



The Small Business guide to HR



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...by downloading this, your free copy of the **Small Business Guide to HR**.

You're reading the result of a collaboration between HR outsourcing specialists Peninsula and SmallBusiness.co.uk, the useful online hub for small businesses and start-ups.

So why was downloading this guide such a good idea?

Because you now have a brief-yet-thorough overview of the biggest issues that matter to you, written by experts who understand you, explaining exactly what you need to do. So we begin, as we always should, at the very start: explaining recruitment and staff contracts.

Then, we take a tour through the massive looming law changes that affect almost every small business in the UK—but few employers even know about it yet—the Good Work Plan. You get the lowdown on the latest maternity, paternity and parental news, before we deal with the most common HR headache: staff absence.

And finally, it's the part of the job that no one enjoys but everyone has to go through at some point: managing badly behaved or poor performing staff and the dismissal process.

So, to be ready for any HR surprise the business world throws your way, keep the advice in this guide within easy reach.

Turn the page and let's get started.

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Recruitment and employment contracts

When it comes to recruitment, employment law comes into force from the moment you publish a job advert. You must give an accurate description of the post and responsibilities, plus ensure the ad doesn't discriminate against any groups. Wording is therefore very important.

These rules also apply during the interview process, which should be rigorous enough to ensure you get the right person for the job, but not so much that people feel offended or discriminated against. Bad interviews can impact your brand and reputation.

Having offered someone the job, the next step is to draw up a contract of employment. This document is the foundation of the employee-employer agreement. It is legally binding and must include three elements: an offer, an acceptance and consideration.

The contract doesn't have to be written down, but it's much better to draw up a document and have it signed and witnessed. The law requires you to provide each employee who has worked for you for a month with a Statement of Main Terms.

A good statement should cover a number of elements, including commencement date, job title, probationary period, hours, remuneration, grievance and disciplinary procedures, as well as additional policies and procedures unique to your business.

Having a contract is important for two main reasons. First, when your employee wants to discuss terms of their job, their duties, terms and agreements. Keep your contracts clear and simple to reduce the likelihood of a disagreement here.

Second, if a dispute arises over an agreement. For example, an increase in work or responsibilities in return for more money. If the three elements exist (an offer, acceptance and consideration) then the agreement is binding. Failing to deliver the additional money opens you up to a breach of contract.





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The Good Work Plan: what does it mean for your business?

You may feel confident about the procedure for recruiting and managing a full-time employee, but what if you have a diverse workforce including contractors, apprentices and part-timers? The law varies in each case but, to make things trickier, it's changing.

In April 2020, new rules are being introduced which beef up your responsibilities and narrow the gaps between different groups of people who contribute work to your business. Review your contracts now to ensure you remain legally compliant.

Employees

- Before April, employees are not entitled to a statement of main terms until they have been employed for one month. This requirement will be removed under the new rules.
- Employers have up to two months to provide a new statement of terms. From April, you must give the statement no later than the time they start working for you.
- You will have to provide new pieces of information under the new rules, including whether hours of work vary, all types of paid leave and all pay and benefits given.

'Casual' workers

- From April, for the first time ever, casual workers and people on zero-hours contracts will be entitled to a statement of main terms.

Contractors and self-employed

- The recent case study of Uber and its 'gig economy' contractors shows how quickly employment status can change. In this case, contractors were legally judged workers and Uber was forced to change its policies.
- Spending time reviewing your working relationship with self-employed contractors to ensure you are on the right side of the law.

Holiday pay

From April, holiday pay must be calculated as an average of 52 weeks, instead of the current 12-week period. This could mean higher holiday pay for some workers.

Employment status

The government will review the way in which employment status is determined. Following on from the Uber test case, it's possible more contractors will gain employee status.

Stable contracts

Workers on 'unstable' or 'unpredictable' contracts, such as variable or zero hours agreements will have the right to request more stable contracts after 26 weeks. You will be able to refuse but must justify your decision.

Agency workers

The Swedish Derogation contract, which allows employers to pay agency staff less than direct recruits after 12 weeks, will be abolished, closing an unequal pay loophole. Organisations won't be able to get agency staff cheaper than other workers.

In addition, agencies will have to provide workers with more information about their terms of employment.

Maternity, paternity and parental leave

The law covering parental rights is increasingly complicated, including maternity, paternity, adoption, shared parenting and parental leave. Here's how it works.

Ante-natal appointments

A pregnant employee is entitled to paid time-off during normal working hours for antenatal care. The father, husband or civil partner can take unpaid leave for two antenatal appointments, up to a maximum of 6.5 hours each.

Maternity and paternity leave

Pregnant employees can take up to 52 weeks' maternity leave. This is broken down into Compulsory Leave, a two-week period from the date of birth; Ordinary Maternity Leave, lasting a maximum of 26 weeks; and Additional Maternity Leave, an additional 26 weeks with all employment terms guaranteed apart from pay. Leave can begin up to 11 weeks before the employee's due date.

