

PRESS RELEASE

STEPHENS & SON

SOLICITORS

Question:

Q: Each year all my staff would usually benefit from an annual pay increase in September, given current climates I cannot afford to do this, this year. Can I impose a pay freeze across the company? The annual rise is not mentioned in our employment terms and conditions.

A: The first issue is whether there is an obligation to actively review the pay; the second is whether an increase must be awarded.



Where the contract of employment is silent, a term can be implied if the employer has acted in a particular way over a period of time so that the matter has become so well known that it is understood by both parties to apply as if it were an entitlement.

Employers need not panic because the test for an implied term, especially one to do with pay, is actually very tough. All cases turn on their facts but as a general rule it will be hard enough for employees to argue successfully that there is an implied obligation to undertake a review, let alone that the review will result in a pay rise.

All of that said, it is a matter of good industrial relations to carry out a review; to tell the employees that it has been done; and, if a pay rise is not going to be given, to explain the general reasons. In this way, if it ever came to a claim and the employee were to jump the first hurdle; s/he would struggle to clear the second.

For further information contact David Burrin on 01634 811444 or email dab@stephens-son.co.uk