BBi Group News

BBi Group : Supporting your Business

Group News - February 2014

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BBi expansion is given Lloyd's boost

Berns Brett Limited has been awarded registered Broker status from Lloyd's of London. The new Lloyd's operation will trade as BBi London Markets.

Gaining Lloyd's Insurance Broker status is part of BBi's long-term strategy to support its growing client base in the UK and at its current and future offices in the United Arab Emirates (UAE), India and Ireland.

Andrew Wales, CEO of Berns Brett Limited, comments: "becoming a Lloyd's broker allows us to offer our clients access to additional insurance markets and a wider range of products which enhances our ability to help them manage the risks inherent in their organisations".

"This is an extremely prestigious accreditation and a proud moment in the 47-year history of the company. I would personally like to thank all BBi staff for their continuing hard work, dedication and expertise."

Traditionally, Lloyd's syndicates only do business with registered Lloyd's Brokers. To be accredited by Lloyd's, UK brokers must be authorised by the Financial Conduct Authority (FCA) and be assessed according to strict qualifying criteria, covering areas such as financial standing and management controls.

Having successfully demonstrated its eligibility, BBi now joins a select group of around 200 registered Lloyd's Brokers worldwide. The ability to meet face to face with the Lloyd's syndicates ensures that BBi can negotiate the most suitable insurance solutions for its UK and international clients.

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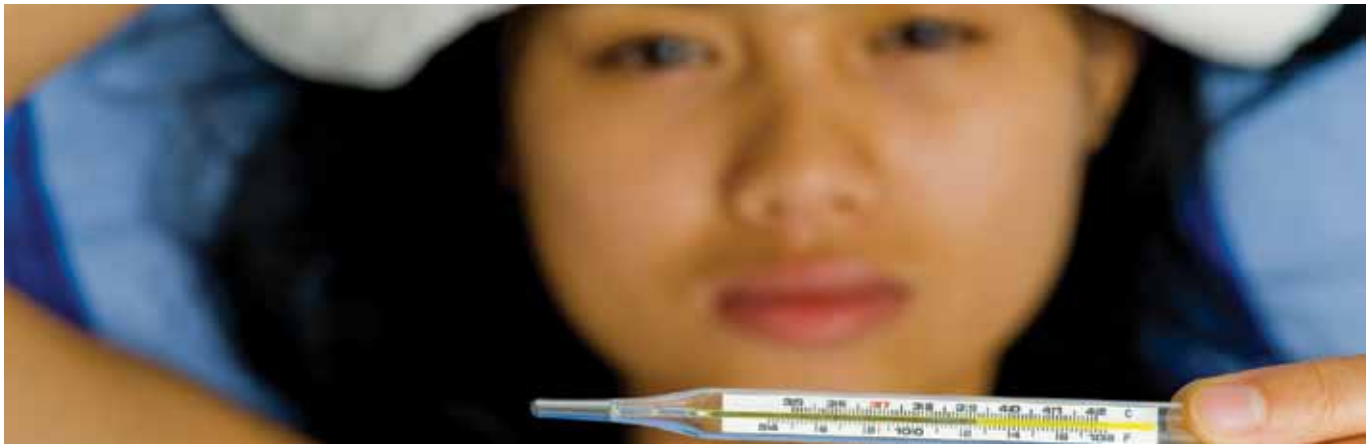
NEWS FROM THE HR TEAM

SME Facts and sickness absence



According to the Federation of Small Businesses, at the start of 2013 SMEs employed 14.4 million people.

A new research by Axa PPP Healthcare has revealed that 60% of small and medium sized businesses don't believe when their staff call in sick.

Further, nearly half of the employees in these businesses feel stressed at work two to three or more times a week.

Still worse, 60% of the employers do not train their managers to look out for any signs of stress, depression or anxiety in their employees.

It implies that small business need to be clued up on not only employment law but also on good people practices

Changes to Transfer of undertaking protection of employment (TUPE)

The consultation to the proposed changes on collective redundancies which was done in early 2013 has been completed and the draft legislation was published in October 2013. It is expected to come into force this month.

Below are some of the expected changes;

- The service provision changes will remain, however with a clarification that the activities before and after the transfer will remain the same
- Employee liability information deadline will be increased from 14 to 28 days before the transfer giving employers a breather before transfer
- Change in the place of work post transfer will in effect be included as changes to the workforce and can be used as economic, technological and economic (ETO) defence
- Allowing for renegotiation of terms agreed from collective agreements one year after transfer, provided any changes are no less favourable to employees
- Employers with less than 10 employees will be permitted to inform and consult directly with all affected employees in cases where there are no existing appropriate representatives

Early conciliation to come into force

ACAS will be launching its early conciliation service from April 2014. All potential tribunal claims will have to go through ACAS.

ACAS will offer early conciliation to resolve the dispute, therefore saving on time and costs. There will be clear timelines and if the conciliation is unsuccessful, dispute may then be taken to an Employment Tribunal.

