

PROFESSIONAL

in Payroll, Pensions & Reward

Issue 48
March 2019

Winning the war for talent



Achieving full potential

Time, feedback, skills

Embracing the power of payroll

Partnerships, experience, technology

Go with the flow

Happy, creative, productive



CIPP update

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Editor's comment

Sometimes when thinking about writing this comment piece, something unanticipated emerges as the core theme.

This time I perceive – or, maybe, imagine – a trend in payroll processing industry developments. This issue (and indeed the previous one) carries several pieces which might suggest that something significant and fundamental is occurring. See, for example, pages 11, 26, 29 and 30 this issue (and also pages 14–15 in the February issue).

Maybe the leading payroll bureaux are striving to reposition in or enter their chosen markets, perhaps to regain share and profitability or to achieve synergy with other market players? Or maybe they are developing new products and services that feature AI and machine learning? Perhaps it's a combination of all these things, and the

timing simply a coincidence; or I could of course be reading far too much into the perceived trend. You are welcome to draw your own conclusions.

Often and typically industry developments are accompanied by noteworthy and suggestive staff changes, most obviously at senior executive level. Such changes might arise because of the demands for new investment and skills. There have been several of these changes recently – so it's timely (or simply a coincidence) that this issue's feature topic is about winning the war for talent (pp38–41).

Mike Nicholas MCIPP AMBCS (editor@cipp.org.uk)

Editor



Chair's message

Whether in the field of payroll, pensions or reward, the cyclical nature of the role is similar with a variety of weekly, monthly, quarterly and annual requirements of managing the disciplines. Regardless of a

calendar year end or a tax year end, this is often time when individuals take stock of their role and consider change. Of course, the other annual event of a performance review, for those that have them, can also trigger the desire to take stock and consider career planning.

Individuals may well start looking for a new position and considering their next career challenge, likewise employers may be looking for new talent to bring into the team. Employers: consider exactly the type of good fit for your organisation, not just technical skills but interpersonal and the ability to grow and change with the organisation. Those seeking employment: consider what do you bring to the employer, know your capabilities and consider what areas you may be looking to develop and whether the role or the employer you are considering can offer you those. The cost of a mistake at interview for either party can take a long time to remedy

and so it is important to make sure it is as good a fit as can be established, right from the start.

Both attracting and retaining talent, means the reward of employment, and the 'offer' must be scrutinised, and certainly will be reviewed by those in the market to consider next steps. Offering great working environments, the opportunity to expand horizons and build capability, as well as an up to date and relevant breadth of employer benefit choices, help you to stand out from the crowd. Individuals have individual needs, so offering as flexible a reward package which takes account of where an individual may be in their career and life journey certainly helps to stand out from the crowd and be recognised as an employer of choice. Being aware of the strength of employment sites such as Glassdoor and The Best Companies Awards is hugely important also to know what trends are relevant and being monitored.

Jason Davenport MCIPP MIoD (jason.davenport3@cipp.org.uk)

Chair, CIPP



CEO's message

The darkness of winter is well behind us and the lighter mornings and nights are a sure sign spring is on the way.

Hopefully those new year resolutions are still in place and if so also resolve to continue your continuous professional development (CPD) during 2019. What do we have on offer to support our ever-expanding membership base? Are you scheduled to attend any of the events the CIPP have been planning for this year? Want to be kept informed, updated, ahead of the pack and at the top of your profession?

For our members, a valued (and free) membership benefit is attendance at our ever-informative national forums with timely industry updates at various locations. These regularly exceed over 1,000 members in attendance during the year with many of these booked up in advance. It would be a nice challenge to have to organise more to accommodate the additional demand! So, book up early to make sure you're able to attend. See pages 7 and 12 for

details of venues for these updates and forums.

We then have many key events for the year. It's the 21st anniversary of our National Payroll Week. Although commencing on 2 September – and a way off – we've started our planning already. We also have our very successful Scottish National Conference on 5 September which is receiving very positive ratings yet again from those who attended.

And, of course, our award-winning Annual Conference, Exhibition and Excellence Awards, back at Celtic Manor (by popular request) on 2-3 October. And don't forget this is the ideal place to showcase you and your company's excellence. Details of our conferences are on pages 12 and 24.

Ken Pullar FCIPP (ken.pullar@cipp.org.uk)

Chief executive officer, CIPP



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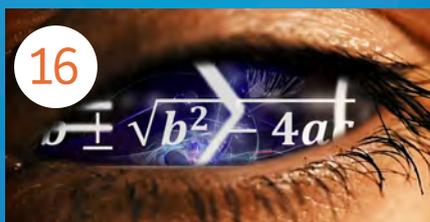
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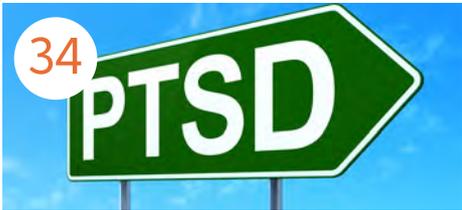
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minutes with...



**Ros Hendren MSc FCIPP,
CMgr, FCMI dip, FHEA**
Board director

Can you remind readers how you first became involved with the CIPP?

My first involvement with CIPP (or the IBPM as it was known at the time), was back in 1995 when I enrolled on the Diploma in Payroll Management, now replaced with the Foundation Degree in Payroll Management.

Reflecting now to where it all began for me – just as the CIPP has changed and evolved immensely over the last 24 years, so has the industry, and my career within it. At every stage of my development, the CIPP has been there to provide the support, training and development to help me achieve the next aspirational level of my career.

What are your plans for 2019?

This year is a milestone year for me: I will celebrate both twenty years since graduating with the MSc and also my fiftieth birthday, I will reach thirty years in the payroll industry, and my daughter will begin school.

Reaching milestones such as these gives me pause for thought, and I have been reflecting over achievements to date and where to go next to take things to the next level.

On the radar is to achieve Chartered membership of the CIPP. Having already achieved Chartered Manager status with the Chartered Management Institute several years ago, I appreciate the value the status brings in terms of personal

confidence, profile within the industry, client perception, and approach to continuing professional development and learning opportunities. This prestigious accolade has been a goal of mine for some time, and so I have set myself a new year resolution, to make it happen as soon as possible.

This prestigious accolade has been a goal of mine for some time, and so I have set myself a new year resolution...

What does being reappointed to the board mean to you?

Since being elected onto the CIPP board of directors for the first time in 2014, I have taken an active role in guiding the Institute through some much-needed change, to ensure we have a strong and sustainable future. The experience has provided me with a deeper understanding of the CIPP, its role in the industry and community, and therefore what our members want and need from industry support and representation, technical support, training and vocational qualifications.

Being re-elected means that I can

retake my position on the board and immediately resume working with my fellow board members to capitalise on all the hard work already invested, to help take the CIPP to the next level in the industry.

What does the future hold for payroll, pensions and reward?

This is always a tough question to address so – given the pace and frequency of change relating to legislation, the economy and the changing shape and diversity of the general workforce, including their expectations of employment-related reward – the answer to it will change frequently depending on the current climate and industry trends.

As industry experts it is important that we constantly scan the horizon to keep pace with all the changes, including the myriad of technological advancements, to ensure we take advantage of and maximise opportunities that present themselves. Specific areas of interest are likely to be associated with: blockchain technology and how it can be utilised to improve the security of the payroll process; artificial intelligence and how this is likely to provide opportunities for automation, efficiencies, and added value service; the millennial workforce and what they want from their employer, their employment, and any associated remuneration; and, of course, Brexit. ■



On your
behalf

UPDATE

Policy team update

We have yet another 'pay reporting' obligation in the pipeline for payroll professionals to grapple with in the form of ethnicity pay reporting. **Diana Bruce MCIPPDip, CIPP senior policy liaison officer**, reveals research findings and the Institute's recommendations



In her February 2017 report, *Race in the Workplace*, Baroness McGregor-Smith recommended that the government should legislate to introduce mandatory reporting of ethnicity data. At the time, the government said that the case had been made for ethnicity reporting and it expected businesses to do this voluntarily. The government asked Business in the Community to assess what steps employers had taken to haul down workplace barriers and harness the talent of a diverse workforce – they found that barriers persist in the workplace (<https://bit.ly/2S70jt6>).

Only a small number of employers had chosen to publish ethnicity pay data voluntarily, so in October 2018 the government published a consultation (<https://bit.ly/2RGJufn>) on ethnicity pay reporting (alongside a Race at Work Charter – <https://bit.ly/2PAK7DK>) asking how a new mandatory reporting requirement should operate.

After gathering feedback from

our members and the wider payroll community the CIPP submitted its formal response to the consultation in January.

From the consultation paper we extracted the questions most relevant to the payroll function and sought members' views. The following is a summary of the feedback we received.

● **What are the main benefits for employers in reporting their ethnicity pay information?** – Our members are very much aware of the practical challenges that pay transparency reporting presents and remain to be convinced of the benefits to the employer in the same way that benefits could be demonstrated with gender pay gap reporting. Ethnicity declarations aren't currently collected by the majority of respondents and where collected they aren't (on the whole) stored within the pay system, thus increasing the burden to produce usable statistics. It was recognised though, that this presents a possible opportunity for the employer to be able to demonstrate

good practice and this could provide a mechanism to encourage greater equity where it doesn't currently exist. There was, however, significant concern about the challenge of collecting and storing ethnicity data due to current low levels of employee engagement together with the ethnicity selection being a matter of personal employee opinion.

● **What type of ethnicity pay information should be reported that would not place undue burdens on business but allow for meaningful action to be taken?** – Whilst the majority of responses to this question favoured a single 'one pay gap' figure this is likely to link to the desire for increased simplicity together with the reduction of administrative burden. Reporting several pay gap figures may reflect greater accuracy (assuming a solution could be found to low numbers being reported); however, simplicity would be preferred, and it is recognised that having a number of figures based on standard classification could result in a significant number of calculations being required. It is recognised that the preference for pay quartile reporting would provide a more representative view of the distribution of pay differences. Almost a third of respondents did not know at this

...third of respondents did not know at this point what the preferred solution to this reporting challenge could be...

point what the preferred solution to this reporting challenge could be.

● **What supporting or contextual data (if any) should be disclosed to help ensure ethnicity reporting provides a true and fair picture?**

– Comments highlighted concerns about variances that will be presented as a result of geographic differences in ethnic populations. There was also concern about the complexity presented with ethnicity pay reporting; there was, however, a recognition of the possible value that considering age and gender may have as long as the data numbers (headcount) were significant enough to be meaningful.

● **Should an employer that identifies disparities in their ethnicity pay in their workforce be required to publish an action plan for addressing these disparities?** – 70% of respondents believe that an employer should publish an action plan and recognise the valuable role it could play. However, commentary also suggests that there is a strong belief that a less prescriptive approach, as adopted with gender pay gap (GPG) reporting, would be preferred to enable employers to ‘tell their story’ in a way that best suits their situation.

A simple accuracy declaration as required with GPG reporting would be preferred leaving the employer the freedom to select the most appropriate manner in which to narrate their experience, within their sector and their geographic location/s.

● **Do you currently collect data on ethnicity at your workplace?** – 44% of respondents do use standard ethnic classifications but of those who responded ‘yes’ 67% would need to carry out further research to inform them what classification is used. The 2011 Census: 5 standardised ONS ethnic classification was identified as being used as was HESA ethnic classification (<https://bit.ly/2KGBFTY>).

● **What do you think are the most effective approaches for employers to improve employee self-reporting or declaration rates?** – The majority of respondents felt that there needs to be a mandatory obligation in order for this to be adopted by employers that currently don’t collect this data. It was noted several times that this data isn’t currently being collected and so

additional time would need to be built in to allow this to begin, which will take longer with existing staff. There needs to be good communication with employees as to why this data is being collected and for what purpose, together with using multiple resources for employees to complete the declaration including online and self-serve facilities.

Collecting it during the onboarding/recruitment process was seen to be the most effective time.

...every step of the roll-out process should be more structured and better promoted

● **How should self-reporting or non-disclosure rates be reflected in the information reported by employers?**

– Keep as simple as possible, reporting in an annual statement the number of employees who have elected not to disclose by including ‘not to say’ as an answer option together with the number who haven’t engaged – whilst explaining steps taken to collect data. This will in the short-term reduce effectiveness of figures reported but in itself could provide a starting point of ethnicity pay transparency with which the employer can build on in subsequent years.

This was not a challenge faced by employers with GPG reporting and so any new policy delivery will need to provide ample time recognising that for the majority of employers this data isn’t currently collected and will need to begin before the first reporting year.

● **For a consistent approach to ethnicity pay reporting across companies, should a standardised approach to classifications of ethnicity be used and what would be the costs to your organisation?** – Costs will vary enormously – a more detailed survey will be useful when a firm proposal is known.

● **Please outline steps that should be taken to preserve confidentiality of individuals** – There was broad support for the restrictions applied within the civil service workforce statistics, but this could have the result of organisations at the smaller end of the reporting size range

never reporting accurate results – which in turn would place a greater challenge on the narratives needed in order to move towards providing transparency.

Confidentiality is of particular concern in geographical regions with low ethnic working populations. Publishing more examples of best practice by using employer case studies from those currently reporting on ethnicity could provide a wider range of examples over and above the civil service example.

● **What size of employer (or employee threshold) should be within scope for mandatory ethnicity pay reporting?**

– Though a five-employee threshold for inclusion of an ethnic group was suggested in the consultation paper (including employers with less than 500 employees), this might result in there being insufficient people in many of the ethnic groups for them to be included in the reporting. Many felt that if ethnicity pay reporting is to be mandatory the threshold should be in line with that for GPG reporting. One of the comments received suggested that an ‘all or nothing approach’ is the only way to obtain true data.

● **What support measures do you think would be useful for employers?**

– Learning from the delivery of GPG reporting, every step of the roll-out process should be more structured and better promoted. More accurate information needs to be shared at a much earlier stage and the Department for Business, Energy & Industrial Strategy will need to set out a clear and achievable timetable and deliver on it. Many employers don’t currently collect ethnicity data and so a much longer timeline for policy delivery will be needed; as a minimum an extra year will be needed for employers to begin collecting this data before they could then consider providing a report. This wasn’t a challenge presented with the delivery of GPG reporting. As a first step and before reporting requirements are considered, employers should be mandated to collect this data from their existing workforce.

● **Lessons from GPG reporting** – In addition to asking questions posed within the consultation paper, we also asked members for their thoughts on what lessons could be learned from the delivery of mandatory GPG reporting.

○ There needs to be recognition by

government that organisations try to automate reporting wherever possible, so lead time for software development must be included as a prerequisite to any new legislative changes in future.

- Information and legislation were delivered too late for a number of software providers and companies required to report. Delaying legislation meant many courses run by various companies could not provide the most accurate information as it was still in draft form until after the reporting dates.
- Unlike GPG reporting there will be a need to collect information from long-serving employees which has not previously been collected, so time will need to be factored in to allow for this.
- Guidance and information was not clear and still leaves large areas which can be misinterpreted. There was a lot of confusion regarding which pay elements to include/exclude.

Conclusion and recommendations

As with gender pay gap reporting, payroll

and human resources (HR) professionals along with their software developers will be instrumental in ensuring that affected employers comply with mandatory requirements to report ethnicity pay gaps and achieve greater transparency. This is the first step in developing policy in this space and much more detail and discussion will be required before ethnicity pay transparency can be delivered.

...Rushed delivery will not achieve accurate outcomes

From an administrative burden perspective comparability with the methodology applied for GPG reporting would be preferred by our members. However, our members are pragmatic and recognise that this will not achieve the same results because of the different challenges presented by ethnicity classifications, yet value must be achieved through the efforts of the software

developers, payroll and HR professionals and so we recognise different methodology will be required.

If government consider that the time is right to deliver another reporting obligation on employers, in the name of transparency, significant time and structured planning will be needed. Rushed delivery will not achieve accurate outcomes. Lessons need to be learned from the roll out of GPG reporting with government engaging in greater detail with all affected stakeholders as they continue to consult.

Employers pay processes vary in size and complexity enormously and with the added challenges for gathering accurate ethnicity data, this adds further layers of difficulty.

The CIPP policy team see this consultation as the start of a conversation and not the end of it and look forward to being involved in further consultation and discussion with government and stakeholders. ■

All consultation responses are available in the Policy hub on our website.

Hear from the experts at our *national forums*

Exclusive to CIPP members*, the national forums are a perfect opportunity to hear from the policy team, as well as other key speakers, on developments in payroll, pension and reward legislation. This event will also provide an excellent chance for you to network with other CIPP members.

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2 May	Bristol	13 June	London
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22 May	Cardiff	11 July	London
6 June	Glasgow	17 July	Birmingham
12 June	London		

*applicable levels of membership only. Please be aware that lunch will not be provided.

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*please see summary at cippmembership.org.uk for details.

Q: My question is about electric company vehicles.

Where the employee has paid to charge their vehicle away from work premises, what rate would be paid for business mileage and would this be free of tax and National Insurance contributions (NICs)?

A: This rate is now 4p per mile, and yes this would be tax- and NICs-free. Please see the following link: <https://bit.ly/21tor7N>.

Q: Can you advise whether a salary sacrifice for pension can be deducted from statutory maternity pay (SMP) or occupational maternity pay (OMP)? The employee will receive 90% of full pay for the first eight weeks and then ten weeks at half pay plus SMP.

A: I can confirm that you cannot take a salary sacrifice of any sort including pension from a statutory payment (including SMP) but, you can take it from contractual maternity pay (CMP) if this is payable. You will need to be careful during the first six weeks when SMP may be the same value as 90% of CMP. In this situation salary sacrifice for pension cannot be deducted.

With salary sacrifice for pension the employee has given up in advance an element of pay in return for a higher employer pension contribution. Therefore, an employer must pay this higher contribution over to the pension scheme regardless of the sacrifice being taken from the employee. Also, these higher contributions must be based on the employee's pay as if she were working

and earning normally and for the whole of the paid maternity leave. This is usually 39 weeks but could be longer if the occupational element of the maternity pay is for, say, 52 weeks.

Q: We are in the process of introducing some salary sacrifice schemes and we are unsure as to whether we should be using the pre-sacrifice salary or the lower post-sacrifice salary for pension contribution calculations. Could you please advise us?

A: Whether an employer uses the pre-salary sacrifice pay or the post salary sacrifice pay is a decision for the employer to make and you should consult with your human resources team on this. Guidance found on GOV.UK (<https://bit.ly/1UPWLS3>) is reproduced below.

"Effect of salary sacrifice on payments and benefits – Earnings related payments – Employers usually decide how earnings-related payments such as occupational pension contributions, overtime rates and pay rises are calculated. Such payments can be based on the notional salary or the new reduced cash salary, but this must be made clear to the employee."

Q: My employer is looking at providing electric charging points in its car park for staff to use. The chargers would be for staff who have their own electric cars and are used for personal use including commuting.

Can you clarify whether this is a taxable benefit?

A: There is no reportable benefit in kind in this situation and HM Revenue

& Customs (HMRC) have provided a fact sheet (which can be found at this link <https://bit.ly/2t1udDr>) explaining that from April 2018 employees charging their own electric vehicle at work are not liable to pay tax on the value of the electricity used.

Q: An employee who is currently absent on long-term sickness is in receipt of statutory sick pay (SSP). I have received a request for him to be paid statutory paternity pay (SPP), as his partner is expecting a baby. The birth is due in eight weeks' time which is before the end date in his fit note.

Can I process SPP whilst he is in receipt of SSP?

