

A to Z of Work



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Acas can help *with your employment relations needs*

Every year Acas helps employers and employees from thousands of workplaces. That means we keep right up to date with today's employment relations issues – such as discipline and grievance handling, preventing discrimination and communicating effectively in workplaces. Make the most of our practical experience for your organisation – find out what we can do for you.

We inform

We answer your questions, give you the facts you need and talk through your options. You can then make informed decisions. Contact us to keep on top of what employment rights legislation means in practice – before it gets on top of you. Call our helpline **08457 47 47 47** or visit our website www.acas.org.uk.

We advise and guide

We give you practical know-how on setting up and keeping good relations in your organisation. Look at our publications on the website or ask our helpline to put you in touch with your local Acas adviser. Our Equality Direct helpline **08456 00 34 44** advises on equality issues, such as discrimination.

We train

From a two-hour session on the key points of new legislation or employing people to courses specially designed for people in your organisation, we offer training to suit you. Look on the website for what is coming up in your area and to book a place or talk to your local Acas office about our tailored services.

We work with you

We offer hands-on practical help and support to tackle issues in your business with you. This might be through one of our well-known problem-solving services. Or a programme we have worked out together to put your business firmly on track for effective employment relations. You will meet your Acas adviser and discuss exactly what is needed before giving any go-ahead.

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Absence

An unduly high level of absence is costly and can adversely affect efficiency and morale which may in turn lead to even higher absence levels. All absences should be investigated promptly in order to be fair to employees and to minimise any adverse effects on their colleagues. For further guidance see Acas advisory booklet *Managing attendance and employee turnover* and the Acas advisory handbook *Discipline and grievances at work*.

Costs of absence

Absence can prove expensive for the following reasons:

- lost or delayed production
- additional staff or overtime to make up for lost production
- inability to provide services
- reduction in the range or standard of service
- low morale resulting in low productivity
- increased demands on the company sick pay scheme
- increased supervisory time dealing with absence.

Measuring and monitoring absence

Absence records should be established and regularly monitored. The 'lost time' rate may be calculated for a specific period using the following equation:

$$\frac{\text{total absence (hrs/days)}}{\text{possible total (hrs/days)}} \times 100$$

Levels may be compared with previous periods and with levels in the same industry and/or locality in order to determine the company's relative position. However it is up to the company to use its experience to set and monitor its own standards.

What affects absence levels?

Many factors may affect absence levels and organisations should pay special attention to the following:

- communications
- working conditions
- induction and training
- career development
- health and safety standards

- welfare
- supervisory training
- job design
- disciplinary rules and standards.

Dealing with unauthorised absence and lateness

Organisations should:

- require absent employees to notify their supervisor by telephone, wherever possible, by a given time each day
- ensure that supervisors discuss the reasons for absence or lateness with employees when they return to work
- determine whether the nature of the job contributes to absence – for example, workload which is excessive or stressful – and examine the possibility of changing the job or providing alternative duties
- identify persistent offenders through regular monitoring of records, provide counselling or take disciplinary action, as appropriate, after investigation.

Dealing with short-term sickness

Organisations should:

- have clear rules on the provision of certificates to cover sickness absence
- ensure employees are seen by their supervisor on return to work
- ask the employee to consult a doctor where there is no medical evidence to support frequent self-certificated absences
- ensure that employees are told if their level of sickness absence is putting their jobs at risk.

Dealing with long-term sickness

Organisations should:

- maintain regular contact with the employee
- seek a medical opinion from the employee's GP or from the company doctor¹
- consider whether alternative work is available
- keep the employee fully informed if employment is at risk

- consider how long the job can be kept open
- ensure that, where employees are dismissed, they receive either wages throughout the period of notice to which they are entitled or wages in lieu of notice as a lump sum
- inform the employee of any right of appeal.

Disability Discrimination Act 1995

The Disability Discrimination Act 1995 makes it unlawful for an employer to treat a disabled person less favourably for a reason relating to their disability, without a justifiable reason. Employers are required to make a reasonable adjustment to working conditions or the workplace where that would help to accommodate a particular disabled person. Disability is defined under the Act as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. Further guidance may be found in the *Code of Practice for the elimination of discrimination in the field of employment against disabled persons* – available from The Stationery Office.

