

## Employees need more than just skills, they have to have the right traits

Further to a recent announcement from the Office of National Statistics stating that unemployment has hit an eleven year low, businesses are beginning to recognise the need to change their recruitment practices to ensure they get the right candidates in as short a time as possible. Recent research conducted by Totaljobs has revealed that 92% of employers now make an offer within one week of interview and 59% within 2 weeks.

In order to facilitate the right decisions a quarter of companies are now relying on psychometric tools to hire the right candidates.

The history of psychometrics dates back as far as 1943 with the introduction of Myers Briggs. Since then, the advancements in psychometric testing have developed considerably with more complex algorithms and scoring models, lie detectors, measurements of traits in a range of scenarios and analysis of development potential.

Psychometrics generally fall in to two categories: *aptitude tests* that measure an individual's intellectual and reasoning abilities and a *personality questionnaire*.

Whilst in recent years aptitude tests were

the most commonly used, trends now suggest that employers want to identify personality traits that fit their culture and business.

The types of traits are also changing. Whereas in the past extraversion and introversion were seen as the key factors to determine somebody's suitability for a role, tests have become more sophisticated in order to measure an individual's situational judgement or integrity.



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These factors not only give an employer information on how a candidate is likely to react and what the potential risks and challenges are, but can also identify whether a future employee is likely to behave unethi-

cally, irresponsibly or dishonestly.

Traditional recruiters such as the Civil Service Fast Stream have brought in online aptitude tests and situational judgement appraisals to replace verbal and mathematical reasoning examinations. In 2016, Ernst and Young applicants had to complete online verbal reasoning and situational judgement tests. These tests have been accompanied with a first interview conducted by an occupational psychologist who poses a series of situational problems. Candidates are not only measured by their answers but also in the way they respond to the questions and deal with the problems; whilst confidence and stress are being closely observed.

With tests now taking as little as 10 minutes, and being adapted to work on smartphones and tablets, this method appears to be becoming the tool of choice. They provide employers with efficiencies in speed as well as best fit.

**If you would like to find out more about psychometric testing, contact Beststart HR for an overview of products and benefits.**

## The new Apprenticeship Levy and Gender Pay Gap legislation

If you are a larger employer then there are two new pieces of legislation to look out for from April 2017.

The first is the Apprenticeship Levy which is introduced for all employers with an annual payroll bill of £3 million or more. These organisations will have to pay a levy of 0.5% of their payroll costs monthly into a digital account they can then use to fund apprenticeship training. Smaller organisations who are part of a group structure may also be liable for the levy as it is the size of the group payroll which is used to assess eligibility.

The second is the Equality Act 2010 (Gender Pay Gap Information) Regulations 2017 which will

require all private companies with 250 employees or more to publish the mean and median hourly pay and bonus payment gap between men and women on a specific date in April each year. Although the first calculation date is April 2017, the data must be publicly published on the employer's website by April 2018 and remain there for three years.

On both laws, we are waiting for the finer detail to be approved by parliament, after which further guidance will be published.

**Contact Beststart HR for further details if these affect you.**

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## Legal News

### Benefits on maternity leave

Employees often ask their employer prior to their maternity leave whether their benefits will be impacted. There are some nuances that both the employee and employer should be aware of and, if a business administers these incorrectly, they run the risk of falling foul of discrimination law.

In its simplest form a woman on maternity leave remains entitled to her contractual benefits apart from those relating to wages or salary, which could include a contractual bonus and salary sacrifice schemes.

For the most part this legislation allows for employment terms and conditions to continue to be protected and employees are entitled to any pay rises and improvements in terms and conditions given during the leave. However, the impact on benefits relating to wages and salary should be monitored carefully.

An Employment Appeal Tribunal (EAT) ruling last year provided clarification regarding childcare vouchers whilst on maternity leave. It outlined a clear distinction between childcare voucher schemes that operate via salary sacrifice and schemes where the employer provides childcare vouchers in addition to employees' pay. The ruling stated that the provision of childcare vouchers in addition to pay would count as a "benefit" and must continue during maternity leave. However, it was held that it is not discriminatory for an employer to have a rule in its childcare voucher salary sacrifice scheme that during maternity leave the employee would not be eligible for childcare vouchers as they are provided in return for a deduction from pay and such an arrangement is not a "benefit" and therefore can be stopped.

Also linked to pay, pension contributions may stop if a period of leave is unpaid. In certain instances, the contract of employment may stipulate otherwise and typically employers will continue their payment contribution for at least 26 weeks.