A: When an employee is in receipt of SSP, the guidelines advise that you cannot process a payment for SPP for any period in which the employee is entitled to be paid SSP. You must send your employee a copy of the form in which he sent requesting the leave, giving the reason as stated above as to why this can't be paid. However, as SPP can start on any day of the week, should the situation change – for example, the employee returns to work – then he may be eligible for SPP. You would need to look at the qualifying period to establish if he meets the criteria for it to be paid.

Q: As you may know, a fee of not more than £65 would be payable by each EU national applying for settled status in the UK. My employer had decided to reimburse employees for this cost as it would enable them to carry on working here. How is this payment to be treated?

A: Note that on 21 January 2019, the prime minister announced that the fee(s) for applying for settled status via the EU Settlement Scheme (<https://bit.ly/2trb9PZ>) would be scrapped when the scheme is rolled out in full, from March 2019. Anyone who pays or had already paid a fee will be reimbursed by the government.

If your employer has reimbursed an employee for such a fee, the amount should be processed as a cash payment through the payroll. However, the December 2018 edition of HMRC's *Employer Bulletin* indicates that the cost of this tax charge could be met by the employer via either a PAYE settlement agreement or grossing up the payment so that the net amount payable to the employee is the cost of the fee.

Q: For reporting the chief executive officer pay ratio which tax years are to be used?

A: It depends on when the financial year commences for a company as to which tax year you would need to take the information from.

So, if the financial year commences on 1 April 2019, you would gather information from tax years 2018–19 and 2019–20. If the financial year runs from 1 January, then you would use tax years 2017–18 and 2018–19.

Q: We are looking at putting in place fuel card usage for our company car drivers.

We operate a monthly payroll, so the first opportunity we'd have to make good the private fuel for 5 April each year would be in the April 2019 payment. As this would be in the new tax year would this be ok?

A: If the employee makes good the private fuel by 6 July then it will not be reportable. This link to GOV.UK provides guidance: <https://bit.ly/2RHwlzx>.

Since the 2017–18 tax year the latest date for making good the cost of all fuel provided for private use when calculating the fuel benefit charge is 6 July following the tax year in which the private fuel is provided.

Q: I am looking for advice on operating an attachment of earnings order (AEO) in respect of a fine in Northern Ireland which was introduced in 2018. How should I calculate the deduction if the employee has been paid holiday paid in advance?

A: You should use the same guidance as for direct earning attachments which can be found here: <https://bit.ly/2AXOoXu>.

Where the amount to be paid to the employee on any pay-day includes an advance in respect of future pay, the total amount to deduct is determined by dividing the whole amount of net earnings by the number of pay periods, calculating a single deduction amount and then multiplying this by the number of pay periods.

Q: One of my client's employees will receive a bonus this month which will be taken into account when calculating the student loan deduction. The person has requested that we amend the

deduction to not include the bonus figure. Is it legal to do so?

A: The bonus must be included in the calculation for the student loan deduction as the bonus is liable to class 1 NICs. Therefore, if you exclude it from the calculation it would be illegal. Bonuses and fees are classed as being earnings for student loan purposes.

Q: As we operate a lunar payroll there appears to be fourteen pay periods this tax year. Can this be changed to happen next tax year?

A: Unfortunately, you cannot determine or change the tax periods to suit the company or employees. If the employer makes a payment which is week 52, and then has to pay again on or before 5 April it will be considered as week 53/54/56. Please see these links:

● GOV.UK – <https://bit.ly/2DuLETI>

● Income Tax (Pay As You Earn) Regulations 2003 – <https://bit.ly/2HvuUPQ>.

Q: A couple of our employees do not qualify for SMP due to earnings being below the lower earnings limit for class 1 NICs or not satisfying the employment test. We are going to pay them occupational maternity pay. Are we able to claim the 92% back from the government via the employer payment summary?

A: If the employee is not entitled to SMP the employer cannot recover the 92% back as she is being paid OMP not SMP.

The employer should issue a SMP1 form and return the MATB1 form to the employee, retaining a photocopy of each.

The employee could potentially be entitled to maternity allowance (MA) from the Department for Work and Pensions. If provided for in the OMP scheme the amount of the OMP could be reduced by the MA.

This link to GOV.UK provides technical guidance on maternity benefits available to employees taking maternity leave: <https://bit.ly/1fZJ02h>. You'll find information on SMP and MA. ■



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Live chat with us



CIPP update

First Chartered members of 2019 announced

FOLLOWING THE Chartered Member panel review on 24 January 2019, we are delighted to welcome two new Chartered Members:

- Olivia Dunham ChMCIPPdip
- David Sullivan ChMCIPPdip

Chartered membership demonstrates the highest level of professional membership in the industry, and recognises those individuals who have worked hard to raise the profile of payroll and their professional standing through education and continuing professional development. It demonstrates to employers that you are committed to keeping up to date and raising the standards of best practice within the industry.

To become a Chartered Member, or find out more, visit cipp.org.uk or email membership@cipp.org.uk.

Payroll Assurance Scheme

BOTH THE Parliamentary and Health Service Ombudsman and Bishop Fleming Payroll Services Limited have successfully achieved the prestigious Payroll Assurance Scheme accreditation.

Ken Pullar, CIPP chief executive officer (CEO), said: "We are thrilled these organisations have joined the ranks of those achieving this respected accreditation. It is imperative that organisations comply with government legislation and the Payroll Assurance Scheme is designed to help them do just that."

Visit payrollcompliance.org.uk or email info@cipp.org.uk to find out more about the Payroll Assurance Scheme.



CIPP announced in Sunday Times Top 100 Not-For-Profit Organisations to work for

FOR THE third year, the CIPP has been named in the Sunday Times Top 100 Not-for-Profit Organisations to work for. This prestigious award acknowledges excellence in workplace engagement and is judged purely on a staff survey – with only the highest level of overall employee engagement qualifying for the top 100.

Ken Pullar, CEO of the CIPP, said: "The CIPP is committed to delivering quality and excellence in everything that we do, aligning us with The Sunday Times Top 100. It is only through achieving excellent employee engagement that we are able to deliver quality and excellence in our services to members.

The fact that our employees have been engaged enough to respond to the survey and are motivated and committed to the CIPP mission and values speaks volumes, and I thank them for their hard work and dedication. We could not have achieved this accreditation without them."

The best-companies-to-work-for lists have been recognising excellent employee engagement for almost twenty years. The accreditation programme was modelled on the Michelin Guide star system which means it stands for quality and excellence.

At the time of writing, the CIPP is awaiting the Best Companies Awards on 21 February to find out our position within the 100. This will be announced in *News Online* once known.



Global payroll complexity index

THE CIPP is proud to be supporting NGA Human Resources in producing the 2019 *Global Payroll Complexity Index* (GPCI) and we invite you to provide your invaluable input into the GPCI. Why? Because as a professional, instrumental in ensuring the success of your organisation's payroll process, no one understands the on-going challenges of maintaining its accuracy and compliance better than you do.

The GPCI report, published by NGA Human Resources and in association with the CIPP and other leading international payroll associations biennially, highlights significant changes in payroll legislations and laws since the last Index. It also ranks countries in order of complexity, highlighting those that have changed position and why this is.

Over the past decade, the GPCI has become the go-to resource for payroll professionals needing to ensure absolute payroll compliance in one or more countries or regions. It is regularly referenced in the business case planning for organisations looking to simplify existing multi-country payroll process or that are expanding into new countries.

As a member of the CIPP you will have received notification of the survey, with a link to complete via *News Online*. To thank you for your valuable contribution, we will forward you a complimentary copy of the 2019 *Global Payroll Complexity Index* on publication.

2019 future of payroll report

THE CIPP *Future of payroll* report 2019 is now available and can be accessed online at <https://bit.ly/2CZhJKC>. Now in its second year, the report has delved further into trends and technology enhancements which could impact on the future of our profession.

Technology is advancing quickly, and payroll is embracing the advancements. People coming into our businesses have different attitudes towards pay, and that is influencing the way we pay people and the solutions we are looking to in order to automate payments. Terms such as 'pay on demand' and the 'gig' economy are becoming widely used and accepted, and this is challenging the traditional pay system. Whilst these things won't change things overnight, they are certainly providing payroll with food for thought and ways of making their pay and reward package more attractive to the new employees entering the workforce.

The changes to technology will also lead to changes in the skillset required of payroll professionals. Whilst software will enable more automation, the number of enquiries coming into the payroll department will not decrease, and payroll professionals will need to understand the calculations and legislation behind the software to answer these queries. The future of payroll will become more people focussed, and those working in the department will need to be educated, skilled and knowledgeable so that they can answer queries and support their organisation's employees in understanding their pay and reward.

Thank you to all of the payroll professionals who took the time to respond to this survey; your feedback and views have helped to shape the report and provide some context around the predictions. Thank you also to our sponsors, Datagraphic and Workday, who have provided their own insights into the future of payroll, specifically aligned with technology and payslip distribution. And a final thank you to Chartered Member Glenn Jones MSc FCIPD ChFCIPP, our contributing author, who has taken the time to analyse the results and provide insight to them.



Movers

Shakers

To appear on this page
contact editor@cipp.org.uk

ALEXANDER HOOTON ACIPP SPREADS HIS WINGS

ALEXANDER HAS recently moved to a new payroll manager role at L3 Commercial Aviation which is a world leading pilot training provider based in Sussex for 600+ employees spread over several locations.

With an energetic and hands-on approach, and keen to turn payroll from a function into a service for employees, Alex is looking forward to process analysis with a view to slim line, but most importantly to help current members of the payroll team develop their payroll careers.

Prior to his new role, Alex spent eighteen months in a payroll manager role for leading pension software company Aquila Heywood, based in Redhill, Surrey. In addition to processing several manual payrolls for 200+ employees on a sole basis, he also provided support and guidance on the company pension schemes and benefits.



ACTIVPAYROLL APPOINTS LAWSON BRACKPOOL TO BOARD

THE GLOBAL payroll and tax compliance specialist, activpayroll – which is headquartered in Aberdeen, Scotland – has appointed Lawson Brackpool to its board of directors. Lawson, who joins as group financial director based in activpayroll's Edinburgh office, is a chartered management accountant with over 25-years' experience in a variety of roles and sectors, including energy, mining, media and publishing. The appointment comes after his crucial role in the group's continued global expansion journey and helping with the opening of various international offices.

Alison Sellar, chief executive officer of activpayroll, commented: "It is with great delight that we welcome Lawson to our Board of Directors. Lawson has already played a key role in the business and has helped the business achieve some big goals. Lawson shares our vision and drive for further growth and I look forward to seeing what the future holds with his seat on the board."





Events Horizon

Full details of events and training courses can be found at cipp.org.uk or you can email info@cipp.org.uk for more information.



National forums

Exclusive to CIPP members*, the national forums are a perfect opportunity to hear from the policy team, as well as other key speakers, on developments in payroll, pension and reward legislation. This event will also provide an excellent chance for you to network with other CIPP members.

Available dates:

2 May	Bristol	13 June	London
9 May	Belfast	18 June	Newcastle
16 May	Manchester	10 July	London
22 May	Cardiff	11 July	London
6 June	Glasgow	17 July	Birmingham
12 June	London		

*applicable levels of membership only.
Please be aware that lunch will not be provided.

Scottish National Conference and Exhibition 2019



Scottish National Conference and Exhibition 2019

5 September 2019 | *Dynamic Earth, Edinburgh*

We are delighted to announce the return of the CIPP's Scottish National Conference on 5 September 2019. This prestigious event will be held at Dynamic Earth, a venue superbly located in the heart of Edinburgh's World Heritage Site.

Join us for a day full of interactive and engaging workshops and seminars. This is your opportunity to hear from our guest speakers and learn all about the latest changes and developments in payroll, pensions and reward.

In the evening you are invited to meet with other payroll professionals and celebrate National Payroll Week at a drinks reception in the Dynamic Earth galleries.

To view the programme and book your place please visit www.cipp.org.uk/events or email us at events@cipp.org.uk.

Training courses

Course	Date*	Location
NEW – CEO pay ratio reporting	3 April	All online
	1 May	
	5 June	
Payroll and HR legislation update (50% off for members)	25 March	Edinburgh
	26 March	Belfast
	2 April	London
	5 April	Cambridge
	10 April	Edinburgh
P11D, expenses and benefits	8 April	London
	12 April	Manchester
	15 April	Birmingham

Dates are subject to change. More dates are available at www.cipp.org.uk/payroll-training-listing

Course	Date*	Location
Employment status and modern working practices	19 March	London
	22 March	Bristol
	4 April	Birmingham
NEW COURSE – Computerised payroll level one	15 April	All online
	15 May	
	14 June	
NEW COURSE – Computerised payroll level two	15 April	All online
	15 May	
	14 June	
Salary sacrifice and other optional remuneration arrangements	12 March	London
	18 March	Birmingham
	21 March	Edinburgh

Can't find a date or location for your needs?

Let us know by visiting cipp.org.uk/trainingreg. New dates and locations may be added if there is enough interest.



Have you considered in-house delivery of training courses?

The full list of CIPP training courses can be found at cipp.org.uk/training

Achieving full potential



Giulia Remondino, managing director of Genius in 21 days UK, discusses what you can do

If every individual who works with you was able to show their full potential, your business would flourish. The reality is that there are many underlying issues often overlooked; below are three of the most important ones that need addressing.

It is challenging to implement all these aspects, but at the end of every challenge lies a reward and to get it we need to be willing to adjust the culture in order to create an environment where any seed can bloom.

Ineffective time management

We often hear things like: "I have too much stuff on my plate", "I am behind", "I'll stay late to meet this deadline" and so on. Actually, we hear it so often that it becomes normal.

But it shouldn't be the norm to be exhausted by too much work; to have so many things that require our attention that we don't know where to start; to go home thinking our day hasn't been productive; and keeping our mind on work when we are spending time with our loved ones.

How can you prioritise tasks and maintain a clear vision of the big picture whilst being aware of all the little details, avoiding distractions and keeping your eye on the ball, even when tired or bored?

Learning how to plan strategically is the first step. Being able to raise your efficiency whilst working on each deadline is the second. Learning how to remove distractions in order to be completely focused on what you are doing will complete the circle. See tip 1.

Fear of making mistakes

Most people fear presentations because of the nervousness they will feel when in front of the audience. The interesting thing

is that a lack of clarity of thought doesn't just appear in presentations and exams, but also in every task in which we know we will be judged. So many people have shared how anxious they feel when they need to write an email to someone more senior, or when they need to take care of part of a project where a manager will have the chance to assess them. When we are in front of someone who could examine our work, our confidence reduces because we feel more exposed.

Promoting a culture in which people feel comfortable making mistakes – even though we initially may feel resistant to it – will create an honest environment in which employees will not be afraid to show their own talents and add value to the team, rather than fearing judgement and only doing what is extremely easy or comfortable. See tip 2.

...create an environment where any seed can bloom

Managers but not leaders

When someone takes on a leadership role, this usually occurs because of the competence they have shown in their previous role, but the skills required to lead a team are not the ones that are required to be promoted. It may sound obvious, but the number of managers who struggle managing a team shows that too little time is allocated to train them as leaders. There are many investments in hard-skill training (updates, regulations, information required, etc), and while these are important, they shouldn't become the reason not to invest

in soft skills training.

Becoming a good leader requires more than just a few hours – it's a journey. If companies understood the business advantage in creating a company of leaders, rather than managers, I am sure they would spend time every week to raise the leadership level of their employees. See tip 3. ■

Tip 1: Use the Pomodoro technique.

Break your work into sessions of 25 minutes of intense work followed by a break of 5 minutes. Once this has been repeated four times, allow yourself a longer break (30 minutes). This will keep your mind on the work you need to do, while allowing you to recharge during the breaks. Focus on keeping breaks 'intense' too – switch off 100% so it's forbidden to think about work.

Tip 2: When you receive feedback on your work, instead of getting upset or sad,

focus on the fact that you can become better by learning from it. The only way to speed up your growth is to be ready to receive as much feedback as possible. On the other hand, if you are giving feedback, make sure you talk about the work and not about the person, so that the individual will not feel attacked and will be more prepared to take on your suggestions.

Tip 3: If your company doesn't invest time in leadership training, read a number

of books about it, apply and try on your own until you find the style that suits you. You could observe whether people bloom or regress when you manage them; be open-minded and ready to change if need be.

Diary of a student...



Christine Gregory
BA (Hons)

Can you give us a brief background into your life?

On leaving high school in 2002 I studied leisure and tourism at college, but didn't really know what I wanted to do for a career. The school's career guidance – which focused on vocational roles such as tourism or beauty therapy or gearing pupils up to study A Levels and then onto university – never mentioned payroll/finance sector.

Near the end of college studies, I got a part-time office job which is where my love for figures and processes grew. Studying AAT Accounting, I secured a job as a sales ledger clerk; but the company was small with no room for progression so I applied for a job as an assistant payroll officer in the NHS with further prospects and training.

I love how payroll has a start and beginning every month and a deadline to work towards with a few technical adjustments to boot.

With the guidance, patience and training of knowledgeable colleagues (namely Lynn Scholes and Gaynor Ralphson, I was promoted to payroll officer in eighteen months.

I enjoyed every minute of my time there but unfortunately the NHS had to make big budget cuts and I was made redundant whilst on maternity leave.

After frantically searching for another job in the sector, I got one at the Co-Operative Bank headquarters as a pension payroll advisor. However, my little boy became poorly, with bad allergies and eczema, so I gave up work to look after him when he was ten months old.

Can you give us an insight into your career and qualifications background?

At the Co-Operative, I saw the difference between the public and private sectors. The latter expects their employees to have higher qualifications to back up their knowledge; and many of my colleagues were studying towards the CIPP Foundation Degree in Payroll Management.

On my last working day in the Co-Op I decided to enrol on the CIPP payroll course. Knowing I'd be looking after my child for a few years I needed to keep up with the competition and have something to back up my knowledge on my return to the workplace. I also had another child, just to keep me on my toes!

Why did you choose to study the MSc in Business and Reward Management? Did the fact that the CIPP is Chartered or recognised within the industry influence your decision to enrol with the CIPP?

The fact the CIPP is Chartered and highly regarded by my colleagues influenced me. Everyone I'd worked with in the payroll sector had heard of the Institute, and a CIPP qualification was in demand from prospective employers.

The final year unit – Personal effectiveness and professional development – made me think about my career, as we had to produce a five-year career/life plan and describe ways in which we would keep our continuous development current. I realised that not being in the workplace for a few years meant I needed to continue studying to keep up to date so I enrolled

on the BA (Hons) in Applied Business and Management straight after.

How important is this degree in relation to your future career?

It allows me to apply for jobs with confidence and, hopefully, will give me an edge over the competition.

When applying for payroll roles I have the technical knowledge from the CIPP Foundation Degree and the wider business knowledge from the BA (Hons) in Business Management. I can see where payroll fits in within a business and how important it is for staff and management that the department is as accurate and efficient as possible.

