



supporting
social
employers



Brief Guide to employing people

Support to Governing Bodies



November 2011



ABOUT THIS GUIDE

This brief guide has been developed as part of our ongoing support to Governing Bodies of member organisations. Its purpose is to provide a light read which highlights the main areas of importance to watch out for when employing people.

In all areas covered the information is given in outline form and a brief comment as to minimum standards the small employer would want to try and achieve. We have deliberately avoided cramming the guide full of legal references so that you can read it without concern over these more tedious points.

We thought the best way to approach it was to track a typical employee's career – at the start there would be a “recruitment” and at the end a “leaving”. All the bits in between are covered. You may be in the group of employers who feel there is too much of all this employment stuff, too much law and regulation. But more positively most matters can be covered with sensible simple processes that need not over tax you. Sometimes things can go badly wrong and this is when big money and big risk can be involved. Often the size of employer and resources are taken into account though and the expectation is that the small business having made a decent attempt to cover reasonable standards will be recognised to have made a good attempt.

We've made a big play over recruitment. This is deliberate because often if you get that right an awful lot of the remainder of the employment relationship works out well. Whereas if you get that bit wrong.....

EVH members can access Information Notes, Model Policies, Template Forms and Letters and a multitude of other supporting materials on all the areas covered in this guide. All Governing Body members should have been provided with a password to our website. If not – please see your principal officer or call the EVH office.
www.evh.org.uk

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Useful websites

ACAS

www.acas.org.uk

Health & Safety Executive

www.hse.gov.uk

Department for Business Enterprise & Regulatory Reform

www.berr.gov.uk

EVH

www.evh.org.uk

(Note that Download Zone is a “members only” area)

1. RECRUITMENT & SELECTION

Recruitment is about appointing staff to vacancies, whereas **selection** is more to do with the way in which you identify the most suitable person for a particular job. Businesses work best when they have the right people in the right jobs – this is far more important than forever agonising over staff structures. Roles change all the time and having the right people on board offers a better chance for the organisation to keep up to date with the ever changing demands placed upon it. Just because roles change it doesn't mean that you will always have to recruit externally to the new jobs. Having versatile people in your team means you will often be able to develop them into the new positions.

Bigger organisations use “competency frameworks” to define the range of skills, experience and attributes people need at all levels of the business. This can help staff and the organisation work out the best arrangements for training and development. But before such a framework can be developed the organisation needs to be completely confident of what it is trying to achieve overall.

One top tip is not to simply launch into a like for like recruitment each time somebody leaves. It's better to take a view on the gap that the leaver has created and what role needs to now be filled – as often this may have moved on from the original post the employee held. The best way of defining what you need in the new post is to draw up a **Job Description** and **Person Specification** and then use these to drive all your recruitment and selection process thereafter. These two documents remain the most frequently used methods of unequivocally defining the role and the type of person who can adequately fill it.

Once you have these two documents ready think about tests and other analyses (including a straightforward interview) which best evidences the candidates' ability to fill the role. Using the Job Description and Person Specification ensures posts are filled in line with organisational requirements and also reduces the likelihood of claims of unfairness.



If you can, it's always a good idea to offer prior training to anyone who makes recruitment decisions.

The following checklist might be useful for those involved:

Review the Vacancy

- Does it have to be filled?
- What if it isn't?
- Can the work be redistributed?
- How is the work currently being done?
- How does it interact with other work being carried out within the organisation?
- Speak to outgoing post holder, peers, colleagues and customers to get a better idea of the expected job output

Job Description

- Tells candidates what the job involves and the objectives of the post
- The areas of responsibility and who the post holder reports to and, is responsible for
- The expected standards of performance

Person Specification

- Aims to describe the ideal person to fill the vacant job
- Is a profile of the personal skills, aptitude, experience/knowledge and standards the selection panel will look for
- Expresses criteria clearly so that panel members and applicants have the same understanding of what these are and what type of person is therefore being sought
- Does not set unnecessarily high standards just for the sake of it

Inviting Applications

- An information package will help, but don't overburden applicants with too much detail
- Application forms allow each candidate the same opportunity to show how they match the requirements of the post
- Advertise as widely as is sensible and set out the expected timetable for short listing

and any subsequent tests/interviews (this helps candidates better plan their own availability). Some advertisements may also aim to positively encourage under represented groups to apply for vacancies.