Statutory Sick Pay (SSP)

Employers are responsible for the payment of Statutory Sick Pay (SSP) for periods of four days or more up to a total of 28 weeks absence in any one period of incapacity for work. Employers faced with exceptionally high levels of sickness at any one time may be able to claim financial assistance under the Percentage Threshold Scheme operated by the Department for Work and Pensions. Details of this scheme, and further information on employers' obligations for SSP are available from local social security offices.

Appraisal

schemes

All organisations can benefit from appraisal schemes provided they are prepared to invest the necessary time and money to set them up properly. Appraisal schemes need not be complex; indeed the most effective systems are often the simplest. For further guidance see Acas advisory booklet *Employee appraisal*.

What are appraisals?

Appraisals regularly record an assessment of an employee's performance, potential and development needs. The assessment is then normally discussed with the employee at a job appraisal interview and future objectives agreed.

Why have an appraisal scheme?

Appraisals can:

- help individuals feel committed to and meet, performance objectives
- improve communications and motivation by giving employees an opportunity to talk about their ideas, expectations and progress
- identify training and career planning needs and consequently prove useful when drawing up training programmes
- provide information for human resource planning and assist succession planning
- determine the suitability of employees for promotion and for particular types of employment.

Reward reviews

Some companies also operate a reward review which provides for salary increments, bonuses and similar incentives to be awarded on the basis of an employee's performance. There is usually a link with the appraisal system but the reward review is likely to be more constructive if it takes place at a different time from the appraisal interview.

Introducing an appraisal system

Line managers, employees and their representatives should be fully involved in the planning and

introduction of the system. It is sensible to start with a trial period and invite comments from all those involved. The following questions will need to be addressed:

- who will appraise whom and how often?
- what training will be required?
- will employees be shown their appraisal report?
- how will results be used?
- who will monitor the effectiveness and consistency of the scheme?
- what will the appeals procedure be?
- is the scheme free of bias on the grounds of age, race, sex, disability, gender identity, religion or belief and sexual orientation?
- has any computerised data been registered under the provisions of the Data Protection Act? (see Personnel records p73).

The appraisal interview

Appraisers should prepare carefully for interviews by looking at records, notes, job descriptions and objectives.

In addition they should:

- give employees adequate time to prepare for the interview
- arrange for a room to be available with comfortable seating where there will be freedom from interruption
- allow at least an hour for the interview.

During the interview they should:

- encourage employees to discuss how strengths can be built upon and weaknesses overcome
- avoid leading questions or questions that can be answered simply by 'yes' or 'no'
- discuss how far objectives have been met and agree future objectives
- agree any development or training needs.

After the interview the appraiser should:

- summarise in writing the main points of the discussion and the action which was agreed and give a copy to the employee
- ensure that any points arising from the interview are followed up and any agreed action carried out.

Change of employer

Employees have certain rights when a business or undertaking (commercial or non-commercial), or part of one, is transferred to a new owner. The Transfer of Undertakings Regulations 1981, as amended, provide that:

- employees employed by the old owner when the undertaking changes hands automatically become employees of the new owner on the same terms and conditions. It is as if their contracts of employment had originally been made with the new owner
- employers must consult either representatives of a recognised independent trade union or other elected representatives of affected employees. Certain information must be given to the appropriate representatives of those employees long enough before the transfer to

enable consultation to take place. This information includes any measures which the old or new employer intends to take concerning affected employees. It is also a requirement that such consultations take place with a view to reaching an agreement on the measures to be taken.

Any provision of any agreement (whether a contract of employment or not) is void if it excludes or limits the rights granted under the Regulations. The Transfer of Undertakings Regulations do not apply to some transfers such as those by share take-over. Further guidance on the provisions can be found in the Department for Business, Enterprise and Regulatory Reform legislation booklet PL699 *Employment rights on the transfer of an undertaking* (visit www.berr.gov.uk/publications).

Collective *bargaining*

Collective bargaining arrangements are a system of rules, jointly agreed by employers and employee representatives, for negotiating matters such as pay and conditions of employment and resolving any differences that can arise from them. Collective bargaining can only exist in organisations where employees have some form of representation, usually in the form of a trade union.

