PENINSULA SCOTLAND

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In the KNOW

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*This week in Employment Law*

## Employers named and shamed for minimum wage breaches

**More than 200 companies have been named by the Department for Business and Trade (DBT) for failing to pay the minimum wage to their lowest paid workers.**

- They include WH Smith Retail Holdings Ltd which failed to pay over £1 million to 17,607 workers and Lloyds Pharmacy Ltd for failing to pay £903,307 to 7916 workers.
- As well as these major high street brands, others listed include small businesses and sole traders, in a clear message the government said that no employer is exempt from paying their workers the statutory minimum wage.
- The businesses named in the new list have since paid back what they owe to their staff and also faced financial penalties.
- Of those listed, 39% had deducted pay from workers' wages, the same percentage had failed to pay workers correctly for their working time and 21% had paid the incorrect apprenticeship rate.
- Whilst not all minimum wage underpayments are intentional, the DBT noted, it emphasised that there is no excuse for underpaying workers.
- In its 'Educational Briefing' that accompanied this round of naming and shaming, the government identified some of the common causes of unpaid working time, including requiring compulsory attendance at team meetings, but not paying for it, waiting or downtime such as waiting for a job to start and time spent travelling, such as from client to client.

## Bank of England hikes interest rates

On Thursday last week the Bank of England raised its base rate by 0.5% to 5% in a further bid to bring down inflation. This is a bigger increase than most expected and puts the interest rate at the highest it has been since 2008. Employers should be aware of the impact this will have on employees' financial wellbeing and their mental health, particularly for those already struggling with the rising cost of living.

***Did you know?***

Introducing a financial wellbeing policy can be a good way to set out the help available such as signposting to external organisations that could offer financial advice or providing information internally.

## Diversity and inclusion must drive tangible outcomes

A new report by the British Retail Consortium (BRC) and The MBS Group has found that although 93% of retailers have implemented a strategy to improve diversity and inclusion across their business, 66% have no specific targets in place to track progress on this. Almost 30% of boardrooms remain all white and gender diversity on leadership teams is still below the FTSE 350 benchmark of 40% (at 37.8%).

***Did you know?***

Employers beyond the retail sector should take note of these findings and consider assessing how they are doing internally on diversity and inclusion, as well as how their progress can be tracked.

## Using personal Facebook posts for dismissal

An employee with 32 years' service was dismissed for posting on her personal Facebook page about the death of George Floyd, and the Black Lives Matter movement. She was successful in her unfair dismissal claim on a procedural flaw, but the tribunal agreed the employer had no choice but to terminate employment and significantly reduced her compensation via a Polkey reduction.

***Did you know?***

The tribunal said that as she welcomed others sharing her posts, she cannot then have expected privacy for this matter. As such the posts could be considered in deciding if the dismissal was fair or not.

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