Short listing

- Should not be carried out by one person alone, better that the selection panel collectively carries this out as part of its remit
- Should always be carried out only against the Person Specification criteria
- In cases where there remain a huge number of applicants who meet the requirements, selection panels need not “see” everyone, but should be clear as to the rationale behind the process adopted for culling the numbers (e.g. by drawing lots etc). Be sure that methods employed can be proven not to discriminate against a particular group

References

- Debate rages over the place of written references and when these should be obtained – our view is only seek references for the person you select for appointment
- The organisation should not give verbal references for any of its staff – nor place undue value on verbal references it receives

Interviewing

- Preparation is key to success and this will involve sufficient training for those new to it
- Consider any testing techniques that may need to accompany the interview
- Maintain legible and retrievable notes to show your reason/summary to justify any appointment decision made

Monitor

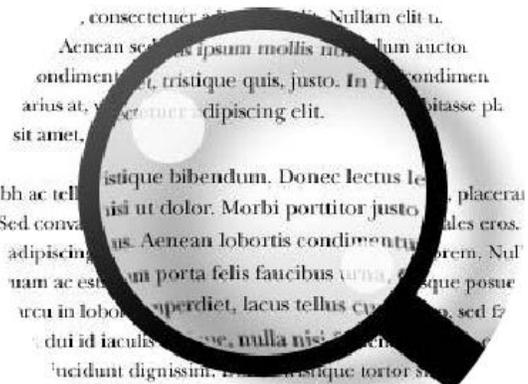
- The effectiveness of your procedures
- Media used and results delivered
- Equal Opportunities – maintain records of applications received, shortlisted, interviewed from candidates of varying backgrounds

- ... and review systems in areas where difficulties have arisen

Once you have your new staff member on board it's a good idea to arrange some form of **formal induction**. Initially you will want to cover basics including health & safety rules, pay arrangements and other employee facilities. All of this can be done on day one. Longer-term you would want the new employee to be clear on the rules, culture and aspirations of the business and how their job fits into all of this along with the standard of performance that will be expected. Most induction programmes run quite intensively over the first week or two then ease off as the employee gets to grips with the job. Where you can though it's a good idea to revisit the induction plans after a month or two and see if there are any particular areas of difficulty.

Where you have the resources available it is always a good idea to have a formal **Recruitment and Selection Policy** in place. This does not have to be overly cumbersome and can be reflective of the size and available resources of your organisation. Where you don't have such a policy, make sure you keep all records and notes that accompanied your process for filling the job for at least one year. This means that in the event of any complaint you will have some form of paperwork to rely on as a form of defence in validating your position.

There is nothing wrong in adapting a recruitment policy from one you have seen used in a business of similar size and using this as your own. Just make sure you can live to the standards you are setting out. The important point is not how nice the policy looks – but how well you adhere to it!



2. EQUALITY & DIVERSITY

Can be a complicated subject – but doesn't have to be. **Discrimination** is most easily defined as treating a person less favourably because they belong to a particular group. The most common areas where people complain tend to be in recruitment decisions but you would want to be clear that you will treat all people fairly when making any employment decisions – such as promotion, access to training, performance appraisal, discipline and so on.

You should not treat anyone differently under any circumstances on grounds of race, sex, age, disability, pregnancy and maternity, religion or belief, marriage or civil partnership, sexual orientation, or gender re-assignment. You should not treat anyone working part-time differently unless you can objectively justify doing so.

As always, a good employer would want to have a policy for its managers to follow and staff to be aware of. Again there are boundless examples from elsewhere than can be used as a starting point.

But, returning to the need for policies to do more than sit on shelves, **demonstrating a commitment to good equalities practice** in employment might include the following and more:

- Are your terms of employment free from any potential discriminatory items?
- Do you make it clear that discrimination and harassment will be dealt with severely?
- Do you offer equal access to training to all of your employees?

If you cannot demonstrate this sort of standard across all your employment activities then you could be open to difficulty from anyone (rightly or wrongly) aggrieved at how they feel you have treated them.

3. CONTRACT AND SALARY ADMINISTRATION

So you've got yourself some staff – and are comfortable that the appointments have been handled fairly. What about the contracts of employment and salaries?