Trade union recognition

Where a number of employees have joined a trade union, a request for recognition may be made to the employer. Recognition normally confers upon the union the right to negotiate (or bargain) on behalf of its members. Since mid-2000 provision exists under Schedule 1 of the Employment Relations Act 1999 for trade unions to apply to the Central Arbitration Committee (CAC) for statutory recognition. If a company receives a request for recognition, all the circumstances should be considered. These would include the appropriateness of the union and in particular, the strength of support from employees. One way of finding out the views of employees is to hold a secret

ballot, preferably conducted by Acas or some other independent organisation, see Acas leaflet *Trade union recognition*. In some cases, it may be agreed that there is insufficient support to justify full recognition at that time, but that representation rights, which entitle members to be represented by their union individually (eg in disciplinary cases or if the employee has a grievance), would be more appropriate. The right to be accompanied at a grievance or disciplinary hearing is set out in section 13 of the Employment Relations Act 1999, and came into effect in 2000.

Recognised unions have certain statutory rights including the right to:

- information for collective bargaining purposes²
- time off for trade union duties and activities³ (including training)
- be recognised by the new employer in certain circumstances when there is a transfer of a business
- appoint a safety representative⁴.

Employers are required to consult either representatives of any recognised independent trade union or other elected representatives on a number of issues including:

- health and safety
- where 20 or more redundancies are proposed at one establishment over 90 days or less
- where there is a business transfer.

Further information on these consultation requirements is contained in Acas advisory booklet *Employee communications and consultation* and detailed legislative requirements may be found in the following booklets:

Consulting Employees on Health and Safety IND (G) 232L, available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel 01787 881165.

Department for Business, Enterprise and Regulatory Reform booklets PL833 *Redundancy Consultation and Notification* and PL699 *Employment Rights on the transfer of an undertaking* are available at www.berr.gov.uk/er.

How can collective bargaining be made to work effectively?

Employers and trade unions should write down simple recognition and negotiating agreements, setting out the rights and duties of the parties involved and how collective bargaining should be conducted. Agreed procedures can assist orderly negotiation and help avoid industrial disputes. It is good practice for the parties to agree that a strike, lock-out or other form of industrial action will not take place until all stages of the procedure have been exhausted. It is also important to ensure that:

- managers and trade union representatives have employment relations training
- results of negotiations are communicated accurately and rapidly to employees
- shop stewards have adequate facilities to enable them to keep in touch with their members and to represent them effectively
- managers and unions meet regularly, not only when trouble arises.

What happens when negotiations break down?

Most negotiations are settled between the parties involved. However, there may be occasions when negotiations break down without a settlement having been reached. In these circumstances, either or both parties may request the services of Acas to help them come to an agreement. Sometimes the provision to request assistance from Acas is written into the negotiating agreement. There are three different approaches that Acas may use to assist parties to reach agreement – conciliation, arbitration and mediation. Acas will normally expect parties first to exhaust any internal procedures they have for resolving disputes.

Conciliation

Acas will generally recommend conciliation in the first instance. An Acas conciliator will try to help the parties reach a settlement through discussion and negotiation. Acas conciliators have no power to impose or even recommend settlements but they have wide experience of employment relations problems and can play a positive and constructive role in helping the parties to reach agreement. The use of conciliation is entirely voluntary and either party is free to bring the process to an end at any stage.

Arbitration and mediation

If it is not possible to settle a dispute by negotiation or conciliation Acas may offer one of the following:

Arbitration

- which involves an arbitrator or occasionally a team of arbitrators hearing both sides of a dispute and making a decision which resolves it. Both sides agree in advance to accept the arbitrator's decision. Acas appoints suitable arbitrators from a list which it maintains. Arbitration is not carried out by Acas officials.

Mediation

- which is similar to arbitration except that the mediator makes recommendations as to how the dispute might be resolved rather than gives a decision. Both parties agree in advance to consider the recommendations but are not bound to accept them.

Pendulum arbitration

Pendulum, or straight choice, arbitration has generated considerable interest in recent years. In this form of arbitration the arbitrator has to make a straight choice between the final positions of the two sides in dispute – for instance between a company's final pay offer and a union's final pay claim. Some companies have



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introduced so called 'new style' agreements in which it is agreed that all unsettled disputes go to pendulum arbitration after the negotiating procedure has been exhausted. Those who favour pendulum arbitration feel that it forces both parties in a dispute to be realistic and to move closer together. Others feel that by precluding the possibility of a compromise it creates 'winners' and 'losers' which can adversely affect employment relations.

Communications

Why are good workplace communications necessary?

