



Solutions

Monthly Newsletter

.....

December 2023



Heat of the Moment Resignations

In **Omar vs Epping Forest District Citizens Advice (EFDCA)**, Mr Omar was sent a letter about his poor timekeeping. He was angry about receiving the letter and told his employer that he was resigning.

He then retracted his resignation, stating that it had been in the heat of the moment. The next day, he was informed that his line manager could no longer work with him. He was asked to put his resignation in writing but did not do this. He had twice previously resigned only to retract it. On this occasion, EFDCA refused to permit him to retract.

The employee brought a claim for unfair and wrongful dismissal.

The Employment Tribunal did not uphold his claims; however, on appeal the Employment Appeal Tribunal disagreed, finding that **words of resignation should be considered objectively in all circumstances; and that circumstances and their influence on a claimant's language should be taken into account.**

Case study

Our client suspended an employee pending investigation and potential disciplinary action regarding an allegation of assault. Upon being escorted from site, the employee stated that he would not come to any disciplinary meeting and would not return to work. The client sought advice from us as to whether they could just accept his verbal resignation.

We advised them to be very wary of accepting a verbal resignation in these circumstances. Whilst it might be genuine, accepting a heat of the moment resignation can lead to a finding of unfair dismissal. Where an employee resigns suddenly in reaction to something the employer has done, the employer is expected to give him / her a chance to consider and retract.

We therefore advised the client to make it clear that they were not accepting a verbal heat of the moment resignation and that if he had decided that he was definitely resigning with immediate effect, he should confirm that to them in writing. Otherwise, they would proceed with the investigation.

The employee did not confirm his resignation in writing, therefore they then invited him to the investigation meeting which he attended. Following this, he was invited to a disciplinary meeting and advised that the allegation was being considered to be potentially Gross Misconduct, therefore one outcome could be summary dismissal. He failed to attend. A second meeting was arranged which he also failed to attend. He did not notify the client of any good reason for his non-attendance.

They therefore held the disciplinary meeting in his absence and dismissed him on the grounds of gross misconduct.

Where an employee resigns in the heat of the moment, employers should be clear as to whether there has in fact been a resignation before accepting it, otherwise they run the risk of unfair and wrongful dismissal claims against them. HR Solutions can advise your clients as to whether it is safe to accept such a resignation or not, and how to address the situation if not.

Increase to the National Living Wage / National Minimum Wage

An increase to the National Living Wage from the current rate of £10.42 to £11.44 per hour from 1 April 2024 was announced in the Chancellor of the Exchequer's Autumn Statement.

This is a rise of nearly 10%; in addition the new rate would apply to those aged 21 and above whereas the current rates only applies to those age 23 and above.

This is obviously welcome news for workers, particularly against the backdrop of the cost-of-living crisis; however, it is another burden on employers already struggling to pay the wage bill.

Meanwhile, the National Minimum Wage will increase to £8.60 for those aged 18-20, and to £6.40 for 16 and 17 year olds (this is also the apprentice rate).

HR Solutions can advise your clients on the National Living Wage / National Minimum Wage, including the Accommodation Offset, and can conduct pay audits.

Consultation on "one pot pensions"

The Chancellor of the Exchequer has also announced a consultation regarding giving workers one pension pot for life. This would mean that employees would have the right to require their new employer to pay auto-enrolment contributions into an existing pension, rather than having to join the employer's scheme.

This would be much easier for employees as their pension would move with them from employer to employer, rather than having several different pension pots. For employers, however, this would result in an increased administrative burden (and possibly cost) of operating several different pensions for their employees with several different providers.

HR Solutions can advise your clients on their auto-enrolment pension obligations and ensure that their Contracts of Employment are compliant with legislation in this regard.

Immigration Matters

Following the rise in visa application fees in October, the Government has now announced that the **Immigration Health Surcharge** will be subject to an increase in January. The exact date is yet to be confirmed but is expected to be 16 January.

The Surcharge, which is paid so that migrant workers can access the NHS during their period of leave in the UK, will increase from £624 per year to £1035.

