bolt burdon SOLICITORS

EMPLOYMENT LAW UPDATE.

APRIL 2024



Welcome to our first quarterly employment law update designed to bring to the attention of HR Professionals, business owners, senior managers, and in-house counsel forthcoming changes in employment law.

It is certainly the case that 2024 will be a year of change. We have set out key developments/changes which will occur in the first half of the year together with our suggested recommendations for action and details of our events at which we will provide further information and insight.

CONTENTS

PROTECTION FROM REDUNDANCY.

FLEXIBLE WORKING REQUESTS.

CARER'S LEAVE.

MENOPAUSE IN THE WORKPLACE.

TIPS AND GRATUITIES.

TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS.

LOOKING FURTHER AHEAD...

Disclaimer: General Information. The contents of this update are intended solely for general information purposes and should not be considered as legal advice. We cannot be held responsible for any loss resulting from any actions or inactions taken based on information in this update.

PROTECTION FROM REDUNDANCY.

It is expected that the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024 will come into force on **6 April 2024** extending the current rights which apply to women and new parents who are on maternity leave, shared parental leave or adoption leave to be offered a suitable alternative vacancy in priority to other employees.

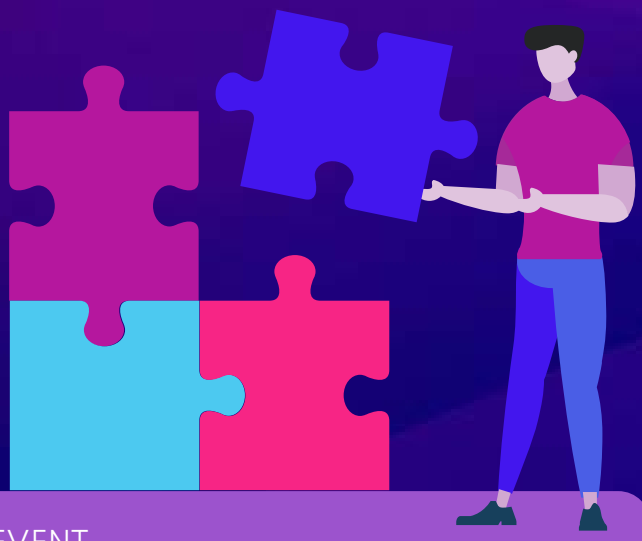
The protected period will be extended to cover:

1. the protected period of pregnancy which will commence when the employer is informed of the pregnancy and ends on the date when the statutory maternity period commences or, if the employee does not have the right to statutory maternity leave, two weeks after childbirth.
2. the maternity leave, shared parental leave or adoption leave as before;
3. the additional protected period which, for maternity and adoption leave, begins on the day after the maternity leave or adoption leave has ended and ends on the ''relevant day'' which is essentially the date which is 18 months after the date of childbirth or the date the child is placed with the employee for adoption; and
4. the additional protected period which, for shared parental leave, begins on the day the employee has taken six consecutive weeks of shared parental leave and ends on the "relevant day" which is essentially the date which is 18 months after the date of childbirth or the date the child is placed with the employee for adoption.

RECOMMENDATIONS

Identifying the date upon which you, as the employer, were informed of the pregnancy will be critical in determining when the protected period of pregnancy commenced. We recommend that procedures are put in place so that information concerning pregnancies is communicated promptly by line managers to appropriate persons within the business.

It is important that protected rights are identified when you are considering redundancy and reorganisation proposals. It is a right which is often overlooked at the initial planning stages.



EVENT

We are hosting a free Business Briefing on **Wednesday 15 May 2024** focusing on redundancies and reorganisations and in particular the common pitfalls and how to avoid them – we look forward to seeing you at the briefing.

Click here for more details.

FLEXIBLE WORKING REQUESTS.

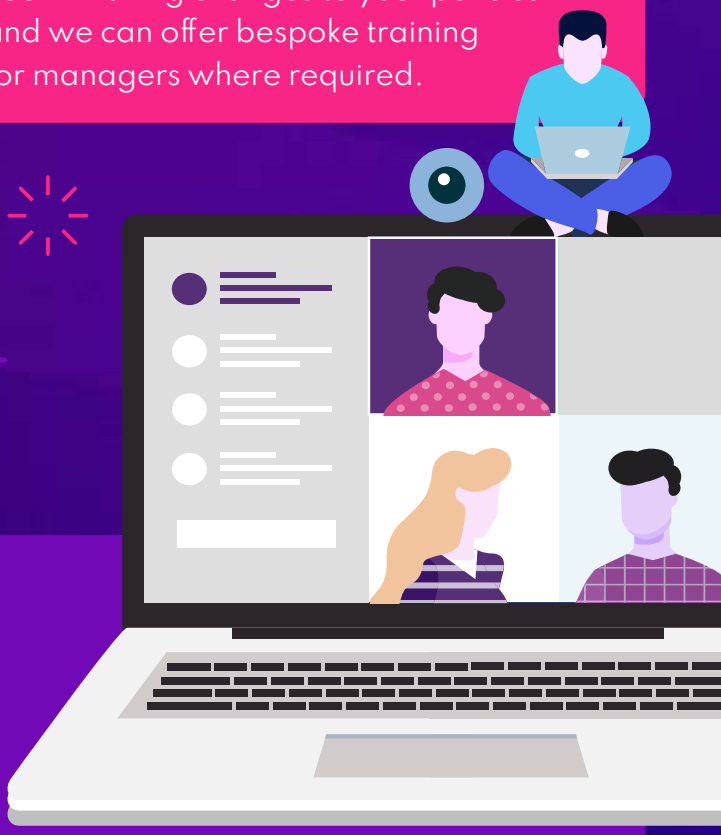
The right to request flexible working will be made a day one right with effect from **6 April 2024** and the current qualifying period of 26 weeks continuous employment will no longer apply.

