

# Business Matters



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## Considering the changes to probate fees

A substantial increase in probate fees was planned for April 2019, but is still making its way through Parliament, due to the pressure of other business. Here, we take a look at the probate process, and consider how the rise in fees could impact you.

### What is probate?

Probate is the process of handling a deceased loved one's estate, in order to make sure that their property, possessions and finances are distributed in accordance with their wishes. The probate process is known as 'confirmation' in Scotland, and 'grant of probate' in Northern Ireland, and is dealt with separately in those countries: different fees also apply. An individual managing the probate process will be required to gather a range of information relating to the deceased person's assets. They will also be required to deal with inheritance tax (IHT); correspond with beneficiaries and financial institutions; and keep various records and accounts.

### Applying for probate

Executors are required to estimate and report the estate's value before they apply for probate, and, depending on its value, pay IHT. An executor can apply for probate themselves: alternatively, a solicitor or accountant licensed to provide probate services may apply on their behalf. Probate applications can be made online – executors may apply if they have the original Will; the original death certificate or interim death certificate, as supplied by the coroner; or if they have already reported the estate's value. A probate fee will be due when making the application.

### Rising fees

The government is set to implement a new probate fee structure. The new fee structure no longer applies a flat fee. The threshold at which the new fees become payable will rise from £5,000 to £50,000. Estates which do not reach this threshold will not be required to pay a fee for an application for a grant of probate. The table outlines the new banded fee structure.

Estate value	Fee
Up to £50,000/exempt individuals	£0
Between £50,000 and £300,000	£250
Between £300,000 and £500,000	£750
Between £500,000 and £1 million	£2,500
Between £1 million and £1.6 million	£4,000
Between £1.6 million and £2 million	£5,000
More than £2 million	£6,000

While the changes are pending, there is a temporary process in place for applying for probate, and estates will not incur the higher fees if applications are lodged before the fee changes take effect. Probate registries will thus, exceptionally, accept applications for probate before HMRC has processed the necessary IHT account. Applications should contain a note to say that appropriate IHT forms will be submitted 'shortly'.

### Changes criticised

The new banded fee structure has received considerable criticism. Experts stated that the rise in fees makes it 'impossible' for many families to access assets without falling into debt. Meanwhile, MPs voiced concerns that the increase could disadvantage charities, warning that higher fees could 'impact on legacies'.

**Professional advice should always be sought in regard to issues related to probate.**

# Age discrimination: do you know your rights?

Arbitration service Acas recently published new guidance on recognising age discrimination in the workplace. Here, we take a look at how discrimination based on an employee's age can be prevented.

## Age discrimination: an overview

Age discrimination, or ageism, is defined as treating someone unfairly because of their age. The Equality Act 2010 includes provisions that ban discrimination against people of any age. The ban took effect from 1 October 2012, and means it is unlawful to discriminate on the basis of age, unless an employer can provide a good reason for differential treatment.

## Instances in which age discrimination could occur

Employers should take care to minimise the chances of age discrimination occurring in the workplace. However, a handful of instances exist which could give rise to age discrimination, and employers should be aware of these:

- **During the recruitment process:** age discrimination could occur at any stage

of the recruitment process. Within a job advert, an employer might want to outline the skills or type of experience needed, as opposed to asking for a certain number of years' experience.

- **During the training or promotion process:** when referring workers for training programmes or considering them for promotion, employers should cast any assumptions from their minds. Acas advises employers to not make assumptions about an employee's ambitions based on their age or length of service.
- **During an appraisal:** employers are encouraged to conduct staff appraisals without preconceptions about an employee's age. All employees must be treated equally, and should not be engaged in discussion about the possibility of them retiring.
- **In managing performance:** employers must not ignore employees' poor performance because of their age. Employers are encouraged to give an

employee a fair chance of performing to an acceptable standard, regardless of their age.

- **When an employee retires:** an employer must not assume an employee is retiring; suggest they retire; or force them to retire.

## Understanding your rights

Employees are advised to ensure that they understand their rights, and to make use of the options available to them, should age discrimination occur. Employers must take responsibility to ensure that workers are not discriminated against. Employees who feel they have been treated unfairly are able to make a claim to an employment tribunal. Typically, employees must make their claim within three months of the issue occurring, or their employment ending. In the event that a case goes to a tribunal, employees may wish to seek legal advice.

**For more information on workplace rights, please visit the Acas website.**

# Making an application to work flexibly

All employees have the legal right to request to work flexibly. This can range from requesting to work from home to asking to work flexible hours. Here, we outline areas that both employers and employees should consider when applying to work flexibly.

