelings.

Employers will be deemed liable for unlawful actions carried out by their employees during the course of their employment unless they can prove they took all reasonable steps to prevent such behaviour.

## Exit Interviews

**When employees resign, an exit interview is always a good idea but according to a 2018 study more than four in five employers (83%) fail to undertake exit interviews.**

A departing employee may offer some key insights into management styles which may have gone unnoticed, such as bullying in the workplace, which can allow senior

managers to gather information and implement training and improvement strategies.

Not all reasons for leaving are negative and having valuable data and insight is essential as is sharing this in the right way and identifying how to use what we've learned. It's not uncommon for an employer to fear that an employee is leaving

a business because of something negative, however, listening to what an employee has to say about their experiences and their suggestions around what differences can be made to improve will only be beneficial in the long run. Exit interviews will also help to enhance recruiting methods in the future, prevent potential legal issues, and potentially reduce turnover costs.

## Holiday Leave Worry

New TUC analysis reveals that 1 in 14 UK workers are not getting their legal holiday entitlement. The study estimates that nearly two million employees are not getting the minimum paid leave entitlement they are due. And over a million are not getting any paid leave at all.

The number of people taking unpaid holiday claims at the employment

tribunal has more than doubled since tribunal fees were abolished in 2017 and the majority of holiday pay cases have been found in the claimant's favour, with values ranging from £18.94 to £11,000. Minimum holiday entitlements are a vital part of reducing overwork and people who work excessive hours are at risk of developing heart disease, stress, mental illness, strokes, and

diabetes, which also impacts on co-workers, friends, and relatives.

The TUC wants HMRC to be granted new powers to clamp down on employers who deny staff their statutory holiday entitlement. This would include the power to ensure that workers are fully compensated for missed holidays.

If you need any advice or have any questions regarding this month's articles please contact us at [enquiries@12hrsolutions.co.uk](mailto:enquiries@12hrsolutions.co.uk) for more information.

# Drug Testing in the Workplace

A recent crime survey has revealed that one-third of adults aged 16–59 has taken illicit drugs at some point in their lifetime. Drug testing can be a difficult and time-consuming policy to establish for employers as consent must be sought from its employees to test for drugs. This consent is usually included in the contract.

The law imposes various requirements on employers who wish to undertake random drug testing in the workplace. These include:

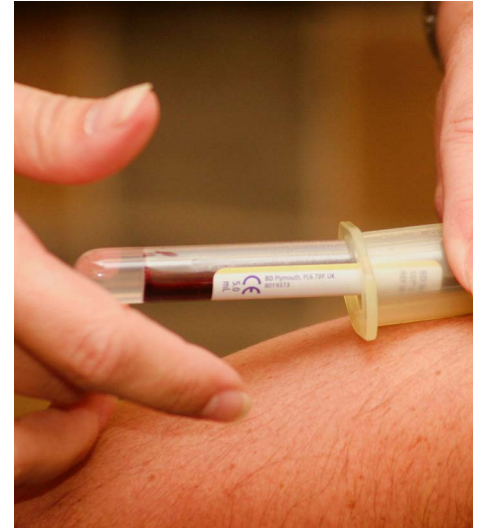
- limiting drug testing to the specific group of employees
- ensuring the tests are random
- not singling out an employee unless justified by the nature of their job.

If there is a policy, with procedures in place and an employer has good reasons for testing for drugs — whether it is essential to do so for certain roles or where there is reasonable cause to believe an employee is under the influence — and someone refuses to take the test, the employer may resort to disciplinary action.

There are three different types of workplace drug and alcohol testing.

1. Pre-employment: This tends to be the most common form but it's also the least effective. This is because it's based on a urine sample that an individual can easily dilute or substitute.
2. Post-incident: As the name suggests, testing in this case follows a health and safety incident.
3. Random: When a group of individuals consent to testing and you pick a handful of them to test at random.

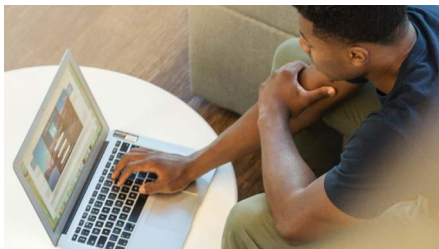
The testing procedure must comply with the International Standard for



Laboratories. Failing to do this will mean the results are void.