The agreement between the employee and the employer is usually referred to as the "contract of employment" in which the employee agrees to work or be available for work in return for benefits provided by the employer. Not all of the terms will be set down in writing as there will be a number of **implied** (taken for granted) terms – such as the employee working diligently and faithfully, and the employer trusting the employee and looking after their safety. The **express** terms are those which are particular to this job/this employer – such as salary, hours and benefits. As such these are often covered in a brief **written statement of particulars**.

An employer must issue this to employees within two months of their starting work. Usually this takes the form of a brief letter and has to cover the following points:

- Names of employer and employee
- Date the employment began
- Date when continuous employment began – taking account of any relevant previous service
- Remuneration or the method by which it is calculated
- Intervals at which the pay/remuneration will be paid
- Hours of work
- Holiday entitlement, public holiday entitlement and holiday pay arrangements
- Absence provisions and any sick pay provisions that apply (it is acceptable to refer to other documents for the detail of these arrangements)
- Details of any pension and pension scheme arrangements which apply (again it is acceptable to refer to other documents for the detail of these arrangements)



- Notice which the employee is required to give and to receive to terminate the contract of employment
- Where the contract is not permanent, the period for which it is expected to last (if a fixed-term contract the date or event when it is to end must be shown)
- Place(s) of work and the employer's address
- Details of any collective agreements which affect the terms and conditions of employment, including where the employer is not a party, the persons by whom the collective agreements were made
- Details of any work that will be required outwith the UK, the currency of remuneration for such work and how this will be calculated along with any additional benefits that will fall due for such work
- Disciplinary rules that apply and the person to whom the employee can complain if s/he is dissatisfied with any disciplinary decision, or otherwise wishes to raise any grievance

There is a whole raft of difficulties that can come up when "temporary" contracts are involved. This guide doesn't have space to cover them but it is always a good idea to check and take detailed advice before offering any form of temporary contract.

Salary administration is not so much about running a payroll each month, but has more to do with how pay and conditions are determined on an ongoing basis. Employers shouldn't be unilaterally changing people's conditions and therefore the organisation and its staff need to know how salaries and terms of employment are agreed. Some businesses will have formal collective bargaining measures in place to arrange this. Others may have some form of link to external salary rates paid by bigger external systems, and others still may have no arrangements at all and just use rule of thumb measures to increase salaries every now and then.

The latter is a recipe for disaster – especially when thinking about **Conditions of Service**. The law on, for example, maternity rights changes frequently and the employer would want as a

minimum a system which keeps pace with developments and has a framework setting out how changes to salaries and terms are determined.

What system do you have?

4. WORKING TIME

Can be another complicated piece of work, but in short an employer has a duty not to have staff work long hours against their will. You also need to provide decent rest breaks during the working day and to ensure a minimum of 28 days paid holiday are offered each year. Free health checks should also be available to night workers. This whole area is subject to frequent tweaking from both National and EU Governments.

There's also particular standards to ensure you don't treat your part-time staff any less favourably in terms of pay, promotion, holidays and most other employment benefits - unless the organisation can objectively justify the different treatment. Our advice is to be very careful here – substantiating the reason for treating a part-time employee differently as it's quite hard to validate and can only apply very rarely indeed.

The EVH website has **Information Notes** that always reflect the up to date position and explain pragmatically how all of this operates.

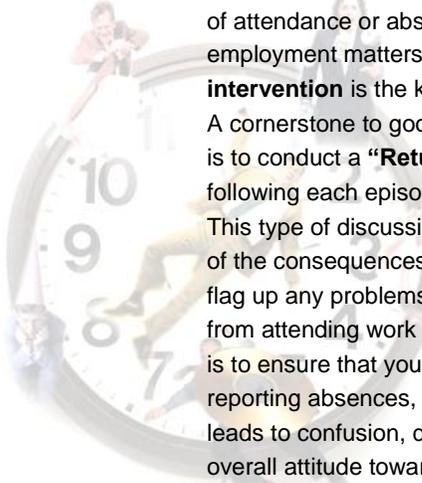
5. MANAGING ATTENDANCE

Managing attendance is a key role for any manager and it's particularly important in the small organisation where one person's absence can have a huge impact upon the business activity. The whole approach is two fold: concern for the employee's wellbeing; and the need for your organisation to fulfil its purposes and do its business.

