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Issue 214

SCHOOL'S OUT

How graduates entering the workplace will revolutionise reward

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THE NEW DISRUPTORS

Amber-Ainsley Pritchard

> "Generation Z will be looking for jobs with different expectations to what employers may be used to"

Today, reward professionals seem to no longer be focussing on the idea of having a millennial-dominated workforce, but thinking more crucially about Generation Z coming into the workplace. This summer, graduates born not too long before the millennium will be looking for jobs with expectations that are different, and some higher, to what employers may be used to.

These individuals are determined to work how they want to work, when they want to work and work in something they are truly passionate about. That's not to say all other generations don't have these particular desires, it's more about the world Generation Z have grown up in. A world where opportunities in the workplace are more equal, opportunities are easier to reach - thanks to advancements in technology. There are even jobs borne out of social media, which was once only used to share holiday photos and not to make an income.

You may think finding a reward strategy to suit this new breed of employee will be difficult but, as Ian Hodson explains on p6, universities are now publishing data and research about what graduates want and expect from an employer.

One thing that I think will be of interest to keep an eye on, is how these savvy individuals will manage their finances. In the current landscape, more and more employees are finding it hard to budget and make ends meet each month. Ben Hancock queries why financial education isn't taught at schools from a young age, when research shows financial habits are formed from as young as age seven (see p20).

For something that you can expect to see sooner than the affects Generation Z will have on the workplace, is The Reward 300 2019 and The Reward 300 Individual Awards. The index and awards will be revealed at The 10th Anniversary Reward 300 Gala Dinner & Awards, sponsored by Cintra HR & Payroll Services, on June 5th - the first evening of the Payroll & Reward Conference, headline sponsored by Western Union Business Solutions, at the Chelsea Harbour Hotel, London.

In Issue 215, expect to see a feature on the conference, 2019 index and seven individual leading lights.

If there is something of interest or a topic you'd like me to feature in the magazine, email me at apritchard@shardfinancialmedia.com

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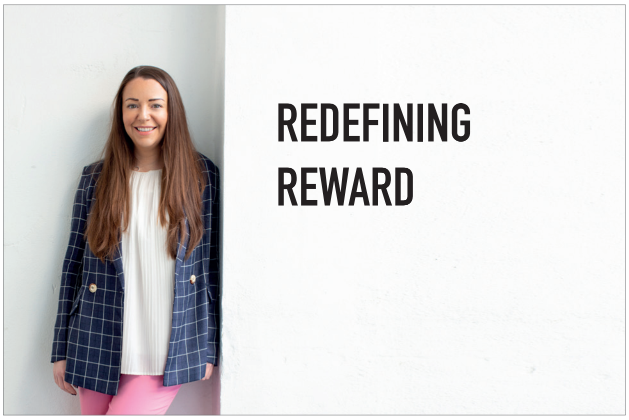

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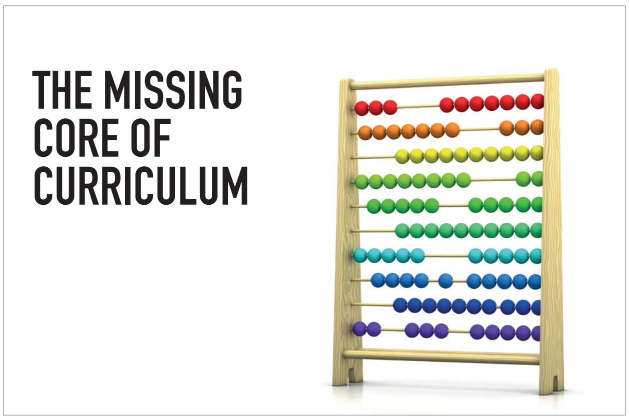

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REWARD

FEATURE

SCHOOL'S OUT

Ian Hodson explains how data gathered by universities will inform employers' reward strategies for the incoming workforce

Ian Hodson,
University of Lincoln

"It's a generation that understands the competition for good jobs"

Every reward professional wants to feel they have a robust, total offering that would attract, retain, motivate and engage all of its workforce. But, how do we stay ahead of the game and predict the next big thing for a reward strategy? In the past, the only hope we had of doing this was with the help of a crystal ball or time machine. Fortunately, we are now are able to look to universities and their student base to help shape our thinking and prepare to meet the expectations of the workforce of tomorrow, ensuring it reflects what they value.

The incoming workforce

Upon reading the *What do graduates want?* report, from the Bright Network, I found a number of interesting outcomes which mean we need to address reward approaches, now, to attract Generation Z.

The report collates responses from a survey of more than 3,000 students at UK universities; it aims to find out what they want from their future employers and how they feel about entering the world of work.

When asked what they look for in choosing a role: 39 percent said the firm's people and culture, 20 percent said remuneration and advancement and 18 percent said the firm's reputation and image. These opinions are something reward professionals should take into account when it comes to the marketing of such roles, to this audience. We often focus on pay structures or bonus schemes for attraction, but we now have a clear shift towards the "feel" of a company.

We need to identify what creates a positive culture and how we need to adapt our space and policies. This is a lot harder than making remuneration payments.

> "Identifying what creates a positive culture is a lot harder than making remuneration payments"

We also need to think about the keyword of "flexibility" and how some old policy rules may need to make way for a more agile working culture - and one of trust.

When asked what was important about the image of a firm: 24 percent said it would be fast-growing and innovative, with 17 percent suggesting it was financial success and inspiring management. These results portray to us the direction of travel for reward - of being able to correctly market the business as part of the reward package. Thinking about how you can showcase the success stories of individuals who work in the business, but also focus on looking forward will help to make an attractive proposition.

A new breed

The incoming workforce is a generation brought up on dotcom businesses; they want to work at a fast and exciting pace with inspiring leaders, and seize opportunities as soon as they are presented. A review of the company website should help you think more carefully about how opportunities are offered to serve the needs of this workforce, at the recruitment and onboarding phases.

You may also want to consider how to develop managers to not only be great at operational delivery, but also to consider how they can become inspirational leaders and role models that new graduates will look to for inspiration.

When asked which job characteristics were the most important: 29 percent said professional training and development and 18 percent said secure employment.

A chance for reflection here: it can often be the case that we have forgotten to include development as a priority in our reward packages. But, we are now looking at a generation that understands the competition for good jobs and are less geographically constrained in respect of taking further opportunities, so we know the ability to be developed in a role is seen as critical to enable later career progression. Therefore, mentioning the introduction of mentors and the possibility to take cross-organisational secondments in

"Develop managers to become role models that new graduates will look to for inspiration"

your reward offering may be of more value to graduates than a financial reward, because it could be seen as supporting career progression. This view is backed up by another response to the survey - what is the most important aspect of remuneration and advancement: 29 percent said it's a clear path to advance against, compared to 21 percent which said it was a competitive base salary.

The art of attraction

When asked what puts a graduate off an organisation: 25 percent said that it was unimpressive staff when meeting representatives from an organisation and 17 percent said negative feedback from friends and family.

When thinking about attraction, this shows the importance of managing the external organisation's profile on recruitment sites and social media - as the graduate generation here have been brought up in a world of consumerism and marketing, where they trust the voice of their peers more so than that of the marketeers. So think about this when communicating the reward package: capture what other employees are saying about it as this will be more powerful.

Employee loyalty could also be getting harder to maintain. When graduates were asked how long they expect to be with their first employer after graduation: 32 percent said two to five years, 24 percent said one to two years and 10 percent said more than five years. This is representative of a more mobile generation who see progression gained through different experiences at different organisations, rather than a job for life. This needs to be thought about in terms of rewards design - think about more spontaneous celebrations of short-term successes and less of a focus on longer term benefits, such as service awards or the focus on pension schemes, as an attraction tool.

Gender-based expectations

A look at salary expectations of graduates highlights a need to focus on managing expectations around gender-based inequalities.