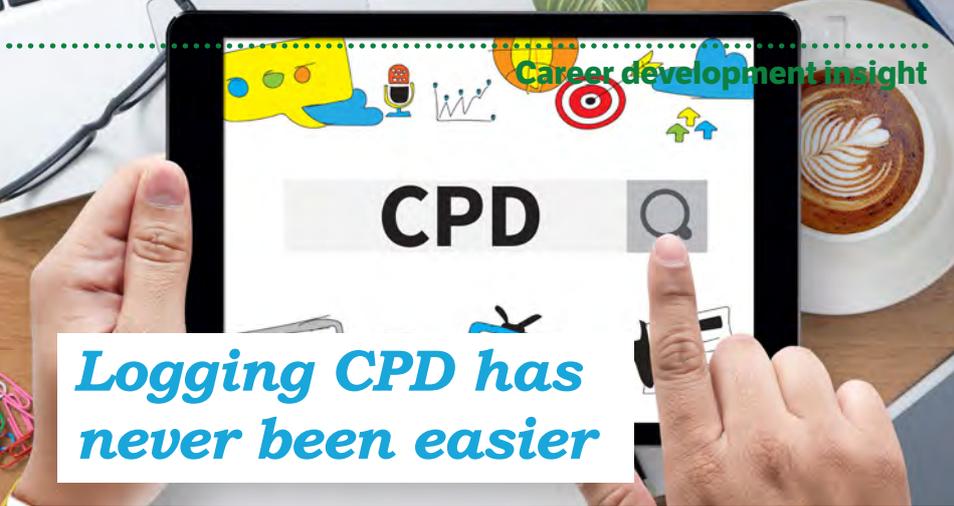
How do you cope with the work-life balance and include your study?

It wasn't easy to study around my three children, usually at night time or on weekends. Though I allocated and stuck to times I have pulled the odd all-nighter. I kept my goals in mind and carried on, knowing that it will greatly benefit me and my children in the future.

For someone who is thinking about studying for a CIPP qualification, what would your advice be to them?

Don't be put off by the time it takes to complete the course. Once you start and take small steps one module at a time, it flies by. You can study around commitments.

I really enjoyed the qualification and each module is different and interesting. It opened my eyes towards the workplace, for instance; how different leadership styles can affect performance and staff attitude; or how important effective communication is; to budgeting and project management. Both qualifications give you technical knowledge and a rounded view of how the sector plays a part in business; and pride in being able to put them on your CV. ■



Logging CPD has never been easier

Get the most out of your CIPP membership with our continuing professional development (CPD) tool and stand out amongst other payroll professionals.

This membership benefit allows you to highlight your contributions as you continue to progress in your profession.

Please note, to renew your membership, we require all members to actively record their learning by logging at least one piece of CPD.

We have created this step by step guide on how to log your CPD to save you time, and allow you to effectively log your CPD.

● **Step 1 (Image 1)** – In order to log CPD, you must add a learning objective beforehand so that you can allocate your CPD activity to receive points. Your learning objective must be set to 'not achieved' to continue with your CPD.

● **Step 2 (Image 2)** – Once your objective has been created, you will need to now add a new CPD record to match this. There is a drop-down option of various 'CPD categories' which

include listening, doing and reading etc. Depending on the category you choose, there will then follow a set list of activities that you can select based on your learning. Having selected both, you will then be asked to add this against a learning objective as shown above.

● **Step 3 (Image 3)** – You then have the option to upload evidence of your CPD if you wish to. There are several boxes and questions to answer to continue with your activity, which allows you to expand on your learning and development.

● **Step 4 (Image 4)** – Once you have added your CPD, you will receive a message at the top of your CPD webpage to confirm you have completed this. ■

You have now successfully completed your CPD, congratulations! You will be able to review your CPD log and the points allocated on the members area. Logging CPD really is this easy!

If you require any help with your CPD, please email membership@cipp.org.uk or call 0121 712 1073.

Add an objective Image 1

Objective*

Has this objective been achieved?

Yes No

Add a new CPD record Image 2

CPD category

Activity type*

Please provide details*

Learning objectives to which this activity relates*

Please select the learning objectives to which this CPD relates. You need to set at least one learning objective to record your CPD activity. Only 'Incomplete' learning objectives will display on this form.

To add/delimit objectives, please click here

Date of CPD activity*

Evidence of CPD

Continue

Continue of CPD Image 3

What did you learn?*

Will this development assist in your current role or assist in your career development or future role?*

Do you require further development?*

Image 4

Thank you, your CPD record has been submitted successfully. If you selected 'Other', your points will be added following verification.

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$$b \pm \sqrt{b^2 - 4ac}$$

In-year triggers – it's all in the coding

Helen Hargreaves MSc ChFCIPPdip, CIPP associate director of policy, sets out the development of what was formerly known as 'dynamic coding'



In July 2017, HMRC introduced a system of dynamic coding enabling it to make quicker use of real time information (RTI) data and making in-year adjustments (IYA) to a person's tax code.

By using third-party information from pension providers and personal tax accounts (PTAs), HM Revenue & Customs (HMRC) began updating tax codes to collect underpayments in year through an IYA rather than show it as a potential underpayment which, in the past, was collected during the following year. The intention was also to minimise the use of week-1/month-1 basis codes to speed up tax refunds which were not previously repaid until after the tax year end.

Initially this concept was welcomed; after all, wasn't this one of the benefits we were promised when we began submitting RTI data? But as with almost all HMRC projects, this seemingly simple enhancement wasn't quite what it seemed.

Trigger points

HMRC relies on two key factors to make an IYA – the individual's estimated pay, and a trigger point. The tax code will only be amended if HMRC becomes aware of a change in the employee's circumstances – this is the trigger point. A trigger point could arise in any number of ways such as an individual amending their PTA or by an employer notifying a change via a full payment submission (FPS).

Estimated pay

To check whether an IYA is required following a trigger event, HMRC will estimate the employee's income for the tax year by taking details of earnings reported for the period to date and performing a simple pro-rating calculation to arrive at an annualised figure. The estimated pay calculation assumes that pay accrues evenly throughout the year – and herein lies the source of many problems for employees and payroll practitioners alike.

...as with almost all HMRC projects, this seemingly simple enhancement wasn't quite what it seemed

Bonus payments

The flaw in the system is that the calculation of estimated pay does not discriminate between regular payments of salary and irregular bonuses. As this calculation is only performed at the time of the trigger event and not each time a FPS is made, this can lead to the estimated income for the year being too high, and inaccurate IYAs being included in employees' tax codes.

Unexpected outcomes

When I say 'unexpected outcomes', I mean that HMRC seemed to be caught unawares by the impact dynamic coding had on many payroll practitioners. Many employers reported an influx of new tax codes being received, often several for the same employee in the same month with little clarity over which one was correct.

Payroll bureaux were particularly impacted, with even medium sized bureaux claiming they received up to fifty new codes every day, and some received many more than that.

For those employees who received a bonus at the beginning of the tax year the outcome was even worse. Because HMRC's system cannot identify one-off payments, employees often discovered that they were hundreds of pounds out of pocket as a result of an incorrectly issued tax code. HMRC's solution was to advise employees to update their estimated annual income on their PTA. Not quite fulfilling the promise that dynamic coding would help people pay the right tax on their income as they earned it.

Finding a fix to these problems was the subject of many long conversations between HMRC and payroll stakeholders including the CIPP.

New in-year triggers

HMRC has now announced its plans to introduce two new enhancements to the system, now known as in-year triggers, to

help ensure that employees have the correct tax code and end the year balanced with neither an underpayment nor overpayment.

● **Tax code comparison trigger** – This compares the tax code shown in HMRC records for that particular employment against the one shown in the individual's latest submission from that employer.

The rules attached to this are as follows:

- It has got to be the same employer.
- The code held in HMRC's records should have not been issued in the last sixty days.
- When comparing tax codes, attention is not given to the suffix letter (L, T, M etc) or to the basis of operation (cumulative or week-/month-1 basis).
- Where the tax codes match no further action is taken.

Where the tax codes do not match a new tax code calculation takes place. If the tax code to be issued is the same as the one held in HMRC records, a P6 coding notice will go out to that employer. If the new calculated tax code does not match – for example, after an IYA or new expenses etc – then a P6 notice will be sent to the employer and a P2 notice will be issued to

the employee.

HMRC does acknowledge that some employers and pension providers could receive more tax codes over the first few months, but suggests that if the codes are operated, the volumes should return to normal.

● **Significant pay difference trigger**

– Whilst HMRC hasn't yet found a comprehensive solution to address bonus payments, it is hoped that the significant pay difference trigger will go some way to resolving the issue for most. Whenever a submission is received for an employee a comparison takes place with the previous submission for the same employer. The comparison is looking for a significant increase (which currently is set at 50%) in the 'Pay in period'.

The rules attached to this are as follows.

- It has to be the same employer.
- HMRC need to have at least one other submission to make the comparison.
- Where there is a significant difference in the pay in period, a flag is set to review the case when the next FPS for that employment is received.
- On receipt of the next submission for

that employment a review takes place to ascertain whether the significant increase has been maintained.

- If the difference has not been maintained, then no further action is necessary. HMRC would not look to update estimated pay.
- If the difference has continued, HMRC will recalculate the estimated pay and trigger a coding calculation.
- If the coding calculation indicates that the customer's tax rate bands have changed and a code change is necessary, a P2 notice will be sent to the employee and a P6 notice sent to the employer.

Whilst HMRC announced these triggers in the December issue of the *Employer Bulletin*, there is no confirmed date for when the triggers will be implemented, though we are led to believe that it won't be before May 2019.

HMRC have agreed to monitor live running with some trusted employers to ensure the triggers are operating correctly. ■

The CIPP's policy team will keep you informed once the implementation date is announced.

Employment status and modern employment practices

One day

This course explains how to assess employment status, the financial risk of getting it wrong, the right to work in the UK and a variety of modern employment practices. It covers recent developments such as the IR35 process changes ('off-payroll working') and possible future developments following various Government consultations.

This course covers:

- Importance of determining employment status
- Determining employment status
- Types of worker
- Employment intermediaries
- Right to work in the UK
- Future developments

Book online at cipp.org.uk/training, email info@cipp.org.uk or call 0121 712 1000 for more information.

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The basics of SMP

Jill Smith MCIPDip, CIPP policy manager, explains the rules on backdated pay increases during maternity leave



It is fifteen years since we first heard the name 'Alabaster', and yet it still manages to send shivers down the spine of payrollers.

'Alabaster' is the name given to the European Court of Justice (ECJ) case which can affect the way an employee's average weekly earnings (AWE) for statutory maternity pay (SMP) are calculated when an employee is awarded a pay rise. The name derives from the case of Michelle Alabaster vs Barclays Bank PLC where, in 2004, the ECJ found that the SMP regulations failed to properly implement EU law, and as a result in 2005 the SMP regulations were amended so they became compliant with the EU legislation.

Following the judgment, the employee's SMP calculation will need to take into account any pay rise that takes effect anytime between the start of the eight-week set period for calculating AWE for SMP and the end of the woman's statutory maternity leave (SML). This potentially leaves open a seventeen-month period and may include more than one pay increase to take into account when recalculating the average earnings – as a result, this ruling can seem unreasonable and confusing for employers to understand and implement.

It is important that employers understand that a pay increase awarded beyond the end of the maternity leave period but backdated to a date within this period is also within the scope of this provision. Employers need to take account of pay rises that have been awarded, but have not yet started to be paid, as the rules do not distinguish between the two. Also, employers that make payments based on the national minimum wage (NMW) rates will also be required to

review the average earnings calculation when the NMW rate goes up and apply the increase.

...a seventeen-month period and may include more than one pay increase...

What this means for the employer

If a pay rise is processed at any time from the start of the qualifying period for calculation until the end of the period of maternity leave, the employer is obliged to recalculate the SMP due, using the new increased rate. This may affect both the 90% rate (six weeks of maternity pay) and the entitlement to the standard rate (33 weeks). It is important to note that for some low earners where 90% of AWE is lower than the standard rate of SMP (currently £145.18 per week) the changes will apply to the full 39 weeks. Every payment will be due an increase if the claim is valid.

Employers operating an occupational maternity pay scheme will need to look at its terms and assess whether the ECJ judgement has any impact as the Alabaster case only dealt with statutory entitlement to SMP.

Earnings affected by pay rise

Guidance on GOV.UK advises that where earnings are affected by a pay increase, employers must recalculate the AWE to take account of the pay increase awarded, or that would have been awarded had the employee not been on maternity leave.

This applies if the pay rise was effective from anytime between the start of the eight-week relevant period for SMP and the end of the SML.

If the pay rise is awarded after the employee's earnings have been calculated, and that pay rise is effective from a date before the start of the relevant period and also before the maternity pay period (MPP) ends, the employer must recalculate the AWE to include the pay rise

Example

Original calculation

An employee's earnings in the eight-week relevant period comprise two monthly payments: £2,161.50 + £2,161.50 = £4,323.00
AWE is calculated as £4,323.00
Therefore, for the first six weeks she would have received £448.93 being 90% of £498.81, and for the following 33 weeks she would have received £145.18 (the standard rate of SMP).

Revised calculation

A 1% pay award is then applied from a date between the start of the relevant period and the end of the employee's MPP. This has the effect of increasing earnings for each payment in the relevant period by £21.62. The AWE is recalculated as £4,366.24 (i.e. £4,323.00 + £21.623 + £21.62) × 6 + 52 = £503.80.
Therefore, for the first six weeks she should have received £453.42 being 90% of £503.80 and for the following 33 weeks she would receive £145.18. So, the employer would calculate the amount of SMP now due as follows and make payment to the employee: £453.42 - £448.93 = £4.49 × 6 = £26.94.

as though it was effective from the beginning of the relevant period and pay any extra SMP due. For example:

Where an employee did not qualify for SMP, but a pay rise is awarded which means that when the AWE are recalculated her earnings are now high enough for entitlement to get SMP, the employer must:

- assume that she was entitled to maternity allowance (MA)
- calculate 90% of the AWE
- deduct from this the standard rate of SMP, and
- pay the difference for just six weeks.

Employers that are shown evidence of how much MA has been received by the employee, usually by seeing a copy of the letter from the Jobcentre Plus office (or the Jobs and Benefits office in Northern Ireland), need to:

- work out the total amount of SMP she is entitled to
- deduct from that amount either the MA that was paid or any SMP already paid, and
- pay the employee the difference.

The employee should still benefit from a pay rise, even if she does not intend to return to work with the employer after her maternity leave has ended.

If more than one pay rise has been awarded during the period of maternity leave the employer will need to make separate calculations for each.

...should still benefit from a pay rise, even if she does not intend to return to work...

Bonuses

Employers pay bonuses for a wide variety of reasons such as rewarding company or personal performance, encouraging loyalty and incentivising future work. The treatment of bonuses for those on maternity leave is a highly complex issue so legal advice should be taken.

The general rule is that women on maternity leave must receive a bonus that relates to any period before they go on maternity leave (regardless of when it is actually paid), during the two-week compulsory leave period and the period after they return to work.

Conclusion

I'm sure that when Mrs Alabaster took her claim for her pay rise to be included in her SMP calculation she could never have expected it to have the reach and impact that it has. Even now, all these years later, the recalculation of SMP following a pay rise can be complicated.

All payroll practitioners should be aware of this requirement and have processes in place to ensure that all SMP calculations are revisited if pay rises are awarded. Payroll bureaux must consider the Alabaster ruling if they are told to implement any pay rises and ensure that their clients are compliant too.

You can find more guidance on GOV.UK, here: <https://goo.gl/T3BqCy>. ■



Introduction to statutory payments



One day

The legislation for statutory sick, maternity, paternity, adoption, shared parental and associated leave, is complex and covered in detail in this informative course.

This course covers:

- Statutory maternity pay
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2019/2020 vision



Samantha Mann CIPP MAAT MCIPDip, CIPP senior policy and research officer, focuses on changes now in sight in the imminent new tax year

In some years the changes impacting the payroll profession are headline grabbing and seem to be the subject of almost every conversation – such as real time information and automatic enrolment, shared parental leave and pay and gender pay gap reporting, to name but a few. But for other years the changes are less headline grabbing but equally as impactful.

This look ahead aims to discuss a selection of subjects that will impact the working lives of many of us during 2019–20.

Historically, as we look ahead to the new fiscal year – and I readily acknowledge that you will have been doing this for some time now – we may be looking out for changes to rates and thresholds, as well as to legislation

impacting employment and, increasingly, to government strategy.

...the simplicity of the past is just that – in the past ...

Tax rates, bands and thresholds

No look ahead from a payroll perspective would be complete without a nod to the tax rates and thresholds and the simplicity of the past is just that – in the past – as we now look to no less than three UK nations to see what rates and thresholds will apply for the 2019–20 tax year.

● **England and Northern Ireland** – The

rates and bands are shown in Table 1. The higher rate threshold is £50,000.

● **Welsh income tax** – In January, the Welsh Assembly ratified the rates that would apply from 6 April. Though these will shadow those applicable to England and Northern Ireland, we may find they diverge in a later tax year.

In recent months, Welsh resident taxpayers and their employers will have been receiving tax codes that begin with 'C', based on the information that HM Revenue & Customs (HMRC) holds about the employee. It is more important than ever for employees to keep HMRC updated when they change their address (or any other relevant details). HMRC's preferred method for doing this is via the personal tax account but details can still be changed via its telephone helpline service.

● **Scottish income tax** – At the time of writing, the rates, bands and thresholds were to be debated and ratified by the Scottish Parliament in February 2019. Thus, like previous years, the rates etc proposed in the budget for Scotland (see Table 2) may be subject to change.

Table 1	England, Northern Ireland, Wales	
Basic rate	20%	£1–£37,500
Higher rate*	40%	£37,501–£150,000
Additional rate	45%	>£150,001
*Higher rate threshold is £50,000		

Table 2	Scottish income tax	
Starter rate	19%	£1–£2,049
Basic rate	20%	£2,050–£12,444
Intermediate rate	21%	£12,445–£30,930
Higher rate*	41%	£30,931–£150,000
Top rate	46%	>£150,001
*Higher rate threshold is £43,430		

National minimum wage

The Low Pay Commission (LPC), which is an independent body established in 1997, annually advises the government about the national living wage (NLW) and the national minimum wage (NMW). In the 2018 autumn budget, the Chancellor accepted in full all rate recommendations

from the LPC; so, for pay reference periods that begin on or after 1 April 2019, the rates are as shown in Table 3. Charging in excess of the accommodation offset remains amongst the top ten errors made by employers. Also featuring in this list is the failure to apply the new rates as they change – both for pay reference periods from 1 April, and when an employee has a key birthday that takes them onto a new rate.

The December issue of HMRC's *Employer Bulletin* provides a full 'top ten list' which includes the following:

- Paying the apprentice rate to somebody who isn't actually an apprentice. Recognised apprentices must have an apprenticeship contract and undergo an element of structured training.
- Continuing to pay the apprentice rate for too long. The apprentice rate only applies to apprentices under the age of 19, or if aged 19 or over are within the first year of their apprenticeship.
- Making wage deductions for items or expenses that are connected with the job. This could include, for example, safety clothing, uniforms, tools etc.
- Making wage deductions that are deemed to be for the employer's 'own use or benefit'. For example, a Christmas club saving scheme. It doesn't matter that the worker can choose to buy into the scheme and the employer doesn't have to make a profit from it.
- Not paying for all the time worked such as time spent travelling, training or downtime at the employer's disposal.
- Not paying for additional time worked such as time spent clearing security checks once a worker's shift has finished.
- Including elements of pay that don't count towards minimum wage such as tips and the premium element of pay associated with shift premium.

Throughout 2018, the Department of Business Energy and Industrial Strategy (BEIS) regularly updated its guidance: *National Minimum Wage and National*

Living Wage: Calculating the minimum wage (<https://bit.ly/2DD9JaG>). We hope to see this best practice continue in 2019/20.