According to ACAS, the majority of workplace disputes may be resolved through this service including unfair dismissals, discrimination, redundancy, unlawful deduction of wages, equal pay and flexible working

Discrimination Questionnaires Repealed

From 6 April 2014, section 138 of the Equality Act will be repealed by The Enterprise and Regulatory Reform Act 2013.

This implies that discrimination questionnaires will be abolished. This is yet another attempt by the government to cut down on red tape. Currently failure to respond adequately to a discrimination questionnaire could be seen as an act of discrimination by the employer.

Maternity Rights

An investigation has been launched by the government as a result of an increase in maternity discrimination at work complaints.

According to the press release, half of all pregnant women experienced some form of disadvantage at work. While legislation on maternity rights are quite robust, it is the non-compliance as highlighted by the 9000 maternity discrimination cases brought against employers since 2007.

The £1m research is to be conducted by Equality and Human Rights Commission (EHRC) which is also organising an education campaign for employers to raise maternity discrimination rights

CASE LAW

JM Finn & Co Ltd v Holliday 2013

Mr Holliday worked for the claimant company which was an investment and stockbroking firm. He worked as an investment adviser and resigned to join a competitor.

His contract stipulated a 12 month contractual notice and was subsequently put on garden leave. He then summarily resigned claiming the breach of his contract on the basis that his employer failed to provide him with daily email summaries of financial updates.

The claimant applied for an injunction which was granted.

The High Court held that the employee was not constructively dismissed as the failure to provide daily emails did not constitute breach of trust and confidence.

With regards to the length of the garden leave, so long as the employer is able to justify and demonstrate a legitimate interest to protect and show that the injunction extended no further than was reasonably necessary to protect that legitimate interest, such extended periods can be seen as a reasonable protection of the employer's trade connections.

Employers must carefully consider when applying garden leave clauses and provide clear evidence in support of such restrictions. It must also not have a negative impact on the employee, for example, loss of earnings, skills, etc.

Environment Agency v Donnelly 2013

The EAT found The Environment Agency to have discriminated against Ms Donnelly by failing to make reasonable adjustments.

One of the claims filed by Ms Donnelly was of disability discrimination. She claimed that her ex employer failed to make reasonable adjustments by not allocating a parking space for her in the main car park.

An employer has a duty to make reasonable adjustments where it knows that a person has a disability and a provision, criterion or practice (PCP) puts them at a substantial disadvantage compared to the non-disabled.

The Agency argued that while it operated a flexitime policy which allowed Ms Donnelly to start work at 9:30 am, parking was on a first come basis, and that she could park in the other parking lot which was a 10 minutes walk from the office.

The Employment Tribunal held, and the EAT concurred, that it was not for the employee but the employer to make reasonable adjustments.

Further, a report from an ergonomic expert specifically recommended providing onsite parking space as walking from a car park other than the main one would be problematic.

Ms Donnelly won her case of disability discrimination highlighting the importance for employers to carefully consider reasonable adjustments before making any decisions.

Where did the time go? Otigba v Consensa Care

Ms Otigba gave a false date of birth on her job application.

Her employer didn't find out about this until it made some routine background checks during her first month of employment.

Her Criminal Records Bureau data highlighted discrepancies and she was suspended while the company carried out some more investigations. It looked at her passport, birth certificate, accountancy certificate, driving licence and even her LinkedIn profile. These revealed a series of inconsistencies – she appeared to have two ages and two surnames.

Ms Otigba was dismissed and brought a wrongful dismissal claim for her notice pay (she didn't have enough service to bring an unfair dismissal claim). She lost; the tribunal held that the employer had gone about everything properly.

Trust was important, particularly as Ms Otigba's position involved handling money belonging to vulnerable adults.

She had breached this trust by trying to deliberately disguise a lost decade in her life, although the tribunal didn't speculate about the reason behind this.

The employer here went to great lengths to check the situation out properly and, crucially, didn't jump to conclusions.

Remember that in cases like this, even where an employee has a short period of continuous employment, a fair procedure wins in the end.

Over the last couple of years the number of cases reaching Tribunal has hugely increased, it is thought to be by more than 50%. Many of you may have experienced this for yourselves, the increases being driven by disputes about equal pay, unfair dismissal, age, sex, race and disability discrimination.

With this being high on the agenda, we are able to offer our clients with not only hands on consultancy but also, an insured/legal expenses cover of up to £75,000 per claim.

For further information please contact Michelle Brinklow at BBi Risk Solutions:

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Workplace Pensions: We're all in!

BBi

Is your business ready for auto enrolment? What if your staff want in?

Even if you employ only one person, you are required by law to offer a workplace pension. This could be a logistical nightmare and getting it wrong could be very expensive – or even a criminal offence!

Do you already offer your staff a pension scheme?

YES

↓

Is if fit for purpose?

↓

You need a scheme audit

NO

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You will need to set up an auto enrolment scheme

BBi have a competitively priced solution for all your auto enrolment requirements.

Want to know more?

Visit **bbiemployeebenefits.co.uk/automatic-enrolment** for more information or contact me as soon as possible to find out how we can help get your business ready:

Email **Sarah.Herd@bbiemployeebenefits.co.uk**
or call **020 8559 2111**