The report found that males expected an average starting salary of £29,279 and a salary of £60,521 after five years. Females expected an average starting salary of £25,832 and £47,492 after five years.

This is an important reminder to ensure robust processes underpin remuneration decisions to avoid gender pressures in relation to increases against expectations.

In summary, the graduates entering the workplace pose some new challenges. Reward strategies will need to be steered in a different way than ever before, but will also need to be balanced against the needs of the current workforce.

For now, the crystal ball can be put away as today we have an advance warning of what is expected and needs to change - but the challenge as ever remains in the design and delivery. ■

Ian Hodson, head of reward, University of Lincoln


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REMOVE BIAS, DON'T REPLACE IT

ITN's Tim Robertson looks at ways to ensure your reward strategy is genuinely helping to remove bias within the workplace

Tim Robertson, *ITN*

"Broad-banded pay structures are more likely to contain the potential for hidden inequality"

MEMBER OF 2018 REWARD 300

With recent regulation around publishing the gender pay gap and more general trends in promoting the transparency of reward processes, a question arises: Are the attempts of reward professionals to remove bias from decision-making going too far and overcorrecting - leading to positive discrimination?

Diversity and inclusion is coming under increasing scrutiny in the workplace, and there is a danger that companies can resort to a quick fix or one-off intervention to address any inequalities.

Short-term tactical approaches to pay gaps, such as large discretionary pay increases to females and/or black, Asian, and minority ethnic (BAME) staff, are just that - short-term.

One-off bonuses that reward certain life events, like the introduction of a child or a marriage, may sound great to your employees (at least some of them), but do they really help you drive longer-term ambitions? Could they actually be making things worse and create some resentment within the company?

Looking more broadly at the HR strategy, focusing on succession to the leadership/executive teams also comes under that short-term mindset. Your talent pipeline is just that - a pipeline and if you don't work hard at the lower-end, you won't have the candidates at the upper-end.

Below are a few suggestions that can help guide your company to ensure you are providing a good balance between removing bias and not simply replacing this with additional bias.

Ensure your approach to equality is focussed on input versus output. In other words, focus on your own actions and policies and less on any specific output. For example, your mean/median gender pay gap (which may be achieved as a result of luck or other things outside of your control). Some companies have become somewhat tactical about their pay gaps, resulting in less good practice and a little more tactical hiring. This may work in the short-term, but it runs the risk of building up a perception of bias in favour of female and BAME candidates. In the long-run, only good practice and a more fact-based approach to decision-making will move the needle in a sustainable and fair way.

Are you measuring the results of your approach? It is always worth asking whether your policies are genuinely achieving the results you are looking for. If you can separate out the results that are an outcome of simple luck (such as the resignation of one or two senior white men that aids the female/BAME pay gaps), versus those that are a result of your HR policies and practices, you can explain to employees how your approach is working.

Take an analytical approach to problem-solving. For example, simply enhancing family-friendly benefits and policies in itself will not necessarily improve

"The bonus pay gap has received little attention, but it often has the worse gap"

your gender pay gap. The US, with its limited statutory maternity benefits, is actually one of the leading Western countries in terms of female representation at senior levels. On the flipside, Sweden, which has some of the most generous statutory maternity benefits, actually have higher levels of female unemployment than the average Western country. This is not to say that the US holds the blueprint for policy offerings, but it does highlight the essential need to consider what you are actually trying to achieve with your policies.

More tactically around your pay policies and practices, there are some actions you can take to ensure you are removing bias as practically as possible.

Base pay management. Provide a clear and transparent process for base pay reviews, along with hiring/promotion etc decisions. Give managers as much unbiased fact-based data as possible to support their decisions and educate them how to use this data for maximum outcomes. It's also important to be very clear about your company aims, in terms of your pay review spend. Is it paying to align to the external market, or for merit, or is it forward-looking to align with the achievement of your company strategy?

If you have a broad-banded pay structure, are you genuinely educating managers in how to consider not just individual elements (performance, experience) when making a pay decision, but role-based criteria also (which roles in the band are paying a premium)?

In my experience, these broad-banded structures are the most complex to manage and more likely to contain the potential for some hidden inequality. Equally, and crucially, when it comes to hiring or promoting female candidates, are you using enough data to help make an un-biased decision on pay-setting (by, for example, not providing a flat hiring/promotion increase of say 10 percent) or just perpetuating a historical inequity?

Incentive programmes. Are you providing a clear and structured approach to assigning incentives/bonuses in your company?

The bonus pay gap has received a little less attention in the press than the mean/median pay gap figures, but often the bonus gap is worse. As with base pay, the key here is having a clear and transparent process.

There is nothing wrong with offering other types of bonuses, rather than financial, that have a very clear and specific aim, such as maternity return-to-work bonuses. If your objective is simply to ensure the return to work of the individual, then it will likely achieve its objective. However, if you are genuinely looking to help ease the transition back into work, then perhaps consider some kind of phase-back scheme as an alternative - for example, for the first two months back at work, 100 percent pay and 80 percent working hours.

Of course, all of the above focuses firmly on your pay strategy. In order to create a genuinely equal, un-biased and non-discriminatory workplace, you will need to be working very closely with your colleagues in learning and development, diversity and inclusion, recruitment and so on, because pay practice alone cannot promote more females or BAME candidates into senior roles, nor help hire them in the first place.

A more data-focused approach to reducing bias, along with a more analytical approach to problem-solving, should play into the hands of reward and payroll professionals, so we should all make sure we get a seat-at-the-table for these critical discussions. ■

Tim Robertson, head of reward, ITN

"The dream is to engage with all of the workforce, all of the time"

MEMBER OF 2018 REWARD 300

REDEFINING REWARD

Megan O'Shaughnessy of BT on creating malleable reward strategies, for a multigenerational workforce, and handling younger generations dictating their terms for the workplace

Megan O'Shaughnessy: THE CV

Senior reward specialist – consumer
BT
April 2019 - present

Global senior total reward manager
Charlotte Tilbury Beauty
Feb 2018 - March 2019

Compensation and benefits manager
Havas Media Group UK
May 2017 - Jan 2018

“Working from home would allow cost-cuts in a way we've never seen before”

Serving a multigenerational workforce requires a range of skills, including the need to be creative and shape reward strategies to meet the requirements of new generations in the workplace.

A big focus for reward professionals today, and for businesses in general, is to attract and retain staff. Something which can be hard when it comes to recruiting younger individuals, such as Generation Zs who are wanting to enter the workplace on their own terms. These terms are something that will inevitably be taken on board and put into practice by employers, because without doing so they could face a lack of talent.

Megan O'Shaughnessy, senior reward specialist in consumer, at BT began her career in payroll, but found herself enjoying the compensation and benefits aspect of the work more interesting, so decided to make the move into the people facing role of reward.

Reflecting on the last 10 years of reward, and how crucial it has come to be for a business, Amber-Ainsley Pritchard sat down with O'Shaughnessy, at the Reward Strategy offices, to talk about her love for working in retail reward, the impact managers' actions can have on a workforce's wellbeing and how more flexible workplaces could cut costs never seen before.

ALP: What does your job entail and what areas do you cover?

MO: "I started at BT in April, in what I would describe, as a head of reward lead role where I will be looking after all of consumer.

"Because BT is so large we look after reward from a different perspective. I am responsible for 24,000 employees who are based across EE Retail, EE and BT contact centres and PlusNet. These employees are the ones who are involved in selling products to you the consumer, rather than to businesses on the commercial side of things.

"My role is quite strategic, so looking at how reward can feed into the overall business goals, group ethos and, ultimately, how I can support the group HR.

"For the most part, I will be working on aligning policy. If you think about the contact centres, which have fairly low-pad individuals, it's about aligning the pay between the contact centres - for example, BT used to pay a bit more than EE, so it's about bringing that together.

"Alignment across the business has been done to a certain degree, so my work going forward will be more project based strategic pieces that are going to deliver on the business goals.