For a Skilled Worker on a five year visa, therefore, this will leap from £3120 to £5175. The Immigration Health Surcharge must be paid for the whole period of leave **upfront** at the time of application.

This will greatly increase the cost of coming to the UK to work for migrant workers and will surely deter some.

In addition, the Government has proposed that the **minimum Skilled Worker salary** be increased to £38,700. The current minimum salary is £26,200 although if the "going rate" for the role as determined by the SOC (Standard Occupational Classification) code is higher, that will prevail.

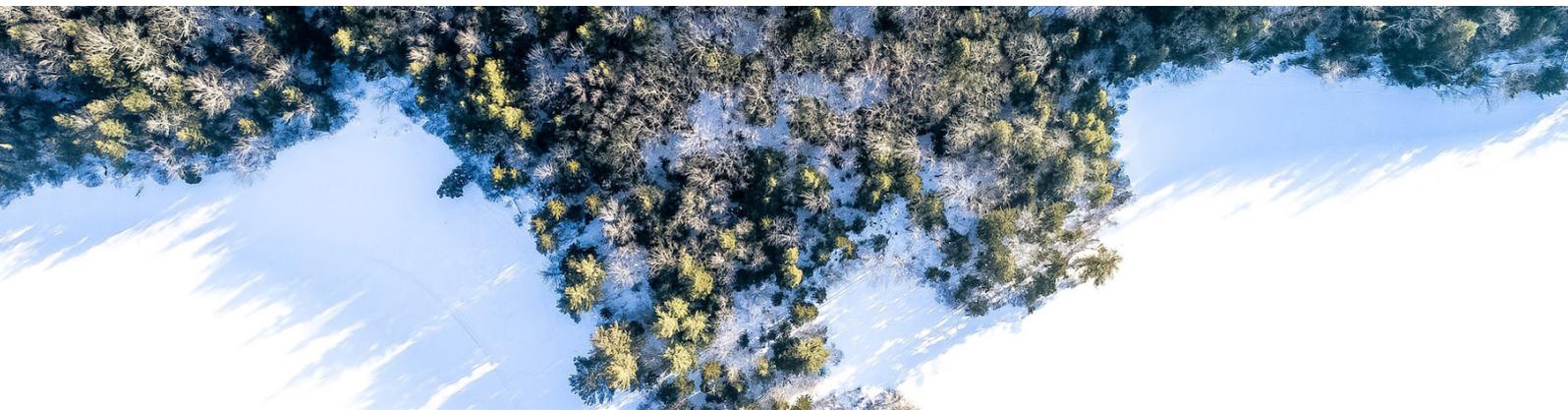
Employers already struggling in the post-Brexit labour market are going to face higher costs if they wish to employ from overseas, and also a reduced pool of candidates.

HR Solutions can advise on Sponsor Licence applications for Skilled Workers and also the relevant SOC codes for eligible roles and the associated salaries.



Please see below some examples of the work that we have completed recently.

 Birmingham	Mercia Real Estate (UK)	Advice on redundancy, offer of suitable alternative employment and grievance
 Peterborough	TP Manufacturing	Advice on disciplinary issues at Written Warning, Final Written Warning and Summary Dismissal level
 London	J Pao	Non-Disclosure Agreement
 Northampton	Noventum Power	Lone Worker policy
 London	Cash Access UK	Onboarding of new employees; Right to Work in the UK checks / background checks; creation of BreatheHR profiles
 Northampton	Kline Group	Advice on new starters, Right to Work in the UK checks, references, fixed term contracts and holiday pay
 London	RBX Technical Services	Upload of employee details to BreatheHR



How we can help?

If you have clients who require HR support, please contact us at HRsolutions@mha.co.uk to discuss how we could assist them.

We can provide support on an hourly, fixed-fee or retainer basis so there are a number of options available according to their needs; as you can see from the above examples, we can assist with a large project or a one-off piece of advice.



Stephanie
Senior HR Consultant



Joanna
HR Consultant

E: HRsolutions@mha.co.uk

Now, for tomorrow