Please note that the rules regarding flexible working differ in Northern Ireland.

## Submitting a written application to the employer

An employee must make an application to work flexibly in writing, and they must have worked for the employer for a minimum of 26 weeks. All applications must include details of how the employee will work flexibly; an explanation as to how the employee's flexible working will affect the business; details of the date of the application; when they want to start working flexibly; and whether a previous application was made.

state the changes that have been agreed, and when these will start. The employee's contract also needs to be amended to reflect the new arrangements. All of these amendments must be made within the 28 days after the approval.



- the flexible working will affect the quality of work and employees' performance
- the business will not be able to meet customer demand
- there is a lack of work to do during the proposed working times
- the business is planning changes to its workforce.

The rejection must be made in writing. The employee is entitled to appeal the decision by following their firm's appeals procedure. However, if an employer failed to handle the employee's request in a reasonable manner; dismissed the employee or treated them unfairly as a result of their request to work flexibly; rejected the application based on false information; or incorrectly treated the employee's application as being withdrawn, then an employee can complain to an employment tribunal.

The tribunal claim must be made within three months of either hearing the employer's decision; hearing that the request has been withdrawn; or from the date the employer was required to respond, but failed to do so.

**Keeping abreast of the rules and regulations relating to flexible working is essential.**

## Making a decision within three months

The employer is obliged to consider the request and give a decision within three months, unless a longer period has been agreed with the employee. The employer must also allow for any appeals within the three-month timeframe.

## Agreeing to the request

If the employer agrees to the flexible working request, they must put this in writing to the employee. The letter should

## Rejecting the request

A specific reason for rejecting the request must be provided by the employer. This must fall under at least one of the following categories:

- the extra costs associated with flexible working will damage the business
- the work cannot be reorganised among other staff members
- people cannot be recruited to do the work



## Creating the perfect employee package

Creating the perfect employee package may seem a little daunting. The typical workforce is made up of employees of different ages, who all have different needs and wants. In order to cater to them, an employer may decide to offer a selection of benefits, from which employees can choose.

### A suite of benefits

A recent report indicated that younger employees want unlimited holidays and dental care, while half of 45-55 year olds would like to be given the option to work flexibly. Other prime benefits for the over 55s are larger pension contributions and private healthcare. A separate study found that other benefits employees were interested in included access to mental health services and having an office pet.

Having a suite of benefits is certainly useful. Some may be costly, but this will help you to attract the right people and retain them. Prospective employees have even stated that an attractive benefits package may sway their decision when it comes to accepting a job offer.

### Communicating the benefits to employees

However, supplying attractive benefits is not enough: more needs to be done to ensure staff know about them. A survey of 1,001 full and part-time employees found that 34% of staff members would like more communication in regard to the benefits that are available to them, although the same number do believe that 'enough is being done'.

The survey also revealed that 16% of respondents don't know who to ask about benefits and rewards, while 9% do not know if any options are available. Of those surveyed, 56% revealed that they would prefer to receive an email detailing the benefits on offer, while 29% prefer face-to-face interaction, and 26% would

like to access the information via an intranet hub.

### Accounting for the benefits

Once the benefits are in place, accounting for them correctly is the next thing to consider. You should start preparing to file your forms P11D for the tax year 2018/19. These need to be filed by 6 July 2019, and the Class 1A national insurance contributions (NICs) payable need to be paid by 19 July, or 22 July if you pay online. Late filing and payment will incur a penalty and interest, respectively.

Payrolled benefits-in-kind (BIK) do not need to be reported on forms P11D, although Class 1A NICs are reportable via form P11Db and payable as detailed above. If you decide you want to payroll BIK in the future, you need to register online by the 5 April before the start of the new tax year for which you will be payrollling.

Examples of common taxable benefits include: living accommodation, unless it is job-related; vouchers; employer-provided cars; private fuel; vans; cheap or interest-free loans; and medical insurance. There are certain benefits that are not taxable, such as: employer-provided mobile phones; pension contributions; and cycle to work schemes.

Furthermore, transitional rules have been introduced where BIK have been offered through salary sacrifice or Optional Remuneration Arrangement (OpRA), such that an income tax and NIC charge will arise on the higher of the salary sacrificed (or cash option) and the value of the BIK taken. What the benefit is will determine when the rules change. By taking the BIK, the only

saving made will be in employee NICs. By 6 April 2021, all BIK will be covered by these rules, except for pension contributions; childcare provided in workplace nurseries and Employer Supported Childcare (usually by way of childcare vouchers); cycle to work schemes; and ultra-low emission cars.