"Reward has to be split up at BT because it's so big and the needs of those who work in sales, and in that entrepreneurial space, will be very different to those that are working in a more corporate division.

"Reward has to sit in the group because you can slightly push the boundaries, for various parts of the business, but it has to all fit into the group. "

ALP: Can you tell me how you got into the world of reward?

MO: "It started with payroll and I didn't grow up wanting to be in payroll, I don't think anyone does, you just kind of fall into it. But about 14 years ago, in 2005, I went to work for Cineworld Cinemas and was given a really good opportunity by a manager when I was 17, to just start looking at payroll and how we could split it up and get it done quicker. I worked there for about five years, learning the ropes of payroll and kind of understanding more about the tax angles and benefits, looking at PAYE Settlement Agreements and those sort of things.

"Then I moved to a company called EMC, who are now owned by DELL. EMC opened my eyes to benefits and compensation, working with the share plans and so on, and that's how I started in reward. I realised that within payroll, while I did love it, there is a bit of a ceiling to it. For me it was something that I did to gain skills in something that was a bit more people facing, because payroll is always the unsung hero - you never have someone coming to your door to talk to you, it's generally just when things go wrong. And it is a bit of a thankless job, at times, and I found that getting involved with benefits and compensation, and then ultimately reward, there was a lot more people partnering that had to happen and that is where I think I can bring my skills.

"Then I went to work for Ralph Lauren, which was a real kind of eye opener into retail, which is where I found my niche. Since then I've always worked in retail, even now at BT I'm on the retail side."

ALP: How have you seen the scope of the reward role change in the time you've been working in it?

MO: "It's weird because reward is still called so many different things, reward has only been called reward, really, for the last 10 years; it was always benefits and compensation or payroll and benefits.

"It has become a much bigger beast, there has been a lot more focus put on it because it feeds into a business strategy, and I think more than ever before, because years ago people went to work purely for a salary. Now, it's so different because millennials have grown up in a world where they can actually say to a business: What can you offer me? That's why reward has become so much more important, compared to what it was before, it's not just about paying people on time - it's about giving them things that aren't standard benefits - actually giving them things that can enhance their life.

"When I first started working, I think I was just excited I had a free cinema pass and that just happened to be because I was working for a cinema. That was not a factor when I went for my second job five years later, I wasn't asking them about benefits, but now I would never accept a role without a decent benefits package - and I am not alone, it's become far more prevalent in attracting and retaining staff."

ALP: What do you think a multigenerational workforce, with more Generation Z employees, will mean for retention?

MO: "I think the difference with a multigenerational workforce is that people won't tie themselves to businesses; they might want to have a 'side hustle' or partake in the gig economy.

"You have no idea when someone is working in another job, or is an entrepreneur at the weekend, and actually the impact that will have on their primary job is that they are really only focussed on the basic salary.

"In reward, we'll find it harder to entice people onto permanent contracts. It will get harder because they want more flexibility to be able to work in an agile space - they want to be able to do something on the side that entices them or is their passion.

"If people want from to work 6am until midday, employers are going to have to find a way to support that because, if not, they're not going to get fresh talent."

ALP: Do you think new generations should be able to dictate to the workforce this way, or is it a step too far?

MO: "I think there's an element of them going too far, but if you look at flexible working for people who come back after maternity leave - that's the workforce dictating how workplaces have to accommodate people. It's the same sort of thing.

"It's people saying I don't need to have a baby, I don't need to get married and have a week off, it's people saying I don't need to make all of those choices that I'm supposed to, I'm just going to work in way that I want to work.

"I think that employers sometimes need to wake up and understand that in order to get the best out of people, you need to allow them to work in that creative space where they feel more comfortable, because you want to get the best from your employees.

"Statistics show that if you work from home, people log on earlier, log off later and won't take a lunch break - that's not right, but statistics show that you will get more out of people when they are given the flexibility and they won't end up taking the mickey out of the employer.

"Also, space in London and big cities around the world, is becoming more and more expensive to rent - barely anyone owns buildings - so, it would allow cost-cuts in a way that we have never seen before."

ALP: There still seems to be this mentality, that it's frowned upon if you come in and leave work on time. But a work-life balance is becoming increasingly more important in the workplace, so how do you ensure employees know it's fine to start and leave on time?

MO: "I think it really depends on what kind of company you work for. There are times when, naturally, there will need to be work done out of hours, but again it comes back to that agile space.

"Employees that stay in work late to look the most hard-working, comes from example. They are mirroring the behaviour of their manager, who is at their desk from 7am until 9pm and sending emails all night, because that's what they think it takes to progress. This is something which needs to be brought up with the manager. As a manager, it's your responsibility to sit there and think: Yes I need to send that email, but it's out of office hours now, so I'll schedule it to go out at 9am.

"And as for employers thinking that someone who works late is more deserving of recognition, it may not always be the case. They may not be working hard enough during the day or not prioritising their work properly."

ALP: What would you say you enjoy most about your work?

MO: "I think it's the people partnering. Everyone thinks reward is the really fun part of a business, but it can go two ways - the benefits part and then the pay part.

"For me, the bit that I really enjoy is bringing people around to the more hard situations of reward: when you are talking about pay and benchmarking, people always have an opinion on what somebody is going to be paid, but in most businesses reward look at what people should be paid."

ALP: What challenges would you say reward is currently facing?

MO: "Retention is a big one. I think people have this idea that millennials will only stay in one job a couple of years before moving, but that's not always the case. People aren't leaving jobs because they want more money, they are leaving because of the way they have been treated or because they are lacking something - such as developing further skills.

"I think that in reward, what we'll find is that people want to go to work to fulfil a goal and develop more skills in a role to reach those goals. Some people don't want to get to the top, they don't want to be the CEO, and that's absolutely fine - you need those people. The biggest issue that reward will face is: how do you engage with those people, constantly? The dream is to be able to engage with all of the workforce, all of the time.

"But the thing with reward is, we don't want to lose sight of what we do. Reward can't be this everbending thing where we just bend to whatever the trend of the year is, it needs to make sure it has principles that the business believes in."

ALP: Would you say that the focus for the future of reward is for businesses to ensure its offering is always evolving?

MO: "Absolutely, if you don't you are already behind. You can sit there and think about it later, but you could have someone really talented who has been working for you for two years and is offered a job at a bigger business with all these extra offerings and they take it. All you had to do was take more time to ensure they were placed correctly on a reward map, kept it up-to-date, and they would have probably stayed."

ALP: Finally, The Reward 300 2019 index is about to be revealed. As a member of the current Reward 300, I wanted to ask you what it means to be a part of this index?

MO: "It's a great honour, for me reward and HR are careers that you can get involved in as a young person, it does not necessarily require the academic qualifications that other roles do. I came into the profession at the young age of 17 and used to read this magazine when it was Payroll World, and to now be part of something that is the pinnacle of reward, the crème de la crème, is really quite something. I used to look up to and aspire to be the people who were interviewed in this magazine, and now here I am.

