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| A red circle with black text  AI-generated content may be incorrect. | LBJ Consultants  **June 2025 Newsletter** | | | | | | | | **A gold cloud logo on a black background  AI-generated content may be incorrect.** |
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| Contact LBJ Consultants  Our Team  **-------------------------**  **Billy Muir 07375 097443**  **e mail** [**billy@lbjconsultants.co.uk**](mailto:billy@lbjconsultants.co.uk)  **-------------------------**  **Nicola McCulloch 07375 097442**  **e mail nicola@lbjconsultants.co.uk**  **-------------------------**  **Terry Stirton 07984 568523**  **e mail** [**enquiries@lbjconsultants.co.uk**](mailto:enquiries@lbjconsultants.co.uk)  **Our monthly service contracts are**  A black background with white text  Description automatically generated  A symbol of a certificate  Description automatically generated  A gold badge with a check mark  Description automatically generated  **On a rolling**  **A red stamp with white text  Description automatically generated** | |  | | A clipboard with a sign on it  AI-generated content may be incorrect. | | | | | | |
|  | | **When should an Occupational Health referral be made?** | | | | | | |
| **Five changes SMEs need to make before the new financial year**.  It can be difficult to know when to make an occupational health referral, so we thought you may appreciate a little guidance. Here are five instances in which you may consider a referral to occupational health: | | | | | | |
| **1.In the early stages of an absence**  When an employee is absent, involving occupational health early means you can support your employee as early as possible. Try not to leave it too long, because you may have missed an opportunity to help the employee through a difficult time and re-engage them with the workplace sooner rather than later.  **2.When an employee discloses a health condition and may need support**  An employee has bravely confided in you about their health condition, and you aren’t sure what needs to be done. | | | | As a line/HR manager it’s unlikely that you’re a medical professional, which means you probably aren’t going to be best place to make decisions on what treatment or support would best help the employee to manage their condition.  This is where an occupational health referral can help. You’ll receive the advice and information you need to support the employee and your organisation.  it’s important that your existing team has the tools and support to work as productively and effectively as possible in their existing jobs. | | |
| **We also offer other services on a**  A colorful text with leaves  Description automatically generated  **Call us on 07984 568523/01292 892713 to dicuss these services** | |
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| **LBJ Consultants**  **Employee Protection Scheme.**  Covers all employment tribunal, settlement and legal costs up to £50,000 for a monthly subscription. | | | **LBJ Consultants**  **Employee Surveys.**  We can offer our clients employee surveys that will identify all issues that employees may have | | | | **LBJ Consultants**  **HR Management System.**  Our HR management System will allow you to record and manage holidays, sick leave, performance management, documentation, pay and allow you to message employees. | | | |
| The charges are based on the number of employees. Can be as little as £2.00 per month per employee | | | **Call us on 07984 568523/01292 892713 to discuss these services.** | | | | **E-mail us on enquiries@lbjconsultants.co.uk to discuss these services.** | | | |
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| June 25 | **When should an Occupational Health referral be made?** | | | | | June 25 |
| **3.When an employee is considering a return to work.** | | | | | | |
| When an employee has been absent and is looking to return to work, they may need a few adjustments and a little support to ensure they’re ready, and their return to work is successful. Referring to occupational health will give you advice on this, ensuring you fulfil your responsibilities too.  **4.When health may prevent an employee doing their job**  In some unfortunate circumstances it can be possible that an employee can no longer do their job due to their health. Case law and previous employment tribunals have been very clear about this – you should obtain the advice of an occupational health specialist to determine what the next steps may be. | | **5.Ill-health retirement**  If an employee is unable to perform their role due to ill-health, and it seems likely that this will extend to their normal retirement age, then ill-health retirement can be an option. Employment Tribunals usually require that an occupational health would have been completed before deciding and signing this off.  We can help you organise your Occupational health reviews call us on 01292 892713 or 07984 568523 to discuss. You can also e-mail us on [enquiries@lbjconsultants.co.uk](mailto:enquiries@lbjconsultants.co.uk). | | | Bullying can happen in any workplace and employers have a duty of care to their employees to protect them from harm. Bullying and harassment can affect employees’ mental and physical health, and it can be disruptive for employers.  A person touching a touch screen  Description automatically generated | |
| LBJ will offer commercial advice and support at all times to its clients. | |