As always a **policy** is a good start. It should be all about encouraging good attendance but will also set out clear arrangements for dealing with the not so good. Your policy will want to

differentiate between dealing with short and long term absences (related to an established medical condition).

Whether or not you have a written policy, keep good records of attendance – otherwise you will not have a clue as to what type of problem you are looking at – or how best to deal with it. You need to keep this type of record anyway to satisfy **Statutory Sick Pay** requirements, and also if you have a company sick pay scheme on top.



Act quickly when you see any concerning pattern of attendance or absence arising. As in many employment matters **early, moderate intervention** is the key to a successful outcome. A cornerstone to good attendance management is to conduct a “**Return to Work Interview**” following each episode of unplanned absence. This type of discussion makes employees aware of the consequences of absence and also helps flag up any problems that are preventing them from attending work regularly. A similar helpful tip is to ensure that you have a firm arrangement for reporting absences, as leaving this too casual leads to confusion, dispute and laxity in the overall attitude towards attendance.

And if someone is off ill you must make sure there are arrangements to keep in touch. The onus is usually on the employee to do so but where this is not happening managers should initiate contact and deal with any breaches of the notification arrangements swiftly.

Please don't think you are being a “good” employer by leaving someone at home for weeks and months without doing anything about this. This is in no-one's interests.



In serious cases you may have to discipline or ultimately dismiss where all other efforts to sponsor acceptable attendance have failed. This is a very serious step and you should be sure you

have had proper advice throughout before letting someone go for this reason.

6. MATERNITY AND OTHER FAMILY FRIENDLY MATTERS

Pregnant women are entitled to 52 weeks off. There is also Statutory Maternity Pay available to those women who satisfy a fairly simple service condition. There is also the **right to return to work** following their leave – either to the exact same job or to a similar type of post dependant on the length of maternity leave taken. Some organisations have a local scheme to enhance the basic statutory pay provisions. Generally speaking all contractual benefits are maintained during the period of leave (except pay). There are fairly strict rules on both employee and employer in terms of **notification** of pregnancy and confirming return to work dates, and if these are not adhered to disputes and difficulties can easily come up and bite you.

Pretty much the same arrangements apply to **Adoption Leave** and pay and this can be available to men or women.

Paternity leave is less generous and the statutory arrangements provide for up to 2 weeks leave and Statutory Paternity Pay (again a small service condition applies). Some bigger employers will have a company scheme that tops up pay but this is very unusual in the smaller organisations. Staff who qualify for Paternity Leave will also qualify for Additional paternity Leave. This is a fairly complicated state benefit and is calculated taking into account the amount of Statutory Maternity or Statutory Adoption Pay the employee's partner may have taken.

Parental Leave is different again and allows parents of children up to 17 (or children of up to 18 with a disability) to take blocks of unpaid leave. It is most uncommon for firms to offer any paid leave for this purpose. As always there are a few statutory requirements to follow concerning notification of leave and the amount that can be taken in any one block/any given year.

For those having responsibility for young children, children with disabilities or with care responsibilities for others there is a **right to request flexible working**. You don't have to agree to this type of request but you are required to consider it. There is a process for doing this and the EVH website has all the standard letters and guidance you need.

7. OTHER SPECIAL LEAVE

Most employers also provide some options to deal with requests for other leave. The sort of things typically covered would be for bereavement, domestic emergencies, jury duty and service on public bodies, attendance at medical appointments and time to deal with family emergencies. In the great majority of such instances employers will **offer unpaid leave** only, with perhaps the exception of bereavements, medical appointments and Jury Service (minus the loss of earnings allowance the employee can claim from the Court). There is no obligation on the employer to pay for such time off but many do as a measure of good employee relations.

8. TRAINING AND DEVELOPMENT

Staff are your biggest expense – but also your best resource, so train them and make sure they have the skills and attributes needed to help the organisation achieve its overall objectives. Help staff ensure that choices/requests made for their personal development are along lines that support the business objectives and organisational performance.

In big concerns there might be a highly sophisticated scheme which links any training policy back to organisational needs and targets and then in turn links these into personal objectives and finally to personal development or training plans.

