

Workers' Bank Holiday Rights

The Summer bank holiday is almost here, giving another extended weekend for many of us and hopefully some sunshine too!

In England and Wales, we have eight permanent bank holidays each year (New Year's Day, Good Friday, Easter Monday, May Day, Spring bank holiday, Summer bank holiday, Christmas Day and Boxing Day).

Interestingly, and often forgotten by both employers and workers alike, there is no statutory right for a worker to take bank holidays off, nor is there any statutory right to additional pay for those working a bank holiday. Any such right is contractual and will depend on the wording in a worker's terms and conditions (or in the absence of a written agreement, one would need to look at a verbal agreement, or what may have been implied through custom and practice).

This position is the same when an additional bank holiday is granted (for example, a royal wedding). If the worker's contract states they are entitled to bank holidays in addition to their annual leave, they will therefore be entitled to the additional day off. If the contract states the worker is entitled to a specific number of days plus "eight bank holidays", or if the contract is silent on the bank holiday position, the extra day wouldn't be granted (although employers could consider allowing the extra day off as a goodwill gesture).

Contracts often include a provision that the worker will be given a day off in lieu if they are required to work on a bank holiday. It is unlawful to pay in lieu of statutory minimum holiday except on termination and so if a worker with a 5.6 week overall holiday entitlement (usually 28 days) is entitled to leave on bank holidays but is required to work, they must receive an extra day off in lieu as opposed to an extra day's pay.

Issues often arise when looking at the entitlements of part-time workers, especially when they are not scheduled to work on a bank holiday. Employers have a legal obligation not to treat part-time workers any less favourably than their full-time comparators, meaning they are entitled to the same terms and conditions, but on a pro-rata basis.

Only allowing part-time workers paid time off for bank holidays which fall on days when they would normally work raises some issues under the Part-Time Workers (Prevention of Less Favourable Treatment) Regulations 2000. Generally, most bank holidays fall on a Monday and so by applying this principle, means those part-time workers who do not normally work on a Monday are treated less favourably than their full-time comparator who would ordinarily work a Monday.

To avoid treating the part-time worker less favourably, an employer should calculate their pro-rated bank holiday allowance based on the number of days they work, regardless of whether they would normally work on the day the bank holiday falls.

For any advice and assistance with holiday entitlements, please contact [Kevin Barnett](#) or another member of the [LA Employment and HR Team](#).