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| A person drawing on a green and white background  AI-generated content may be incorrect. | | | | | The GP hasn’t been sent any contextual information prior to the appointment, such as a referral from a line manager or HR manager, job description setting out employee expectations, or a description of the working environment. So any information presented by an employee will be brief, and could be selectively presented and only briefly interpreted.  A person standing next to a gears  Description automatically generated  Following on from the appointment, the GP may issue a fit note or a report. Typically, these are light on useful information and include clinical phrasing that needs interpreting for a non-medical professional.  This fit note is documented evidence of the advice the employee has received, and is not a final determination for an employer, so should be treated as nothing more than advice. For a more comprehensive assessment of fitness for work, and advice for management, an employer may be inclined to seek further advice from a specialist occupational health organisation.  If an employer chooses to seek advice from an occupational health practitioner, they will be asked to complete a full management referral. Hopefully you will already have a package or an arrangement with an occupational health practitioner who understands your sector and how your organisation works, but you will also be asked to provide background as part of the management referral. | |
| **Employees fitness to work – an important update.** | | | | |
| When assessing an individual’s fitness for work, a GP may issue a fit note. Although they are only providing advice to their patient, a fit note helps to document this advice, often so that the individual may present this to their employer.  Making a referral to an occupational health company or practitioner can achieve much the same, albeit often in a lot more detail.  This begs the question of which one an employer should use, and what an employer should do if advice is conflicting. These are common questions, so let’s address these two points separately.  **Fit note or occupational health report?**  When an employee presents at their GP surgery either in person or remotely, they will have an allocated amount of time with their GP, typically around 10 minutes. To stick to this timeframe the appointment needs to be focussed on the presenting issue, as there won’t be time to discuss the context surrounding the issue, or how this is affected by the working environment.  The GP also acts an advocate for the individual’s health, and may have an existing relationship with the individual and their family. | | | | |
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| June 25 | **Occupational Health Referral.** | | | | | June 25 |
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| A hand writing on a whiteboard  AI-generated content may be incorrect. | | The referrer can include relevant health history, context or specific work demands that an employee may not be aware of or may not readily disclose to the practitioner. It’s important that any decision on fitness for work takes into account information from both employer and employee.  An occupational health assessment, and subsequent report, will focus on the barriers to returning to the workplace. This helps an employer to plan accordingly and implement the necessary adaptations and recommendations as appropriate. Where there are practical issues that can be overcome in order to expedite the member of staff returning to the workplace, these will be included in the report, as will the answers to any specific questions you have raised as part of your referral.  Occupational health practitioners are also trained in the Equality Act 2010 and will help to advise employers on this to ensure they remain on the right side of any employment law issues they may need to consider. | | | **What should an employer do if occupational health advice contradicts GP advice?**  There is no right or wrong answer to this question, it’s a decision for the employer to make alongside the employee.  However, it will be important to consider as many factors as possible and be able to evidence and justify a decision. For all of the reasons cited in the previous section, an occupational health assessment is more detailed, balanced and specialist, so it may be that an employer chooses to heed the advice of occupational health over a GP. If this is the case, document the decision-making process and take the time to explain this to the employee so that they understand the efforts you’ve gone to in order to make a supportive and fair decision.  Where a more serious employment decision needs to be made, such as formal capability proceedings, you may also need to consider the qualification and seniority of the occupational health practitioner who has assessed an employee. | | |
| **We can Occupational Health reviews as part of our sertvice to our clients.** | |
| The referrer can include relevant health history, context or specific work demands that an employee may not be aware of, or may not readily disclose to the practitioner. It’s important that any decision on fitness for work takes into account information from both employer and employee.  If an employer chooses to seek advice from an occupational health practitioner, they will be asked to complete a full management referral. | |
