

## NEWS FROM THE HR TEAM



## Modern Slavery Act 2015

The Modern Slavery Act 2015, passed in March 2015, has come into force from October 2015. This Act combines all existing slavery and human trafficking related offences and introduces protection of victims and punishment of perpetrators of slavery. The relevance to employment law is that the Act now requires public reporting for large organisations. Companies with a turnover of £36 million or more are now required to publish a statement each financial year that discloses the steps taken to ensure the business and its supply-chain have taken steps against anti-slavery and human trafficking. This would also have an impact on smaller businesses who may be in the supply-chain to provide necessary evidence in support of the anti-slavery legislation.

The statement must be published on the company's website (or a copy of the statement must be provided to anyone within 30 days of their making a written request for it) and must cover either;

- that the steps the organisation has taken to ensure that slavery and human trafficking are not taking place in any of its supply chains or in any part of its own business; or
- that no such steps have been taken.



## Repeal of employment tribunals' powers

With effect from 1 October 2015, Deregulation Act 2015 repealed employment tribunals' "wider recommendations" powers which allowed tribunals to set out wider remedies where it finds there has been discrimination at work. Tribunals

had so far the right to make recommendations that might relate to all staff when ruling on a discrimination case. However going forward their recommendations will be limited to the claimant and not the entire workforce of the employer.

## National Minimum Wage (NMW) Changes

From 1 October 2015, the following National Minimum Wage rates shall apply;

- The adult rate increases to £6.70 per hour.
- The rate for 18–20 year olds increases to £5.30 per hour.
- The rate for 16–17 year olds increases to £3.87 per hour.
- The apprentice rate increases to £3.30 per hour.

- The accommodation offset increases £5.35 per day.

Further from April 2016, for workers aged 25 and over the national living wage rate at £7.20 will be replacing the NMW. NMW rates shall continue to apply for workers aged 24 and under.



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Group News

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## Fit for Work service

Employers can now use the Fit for Work service which has been open since September 2015. This service can be used by employers, doctors and employees and aims to provide support to help employees return to work. The service would provide information on adjustments required for returning employees and help employers reduce their costs on sickness absence at the workplace. This service

is available for all UK citizens and the following criteria will apply to check eligibility of an employee for health assessment;

- The employee should have been absent from work for four weeks due to illness; and
- The employee should have a reasonable likelihood of making at least a phased return to work.

### Fit for Work

Guidance for employees



## Rewarding long-serving employees

When an employee has been with you for a number of years you might want to recognise their loyalty with a cash or non-cash benefit. Provided you stick to the rules this is fine. But what's the tax position on long service awards?

### Time in the job

On 9 September 2015 HM The Queen became Britain's longest reigning monarch at 67 years and seven months. Whilst you're unlikely to have an employee with this length of service, you could easily have individuals who pass the five, ten, 15 and 20 year point. There's a common misconception that the EQUALITY ACT 2010 bans any type of long service award on the grounds that they discriminate on age, but this isn't true.

### The legal position

The basic legal position (as set out in SCHEDULE 9) is that long service awards can only be made to employees if they are used to reward service of five years or less. In these situations no

justification for the award is required. However, if you want to reward staff with longer periods of service, you can do this where you reasonably believe that there will be a business benefit gained by linking length of service to the reward.

### What's reasonable here?

The most common reasons successfully used to justify long-service awards under this exception - which could be anything from additional holiday, sabbaticals, a gift or a monetary payment - are: (1) it encourages employee loyalty, i.e. individuals are motivated to remain in your continued employment; and (2) it enables you to reward and recognise those staff who have attained long service. This is important because a long-serving employee will have accumulated considerable business know-how.

### Common rewards

Research shows that the most popular methods of rewarding long service is through a monetary award, either in the form of a cash payment or vouchers. In some cases this award is calculated as a percentage of salary. As an alternative, some employers give non-cash awards, e.g. pens, watches, clocks, champagne or celebratory meals out. This presents no problem from a legal perspective - but what's the tax position?



### Exempt or not?

In order to be exempt from the normal tax and NI reporting obligations, all of the following criteria must apply:

- the employee has worked for you for at least 20 years
- the award is worth less than £50 per year of service; and
- you've not given the employee any other long-service award in the previous ten years.

**Tip 1.** If it's not exempt you must report the costs to HMRC and deduct tax and NI in the usual way. Make sure the employee knows this in advance of receiving their award or it will have a nasty sting in its tail. Also allow the employee to reject the award if they wish.

**Tip 2.** HMRC has issued online guidance for employers which explains the tax treatment of long-service awards.

## Right to work

### A new power to shut employers down

You might have read that as part of its crackdown on illegal immigration the government intends to temporarily shut down

any business that's suspected of employing workers illegally. Should you be worried about this?