...one thing we can never be accused of is working in a boring profession

Itemised pay statements

In 2016, the LPC recommended that the government should consider introducing a requirement that itemised pay statements ('payslips') of hourly-paid staff clearly state the hours they are being paid. The recommendation was accepted by BEIS which then introduced the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) Order 2018 ('Order 1') which will impact employers and their agents from 6 April 2019.

Order 1 amended section 8 of the Employment Rights Act 1996 (ERA) adding to the particulars required within the payslip to also "contain information regarding the number of hours worked by the employee for which they are being paid, but only in situations where the employee's pay varies as a consequence of the time worked".

The amendment provides that "where the amount of wages or salary varies by reference to time worked" the payslip is to show "the total number of hours worked in respect of the variable amount of wages or salary either as (i) a single aggregate figure, or (ii) separate figures for different types of work or different rates of pay."

Section 8(2) of ERA already made provision for what should be shown on a payslip comprising:

- the gross amount of the wages or salary
- the amounts of any variable, and (subject to section 9) any fixed, deductions from that gross amount and the purposes for which they are made
- the net amount of wages or salary payable, and
- where different parts of the net amount are paid in different ways, the amount and method of payment of each part-payment.

In December 2018, BEIS published a brief employer guide aimed at providing examples to employers of the impact of the requirement to record hours on

the payslip where pay is calculated by reference to time worked.

In addition, the Employment Rights Act 1996 (Itemised Pay Statement) (Amendment) (No.2) Order 2018 ('Order 2') provides for an additional change that extends to all workers, and not just employees who work under a contract of employment. This is the right to receive a payslip and also the associated enforcement provisions

GOV.UK informs us that key characteristics of a worker are that:

- they have a contract or other arrangement to do work or services personally for a reward (their contract doesn't have to be written)
- their reward is for money or a benefit in kind, for example the promise of a contract or future work
- they only have a limited right to send someone else to do the work
- they have to turn up for work even if they don't want to
- their employer has to have work for them to do as long as the contract or arrangement lasts
- they aren't doing the work as part of their own limited company in an arrangement where the 'employer' is actually a customer or client.

We know from reading the publication of the *Good Work Plan* (<https://bit.ly/2QdPEdY>) in December 2018 that further work in this space during 2019 will see government bring forward detailed proposals on how the employment status frameworks could be aligned between employment rights and tax. At the time of writing the detail has yet to be revealed.

Conclusion

There is as always much more that we could discuss when looking ahead to a new fiscal year – such as: lessons learned from year one of gender pay gap reporting that aided us with year two; considering how the transparency agenda continues to impact us with the requirement facing UK listed companies with more than 250 UK employees to disclose chief executive officer pay ratio information in their annual reports on remuneration; as well as pondering how the industrial strategy of the UK government is set to increase our obligations in the future

The one thing we can never be accused of is working in a boring profession. ■

Table 3	NMW/NLW
25+ rate	£8.21
21–24 rate	£7.70
18–20 rate	£6.15
16–17 rate	£4.35
Apprentice rate	£3.90



Beware the phantom of the OpRA



Robin Woodhouse, employment taxes principal for PSTAX, reveals unintended tax consequences for assets transferred to employees following a period of use under salary sacrifice arrangements

Sections 69A and 69B of the Income Tax (Earnings and Pensions) Act 2003 (ITEPA 2003), which deal with optional remuneration arrangements (OpRAs), were inserted by Finance Act 2017 with effect from tax year 2017–18. The new legislation ensures that, subject to transitional provisions and some specific exceptions (below), most of the tax advantages of employee salary sacrifice schemes are lost from 2017–18. This is because the taxable value of a salary sacrifice benefit in kind is now the greater of the salary sacrificed by the employee and the statutory taxable value of the benefit.

From 2017–18, an employee benefit in kind is deemed to have been provided under an OpRA if it is:

- in return for the employee giving up the right (or a future right) to receive an amount of earnings, or
- under arrangements by which the employee agrees to be provided with a benefit rather than an amount of earnings.

The new rules apply equally to tax-exempt benefits in kind, which become taxable if provided under an OpRA.

However, certain specified benefits (e.g. childcare, pensions, cycle to work scheme and ultra-low emission vehicles) are excluded from the new OpRA rules and retain their tax exemptions when provided via a salary sacrifice arrangement.

...most of the tax advantages of employee salary sacrifice schemes are lost...

Transitional rules allowed salary sacrifice arrangements that had been entered into before 6 April 2017 to continue under the old regime until the earlier of a variation/renewal of the terms or 6 April 2018 (i.e. the start of tax year 2018–19). Where, however, the benefit is the provision of a car which has carbon dioxide emissions over 75g/km or living accommodation or school fees, the transitional cut-off date is 6 April 2021.

The OpRA changes had been expected for some time and really do nothing more

than put all taxpayers on an equal footing. From 2017–18, all employees earning the same value remuneration package will pay broadly the same amount of tax on that package, whether or not they participate in salary sacrifice arrangements. The government claims this is to ensure fairness, although it is clearly aimed at minimising the loss of tax revenues the Treasury had been suffering through the growing popularity of salary sacrifice arrangements.

Let us consider the case of an employee who, since 2017–18, has had the use of an employer-owned fridge-freezer under a 'white goods' salary sacrifice arrangement whereby ownership of the asset passes from employer to employee at the end of a specified period of, say, one year. This type of arrangement has been popular in the workplace and, although diminishing since OpRA, continues to be used in some sectors such as the National Health Service.

Under the tax legislation in place before 2017–18 there would have been two benefit-in-kind tax charges for the two separate events (i.e. the use of the asset and its subsequent transfer). The first 'use

of asset' charge (under section 205, ITEPA 2003) would have been, annually, 20% of the asset's market value when first used to provide an employee benefit. The second 'transfer of asset' charge (under section 206, ITEPA 2003) would have been based on the asset's market value as at the date of its transfer to the employee.

However, where an asset is transferred to an employee after it has previously been used to provide a benefit in kind, the 'transfer of asset' charge at section 206(3) becomes the higher of:

- the asset's market value at transfer, and
- its market value when first used to provide an employee benefit less any amounts determined under section 205.

Consequently, under the OpRA legislation in place from 2017–18, there will be a potentially greater tax liability than previously using the above example.

The 'use of asset' charge will now be the greater of the section-205 amount (i.e. 20% of its market value when first used to provide an employee benefit) and the salary sacrificed by the employee for the asset's use, which might be as much as its new value. Second, the 'transfer of asset' charge under section 206(3) will be

the higher of:

- its market value at transfer, and
- its market value when first used to provide an employee benefit less any amounts determined under section 205.

...employers should check their scheme terms to ensure this particular phantom is exorcised ...

Let's put some figures on our example. The employee has the use of an asset with an original market value of £1,000 from 6 April 2017 until 5 April 2018, at which point ownership is transferred to him at a second-hand value of £500. The employee gives up £1,000 salary under a salary sacrifice scheme.

Under OpRA, the 2017–18 'use-of-asset' benefit in kind will be the greater of the section 205 benefit (i.e. £1,000 × 20% = £200) and the salary sacrificed

(£1,000).

The subsequent 'transfer-of-asset' benefit in kind will be the greater of the asset's market value at transfer (£500) and its market value when first used to provide an employee benefit less any amounts determined under section 205 (i.e. £1,000 - £200 = £800).

This gives a total benefit-in-kind charge of £1,800 for an asset that was never worth more than £1,000 in the first place. This effective double-charge, due to effect of OpRA, could have been avoided if ownership of the asset had been transferred to the employee at the outset, thus taking the 'use-of-asset' element out of the equation.

In that case, the benefit in kind charge would have been restricted to the transfer of the asset at its original market value of £1,000. ■

Observation

Many scheme providers have been quick to recognise the problem and have amended their schemes accordingly. However, employers should check their scheme terms to ensure this particular phantom is exorcised for good.

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The CIPP's Annual Excellence Awards are the longest running, independent awards in the industry. They were established to recognise the important role that payroll and pensions play in the UK economy; especially when you consider the £250 billion* paid to the government through income tax and National Insurance contributions.

How to win an Annual Excellence Award

To give yourself the best chance at winning an Annual Excellence Award, follow our tips below.



Allow plenty of time to complete your nomination

It takes time to put a nomination together so make sure that you improve your chances by allowing plenty of time to do so and not leaving it until the last minute.

Take the time to consider how clear and concise your entry is to stay within the word limit and give your entry the best chance of standing out to the judges.

Entries must be submitted via the online platform by 31 July 2019.



Focus on the criteria and evidence

Make sure you meet each of the criteria outline for the award. Ensure you provide evidence of how you have met the criteria to attain higher scores from the judges. The winning nomination is, quite simply, the nomination with the highest score at the end of the process.

You can attach up to four supporting documents as PDF files. But be sure that they add to your nomination. Avoid adding unnecessary information that the judges will need to sift through to find your point.



Have a great summary statement

You should write your summary statement last to be sure it covers everything contained in your nomination. It needs to be succinct.

Remember, the Annual Excellence Awards get lots of nominations. Use your summary to stand out from the competition.

Annual Excellence Awards for 2019

Newcomer of the year

This award is aimed at those new to the payroll and/or pensions industry, within the last two years. It recognises an individual who has made a significant impact and contribution to their organisation within that time.

Manager of the year

The manager of the year award is open to anyone working in payroll and/or pensions and will be presented to an individual who has shown exceptional contribution to their organisation through managing a team, project or process.

My biggest influencer award

We have all met someone in our careers who has had a positive impact, whether a colleague, line manager or unofficial mentor. This award gives you an opportunity to say thank you to that person!

Well-being and employee engagement award

With an increasing focus on employee health and wellbeing, this award will recognise payroll departments who have introduced initiatives within their organisation designed to improve the general health, wellbeing and/or financial awareness of their employees.

Project of the year

Implementation of projects in payroll and pensions is commonplace, and this award recognises the work involved in implementing a successful project.

International payroll service provider of the year

Organisations turn to service providers to deliver compliant and efficient payroll services within their organisation. This award will be presented to the provider proven to demonstrate commitment to customer service and an effective and compliant international payroll service.

Software product of the year

This award is aimed at software products which are sold and supplied for companies to run their own payroll in-house. It will recognise an organisation that is committed to ensuring that its software is compliant, user friendly, enables best practice and is well supported.

Payroll service provider of the year

This award is open to service providers regardless of size and will be presented to the provider proven to demonstrate commitment to customer service and an effective and compliant payroll function.

In-house payroll team of the year

This award recognises the in-house payroll team that has compelled their employer to recognise the important role that the department can play in improving the overall company performance, and not just perceive the department as a cost centre.

*based on Income Tax and National Insurance contributions.

Embracing the power of payroll



Jean-Luc Barbier, vice president SD Worx and managing director Global Solutions, outlines some of the biggest considerations for those working in payroll right today

The past year was a busy time for human resources (HR) and payroll professionals. With the introduction of the General Data Protection Regulation, Australia's 'notifiable data breaches' scheme, and Ireland's pay as you earn changes, among others, there was plenty to get stuck into.

For global payroll providers in particular, there was an abundance of new laws and legislation that needed to be taken into consideration. Processes and procedures needed to be adapted to remain compliant – but the challenges didn't stop there.

The dreaded 'B' word, which caused plenty of uncertainty for businesses around the UK and Europe in 2018 has continued into the new year. With the final outcome of Brexit still undetermined, HR and payroll teams are waiting in the wings while the next steps are organised.

Partnerships will prevail

There's no doubt that partnerships are powerful. Alongside the key payroll players coming together to provide an overarching global offering for organisations around the world, integrations with cloud vendors, such as Workday and SAP SuccessFactors, is now paramount to stay ahead of the game and to satisfy the high demand in large enterprises.

With such uncertainty around Brexit and how the international landscape will look in the near future, it's important to embrace one strong partnership (such as the Payroll Service Alliance) rather than multiple local providers. In doing this, HR and payroll

teams around the world can have a payroll service that combines both global knowledge as well as local expertise.

Employee experience becomes a priority

Employees are the lifeblood of an organisation and, as employees become increasingly focused on mental health in the workforce (<https://bit.ly/2HTKvJg>), it's likely that 2019 will see business leaders concentrating on the happiness of their staff. It is no longer enough to offer well-paid salaries in order to keep existing talent and attract new staff. There will need to be a continued focus on employee engagement and experience in the workplace as well as ensuring that employees have a healthy work-life balance (<https://bit.ly/2G9QRmb>) – always a hot topic in the HR industry.

Getting the right talent in an organisation can take some time, and these employees are often difficult to replace. Business leaders therefore need to ensure that employee wellness is a focus for the new year and that the services offered by the HR and payroll team can reflect this. The top talent will be attracted to (and want to stay at) companies that use cutting edge technologies and who have benefits and processes in place to enhance the employee experience.

Technology will give payroll providers the edge

In 2019 there will be a growing desire for automation. This is something payroll organisations need to embrace rather

than fear. They need to willingly adopt automation to ensure they remain one of the top providers in the international market.

Ultimately, businesses will want more value for their money and want to save their employees valuable time they can use to focus on more productive work and consultancy. Technology isn't just an important factor for payroll providers anymore, it's a must have for vendors too. From automating mundane and time-consuming tasks to using technology to ensure organisational compliance, technology can give HR and payroll teams the support they need.

Rather than being replaced by robots, the human employees working alongside the automated workforce become more powerful in their roles. Humans are able to run the payroll and have face-to-face meetings while automation ensures accuracy in monotonous back-office tasks that are usually distractions from the more important aspects of the role. Embracing technology developments is a must in 2019 – not only giving payroll providers the edge but also improving the work/life balance of all those in the industry. ■

New laws and legislation for HR and payroll departments around the world can be daunting. What's more, the pace at which changes are happening within the workplace can be overwhelming for HR and payroll teams to keep up with. But, having strong partnerships, embracing new technology to use to the businesses' advantage and ensuring your employees' needs are being met, can give organisations peace of mind. Accepting that change needs to happen and taking these considerations into account can empower HR and payroll teams to thrive.

...pace at which changes are happening within the workplace can be overwhelming...

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UK PAID**And briefly...**

- **P45(Online) specification** – HM Revenue & Customs (HMRC) has published the design specification for form P45(Online) for software developers, covering the preparation and use of black-and-white Parts 1A, 2 and 3 which can be printed on plain white A4 paper once the final full payment submission has been successfully completed online (<https://bit.ly/2ScHmJr>).
- **Deferment of class 1 NICs** – A new version of form CA72A (and accompanying notes) to be used by an individual applying to defer payment of primary class 1 National Insurance contributions (NICs) in an employment for tax year 2019–20 can be found here: <https://bit.ly/1QW9d61>.
- **Format for NICs calculations** – The 2019–20 version of the *National Insurance Contributions guidance for software developers*, which sets out the calculation format for NICs and augments information in employer guidance, can be found here: <https://bit.ly/2WFeNCN>.
- **Specification for PAYE tax tables routines** – Version 17.1 of the specification, which covers the parameters for Welsh, Scottish and English and Northern Ireland tax routines for 2019–20 has been published (<https://bit.ly/2MNM36i>).
- **Minimum wage factsheet** – The Low Incomes Tax Reform Group (LITRG) has published a factsheet offering information and guidance on a number of areas to help care workers understand their minimum wage, tax and tax credit positions (<https://bit.ly/2LwtGCs>).

Savings scheme breaches NMW rules

ACCORDING TO *economia* (<https://bit.ly/2RDqs1f>), the frozen food retail chain Iceland is apparently facing a bill of £21,000,000 in respect of breaches of national minimum wage (NMW) rules mainly arising because of deductions made from employees' wages in respect of a Christmas savings scheme the employer has been operating for many years.

Once the sums of money for the scheme are deducted from an employee's pay, what is left is technically below the NMW. Even though the deductions are voluntary, and the deducted amounts are ring-fenced in a separate bank account controlled by an independent trustee company, and the staff can get their money back in its entirety at any time, HMRC asserts that the scheme breaches NMW rules.

Sir Malcolm Walker, Iceland's founder and chief executive, has apparently called HMRC's action "just madness" and said he would be fighting the claim through the courts if necessary. In a statement, Iceland said that it was "somewhat irked at being pursued at potentially huge cost for a technical breach of the minimum wage rules over a voluntary deduction which has already been repaid in full to the participants".

A government spokesperson said that "The rules are very clear and have been put in place to protect workers. The money that workers receive in their pay packets must be at least the national minimum wage with no exceptions.

"Where employers want to offer benefits to workers – including with Christmas savings schemes – they can easily establish a scheme in line with the law by getting workers to pay into that scheme after they've been paid rather than deducting the money beforehand.

"By consistently applying the law, we remove any possibility of a minority of bad employers using salary deductions to pay their staff less than the minimum wage."

Diary dates

Last day of tax month 11	5 March
First day of tax month 12	6 March
Last day for submitting a real time information employer payment summary to apply to tax month 11	19 March
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by non-electronic method	
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by electronic method	22 March
Last day of tax month 12 and tax year 2018–19	5 April

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Industry news

LISA deductions from pay

A PAYROLL-DEDUCTED LISA (lifetime individual savings account) is now available through Smarterly, the workplace savings platform. The LISA is popular, particularly for younger employees, because it combines a 25% upfront bonus with access to savings to help purchase a first home.

Phil Hollingdale, co-founder of Smarterly, commented: "We believe this is the first Lifetime ISA available through payroll deduction. Not only are they popular among employees, particularly the young, allowing contributions directly from net pay makes the savings process easy. And the government top up, alongside potential investment returns, is a very attractive option."

Some key features comprise: a LISA may be opened by anyone between the age of 18 and 39; maximum contribution: £4,000 per year, paid out of post-tax income; the government provides a bonus of 25% of whatever is saved (i.e. up to a maximum of £1,000 per year), up to the age of 50; partners may combine their LISAs to buy a home; Help to Buy funds may be transferred into a LISA.

Zellis emerges in rebranding

IN JANUARY, NGA Human Resources UK & Ireland, the market leading payroll and human resources (HR) software and service provider, rebranded as Zellis. Formerly the UK and Ireland division of NGA Human Resources, Zellis is now a standalone business providing payroll, HR and managed services and software to UK and Ireland based companies with over 500 employees. The former parent company, NGA HR, will remain a vital strategic partner

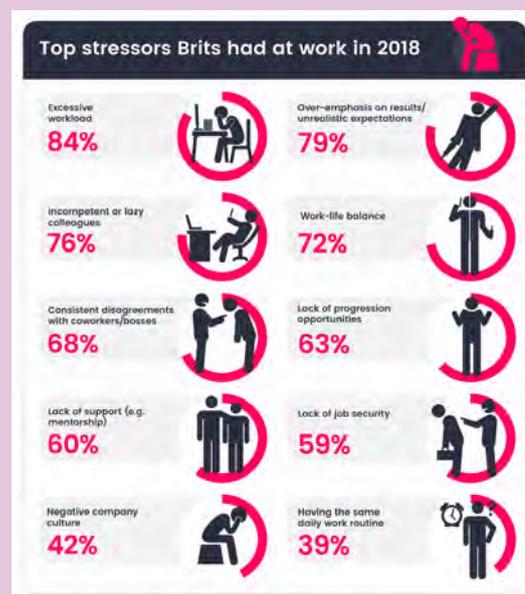
Over the coming months, Zellis will brief customers about a series of investments in exciting new technologies like robotics and artificial intelligence, designed to help their businesses stay ahead.

John Petter, Zellis chief executive officer (CEO), said: "We are a strong and proven leader in this market, but we want to be a truly great, customer centric business, and we will invest to achieve this. We believe this is a truly exciting time for our customers, partners and colleagues."