The organisation should consider whether it will offer help and support if an employee is found to be using drugs. Actions might include arranging sick leave for treatment and arranging for referral to a treatment service.

# Home Working and Data Security



**The number of home workers in the UK is on the rise. There are benefits for both parties in this arrangement - employers may be able to save on office space and costs by reducing the number of employees permanently based in the office, while employees can save commuting time and benefit from fewer interruptions than in an office environment.**

However, a key consideration is how to protect the employer's confidential information, which is used and accessed outside its premises. Confidential information can be contained on a laptop or a USB stick, or in paper format.

Workers should be informed that they are responsible for ensuring the security of all information they take outside the employer's premises.

Simple obligations such as the need to keep data with them at all times when travelling (ie not left unattended in a car) and to ensure that they are kept in a secure place if taken home or to another location should be made explicit.

Another factor to control the access that others within the employee's home may have to the employer's data - for example, documents visible on a coffee table when friends visit. In this situation, the employer may wish to consider including within its home working policy an obligation on its workers to actively ensure that other members of their family and/or their friends are not able to see the content or have any access to the information belonging to the employer.

Given the seriousness with which an employer is likely to regard a loss of confidentiality in its data, and the potential for this to amount to a data breach, any home working policy should spell out that failure to adhere to the terms of it is likely to amount to a disciplinary offence, which, in suitable cases, may be considered to be gross misconduct.

# Cost of Accidents at Work

**During 2017/2018, 31% of all non-fatal workplace injuries were caused by Slips, Trips and Falls; with an estimated 172,050 cases self-reported by employees.**

The Health & Safety Executive also reports that 75% of all self-reported incidents result in up to seven days of absence, meaning that employees are on leave for almost 130,000 days annually: a wasted cost to any employer.

Measures that can be put into place to significantly reduce these risks such as:

1. Keep walking surfaces clean and avoid cluttering
2. Use effective lighting
3. Ensure signage is clear and relevant
4. Use handrails and reflective tape on stairs
5. Consider safety footwear
6. Make step - ladders available
7. Keep wires tidy and out of the way
8. Check floor condition regularly



## September/October Training Workshops

### Managing Disciplinary and Grievance

10th September  
26th September

Dundee  
Glasgow

Many managers will find that during some point of their careers, they will be involved in handling a disciplinary or a grievance. There is very specific legislation as to how a disciplinary/ grievance procedure should be carried out, which can be a minefield.

We will guide you in a step-by step way leaving you with confidence to proceed.

#### This workshop will cover:

- Recognising and understanding when a situation needs to be managed, using a disciplinary or grievance procedure
- Full guidance and tuition in how to apply the ACAS Code
- Guidance as to how to respond to and manage conflict and internal tension

- Coping strategies for dealing with difficult people and difficult situations
- Support to reduce the effects of disputes in your team

**Cost £160 per delegate (10am till 4pm)**

### Behaviours at Work: Understanding the Unacceptable

23rd October  
30th October

Dundee  
Glasgow

Unacceptable behaviour in the workplace can lead to low morale, poor performance, loss of respect for management and possible legal costs; all of which can create additional

pressures for the business. Many managers feel powerless to tackle unacceptable behaviour and either ignore it or work around it.

#### This workshop covers:

- What is unacceptable behaviour?
- What does the law say about unacceptable behaviour and its effect?
- How to deal with these behaviours
- Establishing techniques to build effective workplace relationships

- looking at personality types and understanding why people behave as they do.
- Building skills and techniques to confidently manage difficult situation
- Guidance on how to respond to and manage poor workplace behaviours
- Coping strategies for dealing with difficult people and difficult situations.

**Cost £160 per delegate (10am till 4pm)**

## Book now!

To book email us at [events@12hrsolutions.co.uk](mailto:events@12hrsolutions.co.uk) or call **0800 9995 121**  
Full details of our training workshops can be found at [www.12hrsolutions.co.uk](http://www.12hrsolutions.co.uk)