In smaller organisations this will be less formally handled but may follow the same thought

process. Don't worry if your paperwork is not beautiful – so long as you link training both to personal development and achievement of company objectives you will be on the right lines. Focusing training solely on only one of these two strands doesn't usually produce much benefit – except for obvious specific pieces of training (i.e. how to work the new photocopier – this doesn't bring much personal development but the company needs to ensure staff can work it nevertheless!)

A **training plan** is a good thing when you have resources to produce one – again it need not be an exemplar, just so long as it gives a focus for managers and staff to follow.

Above all evaluate training delivered. It can be costly and can take your people off their jobs for a while, so make sure you are getting something back. At the top level you could think of the evaluation process in four broad chunks:

- Defining the objectives that relate to business needs
- Creating, validating and pursuing the correct learning process(es)
- Assessing performance of participants both pre and post training
- Defining and measuring any lasting benefits for the organisation

In the small organisations much of this can be done by way of a conversation with those returning from training rather than deep paper analyses. And if you discover something that has been really good – have the attendee roll this out to colleagues. And be aware that training and development can come in loads of ways – other than formal paid for courses!

9. PERFORMANCE APPRAISAL

Much of the work on induction and with ongoing training and development will lead up to a form of performance appraisal, which in turn will set down **objectives for the future** and realistic training and support that can be provided to help the employee achieve these. It's all pretty much of an ongoing cycle and isn't really about one big



annual "appraisal". This ongoing method usually works well in the smaller organisations, but the mistake often made is that it becomes just a bit too casual with no clear understanding of what has been agreed, and a failure to record what is being aimed for.

At the other end of the scale there are hugely demanding paper driven systems which can **totally miss the point too**. In our view the essence of the appraisal system is the conversation(s) that take place between manager and worker where difficult areas concerning work, targets and development can be discussed maturely. So some structure to the process can be a big help – but too much can turn the system into an impersonal tick box affair.

We strongly recommend that you keep appraisal completely separate from any pay/reward schemes. Appraisal is all about development for the organisation and the individual whereas pay/reward is about money. Other than obvious sales environments these two often don't mix well and can lead to staff focusing simply on those aspects most likely to produce a pay rise, rather than also aiming to be all they can be to better help the business achieve its wider objectives. There are loads of types of schemes – and many feign more to the vanity of the creator than to providing an easy, helpful tool for staff and managers to use. So remember, any system you have should be understandable and easy to participate in. It should also include the opportunity for the employee to offer a self-appraisal. Beware too that enthusiastic staff and managers **over promise** in terms of what can be delivered and the level of training/support on offer. All targets should be **realistic** and staff should be able to see that training and support promised is **actually provided**. Where this is not the case the scheme will fall into disrepute.

10. HEALTH & SAFETY

Required health and safety arrangements and procedures are extensive and to examine best practice in all areas would be well outwith the scope of this brief guide. In essence though

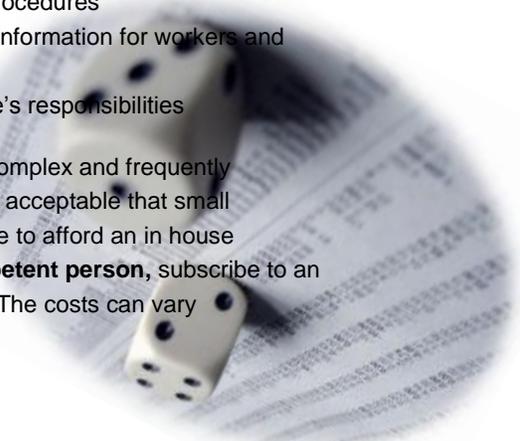


remember that health and safety at work is concerned with the promotion of high standards and is not simply covering against the variety of legal proceedings that can be raised against employers who flout the law. You are required to be responsible for the health and safety of your workers and also ensure that **adequate control** is in place (and is exercised) in relation to contractors and others. Staff are required under legislation **to take care for their own safety** and the safety of others at work. They must co-operate with you to ensure compliance of the duty imposed upon the employer.

Every business must have a policy covering its health and safety obligations. Typically this will set out the organisation's commitment to honouring its legal duties and will show how responsibilities for health and safety have been assigned and how these will be fulfilled at all levels of the organisation. Governing Body members should be aware that they can personally be taken to task legally – criminal and civil offences apply - if the organisation is seen to have taken a lax approach.

