There have been many high profile employment cases in the news in the past year or so, most coverage going to what is being known as the "Uber case" regarding the employment rights of people working as independent contractors. That picture still develops as the courts and government address the impact of what is known as the gig economy.

We have summarised some of the cases that are most likely to have an impact on General Practices, in a very quick summary. Remember, if you do require advice or support regarding a HR issue, Kraft HR are able to help on a pay as you go basis!

Voluntary overtime pay confirmed for holidays. The case of Dudley Metropolitan Borough Council v Willetts clarifies that holiday pay should include voluntary overtime, which the worker is not required to do under their contract of employment.

Action: Assessments of how regular workers carry out voluntary overtime should be conducted when assessing holiday pay calculations going forward.

Proving a right to work: The recent case of Baker v Abellio London Ltd was whether dismissal of an employee with over 10 years' service for failing to provide that documentation could be found to be fair.

Action: Clearly there is a responsibility to establish that a worker is legally entitled to work in the UK and the penalties for failing to do so are significant. However, where it is known that the employee has the right to work in the UK, their failure to produce the documents requested should not result in their wages being stopped or lead automatically to their dismissal.

Is it permissible to monitor employee's emails in the workplace where there is a 'work use only' rule? In the case of Barbulescu v Romania it was found that the monitoring had breached the "right to respect for his private life".

Action: The key point is that if monitoring is required it will be important that the employees are made aware of the extent and whether it will also include looking at the content of the messages. In order to avoid problems, the guidance from the Information Commissioner's Office in relation to monitoring should be followed.

Employment Tribunal Fees - The Supreme Court declared the Fees Order was unlawful and that it must be quashed. Given the likely increase in claims it is important that employers ensure that policies and procedures are being followed in order to minimise the risk of claims.

No automatic suspension: An employee may be suspended during a disciplinary investigation. However, that should not be a knee jerk reaction to the fact that allegations of misconduct have been made against the employee. Agoreyo v London Borough of Lambeth highlights this.

Action: Regardless of how serious the disciplinary allegations, suspension should never be regarded as the "default position". Only after proper consideration has been given to any alternatives will the decision to suspend be appropriate.

Dismissal for long term sick where there is evidence presented at appeal that the employee may be able to return to work imminently: O'Brien v Bolton St Catherine's Academy: An employer will not be expected to wait indefinitely for evidence that the employee is able to return but if there is evidence that the employee can return, it has to be given full consideration even if it is only available at the appeal stage.

Kraft HR provides HR and Employee Relations Support to GP Practices across the East Midlands. For more information please contact Liz Willett, Head of Business Partnership:

Mob: 07963 781307

Email: liz@khrconsulting.co.uk | www.khrconsulting.co.uk

Kraft HR provides HR and Employee Relations Support to GP Practices across the East Midlands. For more information please contact Liz Willett, Head of Business Partnership:
Mob: 07963 781307
Email: liz@khrconsulting.co.uk | www.khrconsulting.co.uk