A more complex aspect can relate to contractual bonus, and payment of bonus during leave. In all cases, a woman on maternity leave is entitled to be paid a bonus in respect of:

- ◆ The time before she went on maternity leave
- ◆ The two weeks compulsory maternity leave
- ◆ The period after she returns to work after maternity leave.

The payment must be made at the time it would normally have been, had the woman not been on maternity leave. Similar to a contractual bonus based on company performance, if a discretionary bonus is dependent on either attendance or individual performance, the employer can pro-rata the bonus payment based on attendance.

**Ask Beststart HR for further help.**



Image courtesy of Stuart Miles at FreeDigitalPhotos.net

### Pimlico Plumbers v Smith (A2/2015/0196)

Following on from the Uber, Citysprint and Deliveroo cases, all in the last 6 months, another potentially more important case came to conclusion on 10 February 2016 where the Court of Appeal ruled on Pimlico Plumbers v Smith.

Gary Smith was a plumber working for Pimlico Plumbers who sought to bring claims against the company in an employment tribunal. However, to bring these claims he needed to demonstrate either an employment or 'worker' relationship existed between him and Pimlico. Pimlico claimed he was a self-employed contractor and the Court of Appeal agreed with both the Employment Tribunal and the Employment Appeal Tribunal (EAT) that although Mr Smith was not an employee, he was a worker.

A 'worker' is someone who undertakes to perform work or services personally but does not carry on a business undertaking of which the would-be 'employer' is his or her client.

This was an important case as a Court of Appeal judgement and decision making process may be used as case law in how future cases will be judged and how businesses should view their own workforce. This is a complicated area of employment law which has large cost implications for getting it wrong.

**Contact Beststart or refer to our website for a more detailed article.**

		LEGAL TIMETABLE	
April 2017	Tax-free childcare scheme comes into force replacing childcare vouchers	April 2018	Changes to tax treatment of termination payments introduced
April 2017	Apprenticeship Levy	TBC	Reforms to rules on trade union ballots for taking industrial action
April 2017	Gender Pay Group reporting	TBC	Caste to be introduced as an aspect of race under the Equality Act 2010

## Brexit – are you prepared?



by Siobhan Owers, Senior Manager (Solicitor) & Charlotte Wills, Manager (Solicitor) for Fragomen Worldwide

2017 has arrived with a bang; Brexit no longer seems a distant or abstract concept. Following the Prime Minister's speech in January, narrowly preceding the Supreme Court's landmark ruling on Article 50, employers are now starting to grapple with the very real question of how to prepare for the changes that lie ahead – especially when it comes to immigration and your EU workforce.

Without clarity on what the post Brexit landscape will look like, it seems an impossible task to prepare for the unknown. There are however some immediate considerations for HR professionals and their businesses; what does my current EU workforce look like and what do I tell the business about the impact of Brexit on us?

Towards the end of last year, Fragomen produced a survey report entitled "Helping Businesses Prepare for Brexit". The report featured tips on what businesses can do to plan for the eventual changes in immigration policy and was produced to provide multinationals, SMEs, corporate mobility and HR teams with context, ideas and assurances on the impact of Brexit.

The results were revealing, suggesting a substantial 74 percent of businesses did not have a plan in place for Brexit and the impact on its workforce. So what can you do?

**Identify your EU workforce:** This serves as a timely reminder of the importance of keeping accurate records of who your EU staff are, so that when changes are announced, businesses can act swiftly to support the staff affected. Look to your "Day 1" right to work checks, mandatory for all staff,

as a starting point for this. If you do not have accurate records for your EU employees, and 20% of businesses are not confident they do, consider taking steps to get the information now. A 'bring your passport to work' day is one idea of how you can gather this data on your staff.

**Provide Reassurance:** Most businesses are being asked the same questions by their EU population, principally 'will I need to leave the UK?'. Prior to Theresa May's speech, general consensus was that EU nationals could apply for an EU Residence Card if they are particularly worried, but it may prove unnecessary. Now we know that free movement, as we know it, will end, we recommend EU nationals make an application for a Residence Permit or Permanent Residence Card to formalise their status here in the UK at the earliest opportunity. Your EU employees are likely to be anxious; it is crucial to keep them informed and to reassure them you are there to provide support.

