



LexisNexis®

This article was first published on Lexis®PSL Employment on 8 October 2014. Click for a free trial of [Lexis®PSL](#).

Employment trends--unlimited holidays

08/10/2014

Employment analysis: Could unlimited holidays increase employee productivity? Nicholas Lakeland, partner and head of the employment law team at Silverman Sherliker LLP, considers the pros and cons of more flexible holiday options.

Why have companies such as Virgin and Netflix proposed changes to their holiday policies?

It is part of the change to and modernisation of working practices and the terms and conditions of employment. The introduction of policies like this that increase the flexibility of working conditions can help boost the morale of a workforce. By way of example German employees enjoy a lot of holidays but are very productive so the employer does not suffer. Sir Richard Branson is a very savvy businessman and I am sure he has considered with care the implications of the policy although I believe, since this is for now only an experiment it will only apply to a certain segment of the employees of Virgin--the reports only refer to 170 employees being given this new right.

How would this work in practice? How would this change the working culture in companies?

The idea is that if you do the work and produce, it's ok for people to take holidays when they wish to. I suspect that people will have to co-operate with other employees to ensure that there is enough cover for their job when they are away. You can't have everyone off at the same time. There must be some mechanism to check on and monitor people's productivity. Ultimately you have to produce the goods or deliver the service the employer provides.

As to the culture such a policy will produce, I suspect it will force people to be more self-disciplined, adult and responsible. People will have to take more responsibility for their work and achievements. If they abuse the system and their productivity declines, they may miss promotions and pay rises.

What effect would this have on employees?

I think initially they may be reluctant to take advantage of the terms of the policy--or be suspicious of it. They may come to see too, that they may not be as free as they thought. But it appears that the morale of the workforce may have been raised already so it may send a very positive message to employees that they are trusted.

Are other companies likely to follow suit?

To my knowledge there are only these two companies offering this presently. I suspect it may take a while to take on as it is quite radical. Small businesses especially may find it hard to adopt a policy like this as they may not have enough people to provide cover when people go away when they choose to. These companies

are particularly progressive. Businesses that do a lot of business online--like media companies--may also be more willing to have a policy like this as people may be able to work from home or while they are away on holiday. So it will be easier for some companies than others to have this policy.

Could there be any unintended consequences? What legal issues would such policies raise?

You could find that some people don't want to go away on holiday. Some people are workaholics. But employees must take a minimum of 28 days of holidays a year under the Working Time Regulations 1998, SI 1998/1833. This policy could produce a less joined-up way of working. Some employees could lose a sense of community and camaraderie. Many employees like to feel part of something.

As to legal issues, a question will be how you police the policy? There must be some limitations on the policy or some conditions attached to it. I suspect there must be some way of measuring the productivity of the employees involved.

What should employment lawyers be aware of?

They should be aware that this policy could give rise to some interesting questions like how holiday pay for a person who has been part of the scheme is worked out.

What are your predictions for the future?

We could see a trend in this area. But my prediction is that only certain types of businesses would adopt the scheme. Many businesses won't be able to. Some will be too small and big businesses may be too structured for it. But those employees who are in businesses like Virgin, when they get used to it may love it.

Interviewed by Diana Bentley.

The views expressed by our Legal Analysis interviewees are not necessarily those of the proprietor.