Andy Monshaw, CEO of NGA HR, said: "The move is mutually beneficial to both parties. Zellis are able to invest in areas which are important to growth in the UK and Ireland, while we continue to work together to support international clients."

Mark Perisic, Zellis's new chief technology and product officer, clarified that: "Moorepay is part of Zellis. The two companies will continue to work together to tackle the HR and payroll challenges of business and public sector organisations of all sizes.

"Technology and HR are becoming increasingly synonymous. In the next two years more than three quarters (78 per cent) of HR departments expect to use machine learning in at least one HR process. At Zellis we want to be a forefront of innovation, producing the most efficient and advanced solutions available. The rebrand provides us with the opportunity to invest in new technology, like artificial intelligence, machine learning and predictive analytics, and bring these to our customers quickly and efficiently."



Stress at work

RECENT FIGURES from the Health and Safety Executive (HSE) show that almost 600,000 workers are suffering from work-related stress, depression or anxiety in 2018. Simultaneously, 15.4 million working days were lost due to work-related stress this year.

These prompted online marketing specialists Reboot Digital Marketing Agency to establish via a survey the most common reasons why Brits felt stress at work and the ways in which they dealt with it.

- The top work stressor is excessive workload, with 84% saying this was the biggest cause of worry for them.
- In second place on 79%, is unrealistic expectations, as employees felt overwhelmed by the need to constantly impress their superiors.
- In third place, 76% of workers have been bothered by a co-worker's lack of competence.

Beyond these are: struggle to find work-life balance (72%); lack of progression opportunities (63%); lack of job security (59%); and a negative company culture (42%).

To destress, 76% confessed that they complain to another person, whether a friend, family or even a co-worker; 70% admit to taking frequent

toilet breaks to get away from their work space; some are actively searching for a new job (66%); and some have asked to work from home (44%).

ADP global strategy

In an industry exclusive, *Professional in Payroll, Pensions and Reward* asked Jeff Phipps, managing director of ADP UK, to comment on the company's strategy and success and its recent Celergo acquisition.

The multi-country payroll outsourcing market is worth over \$3 billion and is growing rapidly as companies are looking for greater visibility over their increasingly global workforce, while efficiently managing the compliance elements of multi-country payroll.

In the rapidly evolving global environment, ADP continues to capitalise on growth opportunities as the market shifts.

In August 2018, ADP announced the acquisition of Celergo, a leading provider of global payroll management services, enhancing its international payroll offerings with a strong platform and new solutions, including cross-currency payment and expatriate payroll-related services. The acquisition allows ADP to leverage a proven platform that will improve both client and partner experience.

Celergo, which was founded in 2003 and is headquartered in Chicago, USA, offers multi-country payroll and combines a proprietary cloud-based technology platform with a local provider network.

PiPPaR: The recent report *Multi-Country Payroll Outsourcing (MCPO) – Service Provider Landscape with Services PEAK Matrix™ Assessment 2018* indicates ADP to be a 'leader' in the market. To what do you attribute this success?

JP: We have consistently worked hard to develop our local skills, insight and relationships on a truly global basis. We have then built complementary software and service solutions that adapt to the client needs.

Our clients recognise and value that ADP is providing an answer to an often complex but essential business requirement.

PiPPaR: In what ways will the acquisition of Celergo contribute to ADP's global market strategy, and how will availability of the acquired company's services be extended to and affect existing and prospective clients going forward?

JP: The acquisition will enhance ADP's international payroll offerings with a strong platform and new solutions, including cross-currency and expatriate payment services. Celergo offers multi-country payroll in 150 countries and combines a proprietary cloud-based technology platform with a local provider network to enable timely, accurate and compliant payroll.

With comprehensive solutions and an attractive financial profile, Celergo has steadily grown its client base, geographic coverage and partner network. The acquisition of Celergo will allow ADP to capitalise on growth opportunities as the market continues to shift toward global human capital management solutions.

For existing Celergo clients it ensures long-term investment and development of the platform that they value highly and opens access to ADP's services, expertise, and additional solutions to support their multinational operations.



PiPPaR: What do you envisage are the challenges (such as local country knowledge and compliance issues) facing ADP in running global payroll operations on a 24/7 basis throughout the year, and how does ADP meet these?

JP: ADP celebrates its 70th birthday next year, and for half that time we've had an international presence, so we've learnt that global payroll has many moving parts. Local legislation and tax is always different, as are employment laws. Many companies choose to outsource their payroll as a result, because it allows them to focus on their core business.

One element that came into force during 2018 was data privacy and protection. Something similar to the EU's GDPR is likely to be implemented in other countries with changes for local relevance. So, dealing with these challenges, on behalf of our clients, is really at the core of what our 58,000 associates do every day.

PiPPaR: How can payroll and HR data be utilised by businesses for strategic insight and to guide them when they are expanding?

JP: Once you have enough quality data in usable form, it's possible to process it in different ways to detect patterns and realise connections and relationships. It's also important to continually update those processes and data sets so the information stays current and changes can be detected.

If you're trying to anticipate future events such as turnover, you'll want the most updated information about what is happening within your own organisation, the local market and your industry as a whole.

Once you have the data-driven insights needed to understand your situation, you can start using those insights to inform your decision-making. Then, it's essential to track changes – whether expected or unexpected – as they occur, so you can continue to assess whether your initiatives are working and if they will need adjustment.



Pensions in a muddle

Henry Tapper, director of First Actuarial, discusses moves to protect pensions of those retiring



Five years after pension freedoms were announced in the 2014 budget, and introduced by Finance Act 2015, the Financial Conduct Authority (FCA) is hoping to put in place a new set of rules to protect the million or so people who retire each year. Though the original plan was for financial empowerment, increasingly regulators are talking of financial vulnerability.

According to recent FCA research, 94% of us are not taking financial advice; and even at the most crucial juncture, when we stop saving and start spending our retirement pot, two thirds of us are doing so without any professional help.

Pensions Wise, the government's appointed agency for giving help to people when they retire, gets a 10% take-up, which means 90% of those eligible for a free review of their at-retirement finances aren't taking up the offer. The government hopes this percentage goes up with the establishment of its new Single Financial Guidance Body, but to most people, little has changed.

The FCA's new rules are expected to usher in three new ideas:

- Default investment pathways, established by companies providing people with income drawdown, will act as default investment strategies depending on financial goals.
- An obligation on income drawdown providers to ensure people are invested in cash out of choice rather than because they haven't taken any other decision.
- Disclosure of what they are paying for – their pensions in pounds and pence.

There are many inside and outside government calling for much more. Both the Department for Work and Pensions and Which? have called for the charge cap on workplace pensions to be extended 'to and through' drawdown. This could substantially

reduce the cost of the drawdown policy but might also drive away advisers who might not want to operate under constrained margins.

...the social advantages are lost if people do not convert savings into a lifetime income

This brings into sharp focus the question 'can ordinary people afford to manage their retirement income under the pension freedoms?' Increasingly people are looking back to the pre-2014 paradigm where the default position was that people exchanged their accumulated retirement savings for an annuity.

In the most recent quarterly figures produced by HM Revenue & Customs, the amount actually drawn down through personal pensions reached a record £7bn in the last quarter of 2019. But this figure does not even match the transfer of cash from defined benefit (DB) to defined contribution (DC) schemes; and it's tiny compared with the amounts paid out through DB workplace pensions and even tinier when compared with what's paid out by the state.

Anecdotal reports from pension providers that offer drawdown is that the majority of policyholders who start or 'crystallise' drawdown, are only taking tax-free cash and leaving the taxable income in the pots. This would certainly make sense of the low level of drawdown.

From research that my company has carried out, people who do not get advice are tending to do nothing about setting up a retirement income stream. This may not be as surprising as it seems; an eminent

financial economist, William Sharpe, has called the business of converting a cash sum to an income for the rest of your life "one of the nastiest hardest problems in finance".

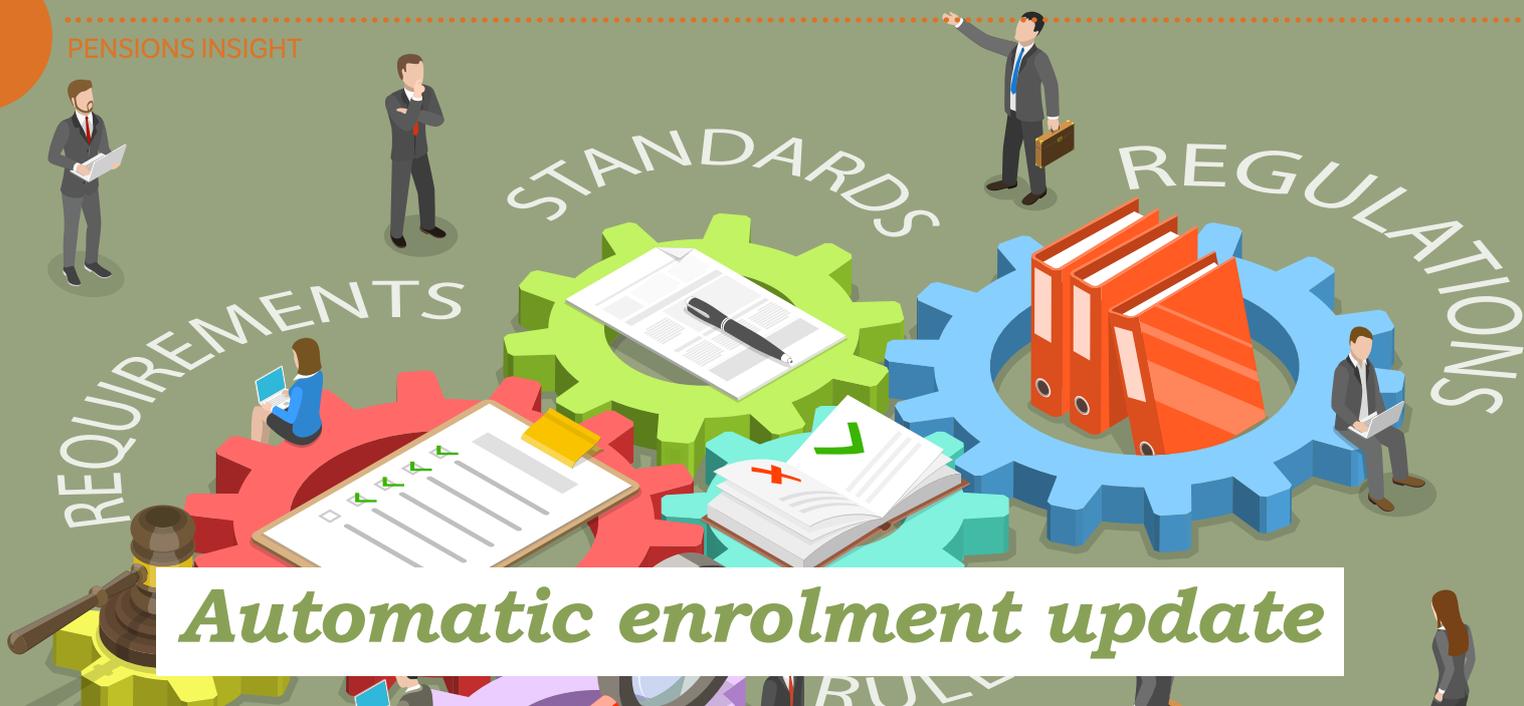
This should matter to pension and payroll people. The point of pensions is to help people to move seamlessly from work to retirement when they reach the end of their working lives. Pensions are generally considered a replacement wage in retirement but if they have morphed into money that rolls up into an inheritance or is blown on fast living, we are likely to see both social and business problems.

The point of tax advantages given to pensions is that pensions provide an insurance against old-age. But the social advantages are lost if people do not convert savings into a lifetime income.

Similarly, the traditional reasons for running a pension within the workplace are not being satisfied. Unless savings are converted to income, then people will find it harder to stop work and the workplace becomes top-heavy with baby boomers not wanting to move on.

It is in answer to the societal and commercial reasons for pensions, that companies are beginning to question whether all this freedom is such a good idea after all. Royal Mail's request to start a collective DC scheme, could be seen as a response to the failures of retirement savings plans rather than an answer to the problems created by its old DB plan.

In the light of the radical solution that Royal Mail has come up with, many will feel that the FCA are tinkering around the edges of the problem. It will be interesting to see whether drawdown can reinvent itself and become the mass-market alternative to annuities, whether we move to a system of non-guaranteed CDC pensions or continue with the current muddle. ■



Automatic enrolment update

The Pensions Regulator provides research findings and details of recent compliance activity

Nearly ten million people are now saving for their retirement thanks to the success of automatic enrolment and contributing into a workplace pension has now become the norm.

Staff now expect a pension as part and parcel of their employment and The Pensions Regulator (TPR) and the Department for Work and Pensions' advertising campaign encourages staff to get to know their pension and appreciate the benefits.

Research published recently by TPR (<https://bit.ly/2RF8nQz>) shows that the vast majority of staff are continuing to save more into their pension following the increases in minimum contributions in April 2018.

The on-going duties survey showed less than 2% of staff in medium, small and micro businesses asked to leave their workplace pension as a result of the increase.

More than 80% of employers said that they communicated the increases in contributions to their staff. Medium sized and small employers did this via email or letter while small employers tended to inform their staff face to face.

Employers surveyed also said they were confident they could provide accurate responses to requests for information from their staff about automatic enrolment. The survey showed that the larger the employer, the more likely it is to be asked for advice on workplace pensions by their staff with 25% of micro, 45% of small and 73% medium sized employers being asked.

The vast majority of employers surveyed

said that they find their ongoing duties quick and straight forward to complete, spending less than two hours a month on them. To comply with the law, employers have a number of tasks to complete which includes maintaining the correct contributions, keeping accurate records and re-enrolling eligible staff who have opted out of their pension, back in.

...the company failed to amend its payroll or update the pension scheme rules

The vast majority of employers are compliant with their automatic enrolment duties but TPR will take action if an employer is non-compliant. Automatic enrolment is a continuing process and does not end when staff have been put into a pension.

TPR's most recent compliance and enforcement bulletin (<https://bit.ly/2DoSfyR>) published autumn 2018 included a case study of an employer that had automatically enrolled its eligible staff into a master trust pension scheme in 2013. The scheme was 'self-certified' by the employer.

Employers using certification to calculate contributions must re-assess their workforce every eighteen months to ensure that it still meets the relevant criteria.

In 2016, the company assessed the workforce and realised that the circumstances

had changed: the contributions should have been calculated another way. (In this case, the company had originally based calculations for pensionable earnings on 85% of total earnings.) The changes meant that the calculations for pensionable earnings would be based on 100% of their total earnings. However, the company failed to amend its payroll or update the pension scheme rules, meaning that the pension contributions paid fell below the minimum required by law.

The employer wrote to their staff to explain they would meet the full costs of the underpaid employer contributions (over £350,000), plus an additional allowance to compensate for lost investment returns. The company got in touch with TPR in 2017 and said that there had been an oversight and they had failed to make required changes because the business was very busy.

TPR was not satisfied with their explanation or proposed rectification plan and, in April 2018, issued the company with a notice requiring them to pay the shortfall of both employer and employee contributions, adding up to a total of over £700,000. The employer confirmed that it had paid the outstanding amount in July 2018 and is now compliant with its automatic enrolment responsibilities.

The message to employers is that it's important they keep track of their ongoing automatic enrolment responsibilities and be aware of any changes which might affect pension contributions. Even if automatic enrolment is outsourced to an adviser, it is the employer that is legally responsible. ■

Pension news

Smart Pension receives investment

GLOBAL LEADER in financial services, J.P. Morgan, has made a strategic investment in technology innovator and UK workplace pensions provider, Smart Pension Limited, by taking a minority equity stake bringing total funds raised to date to c.£50m.

Smart Pension, one the UK's largest providers of workplace pensions, continues to build its stature as a leading player in the UK DC landscape and takes its savings platform technology into fresh global markets. The fast-growing UK-based fintech is now in early-stage conversations with new strategic partners globally.

Andrew Evans, Smart Pension co-founder and chief executive officer, said: "We are delighted to have secured this investment from J.P. Morgan, as it signifies a positive step in our growth and international reach. From the outset our objective has been to put user engagement and experience at the heart of everything we do, utilising technology to build an unrivalled platform."

Payment of ill-health retirement pension

THE SUPREME Court has held, in the case *Williams v The Trustees of Swansea University Pension & Assurance Scheme* and another, that a disabled person who had taken ill-health retirement with a pension based on the reduced hours he had been working as a result of his disability, rather than his full-time hours, had not suffered discrimination arising from his disability. If Mr Williams had been able to work full-time, he would have no immediate right to a pension at all. As a result, it could not be argued that his ill-health retirement entitlement was unfavourable treatment.

Nicola Ilnatowicz, employment partner at Trowers & Hamlin LLP, said: "It is not uncommon for employees who are suffering from a disability to reduce their hours (and correspondingly their pay) as a reasonable adjustment which enables them to continue working. If the employee then takes ill-health retirement it is likely that the provisions of any defined benefit pension scheme will base the pension on their final (reduced) salary at retirement or a career average, without requiring employers to incur the significant cost of making up the difference."

New standards for PLSA PQM

THE PENSIONS and Lifetime Savings Association (PLSA), has launched new standards for its Pension Quality Mark (PQM) (www.pensionqualitymark.org.uk) to help raise the quality of single-employer defined contribution (DC) pension schemes. The PQM currently has 190 accredited schemes covering over 650,000 active savers.

The new standards which recognise the changes to DC pensions, focuses on some key areas to help ensure savers can get better outcomes in retirement, including increasing pension contributions to employees' pensions to a minimum of 12% of salary, with at least 6% contributed by the employer. The new level, and a requirement that all employees must be automatically enrolled at that level, will be phased in over the next two years.

Showcasing benefits of workplace pensions

THE INTERNATIONAL life insurance, pensions and asset management group, Aegon, has launched a film as part of a campaign to encourage employees to engage more with their pension and find out about the advantages of being in a workplace pension, as well as the choices they have throughout their savings journey (<https://vimeo.com/302240511>). Amongst other things, the film covers: the simplicity of saving including the concept of tax relief; how saving through an employer doubles the amount saved; and the benefits of compounding returns over time.

Ronnie Taylor, chief distribution officer at Aegon, commented: "We've put employee engagement at the centre of our workplace pension proposition and have been investing heavily to deliver tangible initiatives like this film which over time will make a difference to people's pension understanding and engagement levels.

"As the UK has the least valuable state pension of any developed economy in the world, workers need to take control. Without active engagement with their pension savings, workers risk being entirely unprepared for retirement."

Self-employed and pensions

NEW RESEARCH from Prudential reveals that over half of self-employed workers want the law changed to encourage them to save for retirement: 27% of those questioned would support the expansion of automatic enrolment to cover the self-employed, and a further additional 27% would back compulsory pension saving.

The study highlighted the growing pension crisis among the self-employed, with more than two fifths (43%) – the equivalent of over two million workers – admitting to having no form of pension. More than a quarter (28%) say they will be reliant on the state pension as their main source of retirement income.

Vince Smith-Hughes, retirement expert at Prudential, commented: "Various options to encourage and support the self-employed to save via auto-enrolment have been put forward in recent years. We believe it is important that the government works with the self-employed, and the pensions industry, to ascertain the most suitable option and put appropriate rules in place as soon as practicable."

The pensions dashboard – in a nutshell

FOLLOWING THE launch in December 2018 of the consultation paper *Pensions Dashboards: Working Together for the Consumer* (<https://bit.ly/2rlwxVa>), which runs to 57 pages, pensions legislation specialists Aries Insight issued *The Pensions Dashboard – in a nutshell* (<https://bit.ly/2Grxd4o>), a fact-sheet with all the technical implications and outcomes of the report.