### Is it possible to keep staff as well as make tax savings?

The ideal is to provide a package of benefits which not only gives employees what they want (and thus retains their services), but, wherever possible, provides as great a tax saving as possible for the employer. The provision of tax-free benefits as listed earlier will save Class 1A NICs, as well as income tax for the employee, so maximising that offering where possible would be the first step. However, depending on the structure of the business and the long-term aims of the owners, it may be worth thinking about employee ownership schemes, such as share option schemes, or even potentially gifting shares to targeted employees, either directly or through employee trust structures. As well as providing the necessary incentives, such schemes may save tax in the long-run by offering remuneration through dividends, rather than salaries attracting NICs.

**We can help you to create a tax-efficient benefits package for both new and existing employees. Furthermore, we can provide advice and assistance in regard to the completion of your forms P11D, so please do not hesitate to get in touch to find out more.**



## Business Round-up

### Chancellor brings forward apprenticeships reforms in Spring Statement

Chancellor Philip Hammond delivered the 2019 Spring Statement on Wednesday 13 March, and brought forward the £700 million reforms for business apprenticeships previously announced in the 2018 Autumn Budget.

Mr Hammond also announced that the halving of the Apprenticeship Levy co-investment rate from 10% to 5% takes effect from April 2019. The increase (from 10% to 25%) in the amount that employers can transfer to their supply chains also takes effect from April. Please note that these changes only apply in England.

Other measures announced by the Chancellor in the Spring Statement include a review of the latest international evidence on the impact of minimum wages, to 'inform future National Living Wage (NLW) policy after 2020', and the allocation

of £53 million in funding from the third wave of the Local Full Fibre Networks challenge fund.

Additionally, up to £260 million was made available for investment into the Borderlands area as part of the Borderlands Growth Deal.

### Government launches consultation on 'plastic packaging tax'

The government has launched a consultation, outlining its proposal to introduce a tax on plastic packaging with less than 30% recycled content.

The 'plastic packaging tax' was announced in the 2018 Autumn Budget and is set to be introduced in 2022. The tax will be UK-wide, and the government has stated that it is 'committed to working closely with the devolved administration' on its design.

In its 'call for evidence' on the matter, which was made last year, the

government received a record number of responses. It found that using recycled plastic is 'often more expensive than using new plastic', despite it being better for the environment.

According to the government, plastic packaging accounts for 44% of the plastic used in the UK. The UK generates over two million tonnes of plastic packaging each year.

In this consultation, the government is seeking views on the design of the new plastic packaging tax. In addition, it is looking at how best to implement the tax without causing 'administrative disruption'.

The government is also seeking to create 'economic incentives' to encourage manufacturers to produce sustainable packaging.

The next steps in regard to the new tax will be outlined during the 2019 Budget. The government intends to publish draft legislation on the matter in 2020.



## Web Watch

### Essential sites for business owners.

[www.businesscomparison.com](http://www.businesscomparison.com)

Allows businesses to easily compare prices for a range of services.

[www.cipd.co.uk](http://www.cipd.co.uk)

Key HR information for employers.

[www.skillsyouneed.com](http://www.skillsyouneed.com)

Information and advice on a range of work-related and interpersonal skills.

## Reminders for your diary

### May 2019

3 Deadline for submitting P46(Car) for employees whose car/fuel benefits changed during the quarter to 5 April 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 May 2019.

31 Deadline for forms P60 for 2018/19 to be issued to employees.

### June 2019

1 New Advisory Fuel Rates (AFR) for company car users apply from today.

7 Deadline to file first monthly VAT return under the new MTD rules for the month ending 30 April 2019.

19 PAYE, Student loan and CIS deductions are due for the month to 5 June 2019.

30 End of CT61 quarterly period.

### July 2019

5 Deadline for reaching a PAYE Settlement Agreement for 2018/19.

6 Deadline for forms P11D and P11D(b) for 2018/19 to be submitted to HMRC

and copies to be issued to employees concerned.

Deadline for employers to report share incentives for 2018/19.

14 Due date for income tax for the CT61 period to 30 June 2019.

19 Class 1A NICs due for 2018/19. PAYE, Student loan and CIS deductions due for the month to 5 July 2019.

PAYE quarterly payments are due for small employers for the pay periods 6 April 2019 to 5 July 2019.

31 Second payment on account 2018/19 due.