"For me, knowing that there is a focus on allowing people in reward to collaborate and be seen as experts, that in itself has shown how far the profession has come. It's great!" ■

Amber-Ainsley Pritchard, editor, Reward Strategy

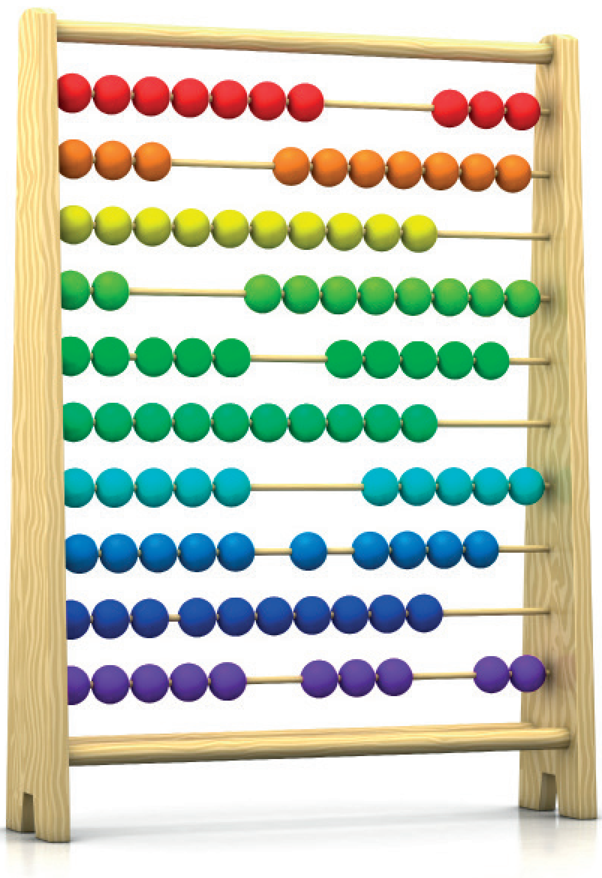
This year marks the 10th anniversary of the Reward 300 indexes, formerly the Payroll Top 50, being published. To mark this occasion, we are celebrating the seven leading lights from each of the sections of the Reward 300.
The 2019 index, sponsored by Cintra HR & Payroll, and individual winners will be published in Issue 215


INTELLIGENT PAYROLL, HR & TIME FOR THE BIGGEST ASSET IN BUSINESS.
YOUR PEOPLE.

THE MISSING CORE OF CURRICULUM

More and more employees are finding it difficult to budget and make ends meet each month, so why isn't financial education being taught at school age? Ben Hancock reports

Ben Hancock, *LSE*



As payroll professionals, we undertake a critically important role: we pay salaries accurately and on-time. Once we have disbursed net pay to our employees, they then have their pay to do with whatever they wish and we, payroll, can start the process again for the next month.

However, for a growing number of employers the relationship between the organisation and their employee's personal finances are becoming more than just transactional. Financial wellbeing is high on the agenda in HR departments across the land, as business is waking up to the idea that a financially secure worker is a productive worker. Or, at least, the idea that staff with money worries tend to be more unproductive.

Research from the Chartered Institute of Personnel and Development (CIPD) showed that about a quarter of the UK workforce feel they cannot perform their job properly due to financial stress.

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Research by the Chartered Institute of Payroll Professionals (CIPP) highlighted a trend in monthly pay frequency becoming dominant: a survey from in 2008 found 44 percent of respondents operated a weekly payroll. This figure declined year-on-year and in 2016 had reduced to just under 25 percent. Monthly pay is of course cheaper and easier for employers to administer and let's face it, most of our outgoings are monthly. However, it seems many of us end up "short" before the next payday. The Centre for Labour and Social Studies found that 20 percent of the British workforce are at least £100 in the red, while waiting for payday to come around.

Helping hand

So what happens if a large, unplanned, expense rears its head?

Payday loans have attracted huge media scrutiny recently, following the demise of Wonga. These high-cost forms of credit can come with fees and interest that, in the long run, can make a small loan cost a lot of money. Credit cards and overdrafts are also used to bridge the gap between paydays, but again this just ends up perpetuating the debt cycle, especially if not paid back in full.

Some employers might help staff with unexpected expenses by offering a salary advance, but this is something that employees may feel uncomfortable asking for. One solution to this problem has been addressed by a small number of new start-up companies such as Wagestream who, working in partnership with employers, offer employees the opportunity to draw down on their already worked earnings - within agreed limits. For a small transaction fee, workers can have more control over when they receive their pay, via an app, rather than waiting until the end of the month to get it. Pay is calculated in the normal way, at the end of the month after deductions.

The companies offering this service claim their clients report significant improvements in retention, staff engagement and wellbeing. There is a risk that continued use of such a scheme could put employees in a position where they perpetually end up with less than their full months' wage, but for those who need the occasional financial boost before payday it's a safe alternative to the payday loan.

The fact that such a high percentage of the UK workforce needs this help to make it from month-to-month is indicative of a bigger problem. As a nation, not enough of us are saving and in many cases this is because we are servicing debt and have nothing left over.

"Financial habits in adulthood are formed from the young age of seven"

Early years budgeting

Financial education became part of the secondary school curriculum in the UK in 2014, but around 30 percent of teachers are not aware of this - according to the Money Charity. Of those that are tuned in, there's concern they don't have the time to deliver it.

A study by the Money Advice Service found that financial habits in adulthood are formed from the young age of seven, and yet there is no compulsory financial education in primary schools. As a society, should we not start the teaching process here?

Basic budgeting, incomings and outgoings, the difference between wants and needs, are all fundamentals that a primary pupil could understand. This would provide a good foundation to a more advanced approach in secondary school - to cover pensions saving, mortgages, unsecured lending and basic payslip workings. As things currently are, it's no wonder employers are looking to assist their staff with money issues.

There are a number of apps in the marketplace today that can help and encourage people to save. And with the nascent open banking regulations, it is possible to give these apps access to your bank statements. For example, Yolt is an app that lets you see all of your bank accounts, savings, pensions and credit cards in one place. Another is Emma, which gives you an in-depth analysis of your finances, alerting you to overspending and helping you to reach savings targets.

Banking start-ups such as Monzo and Starling are also taking advantage of the availability of financial transaction data, to offer innovative services to customers to help them understand how they spend their money and to encourage saving. As the pace of technological change continues to increase, we can expect more and more assistance with keeping our finances in check.

There certainly is help out there for those of us who need a hand managing our money, so how much do employers really need to get involved? Every company and staff group is different, but the unknown and unseen damage caused by financial stress should not be underestimated or ignored. ■

Ben Hancock, head of payment services, London School of Economics and Political Science

REMEMBER TO COUNT YOUR PARTY PENNIES

Ensure to avoid penalties from HMRC by keeping track of what you spend on work parties. Richard George explains

Richard George, *The Payroll Centre*

> "HMRC are very specific about this annual party exemption"

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> "It's very important the company keeps accurate records of what's been spent"

It's becoming increasingly common for employers to celebrate their success and reward staff in ways other than remuneration; often that can take the form of a summer party or celebration. For staff this can either mean a great day out or a cringeworthy day with the boss but, whatever the event, there is certainly an etiquette that needs to be observed.

There are obviously key rules: never decline the event, always dress for the occasion, don't drink too much, thank the boss and if your significant other is invited, prepare them.

For the employer, however, the focus will not only be on the event but also the implications, cost and possible impact with HMRC. So, what is the position when it comes to events and what does the employer have to consider?

If an employer provides a social event, function or party for its employees the default position is that those expenses would be taxable under the normal rules.

There is, however, an exemption to this and that would be when it is considered and treated as an annual party. This can be the summer event, BBQ or other group activity the employer decides, but could also have been a Christmas party or other event decided throughout the year. However, this event must be for all employees, or at least all employees at a particular work location.

It is key that the party must only occur once a year, but happens on a recurring basis. HMRC are very specific about this point. On these grounds employers need to ensure that this is the case, as other keynote events cannot be considered. These keynote events could include business anniversaries, special events to celebrate particular scenarios or achievements, retirement parties or any other form of one-off celebrations.

I mentioned earlier that the event could be specific to a work location or office and this should certainly be considered where a business has various locations or very separate parts to its make-up. As such, an event could be held at each location individually under the same rules, as long as the invitation is open to all at that location.

The costs

HMRC's guidance confirms that there will be no tax liability due for such an annual party as long as the cost per head, in total, does not exceed £150. That applies regardless of how many "annual" parties are run by the business. It is very important the company keeps accurate records of what has been spent and how it relates to per head attending.

If more than one function is held, the total cost per head of £150 still applies as a cumulative total. If, in total, the cost per head goes above £150, the employer will have to make a choice as to which event, or events, make the best use of the allowable amount - as any other costs will of course be taxable under the normal rules set out by the revenue.