Fathers can take a single period of two weeks' paternity leave, starting when the baby is born, provided they have worked at the business for 26 weeks or more. Leave must be taken in one chunk of time and must commence within 56 days of birth. This right also applies to non-paternal husbands and partners.

Adoption

Employees can take paid time off to attend adoption appointments. The 'main adopter' can take five appointments and the secondary adopter two appointments of up to 6.5 hours per session.

Adoption leave is similar to maternity leave with the exception that the earliest date leave can begin is two weeks' ahead of the expected placement of the child.

Parental leave and time off for dependants

Parents are entitled to take up to 18 weeks unpaid leave before their child's 18th birthday. In addition, employees can take time off work to deal with emergencies involving a dependant, such as a child, spouse, civil partner or parent.

Shared parental leave

Shared Parental Leave allows eligible employees to share leave between themselves. They must have worked continuously for 26 weeks by the end of the 15th week before the expected birthdate and have a partner who has worked a minimum of 26 weeks, earning on average at least £30 a week in any 13 weeks.

The mother must take the compulsory maternity leave period, while the father can also take two weeks leave before starting shared parental leave. The remaining leave can then be shared between the mother and her partner.



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Reducing absenteeism

While it's impossible to stop your employees becoming ill and taking time off work to recover, absences can be reduced with clear policies and procedures.

Contracts

A good place to start is your contractual terms with employees. These should cover justifiable reasons for absence, terms for sick pay and the parameters for when formal action is necessary (including termination of the employment contract).

Sickness absence records

Record instances of sick leave in a clear, user-friendly format. The dates, period of leave taken and reason for absence should be quick and easy to absorb. This will help you identify when absence patterns have reached a point where further investigation is required.

Procedures

If attendance becomes an issue, the first step is to set up a personal interview with them to discuss their absences. This is not a disciplinary procedure, but you could offer them the chance to be accompanied during the meeting.

Explain why the rate of absence has triggered the meeting and that you want to examine the causes. It could be a problem with the role, so investigate ways you can prevent or reduce the cause of absence in future.

Unacceptable absence

If absence can't be justified by the employee, you should notify them of a disciplinary hearing at a time and date to be notified. Then end the meeting. Conduct the disciplinary meeting according to their contract terms and the ACAS Code of Practice.

At the hearing, if the explanation for absence is unacceptable, then issue the appropriate level of warning. If the reasons are legitimate, work with the employee to make any adjustments that could help them in future.

Consider the role itself, hours, flexible working and location to ease the work's impact on their health.



Managing employee conduct and dismissals

Employees must understand your expectations for their behaviour. Failure to do so could impact the functioning of your business and its reputation. Improper conduct is a fair reason for dismissal, but doing so unfairly could expose you to a wrongful dismissal case.

It's vital to create a clear and balanced disciplinary procedure – and to follow this closely before making a final decision to dismiss an employee. Read the Acas Code of Practice on Disciplinary and Grievance Procedures. Employers who fail to follow the code are vulnerable to a costly employment tribunal claim.

It's a good idea to create an employee handbook, to be given to new recruits, outlining conduct expectations. You can also discuss these terms as part of an induction process and outline the consequences for misconduct.

Lastly, draw up a company disciplinary policy outlining the steps you will take if a complaint arises or if misconduct is reported.

Minor conduct breaches

Minor misconduct relates to low-level unsatisfactory performance, such as poor completion of tasks, timekeeping or poor standards of dress. The best way to approach this is usually an informal conversation highlighting the problem. At this stage you can explain a formal process will begin if they do not address the points you raise.

Serious misconduct

This includes failure to carry out reasonable instructions, neglect of duty or misuse of company property. It would normally trigger a formal disciplinary procedure.

Gross misconduct

This is reserved for the most severe cases of misconduct, such as theft, unlawful discriminatory behaviour, drug use at work or sharing confidential company information with competitors.

Gross misconduct can result in dismissal for a first offence, but proper disciplinary procedures should be followed.

Disciplinary procedure

You are required to conduct a fair and thorough investigation into misconduct before acting. A trained management representative should conduct the investigation, gathering evidence and conducting fact-finding interviews with a witness. In serious cases, you may suspend the employee if you feel their presence would jeopardise the investigation.

Disciplinary hearing

Once the evidence is collected you should arrange a disciplinary hearing, giving yourself and the employee time to prepare. They have a right to be accompanied by a fellow worker or a trade union representative. At the meeting you should go through the allegations and allow for a response after each point.

They should also be able to set out their case, present mitigating evidence that supports them and ask questions. If you deem action is appropriate, the employee has a right to appeal the decision. The appeal should be heard at a separate meeting, after which you must confirm or retract your decision.

Typical sanctions include a verbal or written warning, a final warning or immediate dismissal. You could also choose to suspend or demote the employee, if this action is allowed for in their contract.



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