There is also a vast array of Regulation covering how employers should approach this duty. One key set is the **Management of Health and Safety at Work Regulations** which set out the approach that is to be taken by employers in managing safety in the workplace. The main features include:

- The concept and prominence of Risk Assessment in all areas of work activity
- Ensuring there is a plan to implement preventive measures identified
- Availability of a competent person to assist in applying the law
- Emergency procedures
- The need for information for workers and visitors
- The employee's responsibilities



As this is a fairly complex and frequently changing area it is acceptable that small businesses, unable to afford an in house specialist or **competent person**, subscribe to an external provider. The costs can vary

enormously. If you have nothing in place, you could take a look at the **Guide for Small Employers** on the Health & Safety Executive's website. This gives guidance as to the basics of what you need to do relative to the type of business you operate/number of staff employed. But bear in mind always that health and safety requirements applies to all employers - there is no get out clause available if you only have 2 or 3 staff (especially if you are in receipt of public money).

11. DISCIPLINE AND GRIEVANCE

Your disciplinary procedure is there to help **ensure rules and standards are observed, and that acceptable levels of performance and conduct are maintained.** The aim is to use your procedure to intervene early, apply corrective action if required and thus minimise the need for dismissals.

Model disciplinary procedures would be expected to:

- Be in writing and specify to whom they apply
- Provide for matters to be dealt with quickly
- Indicate the disciplinary actions which may be taken
- Specify the levels of management that have the authority to take the various forms of disciplinary action, ensuring that immediate superiors cannot normally dismiss
- Be non discriminatory
- Provide for individuals to be informed of the complaints against them and to be given an opportunity to state their case before decisions are reached
- Ensure individuals are fully aware of their right to be accompanied at any formal disciplinary interviews/meetings
- Ensure that, except for gross misconduct, employees are not dismissed for first offence
- Ensure that disciplinary action is not taken until the case has been carefully investigated
- Ensure that individuals are given an explanation for any penalty imposed
- Provide a right of appeal and specify the procedure to be followed

Remember that in the majority of cases the intention is to encourage an unsatisfactory employee to improve. So don't sit on concerns and allow them to deepen. **Intervene early** and deal with the matter as soon as the facts are to hand. Keep calm, objective and fair throughout.

Wherever possible try and separate the responsibilities – i.e. the person who takes the **disciplinary decision** should not normally also hear any appeal. If you don't have the resources to achieve this it is all the more important that you keep an open mind when adjudicating matters.

Grievances are best settled promptly and as near as possible to the point of origin. Again early intervention and tackling employee's concerns is the best way to stop disputes burgeoning. Any grievance procedures you put in place should include the following:

- Hold an early grievance hearing
- Obtain a full report from the manager
- Carry out any investigation necessary
- Ensure employee has sufficient notice of hearing, and can bring a colleague or representative
- Hold the meeting in private
- Allow person to speak without interruptions
- Take notes; keep cool; ensure you fully understand the situation
- Are there any other people involved; are there any precedents?
- Be aware of and control your prejudices
- Where necessary, ensure that discriminatory practices cease – e.g. Harassment Policy
- If you have a policy/strategy and it has been ignored, consider disciplinary action.

We hear a lot about **bullying and harassment** these days and some organisations have a particular process for dealing with this type of employee complaint. Often these are referred to as "**Dignity at Work**" policies and offer a route for staff to raise any matters concerning general equality and harassment/bullying issues such as those based on race, sex, age and so on.

EVH has model policies, standard letters and more on all of the above. There is also abundant outline information available on the ACAS website www.acas.co.uk

A different type of complaint altogether is “**Whistleblowing**”. This is not where an employee feels that they have been treated badly, but is more about a concern over the probity of the way the organisation operates generally, or has dealt with a particular issue. The concept is that people may raise concerns over organisational misconduct, illegal or underhand practices without fear of reprisal – so long as the concern was genuinely raised and not simply malicious.

EVH has model policies and guidance on this matter. Where you are not able to access this type of help, you will need to do your best to ensure staff are aware of how to raise such concerns; are guaranteed confidentiality wherever possible; have some idea of the types of matters that are covered; and are aware of the potential consequences of malicious actions. Small organisations sometimes use their solicitor as the “external” confidential reporting option, others may have Regulatory Bodies which will accept such issues and offer advice to those who raise them.

