

18 September 2015

# 3HR Legal Weekly

## Employment

### Travel Time to Work Must Now be Paid

Last week, the European Court handed down a landmark decision. Staff without a fixed or a regular workplace should be paid for travelling from home to and from jobs at a variety of locations. The ruling takes effect immediately.

Trade unions have welcomed the court's ruling. They believe that it will benefit care workers and people who travel between different appointments without an office base, such as sales and trades people.

A Spanish trade union had brought the case to the European Court against Tyco, a multinational fire and security company. As a result of Tyco's decision to close its regional offices in Spain in 2011, the staff had to travel from their own homes to install security systems at different locations, sometimes spending up to 3 hours getting to the first appointment of the day.

Tyco considered that the staff's workday started when they had their first appointment, not when they left home. The company saw the travel time as a "rest period". The European Court disagreed.

The judgment said: "During the necessary travelling time – which generally cannot be shortened – the workers are therefore not able to use their time freely and pursue their own interests."

The impact of this judgment is that employers must review their practices to ensure that their workers are getting the minimum wage and also the correct holiday pay, taking into account the additional hours that they spend travelling to their first visit or job and again back home from their last.

This is another blow for businesses who have already suffered the increasing salary bill resulting from case law on holiday pay, increased National Minimum Wage and next year's new National Living Wage (NLW). The NLW of **£7.20 per hour will be introduced next April for all working people aged 25 and over. The NLW will be compulsory and the Low Pay Commission will recommend future rises, with the Government aiming for it to reach £9 an hour by 2020.**

If you wish to obtain advice on how this decision might impact upon your business, please contact our Employment team.



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## HR Valuing Older Workers

### Q. How can we ensure we are making the most of our older workers?

A. There are currently 9.4 million workers in the UK today who are over the age of 50. According to recent research from the CIPD and the International Longevity Centre-UK (ILC-UK) organisations need to improve recruitment, development and retention of older workers in order to avoid a crisis in loss of skills over the next 20 years.

As well as being good for the economy and the individual, encouraging working later in life makes good business sense. Older workers have a wealth of knowledge and expertise to share, and are often happy to work part-time. They tend to be less likely than younger workers to leave their jobs, therefore reducing turnover costs. In addition, it has been shown that employing a more diverse workforce leads to improved staff morale.

Employers should try to avoid making assumptions about the motivations of older workers. It is likely that older employees will want to continue to make a valuable contribution to the Company and still be interested in personal and career development.

To attract older talent, be careful at the recruitment stage that job adverts and descriptions do not refer to age or even use vocabulary that could be seen as referring to a certain age. This is also a legal requirement under the Equality Act 2010. Being seen as an employer who offers flexible working is likely to appeal to older workers.

To develop and retain talented older staff, training should be offered to all, regardless of their age and stage of employment. Employers should consider how they can support their older workers' wellbeing and allow them to phase into retirement if that is what they wish to do. It may be possible to retrain older workers in order to fill less physically demanding roles.

Companies are likely to find it useful to audit the age, skills and retirement intentions of their workforce, in order to make succession plans. Thinking flexibly and holding ongoing discussions is likely to benefit everyone. For example, two employees approaching retirement might agree to job share.

For more information on workforce planning and audits, please contact your usual consultant.

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