It's also important to consider higher cost events and how the rules are, or in this case aren't, applied to the per head cost.

The allowable amount of £150 is not an offset and as such, if the cost per head goes over the £150 exemption, the employer cannot reduce the cost by this amount - instead the entire cost of the event would be taxable, which is an important consideration.

So, what should be included? A common mistake when it comes to events and parties, is only considering the cost of the direct event itself.

When we consider an event and what to include in the per head costs, you also need to understand whatever charges are incurred or required for the event to occur and the staff to attend, as these will also need to be included in the cost per head calculation.

What else? There could be numerous additional costs to include, but key ones could be getting people there, possibly staying overnight and then getting back after. As such, transport costs (do you provide taxis for staff or pay for their parking?) and overnight accommodation would also need to be included. You may need to hire clothing, entertainers, staff and even props, and these would also have to be factored in and, of course, you must remember most costs would include VAT, which again under HMRC's rules would have to be factored in.

Apart from the exemption already discussed, there are other possible areas to use to either simplify or alleviate liability: if the event is very low-cost, the tax liability can be avoided through the trivial benefit rulings, brought in after 2016, which may well apply. This has rules, which are: it cannot be cash or cash equivalent, there is no salary sacrifice or contractual agreement, the benefit is not provided in recognition of particular services performed by the employee and the benefit does not exceed £50 per event.

If all applies, no liability is due. If not, you tax in the normal way barring the annual event exemption discussed.

Have a great summer, excellent events and save a glass for us! ■

Richard George, director of education, The Payroll Centre

ESSENTIAL READING

A LITTLE HELP FROM HMRC, PLEASE

Trying to keep up-to-date with changes from HMRC should be straightforward, but that's not always the case. Ian Holloway guides you through items you may have missed

Ian Holloway
Cintra HR & Payroll Services

"Whilst paying accurately is not the first priority, it is absolutely essential"

MEMBER OF 2018 REWARD 300

Paying employees on time is the most important thing for payroll departments. If employees aren't paid in accordance with the employment contract, there could be all sorts of problems with claims of unlawful deductions.

Once we have our schedules in place to allow us to pay on time, attention should be paid to paying accurately.

So, whilst paying accurately is not the first priority, it is absolutely essential. We can't pay late but, equally, we do not want to pay wrongly. However, I feel that HMRC and GOV.UK have not always been helping payroll professionals, recently, in this obligation. Which, given HMRC's accusations of employers operating PAYE variably at a Public Accounts Committee (PAC) in September 2018, it is surprising to say the least.

So for the benefit of the payroll profession, I would like to use this article to highlight some guidance errors and anomalies, so professionals are best placed to fulfil this accuracy obligation.

The starter checklist

The February 2019 Employer Bulletin was published early by mistake on February 8, giving links to the starter checklist and expat starter checklist to be used from April 2019. Unfortunately, it linked to the 'old' checklists because GOV.UK had not been updated. It was then published, withdrawn and another version republished weeks later. As a result of this, it is no wonder employers could be using any number of checklists - all different.

The versions that you should be using, are the ones published on March 6 this year quoting the reference 'HMRC 02/19' in the bottom right-hand corner. No other version will be asking the right questions in 2019, specifically about the type of student loan an incoming employee may have.

"HMRC and GOV.UK are not making it simple for us right now"

National Insurance Contributions tables B and C

Many employers still use the National Insurance (NI) booklets and this is especially true for training organisations that use them to teach manual NI calculations.

However, when the National Insurance Contributions tables B and C (CA41) were published on February 19 2019 the wrong values were quoted for the Lower Earnings Limit (LEL) threshold, the Primary Threshold (PT) and the Upper Earnings Limit (UEL) threshold.

To be safe, ensure that you are using the revised version that came out on March 5 2019.

Further guide to PAYE and National Insurance Contributions

As payroll professionals, we frequently make the mistake of downloading a new version of the Further Guide to PAYE and National Insurance Contributions (CWG2) at the start of the tax year and use the same one throughout.

Please keep an eye out for when this changes, as sometimes we are not notified of changes - such as the change from the version published on February 19 and updated on March 7.

List of professional bodies approved for tax relief

List 3 is the is the essential document that tells us which professional bodies have the necessary HMRC approval to be paid or reimbursed by the employer without, a tax or National Insurance Contributions obligation. Updates at the end of March and start of April 2019 were made without notification, but these have been confirmed as communications blips, so this shouldn't happen again.

Recognised Overseas Pension Schemes list

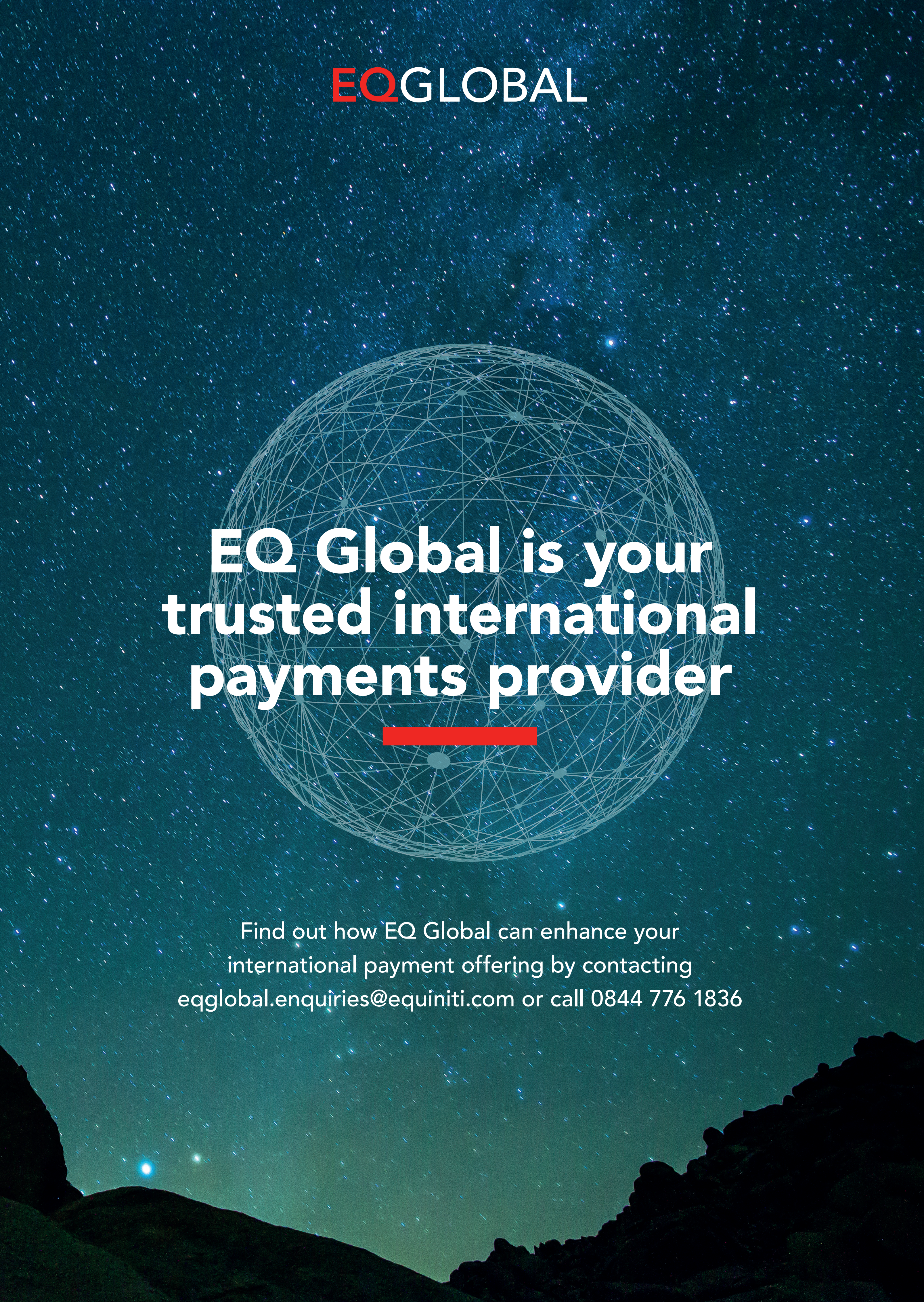
The Recognised Overseas Pension Schemes (ROPS) list is a constant source of frustration. Updated twice monthly, it tells us the pension schemes that have been added, removed or changed - but it does not tell us the names of them. This is very frustrating for pension scheme administrators leading, inevitably, to errors.

