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3HR Legal Weekly

HR - Annual Leave, Sick Leave and Family-Friendly Leave

We are often asked by clients to explain their obligations around annual leave, sick leave and family-friendly leave. We will explain your legal obligations and offer some suggestions should you wish to enhance these entitlements beyond the statutory minimum for your employees.

Annual Leave

Under the Working Time Regulations 1998 the minimum statutory requirement for full-time employees or workers is 28 days or 5.6 weeks of paid annual leave which can include public holidays.

The minimum statutory entitlement for part-time employees or workers is based on the time that they work. So, a part-time employee who works 2.5 days per week is entitled to 14 days' paid holiday per year or 2.8 weeks, including public holidays.

In order to make their job offering more attractive, some organisations provide staff with an enhanced holiday entitlement. This can also be increased over time. One way to manage this is to link it to the employee's length of service, for example, for each year an employee completes with the Company, they are given an extra day of annual leave up to a certain limit. Generally speaking, although the statutory amount is 20 days plus 8 public holidays, in our experience, most U.K. employers offer 25 days plus 8 public holidays. If you only offer the statutory minimum amount of 20+8 days, it may be difficult to recruit local employees who are used to 25+8 days, especially at more senior levels.

Sick Leave

Most employees are entitled to £89.35 a week (2017) after their first 3 days off sick. The first 3 days of sickness are the qualifying period and no Statutory Sick Pay (SSP) is payable in relation to this. When the SSP starts, it covers the employee for their first 28 weeks off because of illness or injury.

Employers sometimes offer more sick pay than this, called Occupational Sick Pay (OSP) or Company Sick Pay (CSP).

As long as OSP/CSP matches or exceeds SSP rates, it is up to you as an employer how you choose to pay sickness absence. You must ensure that the payment is not discriminatory in any way. For example, if you choose to make increases based on service length, you should only use a maximum of 5 years - anything longer could be seen as age discrimination. In addition, you must not treat part-time employees less favourably than those who work full-time. As with enhanced annual leave, this kind of benefit can help to attract and retain employees. If you are offering enhanced sick pay and are concerned that employees may use it inappropriately, we would always advise having robust procedures around managing sickness absence.

Family Friendly – Maternity, Adoption, Paternity and Shared Parental Leave

The current (2017) amount of statutory maternity/adoption pay is 90% of the employee's gross average weekly earnings for the first 6 weeks, then £140.98, or 90% of gross average weekly earnings (whichever is lower) for the next 33 weeks that the employee is on maternity or adoption leave.

Statutory paternity pay is currently payable at £140.98 during Ordinary Paternity Leave.

If you wish to offer enhanced pay, there are various considerations to make when drafting the relevant policies. For example, whether you would prefer an employee to complete a qualifying period of employment before they are entitled to enhanced pay, and whether you wish to add a condition that the employee must return to work with you for a certain period after their leave ends.

Should your employees wish to take Shared Parental Leave (SPL), you may choose to offer enhanced pay. Some organisations are choosing to match their SPL policy to their enhanced maternity pay policy, to give parents of both sexes the opportunity to take an equivalent period of paid leave during the first year of a child's life. As the right to take SPL is still relatively new, other employers are keeping their policies under review to get an idea of likely take-up before committing to enhanced pay. Should you decide to offer enhanced pay, consideration will need to be given on how the pay will interact with any existing enhanced maternity pay. Employers need to be mindful of the potential for sex discrimination claims when drafting pay policies around family-friendly leave.



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