The main reasons for maintaining effective communications are to:

- provide accurate information, instruction and guidance
- exchange ideas and views
- reduce misunderstandings and minimise the spread of information via the 'grapevine'
- improve management performance and decision making
- improve employees' performance and commitment.
- health and safety information
- general information about the workplace
- background information about the company
- information about work objectives and performance.

It is also important to listen to what employees have to say.

The Information and Consultation of Employees (ICE) Regulations gives employees the right to be informed:

For further guidance see Acas advisory booklet *Employee communications and consultation*.

What should be communicated?

Apart from the legal requirement to provide a written statement of the main terms and conditions of employment, it is sensible to give employees further information relating to their job including:

- about the business' economic situation
- to be informed and consulted about employment prospects
- about decisions which may lead to substantial changes in work organisation or contractual relations, including redundancies and transfers.
- operating and technical instructions

The Regulations apply to businesses with 50 or more employees.

Methods of communication

In organisations where communications are good, people communicate naturally as part of their job. Information is passed on and views and comments are received as a matter of course. However, informal communications should be backed up with a variety of more systematic methods to ensure the free flow of information up, down and across the organisation. Methods of communication include:

- staff meetings
- cascade networks including team briefing
- large-scale meetings
- inter-departmental meetings
- conferences and seminars
- information points
- presentations using audio/visual aids
- employee handbooks
- reports to employees
- house journals and newsletters
- bulletins
- noticeboards
- individual letters to employees
- suggestion schemes
- opinion surveys
- quality circles
- computer networks – particularly the intranet.

Monitoring communications

The effectiveness of communications should be monitored regularly. There are many ways of doing this including:

- managers talking to employees – ‘walking the job’
- discussing communications at consultative committee meetings
- communications surveys
- observation.

Union communication

Union officials have information needs and communications responsibilities. Employers should ensure that union officials are given the information and facilities they need to communicate effectively with their members. Some information for

collective bargaining purposes must be supplied to recognised unions by law. For further advice see Acas *Codes of Practice on Disclosure of information to trade unions for collective bargaining purposes* and *Time off for trade union duties and activities*. (Codes of Practice are available from The Stationery Office and Acas Publications by telephoning 08702 42 90 90 or order online at www.acas.org.uk).

Contracts of employment and rights on termination

Who has an employment contract?

All employees have a contract of employment. A contract exists as soon as an employee accepts an employer's terms and conditions of employment.

Does the contract need to be in writing?

Except for apprenticeships, employees' contracts need not be in writing. However, the law requires employers to provide most employees with a *written statement of the main terms and conditions of employment* (see section on Written statements, p89).

Terms of a contract of employment

The terms of a contract of employment can be divided into four main categories:

- **express terms** – are those spelled out either in writing or by oral agreement

- **implied terms** – are those not spelled out, for instance, those that are too obvious to mention or are the custom and practice of the business or industry. It is a question of law whether or not a term is implied in a contract and there are no hard and fast rules

- **incorporated terms** – are those incorporated into individual contracts from other documents such as collective agreements with trade unions and company handbooks

- **statutory terms** – are those imposed by law (for example the right not to be discriminated against on grounds of age, race, sex, disability, gender identity, religion or belief or sexual orientation). Agreements to contract out of statutory terms are void under the law.

Altering a contract

Alterations to an employment contract should be agreed between employer and employee either verbally or in writing (written agreements can help avoid

subsequent problems). Alterations may be agreed in the following ways:

- with individuals
- through collective agreements such as those between employers and employees or their representatives. The employer and employee can expressly agree that employment should be on terms agreed by the employer and employee representatives and subject to any changes they may agree
- through a term which provides for a variation in the contract, for example a clause specifically allowing an employer to change an employee's duties.

In view of the potential problems, changes to employment contracts should be agreed wherever possible. Employees should be fully consulted and any business reasons for change explained and discussed. There may, nevertheless, be occasions when employers feel that change is essential despite failing to gain agreement. In these circumstances to impose change would be a breach of contract which could lead to employees:

- claiming damages in the county or high courts or, alternatively, if the employment has terminated, making a claim to an employment tribunal

- resigning and claiming constructive dismissal⁵ before an employment tribunal.

In order to avoid a breach of contract the employer must give the proper statutory or contractual notice to terminate the contract and offer a new contract on the revised terms. The termination would be a dismissal under the law and it would be open to eligible employees to claim unfair dismissal before an employment tribunal. The tribunal would decide whether the dismissal was fair in all the circumstances.

