



## HR Broadcast – Changing the holiday year

Over the years I have had a few requests from employers who wish to change their holiday year, and they ask me if this is possible. Of course it is possible to do this, although as the existing annual leave year is more than likely contractual, any change will need to be agreed with staff, otherwise you will be in breach of contract. Therefore I always insist that the employer consults with staff on any proposal for a change to the annual leave year and the way in which it will be implemented.

If you don't consult then you run the risk of being in breach of contract which means that the employee could resign and claim constructive dismissal, but I am not sure anyone would actually go that far.

The Working Time Regulations 1998 allow you to set your own holiday year in a "relevant agreement" which will normally be the contract of employment. If you haven't specified what your leave year is, then it will be deemed to be either: 1 October each year for those employees who were already employed on 1 October 1998, or the date the employee's employment began (and each subsequent anniversary) for those who started work after 1 October 1998. However, in reality, it is much easier to have the same annual leave year for all staff; if not, you'll end up with employees having different leave years depending on their start date and this will be a nightmare to manage. The two most popular choices for annual leave years are the calendar year (1<sup>st</sup> January to 31<sup>st</sup> December) and 1 April to 31 March but I have seen all sorts of weird and

wonderful holiday years many of which have totally defied logic, and are derived from some very historical legacy.

There are many reasons for wanting to change the holiday year. It may be for administrative reasons, staff front loading their holiday, and by that I mean it starts on say 1<sup>st</sup> June which is just before the peak summer rush, or the holiday year doesn't meet the peaks and troughs of your business.

When you do change your holiday year, remember changes can't happen overnight and ideally, you should give notice of your proposal before your next holiday year starts. At the same time, set out the new dates and suggest transitional arrangements, i.e. that your forthcoming annual leave year will be shorter or longer than the normal twelve-month period. The following leave year would then move over to the new dates.

Please remember to start the consultation at least three months before your next annual leave year is due to begin. If you're proposing to move the leave year by more than three months, staff are more likely to accept the change if the next leave year is longer rather than shorter, e.g. an 18-month one rather than a six-month one. Also, during the transitional period when the leave year is shorter or longer than normal, calculate holiday entitlement on a pro rata basis, e.g. a nine-month leave year will result in 75% of normal entitlement and an 18-month leave year 150% of normal entitlement.