PTSD

Disability, discrimination, dismissal



Nicola Mullineux, senior employment specialist for Peninsula, reviews the decisions in three cases

Martin v University of Exeter

In *Martin v University of Exeter*, the Employment Appeal Tribunal (EAT) was tasked with determining whether an employee's medical condition met the necessary requirements to be considered a disability.

Martin began displaying symptoms of a stress related condition in June 2015 and was unable to attend work from July. An occupational health (OH) report was arranged which in August 2018 concluded that the employee was not disabled as the adverse effects of his condition had only been present for two months. For a condition to be classed as a disability it must be 'long term', meaning it must have been ongoing for at least twelve months or 'likely' to last at least that long.

In September 2015, Martin's general practitioner (GP) diagnosed post-traumatic stress disorder (PTSD). He remained off work. In May 2016 another OH report was performed, which concluded that Martin was now disabled because the adverse effect he was suffering was likely to last at least twelve months. Following this, Martin raised a claim for disability discrimination dating to 2015.

After reviewing available evidence the Employment Tribunal (ET) dismissed the claim deciding that Martin could only be considered as being disabled from April 2016, as there was no evidence before this date which could have 'necessarily

predicted' he would have had a disability by that time. However, as Martin had displayed these symptoms for nine months by April 2016, the ET determined it was reasonable to conclude they were likely to last for twelve months at this point, therefore satisfying the requirement for a disability then.

...staff showing signs of ill-health may qualify as being disabled at a later date

Martin appealed claiming the ET had failed to properly apply the correct test set out in *SCA Packaging v Boyle* for establishing the likelihood of a disability. This test explains that the word 'likely' should be defined as something that 'could well happen', whereas the ET had used the words 'necessarily predict' when examining this case.

However, the EAT dismissed the appeal, referring to the case *Royal Bank of Scotland v Morris* which stated the burden of proving disability lies on the claimant. The EAT held that the ET had used the word 'necessarily' in the context of the predictive nature of the exercise they were undertaking and was satisfied the correct decision had been

made based on the evidence available.

This case should serve to remind employers that staff showing signs of ill-health may qualify as being disabled at a later date. Additionally, employees do not necessarily have to be adversely affected by a condition for twelve months to qualify as being disabled, so long as they can prove that this is likely to last for this length of time.

In this case, the employer took the necessary steps to complete several OH reports in order to get a complete assessment of the employee's condition. This is a good example of how carrying out the correct procedure when dealing with staff on long-term sickness could prove decisive in any tribunal disputes.

Jayeola v Commissioners for HMRC

In *Jayeola v Commissioners for Her Majesty's Revenue & Customs (HMRC)*, the ET was asked to assess whether an employer's response to a complaint of race discrimination was in itself discriminatory.

The employer, HMRC, which had a zero-tolerance policy towards race discrimination, routinely hired cleaning staff through third party contractor G4S. A written agreement between the two parties stated that all cleaners required HMRC's approval to work there and that G4S were obliged to deal directly with any complaints regarding their conduct.

It was alleged that on one occasion, during a blackout, a G4S cleaner had made a racist remark to Jayeola, who was of Nigerian descent, stating "It's a good thing you're wearing a white shirt or I wouldn't have seen you". Jayeola took time off due to stress following this, explaining that he was suffering from poor mental health due to a 'racist culture' that existed in the workplace. He also referred to three separate acts of discrimination that he had experienced since he started his position.

A senior HMRC manager escalated Jayeola's complaint to G4S, which after a delay of two months confirmed that the cleaner had been verbally reprimanded and that no further action was required. On being informed that if he chose to return to work there was a chance he would come into contact with the cleaner again, Jayeola argued that to facilitate his return the cleaner should either be dismissed or moved to a different location in the building. However, the manager was informed by the human resources (HR) department that they could not request such an arrangement. Although alternative arrangements were suggested Jayeola proceeded to bring a claim for race discrimination to an ET, arguing that his claims had continually not been considered or responded to.

The ET found that Jayeola had suffered race discrimination in accordance with section 13 of the Equality Act 2010, believing he had suffered less favourable treatment on account of his race. The ET found that the employer could and should have taken additional steps to assist the employee, and likely would have done so if he was white.

The ET outlined that the employee's manager had failed to conduct their own investigation into the matter and had made no effort to discover if the request to relocate the cleaner had been made to G4S or explored this potential solution further.

Decisively the ET explained that the employer was unable to provide satisfactory evidence to demonstrate they had properly followed their own equality policy having allowed the G4S cleaner to return to the same floor as Jayeola despite the risk of further discrimination. The employer subsequently failed to prove that this treatment was not an act of discrimination based on the employee's race.

This decision sends an important message that it is not enough to simply have a zero-tolerance policy in place for discrimination and that employers will need to ensure they follow this in practice. Even though there is no explicit requirement to protect staff from third-party harassment, employers will still need to provide evidence that they have taken all suitable action to avoid a claim, as a lack of action could be considered discriminatory, particularly if this is not consistent with previous behaviour or in line with their policies.

...a tribunal will consider the entire redundancy process...

George v London Borough of Brent

In *George v London Borough of Brent*, the EAT had to decide if the employer had acted fairly by refusing to provide a trial period to an employee, who had been placed in an alternative role, before proceeding with a redundancy dismissal.

The employee had worked as a library manager for eight years when in 2011 her employer was faced with the prospect of funding cuts. The employer closed half of its libraries and reduced the number of library managers from six to two. The current managers were invited to apply for the two new library manager roles, but George was unsuccessful in her efforts and therefore subject to the employer's redundancy procedure.

As part of this procedure, efforts were made to find the employee a suitable alternative role. She was offered a role as a customer service officer and, although the salary for this role was lower than her previous one, it was agreed her pay would be maintained for twelve months.

George was told in a meeting that she would not be offered a four-week trial period she had requested in order to 'get to grips' with her new role and the fact that this was based in a different location to her previous position. George declined the job offer and was made redundant, following which she lodged a claim for unfair dismissal.

The ET considered whether George was

entitled to a trial period in her new role and whether the employer's decision to dismiss her had been fair or unfair. For their part the employer conceded that, under their managing change policy and procedure, there was a contractual entitlement for staff in new roles to receive a four-week trial period. Therefore, their refusal of this right breached the employee's contract of employment.

When assessing the fairness of the dismissal, the ET concentrated on the employee's conduct. They found that the decision to dismiss was ultimately fair, as she refused to raise any concerns with the HR department about the requirements of the new role, despite being advised to do so if she had any issues.

On appeal, the case was remitted back to the ET to consider whether the breach of contract made the dismissal fair or unfair. However, despite the employer's admission that they had wrongfully refused to offer a trial period, the ET ruled this was not important and therefore the decision to dismiss was fair. They based this on George: being familiar with the duties of her new role having covered them on occasion in the past; knowing where she would be based having worked there in the past; knowing her salary would be preserved; and knowing the manager to whom she would report.

On appeal the EAT highlighted that the ET had failed to take into account that George expressed her wish to undertake a trial period to see how she could operate within the new role and if she could be managed by someone whom she had previously managed. The EAT decided that the ET had failed to properly assess the importance of the trial period from the employee's perspective and therefore could not properly address whether the dismissal was fair on this basis. As a result, this case was remitted to the ET to correctly determine the fairness of the dismissal.

Although we await a definitive decision on this matter, the guidance from the EAT appears to suggest that a failure to provide the contractual trial period would render the redundancy dismissal unfair. Employers are encouraged not to withhold an employee's legal right to a trial period, even where there is no contractual obligation to do so, and this is a reminder that a tribunal will consider the entire redundancy process when determining whether a dismissal is fair or not. ■

LIVING WAGE

Imminent wage increases



Danny Done, managing director at Portfolio Payroll, sets out what you need to know about impending changes to minimum wage rates and how to prepare for them

New rates have been announced for both the statutory minimum wage and the voluntary living wage, which are scheduled to come into effect in spring 2019. These planned increases have received a significant amount of media attention over recent weeks and it is important that you are clear on these new requirements and how they stand to impact your business.

As announced by the Chancellor in the autumn 2018 budget, the statutory national minimum wage (NMW) rates for all workers will increase following recommendations from the Low Pay Commission (LPC). The Treasury predicts that these changes, which will come into effect from 1 April 2019, will benefit 2,400,000 workers and improve the financial security of a growing number of those in insecure employment.

Under these amendments, the minimum hourly rate for those aged 25 and over, known independently as the national living wage (NLW), will increase by 4.9% from £7.83 to £8.21 an hour. This means a full-time worker paid at the national minimum should benefit from a £690 annual pay rise.

In line with this, the minimum rate for 21–24-year olds will increase from £7.38 to £7.70 an hour; 18–20-year olds will see an increase from £5.90 to £6.15 an hour in their pay; and 16–17-year olds will be entitled to £4.35 an hour, up from £4.20 previously. The minimum hourly rate for apprentices will also change, rising from £3.70 an hour to £3.90, providing they are under the age of 19 or 19 or over and in the first year of their current apprenticeship.

Failing to comply with these increases will leave employers open to the imposition

of substantial penalties by HM Revenue & Customs (HMRC) which has continued to take a hard line with those that break NMW law. Offenders could face financial penalties of up to 200% of the underpayment, up to a maximum of £20,000 per worker, and find themselves being publicly 'named and shamed' as a NMW offender.

...important to make good use of the time leading up to April 2019 in order to prepare to comply...

Not to be confused with the NLW, the voluntary living wage rates are also set to increase in May 2019. These rates, otherwise known as the 'real living wage' (RLW), are assessed each year by the independent Living Wage Foundation and are calculated based on the true cost of living. Changes will see these rates grow from £10.20 an hour in London and £8.75 an hour in the rest of the UK, to £10.55 and £9.00 respectively.

Due to their voluntary nature, there is no legal requirement for employers to implement the RLW for its workers. However, recent estimates suggest over 4,000 employers commit to doing so, recognising this initiative as a sign of their commitment to employee wellbeing and a useful way to attract and retain talent. Employers that have already signed up to this scheme have until May 2019 to implement the new rates: this is because,

although the increases were announced in November 2018, participating employers have six months to begin to pay at the higher rate.

Given the above it is important to make good use of the time leading up to April 2019 in order to prepare to comply with these requirements. Employers should complete a full review of staff salaries ahead of time and work closely with their payroll and personnel departments to ensure wages are in line with legal requirements. Employers that pay higher than the minimum wage will also need to conduct a review in case the increases now overtake their current pay rates given the size of the individual increases.

An important point to remember is that the new rates are only effective from the first day of a new pay reference period which starts on or after 1 April 2019. For example, if an employer's pay reference period starts on the 20th of each calendar month, the new rates will not need to be paid until 20 April.

As a change in pay rate constitutes a change to terms and conditions, pay rises should be confirmed in writing to employees within a month of beginning to pay the new rate. Ideally, written confirmation of the increase should be given in advance of implementation.

Ultimately, whilst the changes in minimum wage rates can seem problematic at first, the requirements will be far less burdensome providing employers plan ahead. Pay can be a highly sensitive issue in the workplace and getting this right will be key to maintaining good employee relations, as well as in avoiding potential tribunal disputes and significant financial penalties. ■



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Winning the war for talent



Jerome Smail, freelance journalist, reveals the ways to recruit and retain talented employees as demand for increases

Organisations depend on talent. It is their lifeblood. Regardless of business plan, strategy, market proposition or investment, if a company lacks the right people to put it all into practice, it will be doomed to failure.

So, every company is faced with a dual challenge – not only to find the best talent available but to retain it too. And if that wasn't hard enough, every business worth its salt in the same arena is trying to do the same thing.

What's more, other factors are making those challenges harder. According to last November's quarterly *Labour Market Outlook* from the Chartered Institute of Personnel and Development (CIPD) and The Adecco Group, based on a survey of 1,002 organisations, employer plans to take on more staff are being hit by worsening skills and labour shortages. According to the study, this is partly as a result of a sudden reversal in the growth in the number of both EU and non-EU migrants in employment in the UK.

Alex Fleming, country head and president of staffing and solutions for

The Adecco Group UK and Ireland, sums up the situation: "The labour market in the UK is tight and this research is reporting increasingly high levels of recruitment and retention difficulties. While the data is not showing wages rising across the board, we are regularly seeing this pressure being exerted in the recruitment space.

...money alone is not the silver bullet that many employers believe it to be

"Our clients are often surprised at the market rates when they are making talent-attraction decisions. This 'supply shock' and other pressures will only serve to increase these difficulties, which could easily flow out into the rest of the workforce. In turn, this could cause a wider upward movement on wages."

Gerwyn Davies, senior labour market

analyst for the CIPD, says: "It's vital that businesses understand the workforce challenges they face, and make the relevant investment in skills and adopt the right people management practices to boost productivity in their organisation."

It's fair to say many businesses are aware of the task they face. According to a survey of human resources (HR) managers by best-practice organisation AXELOS in August 2018, recruiting and retaining talent is the biggest challenge for business right now. But the same study showed that the stakes are high: getting the hiring process wrong now costs organisations an average of £16,843 in each case.

So, it seems an increasingly small pool of the right candidates is the battleground. How can employers win the war for talent?

Just because there is a skills shortage across the board doesn't mean you should lower your expectations. Richard Bradley, managing director UK and Ireland of staffing business Kelly says: "It

can be really tough to attract the talent you need. But that should never mean you choose the best of the worst. It will only cause a bigger headache down the line. If you're struggling to fill a key role, take a step back. Think about how you could reorganise your search. Or reach out to talent partners and suppliers to help you cast your net a little further."

Many recruiters will assume money is the decisive factor. Obviously, offering a competitive salary is essential. And in terms of added extras, the power of pound sterling cannot be completely discounted. According to a survey of 1,096 UK employees carried out by incentives provider One4allRewards, HR bosses who give out bonuses are less likely to see staff being poached or looking elsewhere. Some 58% of workers in the sector said having received a bonus or gift from their boss recently would prevent them from looking for a new job.

However, money alone is not the silver bullet that many employers believe it to be.

Fleming says: "Employers should be aware that wages are not the only answer – as for in-demand employees, marginal salary gains may not be what they most desire. We've seen wider benefits packages, which include flexible working and a good culture often win over a simple increase in salary."

Adding weight to this view, having the chance to develop and 'put my talents to good use' was among the top five things that employees in the UK value most in life in a study by personal development and soft skills e-learning organisation GoodHabit. "Life is a learning adventure and talented people love learning" says Stephen Humphreys, country director, UK & Ireland at GoodHabit. He adds: "Given that the UK's workforce is one of the most highly educated in Europe, it's not surprising that people place a premium on being given the chance to develop themselves over money,"

The chance of career progression is also a key factor, especially among the graduate workforce looking to put learning and hard work at university into practice. Chris Parnham, managing director at Absolute Corporate Events, says: "Creating a culture of training and opportunity has, in my experience, encouraged our young hires to stay.

Young people are not ignorant to the fact that they need training. University certainly develops social skills and perhaps even public speaking, but the academic subject matter learnt is rarely applicable to the demands of their 'adult job'.

...culture and ethics are also significant factors in breeding employee engagement and retaining talent...

"Therefore, having a clearly defined and invigorated training and promotion scheme can be a valuable asset to employers of young people. Exercise training to develop your staff, offer promotions to incentivise this training and sustain the access to further promotions as a form of intrinsic motivation."

Reaffirming that money is not the be-all and end-all, Parnham adds: "Promotions don't have to be based on an increased salary either. Far too often this is seen as the only means of keeping young people."

Regardless of the opportunities of a certain role, Bradley emphasises the importance of setting realistic expectations among candidates. "It's easy to 'sell' the best parts of a job during the recruitment process and

overlook the reality and challenges of a role," he says, adding that "Any candidate needs to have a clear understanding of what a new role entails and the expectations that will be placed on them before they make a decision. There is nothing more disappointing than walking in on your first day to find a job that bears little resemblance to the role you expected. It can see highly skilled talent disappear, fast."

The onboarding process is also key to retaining talent once it's been identified and hired. Bradley says: "You have found an amazing candidate, someone who has the skills and values to be a great asset to your business. And they have accepted your offer. Make sure you don't pat yourself on the back at this point and walk away.

"To retain talent in the long-term you need to create a clear and welcoming onboarding process that helps new starters feel like part of the team. Never throw a new hire into the fray without support and guidance. It can leave them isolated and highly susceptible to looking elsewhere."

Rewarding workers and showing your appreciation for their endeavours is also essential to retaining talent. Robert Ordever, managing director of workplace culture organisation OC Tanner Europe, says: "By recognising staff for ongoing effort, rewarding their results and celebrating their careers in ways that are genuine and meaningful are vital for creating happy and engaging working environments."

While a competitive benefits package is instrumental when it comes to making



workers feel valued, the landscape is changing. Hazel Leighfield, head of solutions for technology consultancy Sopra Steria, explains: "A short time ago there was a real trend towards 'novelty perks' such as office slides and pool tables, but there's now widespread realisation that, in order to engage workers long-term, employers must offer an environment that nurtures wellbeing and recognises capability."

Employee engagement is key. Workers should feel as though they are true stakeholders in the business. To this end, it is conducive to link their performance and reward directly with the success of the organisation. An effective method for this is the introduction of share schemes (see case study).

The organisation's culture and ethics are also significant factors in breeding employee engagement and retaining talent. "Employees need to know that the organisation has a clear and meaningful purpose that resonates with staff and is clearly communicated, says Ordever.

Alexander Zeitelhack, associate dean at Berlin School of Business and Innovation at (BSBI), believes all companies should publish their mission and vision, and even have an ethics committee. He says: "The changing environment will demand companies let go of their ethos-driven old-world management style and develop ethical thinking at the core of the employee base. This means there has to be an open dialogue of all stakeholders." If this can be achieved, Zeitelhack concludes that "your future employees will come towards you".

Case study – retaining employees through share ownership

Employee share ownership has been a key feature of employee engagement company Reward Gateway since 2008, when the first employee share plan was launched. Since that date, 5% of the company's share value has been held among employees.

The first plan was the vision of Helen Craik, the company's founding HR director.

Robert Hicks, Reward Gateway's group HR director, says: "Helen believed that for us to be successful, we needed every single member of

staff to be connected to the company's performance. Share ownership is a core foundation of our employee engagement strategy at Reward Gateway."

From 2008 to 2010, the Season One employee share scheme ran until the company was acquired by Inflexion Private Equity, which bought a majority share in Reward Gateway for £25 million. At that point, around ninety staff members owned five per cent of the business between them and shared just over £1,000,000.

For those who had just joined the business and fell outside of the bi-annual share allocation, Reward Gateway ensured they received a bonus, calculated on how many quarters they had been with the company.

"We needed to make sure everyone felt a part of the success that came with the acquisition," says Hicks.

The second employee shares scheme followed, from 2011 to 2015, and again held five per cent of the company's value. As with the previous scheme, all staff were in the scheme with different levels of shares depending on seniority and responsibility. Additional shares were allocated depending on performance and the individual's contribution to the business.

"The importance of this cannot be understated," says Hicks, "as while we firmly believe that all employees should be a part of the share scheme, there has to be an incentive for employees that go above and beyond. We delivered a very successful investment for Inflexion and achieved nearly three times our target."

The Season Two share programme

ended in 2015 when Reward Gateway was acquired by Great Hill Partners on an equity valuation of £140m.

