



# PEOPLE matter



## What's love got to do with it?

Every year Valentine's Day encroaches the high street and our lives with chocolates, red roses, cards and small figurines saying 'be mine' on them. However, love and marriage was a prevalent factor in a recent employment tribunal which involved marital discrimination. The claimant and her husband were both employed at the same organisation. Following a dispute that the claimant's husband had with the employer, she made claims of constructive unfair dismissal and sex discrimination based on subsequent treatment, contending she was treated unfairly because of who she was married to.

An employee's marital status has been a protected characteristic since the provisions of the Sex Discrimination Act 1975, now enshrined in the Equality Act 2010. Protected characteristics under the Act include age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief, sex and sexual orientation. In this marital status discrimination case, it was not necessarily the fact that the claimant was married; it was more to do with who the claimant was married to and therefore whether the claimant was married to her husband or not was irrelevant. On a 'love' related note, dealing with employees in relationships at work can be difficult. Although we can send you some HR Dept tissues, the best way to manage these situations is by having a policy in place to ensure nothing within the business is affected by employee romantic dalliances. Maybe Tina Turner's lyric should have been 'What's love got to do with business?'

## Mediation in the workplace

When a dispute between two of your employees leads to a dysfunctional work environment, it could spin out of control and you might end up in an employment tribunal. More businesses are using mediation to resolve workplace issues following the exhaustion of internal procedures. Often viewed as a tool used in divorce or custody cases, mediation is becoming increasingly popular in the workplace as it aims to settle disputes out of court. The government has recently announced a new mediation scheme aimed at SMEs, in Cambridge and Manchester. Funding has been announced for mediation training and while it is in pilot only, it is a positive step forward. What might the cost be of a disgruntled employee that had an issue and did not reach out? Could there be a situation in your business that could be resolved using a different approach? Let The HR Dept see if we can help.



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People Matter is a regular bulletin for business owner/managers who want the staff, but don't want the hassle of dealing with all the red tape that comes with them.

If this was forwarded to you, and you'd like to receive more bulletins on getting more from your team, please email with 'People Yes' in the subject line. If you no longer wish to receive bulletins from us, please email with 'People No' in the subject line.

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## Why paperwork has never been so cool

In HR, certain pieces of paperwork are vital. Failure to provide employees with contracts of employment within two months of a new employee starting can lead to an award of 2-4 week's pay at an employment tribunal. Properly stored letters helps in any defence in an employment tribunal, as any judge likes the paperwork audit trail! The HR Dept can provide up to date, tailored contracts of employment and our hassle free online personnel management system (The HR Dept Toolkit) helps you to manage your employee holiday requests, sickness absence, appraisal records and more. It is also extremely simple to use. [Click here](#) for more plus a demonstration of the Toolkit.

## When is a cake not a cake?

Would you consider a muffin a 'breakfast item' or a 'cake'? This is a question that came to an employment tribunal after an employee was dismissed for consuming a muffin, at his work as a cafe assistant in a catering company. The General Manager of the company introduced a policy regarding staff meal allowances after finding employees were helping themselves rather too liberally to food and drinks. In the new policy, there were exclusions specifying that employees were not entitled to things like Red Bull and excluded 'cakes' in the breakfast and lunch section of the policy.

All the employees were informed of the policy; however, 'muffins' were not explicitly mentioned. After the General Manager witnessed an employee consuming a muffin, he accused him of stealing and breaching the policy. The employee said he thought of muffins as a breakfast food. The company decided to hold a disciplinary hearing for gross misconduct, determined to make an example of the employee. Unfortunately, and some might say typically, the meeting had to be postponed several times. Eventually fed up with what they saw as procrastination they held the disciplinary hearing in the employee's absence and dismissed him. As the employee felt he was totally entitled to eat a muffin and after an unsuccessful appeal hearing, he filed a tribunal claim for unfair dismissal.

The tribunal came down on the side of the employee because the policy was not explicit enough. They had not carried out a full investigation and they were too hasty to dismiss someone with a previous good employment record. So this ended up being a very expensive muffin.

Have the HR Dept check policies to ensure they are really clear and include everything that is needed.



## VAT changes on salary sacrifice schemes

Salary sacrifice schemes are an agreement between an employer and an employee when an employee has part of their salary deducted in return for receiving non cash benefits, such as childcare vouchers. From January 2012, employees will be footing the bill for the VAT on those benefits that are subject to VAT. Employers will be responsible for paying output tax, and recovering input tax on salary sacrifice schemes following a ruling, which is available as a further summary [click here](#). Providing voluntary benefits such as discount cards, an employee assistance programme (EAP) can be a low cost benefit, but of high perceived value at a time when pay rises are not applicable. You also avoid having to look up the definition of output and input tax as it does not apply with The HR Dept benefits scheme. If you would like to know more, please do not hesitate to get in touch.



## TUPE changes

When a company is on the verge of going into administration, the business and/or assets can be sold at lightning speed to a purchaser waiting in the wings. This is done under a 'pre-pack' arrangement and has become very popular, although creditors are often unaware of such a controversial arrangement and lose out. The role of The Transfer of Undertakings Regulations (TUPE) in situations of pre-pack administration has been called into debate. Previously administrators often made a number of staff redundant and then sold the scaled down business on. The whole purpose of TUPE is to protect employees' employment when a business is transferred from one owner to another. Employees of the previous owner along with their existing terms and conditions automatically become the responsibility of the new owner. However employers should be aware that the Court of Appeal ruled pre-packs are not exempt from TUPE rules. Consultation rules are strict and although the Coalition is talking of making this easier, please check with us first.

## THE INDICATOR

### Employment and litigation issues

**STATUTORY PAY (rates are reviewed each April)** **Maternity/Adoption pay** – SMP/SAP is paid for 39 weeks. Pay rate for first 6 weeks of SMP: 90% of the employee's average weekly earnings. SMP remaining weeks/SAP: £128.73 or 90% of average weekly earnings, whichever is less. **Sick pay** – £81.60 a week

**REDUNDANCY PAY (new rates)** **Pay rate** – 0.5 weeks pay for each year of service for employees aged under 22 (a weeks pay is calculated at £430 or the weekly amount if it is less). One weeks pay for each year of service for employees between the ages of 22 and 40. 1.5 weeks pay for each year of service for employees aged 41 and older.

**NATIONAL MINIMUM WAGE (reviewed every October)** **Hourly pay rate** – £6.08 workers aged 21 and over, £4.98 workers aged 18 to 20, £3.68 workers aged 16 to 17. Apprentice minimum wage of £2.60 per hour.