Further changes in this area are expected in the first half of this year namely that:

1. employees will be permitted to make two requests instead of one in a 12-month period;
2. employees will no longer have to explain the impact of their request on the business;
3. employers will have to respond to the requests within two months; and
4. employers will have to consult with employees before rejecting a request.

RECOMMENDATIONS

We recommend that you review your current flexible working policy in light of the changes and make your line managers aware of the changes, especially the requirement to consult with the employee before rejecting a request. We can assist you in making changes to your policies and we can offer bespoke training for managers where required.



EVENT

We will be running a free event in the Autumn designed to assist managers in identifying potential employment law problems (Red Flags) so that these issues can be addressed in a proactive way. More details will follow but do let us know if this will be of interest to you so that we can reserve a place or two for your managers.

CARER'S LEAVE.

From 6 April 2024 employees with caring responsibilities will have the legal right to take one week off each year to carry out those responsibilities for someone who is old, or who has a disability, illness or injury lasting more than three months.

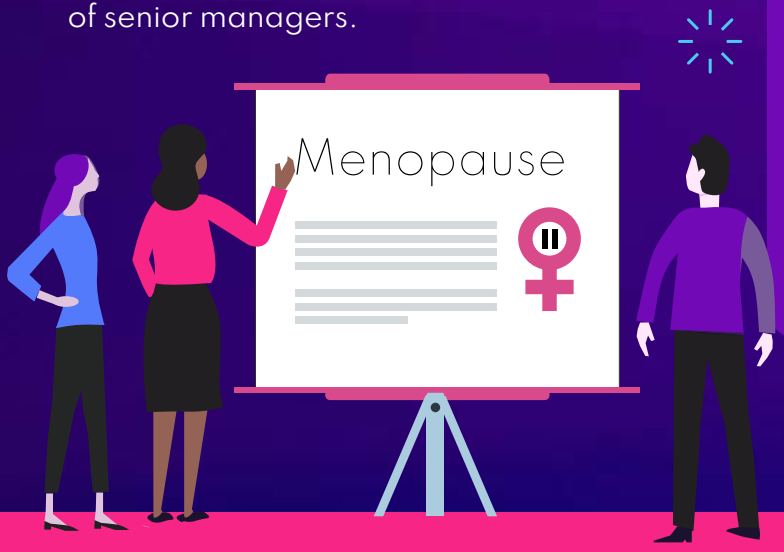
RECOMMENDATIONS

We recommend that you review your policies in light of the forthcoming changes and make your line managers aware of the changes. We can assist you in making changes to your policies and offer bespoke training for managers where required.

MENOPAUSE IN THE WORKPLACE.

The Equality and Human Rights Commission on **22 February 2024** published guidance for employers. As a reminder: if menopause symptoms have a long term and substantial impact on a woman's ability to carry out normal day to day activities, the symptoms could be considered as a disability for the purposes of the Equality Act 2010 and workers experiencing menopause symptoms may be protected from less favourable treatment on grounds of age and sex.

The guidance includes explainer videos and is a useful tool to use to promote awareness within the business and to bring the employers legal obligations to the attention of senior managers.



RECOMMENDATIONS AND EVENT

In line with ACAS guidance, all businesses should aim to create an open culture within the business where employees feel confident to approach a manager to discuss their symptoms and where managers are able and confident to offer guidance and solutions and make adjustments. We fully appreciate that this can be easier said than done!

If you do not have a menopause policy, we recommend that you put in place a policy as part of your plan to foster an open culture. We can assist you in implementing a policy or making changes to your policies. We also offer bespoke training for managers where required.

We will look at this area in more detail at our forthcoming free Discrimination Law Update Event in early June 2024, so watch this space.

TIPS AND GRATUITIES.

The Employment (Allocation of Tips) Act 2023 will place an obligation on employers to ensure that the total amount of qualifying tips, gratuities and service charges paid at or attributable to a place of business is allocated fairly between workers of the employer at that place of business. We are expecting the act to come into force on 1 July 2024 and we are expecting the final code to be published this spring.

RECOMMENDATIONS

If this applies to your business, we recommend that you review your working practices to ensure that they are compatible with the proposed changes. Please do **call us** if you require assistance in this area.

TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS.

From 1 July 2024, an employer will be able to consult directly with its employees and workers rather than elected representatives who have been elected by the affected staff if:

1. there are no existing worker representatives in place; and
2. the employer is a small business with fewer than 50 employees, undertaking a transfer of any size; or
3. a business of any size undertaking a transfer of fewer than 10 employees.

RECOMMENDATIONS

This is good news, especially for smaller outsourcing arrangements.However, it should be noted, and managers should be made aware, that there is an obligation to inform and consult with employees and workers and no change has been made to this obligation and requirement.

If you are thinking of outsourcing or indeed if you are gearing up to sell your business, do **call us** as we are able to help in this area.

LOOKING FURTHER AHEAD...

1. Workers Predictable Terms and Conditions – the right for workers to request a predictable work pattern will have a significant impact on businesses who operate zero-hours work model as part of their staffing arrangements. We are expecting the new code to be published this spring and for the changes to be implemented in **September 2024**. We will be providing more information in our next quarterly update, however please do **call us** if you have any questions.

2. The new duty to prevent sexual harassment - we are expecting the new duty to come into force in **Autumn 2024** and to receive updated guidance in due course. We will be providing details about the proposed changes in our next quarterly update. We will also be running a free Discrimination Law Event in **June 2024**, at which we will be looking at the changes and the duties on employers in detail and discussing steps employers can take to prepare for the new duty.



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