Ending a contract of employment

A contract of employment may be ended by mutual agreement or by the employer or employee giving the required notice of termination. If the employer fails to give the required notice the employee can make a claim to the courts for damages for wrongful dismissal. Alternatively, if the employment has been terminated, a claim can be made to an employment tribunal. Where the employee leaves without giving the required notice, the employer may also have, in certain circumstances, a right to claim damages in the courts or at an employment tribunal⁶. Either party can terminate the contract without notice if the conduct of the other justifies it. The section on Disciplinary procedures

(p22) contains examples of gross misconduct justifying dismissal without notice. The full three-stage standard statutory procedure should always be used before deciding whether to dismiss – see p22 for more details. Resignation without notice (and a possible claim of constructive dismissal) is only justified where the employer makes a ‘fundamental’ or ‘repudiatory’ breach of the contract. Whether or not the breach is considered fundamental will depend on the particular circumstances but may include such actions as a reduction in pay, withdrawal of benefits or change of duties. In the event of a dispute, the question of justification can finally be determined only by the courts.

Unfair dismissal

Where it is the employer who terminates the contract this is a dismissal. For a dismissal to be fair the employer must have acted reasonably taking account of all the circumstances. Any employer contemplating dismissal should ask whether:

- there is sufficient reason for dismissal on the grounds of capability, conduct, redundancy, or some other substantial reason or dismissal is necessary to comply with the law

- reasonable alternatives to dismissal were considered
- the dismissal is consistent with previous action by the employer and any disciplinary procedure
- the dismissal is fair, taking all relevant factors known at the time into account. For further information see Department for Business, Enterprise and Regulatory Reform leaflet PL712 *Unfairly dismissed*
- they have, as a minimum, followed the statutory disciplinary and dismissal procedure. This involves the employer informing the employee in writing about the alleged offence; a meeting to discuss the issue; and, where necessary, an appeal (for details see p22).

Employees with one year’s qualifying service who think they have been unfairly dismissed may make a complaint to an employment tribunal.

This right also applies in some cases, irrespective of length of service. For example, where the dismissal was:

- for trade union activities or for non-membership of a trade union

- for activities as an employee representative, or as a candidate for election, for purposes of statutory consultation over redundancies or a business transfer
- alleged to be discriminatory on the grounds of age, race, sex, disability, gender identity, sexual orientation, or religion or belief
- because the employee asserted a statutory right
- for carrying out officially recognised health and safety activities
- because of pregnancy or childbirth
- for refusing to do shop or betting work on Sundays (in England and Wales only).

A complaint to a tribunal must be made within three months of the effective date of termination unless the tribunal considers this was not reasonably practicable. If the case is not settled by conciliation it will be heard by the tribunal. If the dismissal is found to be unfair the tribunal may order re-instatement, re-engagement or compensation. Where there is little chance of an employee returning to work (for example through sickness or imprisonment) it may be argued that the contract has been terminated through ‘frustration’⁷.

However, the doctrine of frustration should not be relied upon since the courts are generally reluctant to apply it where a procedure exists for termination of the contract.

Statutory rights to notice

Most employees⁸ are entitled to at least one week’s notice after one month’s service, two weeks after two years and an additional week’s notice for each complete year of employment up to a maximum of 12 weeks for 12 years’ service. An employee must give at least one week’s notice after one month’s service and this requirement does not increase with longer service.

A contract of employment can include provision for longer notice periods to be given by either side. In addition, both employer and employee may agree to waive their rights to notice or employees may accept wages in lieu. If there is no express term regarding notice the courts will imply a reasonable period of notice. No term is implied in fixed-term contracts.

The right to pay during the notice period

Employees are entitled to receive their contractual pay and benefits during the period of notice. If in certain circumstances the employee is not entitled to pay then most employees

have a statutory entitlement to be paid during the notice period⁹. This right arises where:

- notice has been given by the employer or employee; and
- the employee is ready and willing to work but no work is available; or
- the employee is off sick or taking agreed holidays.

For those employees with no normal weekly wage, a week's pay is averaged over a period of 12 weeks.

