



## HR Update: Winter 2012/13

The start of the New Year is as good a time as any to review your business's HR policies. In most cases, laying the ground rules on employee attendance now could avoid difficult situations further down the line.



### Attendance management best practice

It is important for employers to adopt and implement an attendance policy, which should aim to encourage reliable attendance among all employees.

The procedure will be triggered when an employee reaches a certain level of absence, and will usually consist of a number of defined stages.

The important points for employers to remember are:

- Where a stage of the attendance procedure is activated, the employee should be invited to a formal attendance review meeting, which may result in a warning for unsatisfactory attendance.
- There must be clear rules on the reporting of all periods of absence, and absence levels should be consistently and accurately recorded and monitored.
- Conducting return-to-work interviews is one of the most effective ways of facilitating reliable employee attendance.
- In addition to compiling statistics on the number of days lost to absence, employers should establish why employees fail to attend work and consider ways of encouraging higher levels of attendance.
- There should be consistency between attendance procedures and other policies and procedures.
- Though there should be clear guidelines, it's helpful for employers to maintain some discretion over the payment of sick pay. This allows management to decline or withdraw payment from a particular employee if there is a proper reason to do so.
- It should be made clear that disciplinary action will be taken against employees who take time off work without good reason, proper notification or generally not following the proper procedures.

### Latest news

*Government pursues shares-for-rights scheme despite lack of support*

The government has decided to press ahead with its plans for 'employee-owner' contracts despite a lack of support from either employers or employees.

A consultation by the Department for Business, Innovation and Skills (BIS) revealed that most organisations would choose not to take up the new rights, which were announced by Chancellor George Osborne in his keynote speech at the Tory party conference and are scheduled to come into force from April 2013.

The new legislation will see the 'employee-shareholders', as they will now be called, waive their rights on redundancy and unfair dismissal in exchange for between £2,000 and £50,000 of shares in their employer, which will be exempt from capital gains tax.

They will also be expected to surrender their rights to request flexible working and time off for training and to provide 16 weeks'



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notice of a firm date to return from maternity or paternity leave rather than the usual eight.

The move comes even though the BIS consultation indicated "strong concern that individuals were losing important employment protections and that they might be coerced to take on employee owner status." Respondents were also worried that the scheme could be misused by employers and that tax advantages could be abused.

But "the majority of respondents felt there would not be an impact on recruitment because few businesses would offer the employer-owner option", the consultation found.

This was not least because the controversial scheme, which was the brainchild of venture capitalist Adrian Beecroft, was seen to be

"complex and costly to operate, with uncertainty around valuation and income tax implications for individuals."

As a result, take-up was expected to be restricted. At the very least, it would cost money to set up and administer. Employers would have to undertake share valuations both when hiring staff and letting them go and any disputes were "likely to end up before the courts rather than the employment tribunals."

Moreover, while a shares-for-rights law might protect employers from unfair dismissal claims, employees would still be able to sue for other things such as discrimination.

Furthermore, the proposed scheme does not enable employers to exclude protection from EU law, which will remain in place irrespective of this approach.

## Case study

### *Age Discrimination in the case of Mohammed v Bloomsbury Bowling.*

Bloomsbury Bowling wanted to recruit a pizza chef. The Head Chef Mr. Zorancho saw Mr. Mohammed's online CV on Gumtree and invited him for an interview.

Mr. Mohammed's CV did not contain details of his age and he alleged that Mr. Zorancho asked him what his age was during the interview. When he replied that he was 40, he said Mr. Zorancho commented that he would have to reject Mr. Mohammed because his General Manager thought that he was too old. He was also alleged to have made a remark about Mr. Mohammed having grey hair.

Mr. Mohammed was not appointed and the person who got the role was only 30. Mr. Mohammed complained that the company had discriminated against him because of his age. Mr. Zorancho disputed saying anything about the General Manager, but admitted making a joke about grey hair, explaining it was "...because of the stress of working in kitchens..." and was "...supposed to put Mr. Mohammed at ease". He further indicated that the reason Mr. Mohammed was unsuccessful in his application was that Mr. Zorancho had doubts as to his ability to work in a busy kitchen.

Finding for Mr. Mohammed, the tribunal concluded the comment about his grey hair and the fact that Mr. Mohammed was 10 years older than the successful candidate suggested that it would be appropriate to draw an adverse inference of age discrimination. The burden of proof transferred to the employer to prove that it did not commit discrimination, but it failed to do so.

## Did you know?

### *Government family-friendly proposals*

From 2015 men will have the right to take unpaid time off to attend two antenatal appointments.

Unpaid parental leave is set to increase from 13 weeks to 18 weeks from March 2013. At present the leave must be taken before the child's fifth birthday, but from 2015 this will be amended, such so that it must be taken before the child's 18th birthday.

## Keeping staff motivated

Here are some top tips for managers to challenge, inspire and motivate their employees to do their best work.

1. Ensure employees are aware of the big picture and why the work that they do is important to the organisation and its customers.
2. Lead by example. If you show dedication to the organisation and work honestly and hard, your staff are likely to do the same thing. Don't expect them to do what you would not do.
3. Be accountable. If you are accountable for your actions, it's easier for your employees to take responsibility and be accountable for theirs.

4. Give feedback. You may have a performance management system in place through which you provide employees with feedback, but you don't need to wait until meetings to provide feedback – do so on a day-to-day basis.
5. Openly celebrate employees' accomplishments, but deal with failings in private.
6. Delegate responsibility and challenge employees in a supportive manner to take on more responsibility – letting them know that they will be supported if they get things wrong.
7. Ensure that staff are equipped to do their jobs with the necessary tools, training and support.
8. Openly communicate with staff about the organisation, without overburdening them with details.
9. Be as flexible as effectiveness will allow. Provide frameworks on what needs to be done without dictating how tasks need to be achieved.
10. Demonstrate empathy, humour and humility. Don't be afraid to show that you care. People are most responsive to people that care about them.

Please contact us if you would like to discuss your HR issues .