Some 269 employees, below board level, were members of the programme on that date and they shared between them £6,500,000. Employees were eligible whether they were based in the UK, Australia, USA or Bulgaria. Reward Gateway staff in Macedonia, who cannot legally be members of the programme, instead benefited from a bonus equal to the amount they would have received from the share programme had they been in it.

"The third employees share scheme is the one we're in right now, and naturally we've made a few improvements to it based on what we've learned since 2008," says Hicks. "One of these improvements is the vesting of shares. Shares are vested (or earned) over a period of four years following the date of the share award.

"This is important because if an employee leaves Reward Gateway before an exit event, they get to keep shares that have vested as of the date they leave. We want to reward our employees for the contribution they've made to the business, and also make sure that the people in the business are here for the right reasons, and not because they're waiting for a share pay-out."

Hicks summarises: "When integrated with wider reward and recognition programmes, a share scheme can be a powerful tool in building employee stakeholders, and we'd strongly recommend it to others." ■



Go with the flow

Julie Lock, general manager (Flexipay) for Mitrefinch Ltd, argues that flow is the secret to workplace happiness, increased productivity and talent retention



I was a guest speaker at a recent Driving Change conference, where human resources (HR) professionals gather to discuss forward-thinking strategy and share ideas. During my speech, I touched on the notion of flow – a state of complete focus and absorption in a task – as the key to employee engagement and a productive workforce.

This appears fairly obvious: a focussed employee is an engaged employee, and employee engagement is a key driver of productivity. Yet when I presented this idea to the audience of chief executive officers and HR directors, it seemed to inspire a collective lightbulb moment, as though this were something new altogether. This got me thinking: how can such a simple idea seem so radical?

The truth is, effective employee engagement is still more a theory than a practice. In terms of actual HR strategy, we still aren't doing enough to engage our people.

Let's take a closer look at both what flow is and how we can help our people achieve it.

'Flow' is something we've probably all experienced at one time or another – a sense of being completely lost in the moment, also known as being 'in the zone'. When in a state of flow, we forget the outside world and all its distractions, and we lose track of time. In this way, it's similar to a meditative state, with our attention focussed purely on the task at hand.

The idea of flow was conceived by positive psychologist Mihaly Csikszentmihalyi, who found that people were happiest and most productive when in this state of hyper-focus. He found that achieving a state of flow is dependent on the interplay between the level of challenge (that is how hard the work is)

and the level of skill (that is how well-equipped the person is to handle the task at hand).

...in a state of flow, people feel happier, more creative and more productive

Flow is achieved when we are challenged just the right amount to utilise our skills to an optimum level. If a challenge is too great and our skills insufficient, we slip towards stress and anxiety, but if work is too easy, we quickly become relaxed, bored and apathetic.

Put simply, what's good for your employees is good for your organisation. When in a state of flow, people feel happier, more creative and more productive.

People are much more likely to solve difficult problems or come up with ingenious ideas when in a state of complete focus. The quality of work done is likely to be much higher, too.

This all seems fairly obvious, but the truth is when it comes to talent management, many organisations are still stuck in the past. Annual appraisals and other box-ticking administrative exercises are still widely used, despite their negative impact on employee engagement.

Thankfully, organisations are slowly waking up to the fact that their processes need to adapt in order to keep up with changing attitudes to work. The shift towards a focus on employee wellbeing and engagement is inevitable; and working out how to get your people in a state of flow is at the heart of this

movement.

The challenge for organisations is to provide the right conditions for employees to achieve a state of flow. To do this, you need to know how your employees are feeling – are they happy, bored, enthusiastic or negative? Are their skills being fully utilised? Do they feel sufficiently challenged? Are there any parts of their job that they particularly love or loathe?

Real-time performance check-ins give managers a chance to give feedback as and when it's needed. But they should also be an opportunity for employees to express their feelings about their work.

If an employee is overworked and stressed, this should be addressed as soon as possible. Likewise, if an employee spends their days in a bored stupor, it's clearly time for a change. It is the employer's challenge to create an environment where openness and honesty are encouraged.

Assuming you already have the right people with the right attitude, real-time feedback and a flexible approach to the way you utilise your staff is the key to getting people in the flow. In simple terms, the goal of any organisation should be to ensure that its employees are challenged just the right amount in their work – too much and they'll feel anxious, not enough and they'll feel bored. This is the key to employee engagement.

And, finally, addressing a healthy work-life balance is key to productivity improvement. If time is well-balanced, there are no personal-time issues that will distract employees from being in the flow. Flexible working is not a new concept, but what is new is that it has fast become a basic expectation of the workforce. To attract and retain top talent organisations must adopt a more flexible approach to terms and conditions. ■



Universal credit – the court’s decision

Mike Nicholas, editor, summarises the law, the arguments and judgment in a judicial review case that has profound implications for the way by which calculation of the amount of each month’s benefit is to be performed



Following the general election in 2010, the coalition government progressed the Conservative party’s manifesto pledge to introduce universal credit (UC) to replace several other social security benefits. The delivery of this new benefit would require the use of employment earnings obtained from employers (and pension payers) in real time rather than being based on averaging historical amounts of earnings obtained from the P14 annual returns submitted by employers.

Irrespective of any conceptual merit, UC has a troubled history, and there are many things seemingly amiss with the benefit which are causing severe financial difficulties for claimants. Design, operational and calculation problems continue to impede the implementation and delivery of UC. A particular issue is timing of pay days falling within the claimant’s UC assessment period. It has even been suggested that employers should change claimants’ contractual pay dates.

Unsurprisingly, there have been several cases dealt with by the courts (see [https://](https://bit.ly/2UUcytA)

bit.ly/2UUcytA). In a case from 2017 about the effect of timing of reporting of real time information the Department for Work and Pensions (DWP) withdrew its appeal against the tribunal’s decision (see <https://bit.ly/2X4PkDa>). Here the claimant’s earnings for January were reported as paid on 1 February 2016 whereas she said payment had actually been made on 31 January. The effect was that she had two payments in the assessment period 1 February to 29 February.

...it became clear that another more fundamental submission was available to the claimants

A very recent case (see <https://bit.ly/2N6I7xK>) heard at the High Court casts light on the implications of more than one monthly pay day in the UC assessment period.

Judicial review hearing

Four claimants (see below) sought judicial review of the proper method of calculating the amount of UC payable to each under the Universal Credit Regulations 2013 (‘the 2013 Regulations’). They challenged the method of calculation on the basis that it led to effects that were irrational, or failed to promote the policy and objectives of the underlying statute, the Welfare Reform Act 2012 (‘the 2012 Act’), and so was ultra vires the parent statute or that it led to unlawful discrimination contrary to Article 14 of the European Convention on Human Rights (‘the ECHR’) read with Article 1 of the First Protocol to the ECHR, those being Convention rights within the meaning of the Human Rights Act 1998. A claimant also contended that the defendant (the DWP) failed to comply with its duty to have due regard to certain matters as required by section 149 of the Equality Act 2010.

However, during the course of the court hearing it became clear that another more fundamental submission was available to the claimants.

The hearing of the claims took place

on 27–28 November 2018, with Helen Hargreaves MSc ChFCIPPdip, CIPP associate director of policy, providing, via written witness statements, expert testimony about the payroll practices around pay dates falling on non-banking days.

The High Court's judgment was handed down on 11 January 2019.

The claimants

Materially similar circumstances apply to the four claimants: Ms Johnson, Ms Woods, Ms Barrett and Ms Stewart.

Ms Johnson is employed by a large local authority and contractually paid on the last banking day of each month. She was paid salary on Thursday 30 November 2017 and on Friday 29 December 2017. As two months' salary had been received in the assessment period 30 November to 29 December the UC for this period had been calculated as if she had received two months' salary in that period. In the next assessment period, running from 31 December to 30 January, Ms Johnson was treated as having no earnings, which meant she lost the right to retain £192 of

her earnings when the UC amount was calculated. The DWP declined her request to reconsider the calculations.

Ms Woods, who works for a county council, is paid monthly on the last working day of each month. In 2017, Ms Woods was paid her November salary on 30 November 2017 and her December salary on 29 December 2017, both of which fell in her UC assessment period to 29 December.

...severe cash flow problems for them living as they do on low incomes with little or no savings

Ms Barrett, a health care assistant, has an assessment period that runs from 28th of one month to 27th of the next. There have been occasions when two months' salary have been paid to her during one assessment period.

Ms Stewart, who works as a service adviser, has an assessment period that runs from 28th of one month to 27th of the next. She was paid salary on 28 September and then on Friday 27 October 2017 as the 28th was a Saturday.

All four claimants periodically suffer real financial loss by reason of the way in which UC is being calculated. There are times when they are not able to retain part of a month's salary (the work allowance of £192) before any reductions in UC to reflect earned income. The claimants also referred to another difficulty that arises out of the method of calculation: the way in which UC is calculated in their cases leads to fluctuations in the amounts they receive which creates severe cash flow problems for them living as they do on low incomes with little or no savings.

Arguments

The essential factual difficulty that arises is that because the claimants are paid their salaries monthly on or around either the last banking day or the last working day of the month there will be occasions when salaries for two different months

Extracts of the 2013 Regulations

Regulation 54 of the 2013 Regulations, which is headed 'Calculation of earned income – general principles' provides that:

- (1) The calculation of a person's earned income in respect of an assessment period is, unless otherwise provided in this Chapter, to be based on the actual amounts received in that period.
- (2) Where the Secretary of State (SoS): (a) makes a determination as to whether the financial conditions in section 5 of the Act are met before the expiry of the first assessment period in relation to a claim for universal credit; or (b) makes a determination as to the amount of a person's earned income in relation to an assessment period where a person has failed to report information in relation to that earned income – that determination may be based on an estimate of the amounts received or expected to be received in that assessment period.

Regulation 61, which is headed 'Information for calculating earned income – real time information etc' provides that:

- (2) Where a person is, or has been, engaged in an employment in respect of which their employer is a RTI employer: (a) the amount of the person's employed earnings from that employment for each assessment period is to be based on the information which is reported to HM Revenue & Customs (HMRC) under the PAYE Regulations and is received by the SoS from HMRC in that assessment period; and (b) for an assessment period in which no information is received from HMRC, the amount of employed earnings in relation to that employment is to be taken to be nil.
- (3) The SoS may determine that paragraph (2) does not apply: (a) in respect of a particular employment, where the SoS considers that the information from the employer is unlikely to be sufficiently accurate or timely; or (b) in respect of a particular assessment period where: (i) no information is received from HMRC and the SoS considers that this is likely to be because of a failure to report information (which includes the failure of a computer system operated by HMRC, the employer or any other person); or (ii) the SoS considers that the information received from HMRC is incorrect, or fails to reflect the definition of employed earnings in regulation 55, in some material respect.
- (4) Where the SoS determines that paragraph (2) does not apply, the SoS must make a decision as to the amount of the person's employed earnings for the assessment period in accordance with regulation 55 (employed earnings) using such information or evidence as the SoS thinks fit.
- (5) When the SoS makes a decision in accordance with paragraph (4) the SoS may: (a) treat a payment of employed earnings received by the person in one assessment period as received in a later assessment period (for example where the SoS has received the information in that later period or would, if paragraph (2) applied, have expected to receive information about that payment from HMRC in that later period); or (b) where a payment of employed earnings has been taken into account in that decision, disregard information about the same payment which is received from HMRC.

are paid within one assessment period. The method adopted by the DWP to calculate the amount of an award of UC for that assessment period is to treat both salaries as earned income for that assessment period and to apply the method of deduction set out in regulation 22 of the 2013 Regulations to the combined income from the salaries for the two months that were received in that assessment period.

Mr Brown, for the DWP, submitted that the method of calculation applied is correct. He argued that regulation 54 of the 2013 Regulations means that the DWP must calculate the amount of an award of UC by reference to the actual amounts of earned income received in an assessment period. If, therefore, salaries for two different months are paid within the same assessment period, the calculation of UC must be based on the combined amount of those two months' salary as the salary for each month was actually received in that assessment period. Further, Mr Brown submitted that the aim underlying the provisions governing calculation of UC was intended to enable an automated system to be established and that would preclude adjustments to take account of occasions when two monthly salaries were received in one assessment period. Mr Brown argued that it is not irrational to base a method of calculation on amounts actually received in a particular period, and that such a method of calculation does not involve any failure to give effect to the statutory purposes underlying the 2012 Act notwithstanding the problems

that may arise when a claimant receives salaries for two months in one assessment period.

The High Court, however, noted that the precise words of regulation 54 need to be considered carefully, observing that two features appear from them: first, the exercise is the calculation of a person's earned income "in respect of an assessment period"; and, second, that calculation is "to be based on the actual amounts received in that period".

...it is the employer not the employee who determines the date and method of payment...

Regulation 54 does not provide that the amount of earned income "is to be the actual amounts" received "in" the assessment period. Rather, the amount of earned income is to be "based on" the actual amounts received. Furthermore, the purpose of the calculation is, as appears from the opening words of the regulation, to calculate the amount of a person's income "in respect of an assessment period".

Similarly, where information is supplied by the employer in accordance with regulation 61, the amount of "the person's employed earnings from that employment for each assessment period is to be based on the information

provided". Again, the amount is not to be, for example, "the amount specified in the information provided", but, rather, is "to be based" on the information provided. That, again, reinforces the view that the amount of earned income to be deducted is not necessarily the amount actually received in an assessment period but is to be based on those amounts. There is intended to be some other factor, not the mere mechanical addition of monies received in a particular period, which the calculation has to address. That other factor is the period in respect of which the earned income is earned. It is the earned income in respect of the period of time included within the assessment period that is to be calculated. That is to be based on the actual amounts received in the assessment period. There may, however, need to be an adjustment where it is clear that the amounts received in an assessment period do not, in fact, reflect the amounts of earned income received in respect of the period of time included within that assessment period

On a proper interpretation of regulation 54, read in context, the earned income of a claimant is the earned income he or she receives in respect of the assessment period, that is in respect of periods of time comprising the assessment period. The calculation will be based upon the actual amounts received. That will be the starting point and in many, perhaps in the vast majority of cases, may well be the finishing point of the enquiry that the legislation requires. However, there may need to be an adjustment where it is clear that the actual amounts received in an assessment period do not, in fact, reflect the earned income payable in respect of that period.

Mr Brown further relied on the fact that the system of UC was intended to be automated. He referred to the evidence in particular of Ms McMahon indicating the importance of automation in the design of the system of UC and indicating that it would not be possible to make an automated change to address the issue that has arisen in this case. Ms McMahon indicates that any solution would have to involve a manual calculation of the amount of the award.

The High Court judgment says that there are a number of answers to that. First, this is a question of statutory interpretation. If the regulations, properly



interpreted, mean that the calculation must be done in a particular way, that is what the law requires. The court does not belittle either the administrative inconvenience or the cost involved but the language of the regulations cannot be distorted to give effect to a design which may have proceeded on a basis which is wrong in law.

Secondly, the existing regulations already contemplate manual intervention at some stages. Regulation 61 of the 2013 Regulations contemplates that there will be circumstances where the DWP cannot base a calculation on the information provided by the employers (for example, where the information is unlikely to be sufficiently accurate or timely). Then the DWP must calculate the person's employed earnings using such information as the SoS thinks fit and that may involve treating a payment of employed earnings received in one assessment period as received in another. That indicates that there is no insurmountable problem in carrying out calculations, including calculations treating earned income received in one assessment period as being received in another assessment period. It may be that the number of instances where that will need to be done because of the problem which arises in this case will be greater than might otherwise have been anticipated by the DWP (although the DWP's evidence is that it will be less than 1% of the UC caseload). Ultimately, however, the regulations properly interpreted require that exercise to be carried out and there is no insurmountable problem in doing so.

Mr Brown also submitted that one purpose underlying the 2012 Act, and the 2013 Regulations, was to encourage changes in behaviour. He submitted that it would be open to the employees to ask their employers to alter the date or the method of paying salaries so that the problem with two months' salaries being paid within one assessment period would not arise. That, it seems, is suggested as a reason why the interpretation of regulation 54 adopted by the DWP would not necessarily lead to problems.

The High Court dismissed this argument. First, the ultimate question is whether, on a proper interpretation, regulation 54 is to be interpreted in the way contended for by the DWP and, for the reasons given above, it does

not. Secondly, in these cases, and more generally, it is the employer not the employee who determines the date and method of payment. It is difficult to see how it could be said that the regulations were drafted on the assumption that any problems would be resolved by claimants asking third party employers to alter their payroll systems. Thirdly, Ms Johnson, Ms Woods and Ms Stewart did ask their employers to change their pay arrangements and the employers declined. Fourthly, whilst it may be that UC was intended to contribute to changed behaviour patterns, those would appear to be connected, at best, with encouraging or facilitating work in particular as a means of enabling those on low incomes to move out of poverty.

... it is the employer not the employee who determines the date and method of payment...

There is nothing to suggest that the behavioural changes envisaged included encouraging employees to request, and employers to make, changes to payroll arrangements. In any event, however desirable such behavioural changes may be (and that is a matter of policy for the executive and not a matter of law for the courts), there is no basis for inferring that the relevant regulations in this case were drafted on the assumption that such

changes would occur. The SoS must apply the legislation as it currently is and as correctly interpreted.

The judgment

In reaching judgment, the High Court considered the factual situation of each claimant, and the legal framework governing the calculation of the amount of UC, before analysing the proper interpretation of the regulations governing that calculation in these cases.

On a proper interpretation of regulation 54 of the 2013 Regulations, read in context, the amount of the earned income of a claimant in respect of an assessment period is to be based on, but will not necessarily be the same as, the amount of earned income actually received in that assessment period. There will need to be an adjustment where, as in the present case, the claimant actually received two months' salary in one assessment period but the combined salaries do not, in fact, constitute earned income in respect of the period of time included in that assessment period. The DWP, therefore, erred in treating the combined salary for those two months' as earned income in respect of that assessment period for the purposes of calculating the amount of UC payable.

The claims for judicial review succeed on that basis. Accordingly, it is unnecessary and inappropriate to address other grounds which do not arise on the correct interpretation of the legislation. The only other ground which it is necessary and appropriate to address (based on section 149 of the 2010 Act) is not made out on the facts of this case. □



Motivation matters

Rob Boland, group director of product & client success at Reward Gateway, sets out what employees really want from their employers



It's no secret that there are numerous benefits to a motivated workforce. In fact, in a recent survey we conducted on employee motivation, 42% of people said their mood was better when they were motivated and over a third said both their work quality and productivity increased. Just under a third, the equivalent of 9.3 million people in the UK, said their mental health was better when they were motivated.

But motivation isn't something that can be bought, begged or bribed. It can't be forced upon us. Employers must create an environment where employees have opportunity to be motivated.

Within our survey we dug deep into what motivates various employees. We looked at the differences between those who classed themselves as 'extremely motivated' and those as 'not at all motivated'. This gave a sense of what motivates those employees who are living and breathing a company's mission, purpose and values.

In the UK, those who are not very motivated in their current job are most likely to say that they're most motivated by their salary (41%). Those who class themselves as extremely motivated in their current job are most likely to say that they're motivated by job satisfaction (52%), feeling respected (37%), having a purpose (37%), and good working relationships (37%) – money doesn't come into it.

In addition, 31% more of those employees who class themselves as extremely motivated say that they have a very good understanding of the business goals of their company compared to those who are not at all motivated.

The business case to create an environment for engagement and motivation is clear: motivated employees are happier, they work harder and understand the business goals companies are trying to achieve.

