



Rest Breaks

The right to unpaid rest breaks under the Working Time Regulations 1998 is not exactly onerous. Workers are entitled to one rest break of 20 consecutive minutes in each working day of 6 hours or more. Contrary to the commonly held view, this is not a right to a 20-minute rest break every six hours. If a working day lasts in excess of 12 hours, the worker is still only entitled to one 20 minute break.

Of course, local authority workers can generally expect a more generous rest-break entitlement than this. And yet a recent case on rest-breaks raises some interesting questions about the nature of the obligation that the Working Time Regulations place on employers. It may be of particular relevance for those in professional or managerial grades whose working time is not carefully measured.

In *Grange v Abellio London Ltd* the employee was initially a bus driver but he was moved to a more congenial role of 'Relief Roadside Controller'. This involved monitoring traffic conditions and the arrival and departure of buses so that he could regulate the service appropriately. As a bus driver his working day lasted eight and a half hours and included a 30 minute unpaid lunch break. It was harder for a controller to find time to take a break during the day, however, so his working day was shortened to eight hours on the basis that he would work through the whole day and then leave half an hour early.

The problem with this is that while there is nothing in the Regulations to say when a rest break should be taken, it is pretty clear that you cannot simply put it at the end of the working day and let workers leave early. That isn't a break, it's just a shorter working day.

So you might have thought that the employee in this case would have had a straightforward claim. He is entitled to a rest break (there is no suggestion that one of the exceptions applies) and his working day does not seem to include one. However the Regulations are not entirely straightforward on this issue. Regulation 12 says he is entitled to a rest break. But when it comes to Tribunal claims, he has to show that the employer has 'refused to permit him' to take a rest break (reg 30(1)(a)). Mr Grange, however, never actually asked for a rest break or even tried to take one. He was not subjected to a detriment for complaining about rest breaks – which would also have given him grounds for complaint – he simply claimed that his employer's failure to provide for rest breaks was a breach of the Regulations. .

The Tribunal followed the EAT decision in *Miles v Linkage Community Trust Ltd* – a 2008 EAT decision in which it was held that there had to be a deliberate act of refusal on the employer's part, with the result that claim could only be brought if the worker had made a distinct attempt to exercise his or her right to a rest break. Mr Grange had made no such attempt and so the Tribunal dismissed his claim.

On appeal, the EAT held that this approach could not stand. The Working Time Regulations had been introduced to comply with the EU Working Time Directive and had to be interpreted in a way that was consistent with the Directive's purpose – which was to protect workers. In the case of *Commission v UK (C-484/04)* the European Court of Justice had held that guidance issued by the UK Government on the taking of annual leave and rest breaks was wrong. The Guidance (which was subsequently withdrawn) had suggested that while employers had to make sure that workers *could* take their rest breaks, they did not have to ensure that they *actually did so*. The ECJ held that the Directive required member states to ensure that workers actually benefitted from the rest breaks they were entitled to. It was not enough to leave it to the individual worker – although the ECJ acknowledged that workers could not actually be forced to take rest breaks and that the employer's responsibility 'could not be without limits'.

The EAT relied on this decision in holding that a worker's entitlement to a rest break had to be 'actively respected' by employers. In the context of the particular case that meant that the employer had a duty to give Mr Grange an appropriate opportunity to take his rest breaks and that by putting in place working arrangements that failed to take account of the 20 minute rest break, the employer effectively 'refused' to give him the rest to which he was entitled.

So where does that leave us?

The first point to note is that although this case was concerned with the daily 20 minute rest break, its principles will certainly apply equally to the entitlement to 11 hours of daily rest, one full day of rest in each seven day period, and also the entitlement to four weeks of annual leave. In each of these cases the worker is 'entitled' to the rest (or leave) and the employer must not 'refuse' it.

I think we can also say that this case does not suggest that an employer must ensure that the right amount of rest and annual leave is actually taken. If a worker simply fails to book holiday or chooses to work through the day without a rest break then that in itself will not involve a breach of the Regulations.

Note that the situation is very different when it comes to the limits on actual working time, where the employer must take 'all reasonable steps' to ensure that a workers' working time does not exceed the prescribed limit.

But employers should nevertheless make specific provision for rest-breaks and leave to be taken at the appropriate time. If the working day is organised in such a way that it is difficult for the worker to find an opportunity for a rest break then that will certainly be a problem. Similarly if an employee's workload means that he or she cannot find the time to take annual leave or – more likely – has to do at least some work on every day of the week simply to stay on top of things, then that too may involve a breach of the Regulations.

The sensible thing to do is to ensure that each department has clear guidelines on when workers are expected to take breaks and making it clear that heavy workloads should not mean that a worker feels pressurised into not taking his or her full leave entitlement. 'Actively respecting' a workers' entitlement to rest and annual leave means doing more than just leaving it to the individual.

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Understanding the Perfectionist.....

We all strive to achieve high standards of work which creates a feeling of achievement and job satisfaction. Research conducted by National Institute of Economic and Social Research for the **Department for Business Innovation and Skills** endorses this positive connection.