Exceptions

The statutory right to minimum pay during the notice period does not apply where:

- the contract of employment entitles the employee to at least one week's more notice than that required by law. In this case payment will depend purely on the terms of the contract
- the employee takes part in a strike
- the employee has time off at his or her own request during the notice period. (But note that payment for time off might be covered by other laws – see section on holidays and time off p48).

The right to a written statement of reasons for dismissal

Employees with one year's qualifying service have the right to receive from their employer a written statement of the reasons for their dismissal¹⁰.

An employee may ask for this information either orally or in writing and the employer has 14 days to reply to the request. Where dismissal is on grounds of pregnancy or childbirth, the written statement has to be provided automatically. In these circumstances the qualifying period does not apply.

Many employers consider it good practice to provide written reasons for dismissal as a matter of course, regardless of the employee's length of service.

Where no statement of the reasons for dismissal has been given or if an employee considers the statement inadequate or untrue, he or she can complain to an employment tribunal, normally within three months of the dismissal.

Enforcement of rights on termination of employment

Claims for breach of contract, for example failure to give the required notice or other contractual benefits, can be enforced through action for damages in the courts, or

alternatively, through an employment tribunal if the employment has terminated. Disputes over termination payments are also generally matters for the courts, although in certain circumstances they may be dealt with by employment tribunals.

Acas conciliation

Acas has a duty to conciliate in most complaints which are made, or could be made, to an employment tribunal.

An Acas conciliation officer will receive a copy of the application to a tribunal and will try to help the parties to reach a voluntary settlement without the need for a tribunal hearing.

Where an individual is claiming an employment right has been infringed but has not made a formal complaint to a tribunal, then providing certain conditions are met and both sides are willing, Acas can conciliate in the normal way.

Disciplinary *procedures*

Disciplinary procedures can help encourage employees to achieve and maintain standards of behaviour and performance. They can also help to ensure that disciplinary offences are dealt with fairly and consistently.

The legal requirements

The written statement of main terms and conditions (see section on Written statements on p89) must specify any disciplinary rules and to whom employees can apply if they are dissatisfied with a disciplinary decision. All employers, regardless of size, are required to follow a minimum three-step statutory procedure for dealing with disciplinary issues, including dismissal and for handling grievances. The three stages comprise the written notification of the problem, the meeting to address the problem and an opportunity to attend an appeal meeting if necessary.

The Government is proposing to repeal the statutory dispute procedures in April 2009. For further information visit the Department for Business, Enterprise and Regulatory Reform website at www.berr.gov.uk

Why are disciplinary rules helpful?

Clear rules benefit both employers and employees; they set standards of conduct at work and make clear to employees what is expected of them. Employees will more readily accept rules if care is taken to explain why they are necessary.

Rules should cover such matters as:

- conduct
- timekeeping
- absence
- health and safety
- use of company telephones, and other equipment
- discrimination on the grounds of age, race, sex, disability, gender identity, sexual orientation, or religion or belief
- performance and behaviour.

The rules should also specify the kind of offences that will be regarded as gross misconduct and which will normally lead to dismissal without notice. Serious offences such as

physical violence, theft or fraud are normally so regarded, but the nature of the business or other circumstances may determine other offences which might also be included.

Disciplinary procedures

The *Acas Code of Practice on Disciplinary and grievance procedures* recommends that disciplinary procedures should:

- be put in writing
- say to whom they apply
- be non-discriminatory
- allow for matters to be dealt without undue delay
- allow for information to be kept confidential
- tell employees what disciplinary action might be taken
- say what levels of management have the authority to take disciplinary action
- require employees to be informed of the complaints against them and supporting evidence, before a meeting
- give employees a chance to have their say before management reaches a decision

- provide employees with the right to be accompanied
- provide that no employee is dismissed for a first breach of discipline, except in cases of gross misconduct
- require management to investigate fully before any disciplinary action is taken
- ensure that employees are given an explanation for any sanction and
- allow employees to appeal against a decision.

In addition, disciplinary procedures should:

- apply to all employees, irrespective of their length of service
- be non-discriminatory and applied irrespective of sex, marital status, age, race, gender identity, sexual orientation, religion or belief, or disability
- ensure that any investigatory period of suspension is with pay and specify how pay is to be calculated during such a period (if, exceptionally, suspension is to be without pay this should be provided for in the contract of employment)

- ensure that, where the facts are in dispute, no disciplinary penalty is imposed until the case has been carefully investigated and it is concluded on the balance of probability that the employee committed the act in question.