## Case Law



### Criminal charges due to mishandling of staff redundancies

The Chief Executive of Sports Direct was charged under the Trade Union and Labour Relations (Consolidation) Act 1992 over mishandling of staff redundancies in their warehouse in Scotland in October 2015. An investigation into the conduct is ongoing, however it is alleged that staff were given just 15 minutes notice of their job loss though it is claimed that the administrators were being consulted as early as November 2014. This case highlights the

importance of employers consulting with their staff as soon as they are aware of a potential redundancy situation. While the case is a first of its kind against a FTSE 100 company, it stresses on the necessity of following a fair, transparent and legally compliant consultation process.



### Is travel time working time?

Federacion de Servicios Privados del sindicato Comisiones Obreras v Tyco Integrated Security SL and another In a Spanish case that was referred to the European Court of Justice, the question of whether travel time must be included in the working time for mobile workers was addressed. Under the Working Time Directive, working time is any period during which a worker is working, at their employer's disposal and carrying out their activities or duties. Time spent by a worker travelling to and from their workplace does not normally count as working time. The Spanish company argued that the first journey from home to the first appointment or the last journey from the last assignment to home do not count as "working time".

Employers will need to review current contracts for any staff who are either homeworkers (and who may be required to travel for work), mobile workers or those who do not have a fixed place of work to ensure they are not falling foul of the Working Time Regulations.

For mobile workers or those who do not have a fixed place of work, the ECJ ruled that time spent by mobile workers travelling between home and their first and last appointments counts as working time for the purposes of the Working Time Directive. This decision has an implication for employers under the Working Time Directive especially where employees have not opted out of the 48 hour average weekly limit. The other two aspects for employers to consider would be the rest breaks between shifts and whether the health and safety of their employees is at risk.



## News from Commercial

# Cyber Liability

Following recent media coverage, in particular the TalkTalk cyber-attack, we wanted to highlight again that traditional insurance policies do not always provide the cover specific to cyber liability losses.

BBi use a number of specialist insurers who underwrite policies designed to provide comprehensive protection specifically for cyber, privacy and media risks faced by companies.

The following are 10 reasons to consider Cyber Liability Insurance:

### 1 Data is one of your most important assets yet it may not be covered by standard property insurance policies.

It is almost certainly worth many times more than the physical equipment that it is stored upon. A cyber policy can provide comprehensive cover for data restoration and rectification in the event of a loss no matter how it was caused and up to the full policy limits.

### 2 Systems are critical to operating your day to day business but their downtime is not covered by standard business interruption insurance.

In the event that a hack attack, computer virus or malicious employee brings down these systems, a traditional business interruption policy would not respond. Cyber insurance can provide cover for loss of profits associated with a systems outage that is caused by a "non physical" peril like a computer virus or denial of service attack.

### 3 Cyber crime is the fastest growing crime in the world, but most attacks are not covered by standard property or crime insurance policies.

Phishing scams, identity theft, and telephone hacking are all crimes that traditional insurance policies do not address. Cyber insurance can provide comprehensive crime cover for a wide range of electronic perils that are increasingly threatening the financial resources of today's businesses.

### 4 Third party data is valuable and you can be held liable if you lose it.

Non-disclosure agreements and commercial contracts often contain warranties and indemnities in relation to the security of this data that can trigger expensive damages claims in the event that you experience a breach. Increasingly, consumers are also seeking legal redress in the event that a business loses their data.

### 5 Retailers face severe penalties if they lose credit card data.

Under merchant service agreements, compromised retailers can be held liable for forensic investigation costs, credit care reissuance costs and the actual fraud conducted on stolen cards. Cyber insurance can help protect against all of these costs.

### 6 Complying with breach notification laws costs time and money.

These generally require businesses that lose sensitive personal data to provide written notification to those individuals that were potentially affected. Cyber policies can provide cover for the costs associated with providing a breach notice even if it is not legally required.

### 7 Your reputation is your number one asset, so why not insure it?

Cyber insurance can not only help pay for the costs of engaging a PR firm to help restore your reputation following a breach, but also for the loss of future sales that arise as a direct result of customers switching to your competitors.

### 8 Social media usage is at an all-time high and claims are on the rise.

Information is exchanged at lightning speed and exposed to the world. Often there is little control exercised over what is said and how it is presented. Cyber insurance can help provide cover for claims arising from leaked information, defamatory statements or copyright infringement.

### 9 Portable devices increase the risk of a loss or theft.

A laptop left on a train, an iPad stolen in a restaurant, or a USB stick going missing are all good examples. In addition, the devices themselves are being targeted with a growing number of viruses being built just for them. Cyber insurance can help cover the costs associated with a data breach should a portable device be lost, stolen or fall victim to a virus.

### 10 It's not just big businesses being targeted by hackers, but lots of small ones too.

Cyber attacks are quickly becoming one of the greatest risks faced by smaller companies, making cyber liability insurance a must. It can help protect smaller companies against the potentially crippling financial effects of a privacy breach or data loss.