But what if someone struggles to attain job satisfaction because they find anything short of flawless work is unacceptable and tantamount to failure? Read on to find out more about a perfectionist colleague that just came to your mind.... Or is this you?

Isn't it good to be a perfectionist? I thought it was, however, when psychologically analysing a perfectionist there are a number of issues that create a negative effect on the performance and productivity of the perfectionist.

The feeling of not getting a project or task to the standard of perfection can often create a number of emotions for the them. They will regularly self-criticise and have strong feelings of frustration. They are more rigid and find it difficult to know when to stop. Behaviours can include pushing themselves to the brink, failing to delegate tasks and missing deadlines as a need to get things absolutely right prevails. They will often struggle with feelings of hopelessness and distress, which are strongly linked to anxiety and depression.

- ✓ They can feel that failing at one thing means total failure.
- ✓ They procrastinate over completing a task to try to ensure a perfect outcome or avoid undertaking a task altogether to avoid failure.
- ✓ Perfectionists can dwell painfully on critical comments, which adversely affects their ability to take in and build on the positive.
- ✓ If you want it done right do it yourself' neatly encapsulates how many perfectionists feel. They can, for example, struggle to delegate even the smallest of tasks and, as a result,

they fall in to the unproductive trap of micromanaging.

The intensity of the trait and its impact on an individual can vary from person to person but if you manage a perfectionist in your workplace, it can be helpful to bear the following in mind:

- ✓ Perfectionists can find it hard to finish a task when it's not perfect in their eyes, so help them to challenge this assumption. It may be that good work they produce is in spite of perfectionism – not because of it.
- ✓ Not all tasks require similar effort. Prioritising workload by importance can help perfectionists invest an appropriate amount of time in each task.
- ✓ Searching for the 'perfect' solution can keep perfectionists very 'stuck' and unable to move on. Helping those with perfectionistic **traits** to accept the best solution rather than the perfect one can be really helpful.
- ✓ To address the perfectionist's self-defeating mindset, which often blocks their attempt to tackle tasks, help them to adjust their focus away from a 'perfect end-result' to adopting practical step-by-step approach by which they can accomplish a task, breaking it down into readily achievable parts.
- ✓ Encourage them to be positive about task delegation so that their time is better managed and their skills are better utilised. It also helps those to whom they delegate work to grow, develop and strengthen their own abilities.

By supporting a team member/subordinate that is somewhat of a perfectionist can help them to rationalize some of these emotions and hopefully help them to develop a more balanced approach to their perfectionism!

In the SPOTLIGHT

Dear Chief Executive,

Well we've had a great year in 2016. We have helped to deliver savings, restructures and transfers. We have addressed culture and behaviours and embraced commercial skills. We think we have been very good this year and hope you'll look kindly on our wish list for 2017.here goes, please.

1. Can we switch on the Christmas lights to shine favourably on the HR team, unsung heroes of the big transformation. In doing so, recognise the power of the people in delivering the changes we need in our services. We are dreaming of a quiet Christmas and a chance to refresh for the year ahead.
2. Accept that culture change is a slow burn. We cannot simply write a set of new behaviours and expect miracles. The three wise men journeyed for 3 years to bring gifts, we may need a little longer. We can get there but it's a long and tortuous journey and we need to take everyone with us.
3. Keep the star in the sky. We need you to paint a picture of a brighter tomorrow and lead the way to the future. The Vision thing is so important. What is the purpose and direction we need to go in? What does good look like? What do you see as the priorities? Help us to understand what you see as success.
4. Let's embrace engagement. Stop talking about people as "our greatest asset". Assets are fixed, they cannot innovate, create or develop. Our people are a precious resource, to be nurtured, encouraged and empowered to take personal responsibility and deliver in new ways. Our people have the magic needed to re design services and build the brighter future if we let them. Engaged and valued staff will deliver lasting and sustained transformation long after the turkey is curried and the tree recycled.



Sue Evans

5. Open up the conversation early with the right people to ensure that the people issues are raised and addressed from the outset. Systems and processes are all well and good but once the cracker's been pulled the bang is gone and we're left with a lame joke.
6. Speak up to your masters with regard to the capacity and associated health and wellbeing of the 5 reindeers you have left to traverse the whole world with an ever increasing number of presents and acknowledge the consequences for the disappointed children who they won't reach this year due to 'Santausterity'.
7. Look at the "Walk Tall: Being a 21st Century Public Servant" and start the conversations in your Council - help us to use this to celebrate the great work being done by staff at all levels. It's a great little read to pop up in your stocking and read over a mince pie.
8. Can you invite HR to the table for the main event - not just drinks! We would like to chance to talk with you about your issues - and ours - informally as well as formally. Get togethers are great for all sort of reasons but mostly so that people can get to know each other and share the bad jokes.
9. Commit to full Corporate Membership of the PPMA for the next 3 years. This is the organisation that supports HR and OD, sharing good practice and research - and proper gift under the tree for your organisation.
10. Come along to the PPMA Seminar 27-28 April 2017 and contribute to the discussions and sessions in which we explore issues key to the successful delivery of services to the public. After the celebrations this is a great event to look forward to.