

Government to introduce legislation to extend the ban on exclusivity clauses

New laws will make exclusivity clauses unenforceable in employment contracts where the guaranteed weekly income is below or equivalent to the Lower Earnings Limit (LEL), currently £123 per week.

- Exclusivity clauses restrict workers from taking on additional work with other employers. They were banned from being included in zero-hours contracts in 2015, but will now be extended to anyone earning under the LEL.
- The legislation will also give employees the right not to be unfairly dismissed, and workers the right not to be subjected to a detriment, for failing to comply with an exclusivity clause. They will also be able to claim compensation for any unfair treatment.
- It is hoped that by removing red tape, the lowest paid workers will be given the choice to work multiple jobs if they wish, to give them more flexibility over when and where they work.
- Businesses will also benefit from a wider talent pool of applicants, since candidates might have previously been unable to apply for additional positions due to an exclusivity clause with another employer. It will also help attract more people into key industries, such as retail and hospitality, and encourage employers to create jobs with contracts which suit them and their needs, for example, offering few weekly hours.
- There isn't yet a set date for when the new law will come into force, but it will be laid before Parliament later this year.
- Employers may need to review existing policies and procedures and prepare to update these.

New laws on staff tips shelved

In September 2021, the Government announced plans to introduce a new law making it illegal for employers to withhold tips from workers. The change would make staff entitled to keep 100% of the tips they earn, including service charges paid by card and cash tips given directly. But, such plans have been shelved so will unlikely be discussed until May 2023 at the earliest, with further time needed to confirm and implement any changes.

Did you know?

For now, employers remain legally able to take a portion of staff tips, although they should be mindful of the impact doing so will have on employee relations, including motivation, engagement and productivity.

"Banter" tribunal cases on the rise

The number of employment tribunal cases in which workplace "banter" was cited rose from 67 in 2020 to 97 in 2021 – a 45% increase, highlighting the need for employers to do more to prevent situations turning hostile. In some cases, an individual might not mean to deliberately cause harm. But, what one person sees as a joke can be extremely damaging to another. Employers should, therefore, take steps to prevent this.

Did you know?

Any comments or actions which create a humiliating or offensive environment will instead be seen to be bullying or harassment, which employees can raise tribunal claims for.

Covid: Dismissal fair for employee refusing to work

An employee who refused to work due to dangers posed by the Covid pandemic, and was subsequently dismissed, has lost his automatically unfair dismissal appeal. In *Rodgers v Leeds Laser Cutting Ltd*, the Employment Appeal Tribunal (EAT) agreed with the ET that the employer had taken reasonable steps to avert danger and, had these been followed by the employee, he would have been able to continue working safely.

Did you know?

Under s100 of the Employment Rights Act, employees are protected from being dismissed if they reasonably believe work poses a serious and imminent danger, which cannot be avoided.

Employers might, in some industries and for certain roles, want to introduce a restrictive covenant for employees who want to work for a competitor or where there are concerns about the sharing of confidential or sensitive information. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.