



HR Function in an SME

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HR Compass

Terms and Conditions of Employment

- The Terms of Employment (Information) Act, 1994-2001 lays down the information which must be provided in a written statement of employment (the contract)
- All employees who started work with you after 16th May 1994 are entitled to a contract within 2 months of commencement
- Employees who commenced work prior to this date should be provided with a contract within 2 months of making a request
- Adhering to your policy handbooks should be an expressed clause within the contract

Terms and Conditions of Employment

- The legislation lays down the minimum notice requirements based on length of service:
 - 13 weeks to 2 years service 1 week
 - 2 years to 5 years service 2 weeks
 - 5 years to 10 years service 4 weeks
 - 10 years to 15 years service 6 weeks
 - 15 years or more service 8 weeks
- Amendments to contract must be communicated in writing within 1 month (with exception of statutory duty or collective agreement changes)
- Employer can't amend the fundamental terms or conditions without agreement from the employee

Terms and Conditions of Employment

- Fixed Term Contracts are governed by the Protection of Employees (Fixed-Term Work) Act, 2003
- Entitlement to equal terms and conditions of employment
- On or prior to renewal , the employer must inform the employee in writing of the objective grounds for renewing and not offering a permanent contract
- If there are no objective grounds or the employer fails to meet the requirements of the Act, the employee may be entitled to a permanent post
- There is a limit placed on the number of successive contracts that can be offered

Organisation of Working Time

- The Organisation of Working Time Act, 1997 requires employers to manage and record the hours of work and the rest breaks of each employee in line with the provisions of the Act
- Employers must show that employees do not work more than 48 hours per week, averaged over 4 month reference period
- Employees are entitled to 11 hours of consecutive rest in each 24-hour period

Organisation of Working Time

- Employees who work more than 4.5 hours are required to have a rest break of 15 minutes and those who work for 6 hours or more are entitled to 30 minutes
- This does not have to be paid and is not counted as working time
- Employers are required to hold records showing they are compliant with the Act for 3 years

Organisation of Working Time

- Annual Leave
 - Employees entitled to a minimum of 4 working weeks if they work in excess of 1.365 hours p.a.
 - Pro-rata entitlement for less hours
 - Employer decides the timing of annual leave, but must give 1 month's notice
 - Employer responsible for ensuring leave is taken and can't pay in lieu of statutory

Organisation of Working Time

- Public Holidays
 - Currently 9 public holidays
 - All full-time employees qualify for the benefit
 - Part-time employees who have worked at least 40 hours in the 5 weeks preceding the public holiday qualify for the benefit
 - If it falls on their normal working day, they get the benefit of the hours normally worked
 - If it falls on a day for which they would not be rostered, the benefit is one fifth of their weekly hours

Other Leave Entitlements

- Maternity Leave
- Adoptive Leave
- Parental Leave
- Carer's Leave
- Force Majeure Leave

Dignity at Work

- Employment Equality Act, 1998- 2010 prohibits discrimination on any of the 9 grounds laid out in the Act
- Dignity at Work policy covers harassment, sexual harassment and bullying
- Harassment and Sexual Harassment come under the Employment Equality Act, 1998-2010
- Bullying comes under Safety, Health and Welfare at Work Act 2005

Dignity at Work

- Harassment is defined as:

Any form of unwanted conduct related to any of the discriminatory grounds, being conduct which has the purpose or effect of violating a persons dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person

Dignity at Work

- Bullying is defined under the 2007 HSA Code of Practice as:

Repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment which could reasonably be regarded as undermining the individual's right to dignity at work

Dignity at Work

- Vicarious Liability of the Employer
- Need to treat all complaints seriously and take action
- Work-related social events come under the policy remit
- Employees will not be victimised for making a complaint
- Malicious complaints may be subject to disciplinary action

Dignity at Work

- Resolution Mechanisms
 - Informal Approach
 - Mediation
 - Formal Approach
- All parties have the right to representation
- Important to emphasise confidentiality
- Clear separation between an investigation and any subsequent disciplinary action (can't be judge and jury)

Discipline and Grievance

- Grievance procedure comes under the Code of Practice on Grievance and Discipline, 2000
- Provides the employee with an opportunity to raise concerns/issues and provides for two way communication
- Should be a three stage process, with timelines set out

Discipline and Grievance

- Disciplinary Procedure required by law
- Employees who are unfairly dismissed can take a case under the Unfair Dismissals Act 1977-2007
- Employee Natural Rights upheld at all times, which are the right to:
 - Know the case against you
 - Reply
 - Due consideration
 - Representation
 - Appeal

Discipline and Grievance

- Pre-disciplinary Counselling
- Stages of the Disciplinary Process
 - Stage 1 – Verbal Warning (generally 6 months on file)
 - Stage 2 – First Written Warning (generally 6 months to 1 year on file)
 - Stage 3 - Final Written Warning (generally 1 year on file) (Action short of dismissal)
 - Stage 4 – Dismissal
 - Stage 5 – Gross Misconduct
Applies where an incident is deemed to be sufficiently serious and the employee is dismissed immediately, without notice. Due process must still apply

Discipline and Grievance

- Judgements take account of procedural fairness
- Reasonableness must be shown for summary dismissal
- Grievance procedure important in constructive dismissal cases
- Claims to EAT often include minimum notice and annual leave
- Compensation is up to two years pay and/or re-instatement or re-engagement

Health and Safety

The Safety, Health and Welfare at Work Act 2005

Covers the main provisions for securing and improving the safety, health and welfare of people at work. The 2005 Act replaces the Safety, Health, and Welfare at Work Act 1989.

The Act Sets out -

- The requirements for the control of safety and health at work.
- The management, organisation and the systems of work necessary to achieve those goals.
- The responsibilities and roles of employers, the self-employed, employees and others.
- The enforcement procedures needed to ensure that the goals are met.

Safety Statement & Risk Assessment

- Safety Statement
 - Setting out the objectives and responsibilities.
- Roles & Responsibilities
 - The key responsibilities of the Employer, Employees , Visitors and Contractors
- Consultation and Representation
 - The appointment of a Safety Officer, and the formation of a Safety Committee along with employee involvement through nominated Safety Representatives.
- Safety training and training records
 - Risk assessment training, First Aid and maintaining copies of certificates etc

Safety Statement & Risk Assessment

- Identification and Risk assessment of Hazards in the Workplace
 - Undertaking regular risk audits and implementing change where required
- Fire precautions and evacuation procedures
 - The key responsibilities of Fire officers and Employees in eliminating fire and evacuation risk, and the actions required in the event of an evacuation and emergency contacts
- Accident and Incident procedures
 - The key responsibilities of Safety Officer and Employees in reporting and recording accidents and incidents, and the follow up actions.
- First Aid training and nominated First Aiders
 - Provision of equipment and training, along with a list of volunteer First Aiders.

Managing Your HR Needs

- Employers must have contracts of employment and relevant / compliant policies in place
- Must be consistent in applying those policies
- Certain information should be given to all employees on joining the organisation
- The efficient handling of issues at an early stage avoids costly escalation
- Employee records must be kept up to date and the information should be contained for a defined purpose

Managing Your HR Needs

- Having a dedicated HR person in-house can be costly
- Need to consider your employee numbers
- **Outsourcing allows for a dedicated expert**
 - Keep you compliant on an on-going basis
 - Provide support to the company when dealing with difficult issues
 - Be used as often or a little as needed, depending on what needs you have at a particular time
 - Annual reviews of Policies & Procedures



Managing Your HR Needs

If you require any further information on items presented today or on general HR issues

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Pointing YOU in the Right Direction

Questions?