The information about the changes is contained within the ROPS list when it is updated (on the 1st and the 15th of the month). The annoyance is that these updates are overwritten two weeks later; so my advice would be to make a manual note of any changes as and when you see them.

Someone once said to me: "We don't simply pay people, because paying people isn't simple". At the moment, those words could not be any truer. Payroll, HR and pension matters change all of the time and we need to put ourselves in the position to be aware of those changes.

We have to keep our eye on the ball all of the time, as HMRC and GOV.UK are not making it simple for us right now. ■

Ian Holloway, head of legislation and compliance, Cintra HR & Payroll Services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COULD AN EXTRA COST BE COMING YOUR WAY?

Norman Green explains the effects a new National Insurance bill could have on employers

The National Insurance (Termination Awards and Sporting Testimonials) bill received its second reading at the end of April and, at the time of writing, it is still waiting to go to committee stage where it will be examined in detail.

The bill is about finishing a proposal from HMRC, that was implemented for income tax purposes, from April 6 2017 for sporting testimonials and April 6 2018 for termination payments.

The bill will complete the proposals by bringing in the corresponding National Insurance Contributions (NICs) liability. Unlike most NIC legislation, this will apply equally to both Northern Ireland and to Great Britain as, once enacted, it will amend the corresponding legislation for the two distinct jurisdictions.

Termination payments

For termination payments, the tax liability starts after the first £30,000 of the payment. The termination payment exemption cannot apply to whatever would otherwise be chargeable to tax. The principle whereby a payment in lieu of notice (PILON) was or was not taxable, was long but not always well established. Since April 2018, HMRC introduced post-employment notice pay (PENP) which, regardless of whether a PILON was actually made, effectively creates a PILON value which is chargeable to income tax as earnings.

The change the new bill makes is only to add that excess over the £30,000 to National Insurable pay. But in line with the NICs treatment of benefits in kind (BIK), the charge will only be to class 1A NICs. Thus, it will become a charge on the employer rather than the employee.

Should the termination payment include a BIK, then the amount of any BIK will be calculated according to the usual rules and changed as part of the termination. That will also apply when the benefit may extend beyond the end of the employment, such as to the end of a subscription year. This is a significant change from the old rules that required any BIK, extending beyond the end of a tax year, to be reported in each subsequent tax year until the benefit, or the individual, expired.

Sporting testimonials

The other part of the bill is to introduce NI on sporting testimonials. The tax liability changed from April 2017, and apart from a one-off exemption of £100,000, no relief is given and the whole of the money from the testimonial/s is chargeable to tax. If a testimonial or a testimonial year are part of a player's contract, or it is customary for the player to be given a testimonial, then the exemption does not apply. This does seem analogous to the old rules on PILON to employees.

The new legislation will introduce a charge to NI for the money from the testimonial and again it will be class 1A. That means it will be paid by the employer or the testimonial committee, depending on the arrangements set up by the player's club. Either way, it will be the same entity as is responsible for the collecting and paying over the income tax due on the testimonial money.

Key points

Considering the bill has not yet made it through the committee hearing, it could be subject to change. But, given its heavy reliance on the existing income tax law, it's reasonable to assume only small changes will be made, so it could be ready for the start of next tax year.

There are two important points that come from this. Firstly, employers and testimonial committees will need to pay an extra 13.8 percent to meet the class 1A on termination payments and sporting testimonials.

Secondly, the mechanism for reporting the new class 1A charge is already in place. So, for once, payroll will be ahead of the requirements and be able to process them easily. ■

Norman Green, payroll consultant

Norman Green, *Payroll consultant*

"Employers will need to pay an extra 13.8 percent to meet NI charges"

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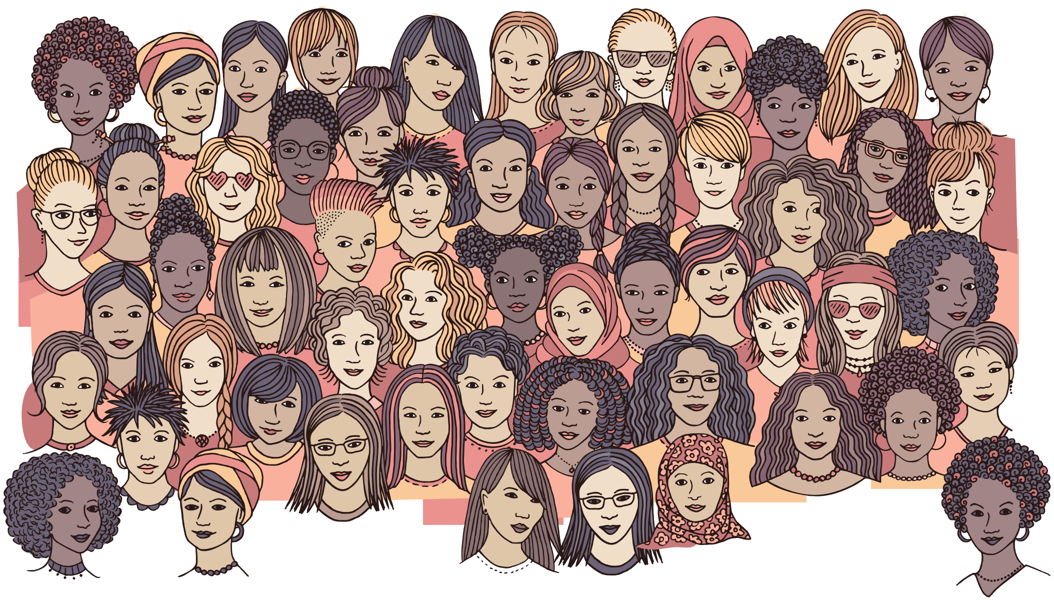
WILL YOU PUBLISH THE ETHNICITY PAY GAP?

Reporting ethnicity pay data could become mandatory. The CIPP finds out which companies are looking to make this a voluntary standard

Diana Bruce, CIPP

"Lessons need to be learned from the rollout of gender pay gap reporting"



In 2017 a report from Baroness McGregor-Smith, *Race in the Workplace*, recommended that 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. It did however ask Business in the Community (BITC) to assess what steps employers have taken to haul down workplace barriers and harness the talent of a diverse workforce.

A review of the report one year on, in 2018, found that barriers persist in the workplace. It found that just 11 percent of employees reported their organisation collects data on the ethnicity pay gap ratio. Of those people who work in an organisation that collects data on the ethnicity pay gap, 50 percent reported that their organisation publishes the data they collect.

The review included a number of calls to action for businesses, and contributes to the government's industrial strategy goals of boosting productivity by backing businesses to create good jobs and increase the earning power of people throughout the UK with investment in skills, industries and infrastructure.

Monitoring ethnicity and pay

Recommendations from the initial report, *Race in the Workplace*, included the following to monitor ethnicity and pay:

• Listed companies and all businesses and public bodies, with more than 50 employees, should publish five-year aspirational targets and report against these annually. They should also publish a breakdown of employees by race and pay band.

• All employers should take positive action to improve reporting rates amongst their workforce, explaining why supplying data will improve diversity and the business as a whole.

• Government should legislate to ensure that all listed companies and businesses employing more than 50 people publish workforce data broken down by race and pay band.