**If you require any further information or require a quotation please do not hesitate to contact the commercial department on 020 8559 2111.**

# News from the financial planning department

## The 10 most important retirement planning considerations.

**The idea of retirement traditionally conjures up images of cruises around the world, relaxing afternoons in the garden and doting on the grandchildren.**

**But in recent years, retirement has begun to also carry negative connotations**

**Many retirees over the past decade have found that, far from being able to relax, they have been weighed down by regret. They didn't save enough money, they made rash decisions over using their pension, or they underestimated just how long they would need their finances to last for.**

**If you are approaching retirement in the next few years, here are the 10 most important things you need to consider.**

### 1 How much money will you need in retirement?

"How long is a piece of string?" might be a tempting answer to that question; but with a few simple calculations, it is possible to build up a realistic picture.

Firstly, look at your current day-to-day expenses and work out which are likely to still apply in retirement. Next, think about the extra things you want to do in retirement – such

as extra holidays or taking up a hobby. You will then have a reasonable estimation of your likely retirement expenses – and, therefore, how much money you will need to cover them.

### 2 Are you paying enough into a pension?

There are considerable tax relief benefits to paying into a pension that can add to the value of your pot. If you are in a workplace scheme and your employer matches your contributions, you can receive extra money towards your retirement.

Yet many people only commit to paying in the minimum amount from their monthly salary, rather than the maximum they can afford. Do you know how much you are paying in?

Is it worth contributing more?

### 3 Are you aware of how your pension is being invested?

Rather than stashing your pension contributions in a vault, your pot is invested on

your behalf with the objective of growing its value. It could be that you have been placed in your pension provider's default scheme, but this might not be as suitable for your needs compared to other available options.

### 4 Do you have old pension pots that are being neglected?

Most of us will change employers a couple of times over our working career, which often means that we start paying into a different pension. Even though you are no longer contributing to them, your old pension pots could still hold significant value and play a key role in your retirement.

### 5 Are you going to receive the full basic state pension?

Paid to you by the Government, the basic state pension can play some form of role in your future retirement plans.

However, there are certain qualification criteria to meet to receive the full amount.

The Government is introducing a new flat rate pension scheme from next April, where the qualifying rules are even tighter. If you have gaps in your employment history, you could miss out on the full amount unless you take steps now.

### 6 Are you aware of the new pension rules?

This only applies if you have a defined contribution pension, but the reforms introduced last April could be significant in how you use your pension in retirement. In a nutshell, you will be able to access the full pot from the age of 55 with no restrictions on how you use it (although you will be taxed for withdrawing all but 25% of the pot).

Even if you are a long way from retiring and not fully thinking about how you will use your pension, you need to consider the changes now. They could impact on how you should invest during the final few years before you retire, for example.

### 7 What role will your savings and investments play?

By giving up work you will no longer enjoy the security of a wage. It's not just your pension that will replace this; you might envisage using

your savings and investments too.

So it's very important to make sure these are working hard on your behalf. You might need to review your savings and investments now, or arrange to receive financial advice on how you could make more of them.

### 8 How much money will you need in retirement?

Many people retire with a mortgage not fully paid off or a large credit card balance that needs to be addressed. These bills could limit your financial capability in retirement, and

force you to downgrade your expectations.

There is a strong argument to make that sorting out these debts should take priority over saving for retirement. So take a look at if you are likely to be debt-free in retirement, or if you risk having a few financial headaches.

### 9 What are your partner and family's retirement expectations of you?

Believe it or not, many couples experience relationship problems when they retire. February 2013 research by Skipton Building Society found that four in 10 admitted to having difficulties post-retirement.

It's so important that you and your partner go into retirement with clear expectations of what your new life will be like.

Your children too may have certain hopes from you, such as helping out looking after grandchildren. Take the time out before you are retire to have these conversations, so there are no unexpected shocks.

### 10 Have you got a Will in place?

It's not a nice thing to think about, but the older we get the more likely it is that our time will soon come to an end.

Without a Will in place, there are no guarantees that the people who matter to you will inherit what you want them to have.

It's also important to keep a Will up-to-date; for example if you are blessed with the arrival of a grandchild and wish to include them in your inheritance. Make sure that changes in your life and family situation are always reflected in your Will arrangements.

## BBi apprenticeship announcement

Berns Brett Ltd is pleased to welcome our new apprentices, Charlotte Curd and Lola Stone to the company.

Charlotte has joined our Financial Services team while Lola is part of our Commercial Insurance department. This is our first time taking part

in the apprenticeship scheme and we are all excited to see their careers develop.



## And finally...

BBi advertise at West Ham Football Club and received great coverage at the recent Chelsea game, when the game was stopped for several minutes and our advert was in the background.