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| There are specialist qualifications and tiers of occupational health practitioner, ranging all the way up to a consultant doctor. A good occupational health company will triage your referral and ensure that your employee is paired with a suitably qualified practitioner. If the referral is likely to lead to formal proceedings, it may be recommended that your referral is handled by a consultant occupational health physician (OHP). Typically this is a doctor with an MFOM or FFOM qualification, and this is someone trained to give the most definitive and highly qualified view on employment related health issues, comforting for an employer to know should the formal proceedings eventually lead to a tribunal situation. We’re always keeping up to date with relevant tribunals, appeals and case law, and thought you may find it interesting to read up about some of these too. It may help to shape some of your HR strategy, particularly around absence management and the use of occupational health.  **OH should be used to make decisions, and OH advice should be followed wherever possible**  In the case of Kelly v Royal Mail Group, and employee was dismissed due to poor attendance. Mr Kelly claimed disability discrimination, but it was found that Royal Mail had acted properly by consulting occupational health before making any decisions. OH advice should be followed wherever possible, as was demonstrated in the cases of Miss C Robinson v Mind Monmouthshire, and more recently Bowen v Telefonica, where OH recommendations weren’t implemented when they could have been.  Using OH can help to protect an employer against accidental or inadvertent disability (or sometimes age and gender) discrimination, as was found in Mrs J Hutchinson v Asda Stores Ltd  **Ensure you use a reputable provider with the appropriate skillset**  It’s not just the employer who can be at risk – we as the occupational health provider also have a responsibility. There are examples such as Lee v Mitie Ltd where an occupational health provider, Optima in this instance, allocated a clinician who wasn’t listed on the specialist register, and who didn’t provide considered and suitable advice. Fortunately you’ve got Smart Clinic now as your occupational health provider, so you should have no such issues, as our clinicians are all specialist and extensively trained.  **Refer to OH early, and consider adjustments before performance management**  As we’ve seen in the significant case of Lynskey v Direct Line Insurance Services it’s important to refer to OH early to determine if underperformance could be linked to a health condition, and if so focus on reasonable adjustments before considering performance management.  **If an employee refuses OH, then proceed with managing the employee with existing information**  There are a number of examples that support this logic, such as Elmbridge Housing Trust v O’Donogue. If an employee refuses to engage with medical support or assessment such as OH, then an employer would be expected to continue managing them only with the medical input they have already. It’s useful to explain this to them to see if they wish to reconsider. | | | | | | | |
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| June 25 | | **Employment Tribunal Update.** | | | | | | June 25 | |
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| **Is your business prepared to deal with an employment tribunal claim?**  Would your business be able to deal with a claim made by an employee at an employment tribunal?  The Ministry of Justice UK has recently released the latest tribunal statistics covering January to March 2025. And, wherever you look in the data, one thing is clear, employment tribunal claims are continuing to rise.  With an overall 32% increase of tribunal claims compared to the same time last year, the top issues arising so far are:  👉 Unfair dismissal (22%) 👉 Breach of contract (14%) 👉 Disability discrimination (13%) —> 28% rise in the last quarter alone  These figures, alongside the continued progression of the Employment Rights Bill, have sparked calls for the Government to intervene and provide support to the employment tribunal system before the situation worsens.  Consideration must also be made over the proposed changes in the Employment Rights Bill, especially day one rights to raise a claim at an employment tribunal amongst many other changes.  A sign on a door  Description automatically generated  It has been understood that the government plan to introduce new employment laws that will give employees more rights. One of these proposals appears to be that employees will be able to make a claim at an employment tribunal from day one of their employment (they currently need 2 years’ service for an unfair dismissal claim).  It has been rumoured as well that employees will be able to request a 4-day working week.  Employees can already apply for Flexible Working from day one of their employment.  Therefore, with these changes we believe that it has never been more important for employers to protect themselves from these types of claims. There has been a marked increase in both Unfair Dismissal and Discrimination claims made by employees to the employment tribunals.  Many employers decide that it is more cost effective to settle tribunal claims due to the cost of defending them due to the legal fees that can be incurred alongside the fact that they could lose the case and also need to meet the costs of any award made against them.  We have partnered with Albion Insurance to offer our clients a **comprehensive legal expense insurance**. This insurance will protect your business against-   * the cost of employment tribunals. * legal fees. * settlements. and * tribunal awards.   Our Employment Protection Scheme is an important component for us to help protect our clients  We can support you with our business insurance cover call us on 07375 097443 or e-mail [**enquiries@lbjconsultants.co.uk**](mailto:enquiries@lbjconsultants.co.uk) to arrange an appointment. | | | | | | | | | |
| A red book with gold text  Description automatically generated | We now offer a full Health & Safety support service with fully qualified Health & Safety Consultant partner.  Call us on 07375 097443 or e-mail [enquiries@lbjconsultants.co.uk](mailto:enquiries@lbjconsultants.co.uk) for more details. | | | | LBJ Consultants  A blue seal with white text  Description automatically generated  People for Business - Business for People | | | | |
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