Government consultation

As only a small number of employers had chosen to publish ethnicity pay data voluntarily, the government published a consultation on ethnicity pay reporting in October 2018 - alongside a Race in the Workplace Charter - asking how a new mandatory reporting requirement should operate.

The government invited views on mirroring some or all elements of the gender pay gap regulations, such as proposing the same threshold of 250 employees or above, not 50 or above as recommended in the *Race in the Workplace* review.

We surveyed our members to help inform our response. From an administrative burden perspective, comparability with the methodology applied for gender pay gap 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.

Our key conclusions and recommendations in our response were:

• There must be value achieved through the efforts of the software developers, and payroll and HR professionals, so we recognise a 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, then significant time and structured planning will be needed. Rushed delivery will not achieve accurate outcomes.

• Lessons need to be learned from the rollout of gender pay gap 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, as identified within the consultation paper, it will add further layers of complexity.

Will you report?

In advance of any mandatory obligation, we asked close to 350 payroll professionals, businesses and employers if their business is planning to report its ethnicity pay gap voluntarily.

In our question, we gave the options for large and small employers as the consultation suggests government may follow the 250+ rule.

Of the respondents, 13 percent with 250 or more employees said they would be reporting voluntarily within the next 12 months and two percent of employers, in the same category, said they would report in the next two years.

Of the large employers, 21 percent said they would not be reporting voluntarily in the next 12 months or two years.

Unsurprisingly, no one from the 'less than 250 employees' bracket said they would be reporting voluntarily and when directly asked if they would not be reporting, 37 percent said they would not.

The remaining 37 percent of respondents were unsure or didn't know what their company is planning.

Next steps

The jury is still out on what mandatory reporting may come into force, as the government is still considering the responses to its consultation.

At the time of submitting our response, we said that we see this consultation as the start of a conversation and not the end of it - and that we look forward to being involved in further discussions. ■

Diana Bruce, senior policy liaison officer, CIPP

THE POWER OF PEOPLE DATA

HR and payroll professionals can increase their influence by better utilising people data. Charles Cotton explains

Charles Cotton, *CIPD*

No matter how you view gender pay gap reporting, it's difficult to deny the impact it has had. Its original purpose was to highlight pay gaps in organisations, but it has also shown how pay data has the power to shape debates in business, political circles and the wider community.

It's not often that such opportunities to shape debate and dialogue come into the hands of HR and payroll professionals, in particular. As such, these professions should explore how pay data, along with other information, can help to inform both business decision-making and wider social dialogue (in and out of the workplace).

Take advantage of available data

Payroll data is readily available, partly because of its importance and prominence in the decision-making process and partly because of the severe legal (e.g. tax) ramifications of not collecting and reporting it to stakeholders. Every organisation, if operating legally, will collect payroll data and have a system, basic or advanced, in place to manage it.

Of course, with advances in technology and improvements in software suites, there are now many more opportunities to use payroll data alongside other workforce data, commonly called people data, to make business decisions. For example, payroll data can be used to understand the complexities of incentives and reward, with granular analysis of incentive programmes. This can highlight the valuable elements of a reward programme and the wasteful "fluff" that looks good on paper, but holds little or no value to prospective or current staff.

At the more advanced end of using payroll data, business leaders are using people data and analytics to inform strategic business decisions, for instance. It can also help to illustrate trends in pay progression and correlations with performance management, highlighting where pay is out of line with performance expectations, or even where high performers are under or over-incentivised for their work. And given the power of the word "pay" to focus the minds of c-suite executives, pay-related analysis is an important influencing tool for payroll and HR leaders looking to operate more strategically in their work.

> "Pay-related analysis is an important influencing tool"

A HR hurdle

Whilst technology is now enabling the profession to use payroll data more easily, there are some barriers to delivering value over the long-term.

A significant issue is that of confidence and capability within the HR profession. CIPD research, in association with Workday, found that whilst globally 73 percent of HR professionals are confident in conducting basic analytics using their people data, this drops significantly to 41 percent for advanced analytics. The CIPD Reward Survey also shows a similar trend for reward professionals, with just over one in four (26 percent) using HR and business data to measure the impact of their benefit strategies.

This is a real issue for the profession. It can only be fixed through investment in training and development, and through the use of data science skills from other sectors, such as IT or systems-engineering. We suggest starting small and running a pilot scheme to begin with, while also sharing pay insight with senior leaders without waiting to be asked.

With improving technology, and greater access to multiple data sets, there are many opportunities for HR and payroll professionals looking to grow their influence and create sustained impact. The potential being presented to the profession is huge – it's up to them to act now. ■

Charles Cotton, performance and reward adviser, CIPD

ARE YOU READY TO RE-ENROL?

Small employers will soon reach their re-enrolment deadlines. The Pensions Regulator explains why this task is so important

Darren Ryder,
The Pensions Regulator

Re-enrolment means staff who have left their workplace pension are put back in by their employer. As well as being a legal duty, it's an important task because it means these staff are given fresh encouragement to start saving for their retirement.

Automatic enrolment has changed the savings landscape, with more than 10 million people newly saving or saving more. For the small minority of staff – around nine percent - who opted out, re-enrolment means they have the opportunity to benefit from the pensions contributions they are entitled to.

So far, around 117,000 large and medium employers have completed re-enrolment. It's a straight forward task and employers will receive a letter from The Pensions Regulator (TPR) reminding them about their re-enrolment responsibilities.

Business as usual

More than 1.4 million employers have now done the right thing for their staff and complied with their automatic enrolment duties. Automatic enrolment is business as usual and simply part and parcel of running a business – most employers spend just a couple of hours a month completing their ongoing duties.

Compliance with the law remains high, with the majority of employers successfully meeting their legal responsibilities. However, TPR is warning employers to leave enough time to complete re-enrolment as failing to complete tasks correctly can lead to non-compliance and risks a fine.

Re-enrolment must be carried out every three years. Employers must choose a re-enrolment date which falls in the three months either side of the first anniversary of their staging date - the date their workplace pensions duties started.

On their chosen re-enrolment date, employers must assess staff who opted out or left the scheme since they were enrolled, to check if they are still eligible. If they are, they must be re-enrolled back into a pension scheme. Employers must inform these staff, in writing, that this has happened.

Employers must then complete and submit an online declaration of compliance form to confirm to TPR what they have done to meet their re-enrolment responsibilities. This must be done within five months of the anniversary of their staging date, regardless of the date the employer chooses as their re-enrolment date. Failure to carry out this task on time means employers are at risk of a fine.

Low opt-out rates mean the majority of employers will not have staff to re-enrol, however they must still complete their re-declaration to confirm they have checked whether they need to re-enrol any of their staff, even if none were re-enrolled.

Employers can seek help from a business adviser to help them with some or all of their re-enrolment tasks, although responsibility for complying with the law remains with them.

Ongoing duties

As well as completing re-enrolment, employers must keep up-to-date with their ongoing duties. These include keeping track of the age and earnings of staff, managing requests to leave or join a pension scheme and ensuring staff receive the correct pensions contributions. Employers should also keep accurate records, so they can demonstrate how they have met their legal duties if they are required to do so.

In April, minimum contributions increased from five percent total to eight percent total - with staff contributing five percent and employers putting in at least three percent. Employers are warned that failing to make the correct contribution is non-compliant and risks a fine. ■

Darren Ryder, director of automatic enrolment, The Pensions Regulator

> "Staff are given fresh encouragement to start saving for retirement"

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REIMBURSING COSTS FOR ELECTRIC AND HYBRID CARS

Alastair Kendrick explains how employers can meets the costs of employees who drive electric or hybrid cars on business

Given an upsurge in the use of electric and hybrid cars, I have continued my article from Issue 213 to include the rules in respect of employees who drive on business using such vehicles.