Motivation is a key part of employee engagement and an engaged workforce pays in dividends. Numerous studies have

shown that companies with an engaged workforce outperform peers in stock market returns by over two times. In today's fast-paced environment, having these engaged employees is vital to staying afloat in a world of disruptive businesses and more competition.

...companies with an engaged workforce outperform peers...

This is because an engaged employee understands and believes in the business and the direction it's going, understands how their role contributes to the overall purpose, mission and objectives, and genuinely wants the business to succeed and to feel a part of the shared success. These engaged employees create value for their organisations because they make better decisions, are more productive and innovate more, and want to see the success.

The number one driver of motivation for these engaged workers is being shown appreciation for their hard work. Also known as recognition.

Despite overwhelming evidence many employers still don't do enough to create an environment where employees can be their most motivated selves; instead, they cling to the notion that motivation should always be monetary. Alongside this they undervalue the need for true appreciation and recognition. Our 2017 study of recognition demonstrates this, finding that 59% of Brits would rather work for a business with a culture where they received recognition over a higher salary job where they didn't get any recognition.

Individuals willing to put in the extra effort do so because they have a choice and are endorsing their own behaviour. The output of their efforts is a feeling of accomplishment and a sense of pride in

their work. This type of motivation lends itself to more positive emotions and improvements in physical and mental health and wellbeing.

In his book *CRAVE: You Can Enhance Employee Motivation in 10 Minutes by Friday*, my colleague Gregg Lederman consolidates hundreds of studies on motivation at work that go back to the early 1900s. Social scientists and researchers have come leaps and bounds since then, but still generally agree that the following are what employees crave at work:

- **Respect** – feeling respected and appreciated as a person and for the work they do.
- **Purpose** – understanding how they make a difference on their team, to the customer or the company as a whole.
- **Relationships** – building stronger connections with the people they work with, especially their immediate boss or manager.

When employees have these three motivators fulfilled, great things happen. Employee engagement improves, the work culture gets better and the customer experience is stronger. The best way to tick all these boxes is through strategic employee recognition and shining a spotlight on success.

So here's a quick challenge to boost motivation in your workplace. Think of something that you waste around ten minutes doing each week, be it scrolling mindlessly through your phone or procrastinating on a task – and use that time instead to recognise a person at work. Think of someone who's gone above and beyond, and commit to sending him or her an email, a text, or even a handwritten note. Tell the action, connect it to a business goal, and highlight how it will make an impact to your company. This is the '10 Minutes by Friday Challenge', designed to create a new habit of strategic recognition so that it becomes the norm, in turn, motivating and engaging employees and colleagues. □



The damaging effect of unconscious bias

Paula Whelan, equality, diversity and inclusion specialist at RightTrack Learning, discusses



Do you know only 51% of the FTSE 100 companies have directors from black and minority ethnic (BAME) backgrounds, and only 8% of the total director population in the UK? By contrast, UK society comprises 14% non-white ethnic groups.

With decades of campaigning, policy review and focus on creating a society inclusive of its rich diversity, how can this still be the case? The answer, unconscious bias!

We all have unconscious biases which influence our decision-making processes and, therefore, the rapport we build with some people over others, the way we recruit, promote, manage and even the opportunities or limitations we place on ourselves.

Unconscious biases are our unintentional people preferences, formed by our social experiences. They are the result of our limited cognitive capacity; we subconsciously categorise people when we meet them to avoid having to conduct completely new assessments for every new person we come across. We assign a 'value' to the categories we use and without even realising it we stereotype based on images in mass media, or reputations passed on by parents, peers and other members of society.

According to Nottx.com, 20% of 540 UK female BAME jobseekers altered their name in applications and almost all who changed their name reported a higher level of call-backs from potential employers. According to the Chartered Institute of Personnel and Development, 51% of human resources professionals in the UK were found to be biased against overweight women – and were unaware that this was the case.

Unconscious bias can often show up as micro-behaviours – the little things that we say and do which show how we regard those around us. Even these very small behaviours can make people feel

excluded and can have long-term effects. The everyday verbal, nonverbal, and environmental slights, snubs, or insults – whether intentional or unintentional – can communicate hostile, derogatory or negative messages to target people based solely upon their marginalised group membership. At work, these micro-behaviours can have an enormous impact on whether to what extent we feel valued and included, and therefore how productive and loyal we are.

...not many people would behave that way if they knew they were doing it

There is a reason it's called unconscious bias – not many people would behave that way if they knew they were doing it. Things like being constantly interrupted while talking, being left out of a discussion, someone reading email/messages while you're talking to them, looking at their watch or not being introduced at a meeting, can send negative signals. Even a change in voice pitch, volume or rate, a change in body posture or hand gestures can impact the way you come across and make another person feel.

The lack of diversity in UK boardrooms has not gone unnoticed by the UK government. In October 2017, the Parker Review Committee, led by Sir John Parker, published its final report urging business leaders to improve the ethnic and cultural diversity of UK boards to better reflect their employee base and the communities they serve. The report set out achievable objectives and timescales to encourage greater diversity; and provided practical tools to support board members of UK companies to address the issue. Its recommendations fell under the following three areas:

- increase the ethnic diversity of UK boards by proposing each FTSE 100 board to have at least one director from an ethnic minority background by 2021 and for each FTSE 250 board to do the same by 2024
- develop a pipeline of candidates and plan for succession through mentoring and sponsoring
- enhance transparency and disclosure to record and track progress against the objectives.

Thankfully, it is not just the government that is encouraging these changes. On International Women's Day 2018 the Asian Business Chamber (ABCC) in Birmingham launched its Diversity in Leadership Pledge (<https://bit.ly/2OjViiM>). This pilot campaign is working with some of the region's biggest employers to boost the numbers of BAME, women, LGBT and disability groups being represented on boards of directors and in leadership roles.

As part of the pledge, the ABCC held an unconscious bias for leaders workshop in collaboration with RightTrack Learning, where participants learned how unconscious bias impacts teams and influences organisations. Attended by over thirty leaders from the region, the workshop taught attendees to recognise the micro-behaviours that impact on inclusive leadership, and strategies to help them reduce the impact of unconscious bias on individuals, teams and organisations.

If you take a step back and reflect on yourself, you will find that you too are guilty of unconscious bias in some way or another. Don't beat yourself up about them, it's natural. Once you identify how they impact on your behaviour, relationships and decision-making, you can learn to question or mistrust first impressions or to review the decisions you make about people to ensure that you are being as objective as possible and relying on facts instead of your 'gut feeling' or quick assumptions. □

A week in the life of returns..



Natalie Scott Paul ACIPP CIMA Cert BA,
payroll manager, Cambridge Commodities Limited

Monday

I like to look at my diary for the week ahead and ensure I've got my head around the meetings and deadlines for the week.

Organisation is, as many people tell me, my 'thing' and I find this a fundamental skill in my payroll and workload management. Currently my workload covers a salaried and hourly UK payroll (start to finish in house) plus six European countries, supported by bureaus in each, and the payroll for our sister company in the US, currently spanning exempt and non-exempt employees across four states, with more countries being added all the time. This variety in payrolls, although an amazing learning opportunity, presents its own challenges, usually with different state legislation and regulations, translation or timing complexities. That's where my country colour coded wall planner comes in as it really helps me to continually look ahead, factoring in state/city specific public holidays.

But today means that our bi-weekly US payroll submission is due. I work a short day in the office so I can pick up my work in the evening from home. Our sister company in California is eight hours behind, which can result in delayed communication, fortunately me being able to work in the evenings really helps. I liaise with our office manager there regarding the teams' time and attendance for the period, get our submission pulled together, along with our sickness and vacation accruals to our bureau. Learning the US payroll has at times been like learning another language – 'vacation' instead of 'annual leave' – but in 2018 I attended the CIPP and APA US Payroll Essentials course in London. It was in-depth three-day training, but I can honestly say it was one of the most insightful and

worthwhile courses I've done, and I would recommend it to anyone who covers the US – it was a great networking opportunity too and I got so much insight from speaking with other international payroll managers.

Tuesday and Wednesday

I don't work in the office two days a week, due to having two small children and a great employer who supports flexible working. To compensate I work in the evenings (eight hours across the week) which can float across different days depending on deadlines that are often date specific. The ever-changing goal posts of a monthly payroll meant that having two days completely off just didn't work and this was causing delays that could have the potential to negatively impact employees. This, coupled with the addition of the US payroll, made working from home the practical and sensible choice.

I use these days to do project work, journals or management account analysis, looking at my payroll nominals. I completed my Chartered Institute of Management Accountants qualification up to operations level before my promotion to payroll manager so analysing costs and noticing trends or patterns still intrigues me.

On Wednesday my US payroll comes back for me to check and finalised. Pay stubs – I'm learning the lingo – are released and payments scheduled for pay day Friday.

Thursday

Back in the office and, as it's heading towards the end of the month, I'm submitting all the European payrolls – remembering all the different submission requirements and ensuring I've completed

them all.

Next, I work on finalising my UK payrolls. We use Sage to complete our payroll in house and, luckily, I have the support of my fabulous assistant to help me pull this together. Next week I will do all the reporting required regarding our pension and benefits as this is also one of my many hats.

Friday

When I'm not payrolling I enjoy using my organisational skills elsewhere in the business as part of the events team. I am very passionate about positive employee engagement and I have found that being an approachable face for all members of staff means that should they have a payroll query or something they want to discuss they don't hesitate to knock on our door.

This year was our company's twentieth birthday so to commemorate this we set ourselves the target of raising £20,000 for the Addenbrooke's Charitable Trust, our local hospital. We came up with so many ways to do this including bike rides and bake sales, but we also decided to put on a charity ball. Having led this project, the pressure is on to deliver.

When you look at the skills that we have as payrollers – planning, eye for accuracy, need for order/structure – I think these are transferable skills into event organising and part of the reason I enjoy it so much.

I am delighted to say that our fundraising efforts were a success and it was amazing to be able to present the Trust with a cheque for £51,272.

A week as a payroll manager is never the same, never fully predictable, but I personally thrive on the variety. We plan as much as we can, which I know is fundamental, but never knowing what the challenge is around the corner definitely keeps me on my toes. ■

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Hays Payroll Management

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Hays Payroll Management recruits across a range of UK industries and specialises in placing professional experts into payroll jobs. With a national network of offices and expert consultants who have an in-depth knowledge of how the busy payroll environment works, our consultants match the skills and experience of individuals with the most suitable payroll jobs and employers.



James Gray Associates

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James Gray Associates specialise in Payroll, HR and Reward recruitment, supplying permanent, contract and interim professionals for vacancies across the UK, Europe and Asia. JGA offer a professional, bespoke and responsive recruitment service and are delighted to offer CIPP members 20% discount off standard terms. With 12 years average payroll recruitment experience per consultant and industry leading client servicing and candidate sourcing techniques including social media - JGA recruit better talent faster.



Payroll Elite Ltd

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 Website: www.payrollelite.co.uk
 Twitter: @payrollelite LinkedIn: payroll elite

Payroll Elite have been specialising in providing payroll personnel for the past 20 years within the private and public sectors. As a highly reputable consultancy and major contributor in the world of payroll recruitment, we offer comprehensive contract and permanent recruitment services by pre-selecting candidates that match the clients' needs and requirements. All candidates are referenced and interviewed prior submission to client.



Portfolio Payroll

One Finsbury Square,
 London EC2M 7LD
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 Website: www.portfoliopayroll.com

Portfolio Payroll is a market leader and the longest established payroll recruitment consultancy in the UK. Listed in the **Sunday Times Fast Track 100** twice in the past **three** years we are the **CIPP's sole preferred supplier**, recruiting **payroll professionals** for **thousands** of companies, across all industry sectors throughout the UK. Our **specialist** consultants provide tailored **permanent, temporary and contract recruitment** solutions at all levels of the market, with further divisions providing **executive and public sector** recruitment. For all your **payroll recruitment** needs call the **UK's payroll recruitment specialists**.



Time and attendance

Frontier Software

63 Guildford Road, Lightwater, Surrey, GU18 5SA
 Tel: 0845 3703210 Contact: Sales Department
 Target Employee Range: 50+
 Email: sales@frontiersoftware.com
 Website: www.frontiersoftware.com

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*as taken from a recent membership survey.



Confessions of a payroll manager – Pay attention!

Another episode in a series of occasional yet insightful/inciteful, anonymous and whimsical reports revealing the arcane, weird and sometimes torturous world of payroll frequented by payroll professionals.

During those rare quiet times in payroll you can sometimes find yourself doing a bit too much 'wool gathering' and not paying enough attention to detail. This time last year I was taught a lesson – which I won't soon forget – about the dangers of complacency and daydreaming. I thought I'd share what happened, and maybe stave off something similar happening wherever you are on planet payroll.

I'm sure you all have tasks that you do so often it becomes automatic. When walking to work daily I set off and, so it seems, the next minute I'm there – but with almost no knowledge of how it happened. To a payroll manager, payrolls are very much like that. After you've done them for long enough it almost feels like they run themselves. But, actually, you know what? They really don't. Regardless of how many times you do them you must never take your eye off the ball.

Payrolls are a little like chocolates (just go with me on this). You don't dislike any of them but there will always be a favourite and even one you tend to forget exists; it's the Picnic bar in chocolate terms. At Crumbitt's, the Picnic bar of payrolls is a small payroll with only five people dating from a decade ago when Mr Crumbitt took over a small local company, Tip Top Toppers, that makes novelty pencil toppers. The staff TUPE'd over and have remained

on their own little payroll ever since.

Tip Top Toppers (TTT) sit at the end of my checklist of jobs. I always leave this payroll just for me as it only takes a few minutes to run the calculations and generate the BACS file. Once – and ironically, given what happened – I joked with the team that I could run the TTT payroll blindfolded; it was that quick and simple. We never heard from the TTT employees other than at Christmas when we would get a card that they'd all signed. A good job done easily.

Well, the lesson of this story is never become complacent. It was the day before pay date and I was at my desk running the nominal interface when suddenly I had that feeling of being at the top of some polished wooden stairs in fluffy socks. As my sense of unease increased I did what all list makers do when feeling discombobulated – I checked my list. My eyes raced down the list of ticks settling on an empty box at the bottom: 'Run TTT'. I hadn't run their payroll!

I remembered that when I'd been finishing the payrolls, Jace had wanted some help with a P11D query that took longer than we thought and really knocked me out of rhythm. (And we might have also been a bit distracted by a round of teas, a box of misfit biscuits and some new photos of Albert.)

I quickly opened the payroll and set it running which as a start made me feel a little better but we had no chance of getting the normal BACS file to the banks on time. I sent Billie to the finance department to see what we could do to get a payment there for the next day. I was a little on edge waiting for her return, and I almost felt like

my reputation as a payroll manager was on the line. When Billie came racing back it was a moment before I clocked her smile and knew that they'd sorted something out for me. There'd be a slight extra cost, but in times of crisis getting people paid takes priority.

My amazing team did what they do best and buzzed around to make sure that the paperwork was with finance and I went home that night a relieved – and very grateful – person.

There was never any comeback on that incident. Indeed, as far as the employees at TTT were concerned, everything was as normal – they got paid, so all was well. Only we knew the frantic scramble that enabled that to happen – and only I knew the heart-thumping panic of nearly leaving these lovely people without pay.

We got a Christmas card from the TTT staff last year, along with some free samples of their bestselling pencil toppers for 2018. It was a sweet gesture and one that serves me well as I always keep my green long-armed-alien topper on my pencil to remind me to always check my checklist.

I've been running payrolls for years but complacency can be sat outside the department knocking to come in at any time. So, if you're like me, get yourself a pencil topper and never forget to pay attention! □

The Editor: Any resemblance to any payroll manager or professional alive or dead, or any payroll department or organisation whether apparently or actually portrayed in this article is simply fortuitous.

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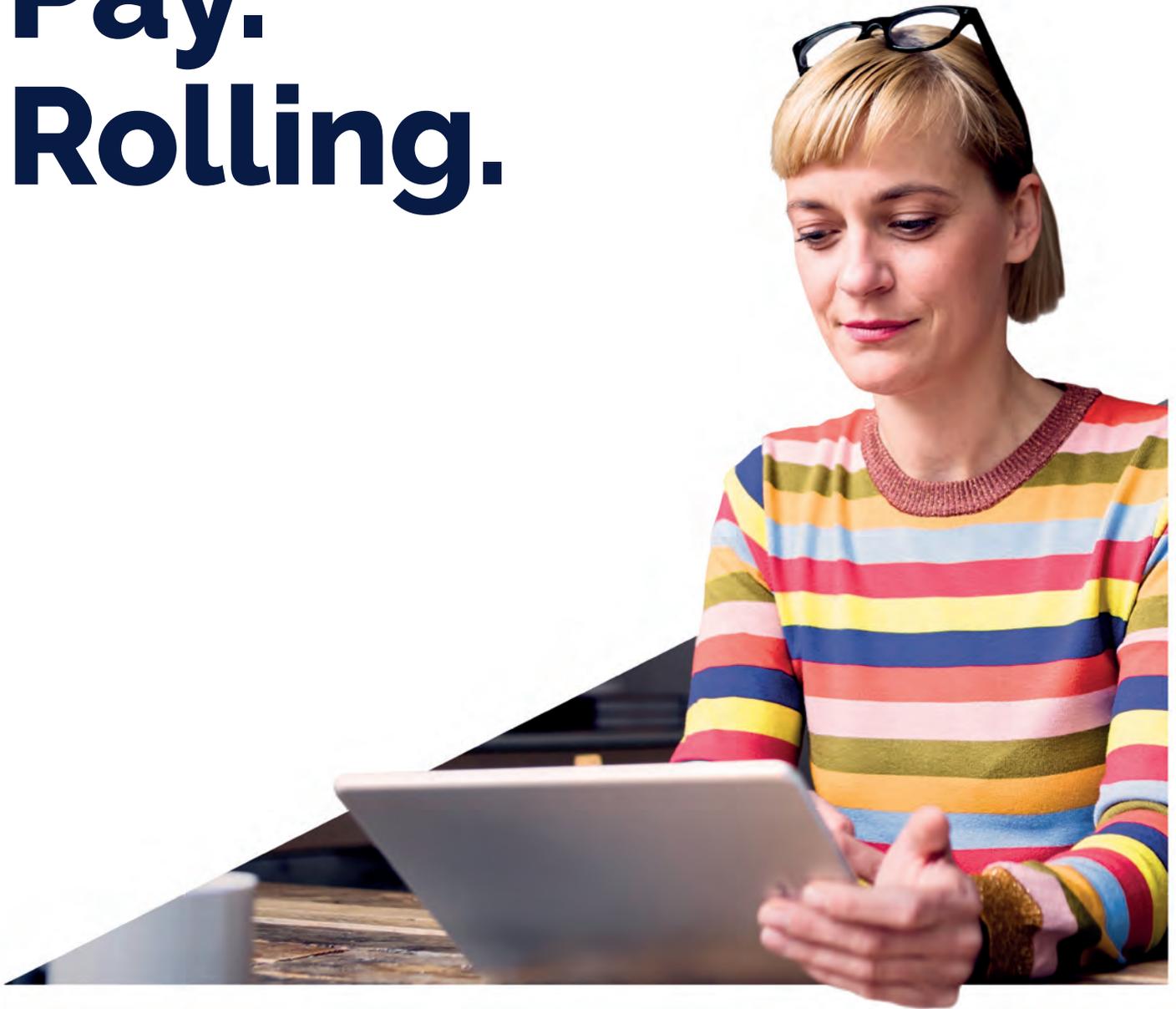
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