

EMPLOYMENT *fact sheet*

Employing Staff

stevensdrake
solicitors sd.

Employment Law is fast changing and ever evolving. Employers must ensure that they keep up to date with current legislation to limit their potential liability for employment-related claims.

The Employment Team at sd can ensure that you are aware and comply with the current law in this area. This will save you substantial time and money.

Employment Law covers all aspects of the employer-employee relationship. The Employment Team has prepared the following checklist for employers to consider at various stages of employment.

KEY POINTS TO CONSIDER WHEN EMPLOYING STAFF:

JOB ADVERTISEMENTS

All employers need to ensure that their job advertisements are non-discriminatory on the grounds of sex, race, disability, sexual orientation and/or religious belief.

It is often helpful to add a short equal opportunities statement into job adverts to indicate that your Company is an equal opportunities employer and will not discriminate against any applicant, regardless of their background.

INTERVIEWING AND SELECTING STAFF

Employers also need to ensure that they are careful not to discriminate against any individual applicant whilst interviewing them and/or selecting the final successful candidate.

Interviewers should avoid asking such questions as “are you planning to have children?” and “are you homo/heterosexual?”.

Final candidates should be chosen based on their qualifications and experience.

EMPLOYING A NEW MEMBER OF STAFF

All employees should be presented with a clear set of terms and conditions within two months of starting work. An employer can be fined for failure to provide terms and conditions within this time period.

An employer should always ensure that the employee signs a copy of the terms and conditions as soon as possible and that a copy is retained on their personnel file for future reference.

It is advisable that the contract of employment also contains an equal opportunities policy and employers should ensure that the policy is monitored and followed at all times.

Employers should also have their contracts of employment reviewed periodically to ensure that they are up to date with current employment law legislation.

It is also prudent that employers take up references on new staff members as this may highlight any issues that an employee has had with a previous employer.

A previous employer is not under any obligation to provide a reference, but any reference they do give must be fair and accurate. If any reference turns out to be inaccurate and has not been provided in good faith, the new employer may be able to seek damages against the previous employer.

CONSISTENCY DURING EMPLOYMENT – THE “ONE YEAR” RULE AND APPRAISALS

After 12 months' continuous employment, employees become protected under the Employment Rights Act 1996 and after this period can bring a claim under the Act for Unfair or Constructive Dismissal. It is therefore prudent that employers take legal advice on any potentially contentious matters that they may have with an employee before the 12 month period (less any notice period) has lapsed.

It is advisable that all employers undertake regular and meaningful appraisals with all of their staff. Appraisals can indicate potential problems at an early stage and a pro-active employer can use appraisals to ensure an effective running of their business and make sure that their employees are kept motivated and informed promptly of any problems and given assistance to deal with those problems. Appraisals are key with regard to staff development.

DISCIPLINING EMPLOYEES

All employers should have a clear and well defined disciplinary procedure contained in their terms and conditions of employment which complies with the relevant sections of the Employment Act 2002.

The procedure should be followed uniformly for all staff to ensure that no claims for Unfair Dismissal arise on procedural grounds. Under the Employment Act 2002, if an employer fails to follow the statutory disciplinary process, any tribunal award made against them can be increased by 10-50% at the tribunal's discretion.

GRIEVANCE PROCEDURES

The contract of employment should also fully outline the Company's grievance procedure, which should be prepared in accordance with the relevant provisions of the Employment Act 2002.

The procedure should be clear, easy to follow and applied fairly and consistently in relation to any employee who lodges a grievance.

DISMISSING EMPLOYEES

It is always advisable to take legal advice when an employer is considering dismissing staff. Employers do not always consider all relevant angles and often open themselves to an Employment Tribunal claim, which can be very time-consuming, stressful and costly.

Whenever dismissing an employee, it is always prudent for an employer to keep full notes outlining the investigation undertaken, minutes of the hearing/meetings and copies of the letters informing the employee of the reasons for dismissal and the right to appeal the decision. These notes will be scrutinised if the matter is brought before a Tribunal.

The Employment Team at [stevensdrake](#) can advise and assist you with all areas of Employment Law. Just some of the services we offer are:

- Contract of Employment drafting and/or review
- Fixed Term and Service Contract drafting
- Advice on Redundancy Selection and Consultation
- Preparation of Compromise Agreements
- Advice and Assistance on the Selling/Transfer of a business
- Advice and Assistance and representation at an Employment Tribunal
- Advice and Assistance with regard to the dismissal of employees
- Advice on the impact of the Employment Act 2002 on the areas of disciplinary and grievance procedures and how to prevent claims

EMPLOYMENT DEPARTMENT



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