Hybrid cars

In respect of hybrid cars - these are currently considered, for taxation purposes, to be identical to petrol/diesel vehicles. Therefore those who are provided with these cars are eligible to claim a mileage rate in line with the advisory fuel rate, and the same rules apply if they are supplied with a fuel card for all their fuel. If they are provided with a fuel card and wish to avoid a benefit in kind on the fuel scale charge, then they are required to make good the cost of the private fuel they have used.

If the employee is using their own vehicle, which happens to be a hybrid, for business travel then the employer can pay a mileage rate up to the approved mileage payment rate without incurring any taxable benefit. It is important, in this case, that the employee is providing sufficient detail of the journey undertaken, so they can be satisfied that the amount of the claim is reasonable.

We have seen a significant amount of annoyance by fleet organisations who believe the rate of the advisory fuel is insufficient to meet the actual costs associated with the fuel spend for a business journey in a hybrid car. It appears to be the case that despite this lobbying, HMRC are not inclined to make any concession to permit any different rate for these types of vehicles. This may be due to the fact that, generally, these vehicles have a lower CO_2 emission rate than a conventional vehicle, so the benefit in kind is reduced

Electric cars

In regard to electric cars: since September 1 2018, the rules have become relatively straightforward and an employer can reimburse the employee at a rate which is in line with the Advisory Electricity Rate (AER) (also known as Advisory Fuel Rates (AFRs)) for electric cars. The rate is set at 4p per mile. The 4p rate can be used to reimburse an employee for their business travel, or for the rate an employee reimburses you for their private travel.

HMRC have said that if an employer wishes, they can pay at a rate above 4p per mile if they are able to prove the electricity cost per mile is higher. Otherwise, HMRC will treat any excess as taxable profit and the employer will be required to pay Class 1 National Insurance.

If an employee uses their own electric car on a business journey, then HMRC permit the approved mileage allowance rate to be paid free of income tax and National Insurance. So, you can pay 45p per business mile covered in a tax year up to 10,000 miles and 25p thereafter.

Charging points

From April 2018, where an individual is provided with workplace facilities for charging a battery of a vehicle used by them (including as a passenger), no taxable benefit arises for costs relating to the provision of electricity at those facilities, if certain conditions are met. The conditions are as follows:

- The charging facilities must be provided at or near an employee workplace;
- They must be available to either all the employer's employees generally, or all the employer's employees generally at the employee's workplace;
- Charging facilities must be a battery of a vehicle in which the employee is either the driver or a passenger.

It should, however, be noted that the benefit will remain taxable if it is offered in conjunction with an optional remuneration arrangement. ■

Alastair Kendrick, employment tax specialist

Alastair Kendrick,
Employment tax specialist

"40 percent were payrolling BIKs because it meant there was no burden of P11Ds"

IR35 IN PRACTICE

Cathy Bryant, partner at Blake Morgan, explains her stance on how HMRC has suffered some high-profile defeats over IR35

Cathy Bryant, *Blake Morgan*

"The correct approach would be to not apply a checklist, but consider the overall picture"

There have been a number of high-profile First-tier Tribunal (FTT) decisions against HMRC in recent months, dealing with the employment status of workers providing their services through personal services companies (PSCs).

The cases are high-profile because the decisions relate to the provision of services by well-known television presenters to both the BBC and ITV. The decisions are of interest to all workers providing their services through PSCs, particularly in light of the government's intention to extend the public sector off-payroll rules to the private sector in April 2020.

ITV

In *Albatel Limited v HMRC [2019] UKFTT 195 (TC)*, the arrangements by which Lorraine Kelly provided her services to ITV were under scrutiny. Kelly has been providing services through the PSC (Albatel) she co-owns for a significant number of years. Albatel entered into an agreement with ITV during 2012 to provide the services of Kelly to ITV Breakfast (the ITV contract). The ITV contract endured for a period of two years and six months. HMRC raised assessments on Albatel, on the basis that the IR35 legislation applied to deem Albatel an intermediary employer and on that basis it should have deducted and paid over to HMRC income tax and National Insurance Contributions (NICs) on the deemed employment income arising from the ITV contract.

The FTT considered the requirement of "control" to be determinative of the issue. In reaching its decision on whether or not there was a contractual right of control which existed in a sufficient degree to result in a master/servant relationship, the FTT considered the facts around the contract, how it was implemented, the day-to-day operation of the relationship between the parties and the degree of autonomy afforded Kelly. On a detailed analysis of the arrangements, the FTT found that control of Kelly's work lay with Kelly and that the degree of control was substantially below that which is required to demonstrate an employment relationship. Accordingly the contract was for services and not of services.

The FTT considered whether or not there were any other factors which would indicate a contrary finding: Kelly was not entitled to sick pay or other benefits; she was not provided with training and not subject to performance appraisals; there was no obligation on Kelly to attend work other than to present the show. The lack of these features indicated that Kelly was not an employee. The FTT gave consideration to the principle of mutuality of obligation and, whilst it found that this existed in the relationship with ITV, it was not of a sufficient degree to be determinative of the issue.

BBC

The decision in *Atholl House Productions Ltd v HMRC [2019] UKFTT 0242 9TC)* followed on quickly from the Albatel decision. This case concerned the provision of services by Kaye Adams to the BBC. The FTT stated that in reaching its decision regarding the status of the worker, the correct approach would be to not slavishly apply a checklist, but rather consider the overall picture emerging from the accumulated detail. In assessing whether or not Adams was dependent on one particular paymaster for her contracts, the FTT considered that the relevant tax years should be viewed in the context of Adams' entire professional career because her engagement with the BBC did not occur in isolation. On this basis, Adams's work for the BBC over her whole career was less significant than if viewed in just the two relevant tax years. This finding led the FTT to conclude that Adams was therefore not an employee.

In addition, the BBC did not have sufficient control over Adams that extended to her other engagements except to the extent that if affected the reputation of the BBC. Adams also had no entitlement to use BBC equipment, she had no employment benefits and she was not entitled to an annual review or entitled to apply for internal vacancies i.e. Adams was not treated as an employee.

Personal opinion

The Albatel and Atholl House decisions are, in my view, correct applications of the IR35 legislation as it has been interpreted by the courts. Both these decisions are based on a detailed analysis of the facts at hand; a consideration of the whole picture. This is not how HMRC is applying the law (most notably through its CEST tool used to check employment status for tax purposes for off-payroll working) and it is leading to determinations being incorrectly made and hardship for the self-employed. ■

Cathy Bryant, partner, Blake Morgan LLP

KEY POINTS

- These decisions show that taking a simplistic view of who should be deemed "employed" for the off-payroll tax rules is open to challenge in the tax tribunals
- These decisions will prove significant, in particular when the off-payroll working rules apply to the private sector from April 2020
- Currently the distinction between "employee" for tax purposes and "employee" for employment law rights remain, although there are plans to align these

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Contact: Nham Lee
Target employee range: Up to 20,000

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Intelligo is a leading provider of corporate Human Resource and Payroll Software and Services in the UK and Ireland with clients ranging in size from 300 to 20,000+ employees. Megapay, Intelligo's owned and developed flagship payroll system integrates seamlessly with MegaHR, a web-based enterprise level Human Resource solution. Built on a shared database this allows for accurate sharing of information such as job history, salary history, holiday leave, etc between Payroll and Personnel, ensuring key employee data is entered only once. Megapay and MegaHR are available to purchase as either an On Premises installed solution or on a Software as a Service (SaaS) basis.
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Intelligo provide trusted payroll solutions to clients ranging in size from 300 to 20,000+ employees. Its payroll software Megapay is an enterprise level payroll system that is capable of accommodating the most demanding complex payroll scenarios. Developed as a standard application, the solution is highly configurable to meet clients specific payroll needs. It is widely used throughout every industry and is available as either an installed solution or on a hosted basis. As a Certified Workday Global Cloud Partner, the system fully integrates with Workday. In addition, Megapay is PAYE Recognised by HMRC.

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