12. LEAVERS

The final thing that happens with one of your employees is that they leave! Depending on the circumstances you might have a variety of arrangements to attend to.

It used to be that **age retirements** were nice and simple as someone reached retirement age the employment simply came to an end. Now though employee may work on till whatever age they wish. The employer thus needs to continue to manage attendance, conduct and performance in the normal way.

One of your people may become too ill to continue to work and some form of **ill health retirement** might come up. Remember though

that this still counts as a technical dismissal and there will be a process of meetings and formal letters you will need to go through. Some organisations may have a company pension scheme which provides for this type of situation. But just be careful as there may be rules that require the employer to **capitalise the cost** of an early pension payment. This can be a very expensive prospect. If you, rather than your employee, initiates action on dismissal through medical capability then you will need to try and ensure that you have appropriate medical information that supports any decision to dismiss.

Redundancies can occur when all or part of your organisation is closing, or where mergers or other reviews show that you no longer need so many jobs/hours of a particular kind. They can also arise when you have funding difficulties in one or more parts or all of your organisation’s activity. There’s quite a lot of legal bits that surround redundancy - covering the need to consult with employees, arrangements for selection for redundancy, appeals against selection, alternative job trials and redundancy payments. We have models for all of these matters but again if you can’t access these the ACAS website might give you some pointers. **Redundancy issues are exceptionally tricky** and we advise that you do not launch into these matters unless you either you know what you are doing – or have a form of external specialist to help you. And a final point on this issue, there is a fairly **widespread, but mistaken, belief** that posts lost through the withdrawal of grant or other non commercial support means that the organisation concerned does not have to follow recognised redundancy processes. This is absolutely not the case, as the law makes no such “special case” provision. And so the employer concerned has to absolutely adhere to legislative standards concerning consultation arrangements, dismissal processes and, where applicable, redundancy payments.

Hopefully rare, but you may have to dismiss an employee. If the person concerned has at least a full year’s service then they will have an automatic right to appeal to an **Employment Tribunal** – on top of any internal appeal system

you might have. If you are dismissing someone then the reason has to fall into one of the following broad categories:

- Capability – where the employee is not capable of carrying out the work s/he is employed to do (can relate to either medical capability or to lack of performance)
- Conduct – the employee’s conduct is below that expected within the disciplinary procedure
- Redundancy
- Statutory restriction – where to continue in post would automatically contravene an existing statute (e.g. driver who has lost licence for drink driving)
- Some other substantial reason – a difficult one to be certain of, but for example might include major breaches of trust such as telling lies on application forms

If you are dismissing someone be sure that the reason for dismissal falls under one of the above and that the process by which you reached the decision to dismiss was also fair.

All or part of your organisation may be subject to a Transfer of Engagements (TUPE) and at that point some or all of your people may leave you through being transferred to the other employer involved. If you think redundancy is complicated **you ain’t seen nothing yet**. So never approach a TUPE issue without full support and advice on hand. How to deal with a TUPE situation is not something you can pick up from trawling internet sites either!

Sometimes you might just get to the stage where you and one of your employees simply agree to part company, as maybe things are just not working out and there is neither tangible reason nor solution to it. In this type of circumstance you could consider using a **“Compromise Agreement”** route, where the employee agrees to waive their potential rights to raise matters at an Employment Tribunal, in return for receiving some benefit from you – perhaps a small payment, a reference or other. These are delicate situations to manage and again you would likely need some support through the process. EVH negotiates and writes such agreements for free,

but if you can’t access this help you would probably use the organisation’s lawyer instead.

Regardless of the way someone leaves you, try and have an **“Exit Interview”**. This is a very good way for you to better understand the reasons why people leave your organisation and whether you need to do anything to improve staff retention rates.

So finally.....

.....that’s about it. We could have made this guide 300 or 400 pages long and still not have covered everything in detail. But would you have read it?

Don’t read every employment book that has ever been written – at least half would be out of date by the time you finished. It’s a fast changing area of work and small organisations can’t be expected to know it all and offer the best possible practice in every area. And this is really why we have kept the Guide nice and short. The main areas are covered – focus on these first and only move on when you have them under control.



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November 2011