**Consider taking early steps to develop financial assistance policies... It is only a matter of time before you are asked whether your business will.**

**Understand the current options:** EEA nationals may enter and reside in the UK for an initial period of 3 months without needing to exercise a 'Treaty right'. Exercising a Treaty right essentially means they are either working (which can include a short period of job seeking), studying, or economically self sufficient. If the intention is to remain in the UK longer than 3 months, they will then have to exercise one of those Treaty rights

and may apply for a Registration Certificate to evidence they are doing so. Once they have resided in the UK for 5 years, having continuously been a worker, or student or self sufficient, they will automatically acquire Permanent Residence (PR). Holding PR confirms the right to live in the UK permanently without conditions and individuals should apply for a PR card to evidence this. Whilst holding a PR card is not mandatory, a rule change in November 2015 means that applicants looking to naturalise in the UK as a British citizen must now have a PR card in their possession before a valid citizenship application can be made. In most circumstances, EEA family members can be included in the above applications.

**Financial Planning:** Consider taking early steps to develop financial assistance policies. Some businesses are already helping employees to pay for their EU regularisation. It is only a matter of time before you are asked whether your business will.

Finally, it is easy to forget that Brexit affects our British nationals currently on assignment in Continental Europe. Changes are likely to impact their status. Consider any options for them to seek citizenship or permanent residence in their host country.

Communication is key; stay in touch with your staff, plan ahead and seek advice from your immigration provider to help guide and support you through this transition, which promises to be rather tumultuous.

For further information on the above, assistance with applications, or for the latest update on Brexit, contact Fragomen Worldwide at [Brexit@fragomen.com](mailto:Brexit@fragomen.com) or visit [www.fragomen.com/brexit](http://www.fragomen.com/brexit)

**FRAGOMEN**  
WORLDWIDE

## “I am away on holiday, my emails will be deleted until my return”



image: www.freeimages.co.uk

A new law in France took effect on 1 January 2017, which affects businesses with more than 50 employees, giving workers a legal right to ignore work-related emails outside of their normal working hours. With approximately 90 billion business emails sent every day and 39% of users regularly checking, sending and receiving emails outside of working hours, should the UK follow suit?

The measure is intended to tackle the so-called “always-on” work culture, which the vast majority of academics and health professionals believes contributes to workplace stress. In a study carried out by Professors from 3 US Universities, participants reported spending an average of eight hours a week doing company-related emails after hours. The greater the amount of time spent on after-hours work, the less successful the employees were at detaching from work resulting in poorer work-life balance, contributed to emotional exhaustion, which in turn negatively affected job performance. The proportion of tribunal claims citing work-related stress as a contributory factor has increased significantly in recent years and although there are likely to be many causes, employers need to consider the contribution that the 24 hour working day may have on the health and wellbeing of their workers.

However, modern technology and hand-held digital devices can be a positive tool, creating more flexibility for employees. For example some people

may want to work in the evening if this gives them a few hours in the afternoon to cover their caring responsibilities or to work during their commute to get on top of things. It also allows people to work remotely, to work within virtual global teams across the world, or to share ideas with others.

What can businesses do to ensure employees benefit from the flexibility of modern technology whilst minimising the risk of increased cases of work-related stress?

While many organisations may not want to go as far as enforcing a blanket ban, senior managers should take responsibility to not encourage and limit such activity. For example, by avoiding regularly issuing instructions to staff after the working day ends, or over the weekend, or that require an out-of-hours response. In addition, companies could introduce initiatives that encourage employees to switch off entirely whilst on holiday. For example, Daimler allows staff to use an out-of-office message stating that emails are being deleted while they are away whereas other organisations apply system restrictions preventing individual employees from accessing their inboxes remotely during holidays.

Whilst a legislative ‘ban’ in the UK is unlikely, employers should take a proactive stance and consider whether this is an issue for them and what they could do to get a reasonable balance.

### Peace of mind if things blow up



HR has a reputation for putting a straitjacket on Managers. Beststart’s expert HR Specialists are different, presenting creative and strategic solutions to employee related problems. Knowing and managing the risks associated with various courses of action allows Managers to act decisively and with confidence.

We understand that most businesses can tolerate some uncertainty but the threat of big tribunal costs can be unsettling and financially unpalatable; now there is a solution.

We have teamed up with Irwin Mitchell Solicitors - one of the UK’s major law firms - to offer peace of mind through their IMHR*plus* platform. Irwin Mitchell are renowned for their forward thinking and this is reflected in IMHR*plus*’ main benefits:

- ◆ A fixed price employment law and HR advisory service that complements Beststart’s hands on HR consultancy
- ◆ Direct and unlimited access to a dedicated employment law solicitor – no call centres, no telephone queuing and consistent advice
- ◆ Optional insurance for employment tribunal claims. Irwin Mitchell will defend a claim and all representation costs will be covered by the insurer. Awards insurance will help pay successful compensation claims against you

To view the complete IMHR*plus* benefits visit <https://www.imhrplus.com/about>



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