Trade union officials

Although normal disciplinary standards should apply to their conduct as employees, disciplinary action against a trade union official can be misconstrued as an attack on the union. Such problems can be avoided by early discussion with a full-time official.

Communicating rules and procedures

An explanation of rules and procedures should be given to all new employees. Every employee should have access to a copy of the company rules and disciplinary procedures. Special attention should be paid to ensure that rules and procedures are understood by young people with little experience of working life and by employees whose English is limited or who have reading difficulties.

Disciplinary penalties

Informal action such as admonishments or counselling should normally precede formal

warnings. If an informal approach fails, formal penalties are normally implemented progressively, typically in the following stages:

- first formal warning: misconduct – performance plan
- first formal warning: unsatisfactory performance – first written warning
- final written warning – for misconduct or performance
- dismissal or other sanction.

However, there may be occasions when, depending on the seriousness of the misconduct involved, it will be appropriate to enter the procedure at the stage of a final written warning. Confidential records should be kept of disciplinary action and written warnings. Except in special circumstances any action should be disregarded for disciplinary purposes after a specified period of satisfactory conduct, although it may be appropriate for warnings to remain on record for other purposes. Further advice on the handling of disciplinary matters is contained in the Acas advisory handbook *Discipline and grievances at work*.

Appeals

There should be a procedure which allows for appeals against any disciplinary action to be dealt with speedily. Wherever possible the

appeal should be heard by an authority higher than that taking the disciplinary action. In small firms there may be no authority higher than the manager who decided the disciplinary action. If this is the case the same person who took the disciplinary action should hear the appeal and act as impartially as possible.

Employee *involvement*

What is employee involvement?

It is a participative style of management and a range of activities that are designed to increase employees' understanding of the organisation, utilise their talents, enable them to influence decisions, and encourage their commitment to the goals of the organisation.

What are the benefits of employee involvement?

Employee involvement can:

- improve efficiency
- improve quality and competitiveness
- increase job satisfaction and motivation
- encourage cooperation and improve employment relations.

Methods of involving employees

There are two methods of involving employees:

- indirect involvement where a representative acts on behalf of employees, for example through collective bargaining or joint consultation
- direct involvement where employees are involved in decisions about how they work, for example through quality circles or autonomous work groups.

Effective communications are essential to the success of employee involvement. It is important to create the right climate and maintain communications systems which aid a free flow of information within an organisation. Regular meetings also help to involve employees. For further information see the section on Communications on p13.

Employee representation

Involvement through representatives can take a variety of forms.

The most common form of representation is through trade unions and employees have the right to be a member of a trade union, or not to be a member¹¹. Employees also have the right not to be

excluded or expelled from a trade union except for certain permitted reasons¹². In some companies representation is through works or office committees or staff associations. Collective bargaining – the principal method of involvement through representatives – is dealt with separately on p9.

Joint consultation

Joint consultation is the process by which management involves employees through their representatives in discussion on relevant matters which affect or concern those they represent. This process allows employees the opportunity to influence the proposal before the final management decision is made.

How can joint consultation be made to work effectively?

- senior managers should attend regularly
- there should be a written constitution
- make sure there is an agenda for each meeting
- establish a procedure for reporting back to managers and employees
- provide training for committee members and chair holder

- see that the committee meets regularly, normally not less than once every two months.

Quality circles

Quality circles are small groups of employees, usually led by a supervisor, who meet regularly to solve problems and to find ways of improving aspects of their work. The circle presents recommendations to management and is normally involved in subsequent implementation and monitoring. A facilitator is usually appointed to arrange training and provide support.

How can quality circles be made to work effectively?

- commitment of senior management is crucial
- time and money must be allocated for training and meetings
- senior managers should be available to attend meetings as appropriate
- management must be prepared to support the implementation of the circle's solutions to problems, with resources as necessary
- quality circles should operate openly with full recognition given to their achievements

- the circle should be able to select its own problems to solve, not just those identified by managers and the facilitator
- trade unions should be consulted and encouraged to become involved
- begin modestly – perhaps with a pilot scheme.
- **save as you earn share option schemes** in which employees save a specified amount over an agreed period with an Inland Revenue approved plan. They have an option to buy shares at the end of the savings period at the market price which prevailed when the option was granted
- **the share incentive plan ('SIP')** which aims to involve employees through share ownership – taking advantage of tax concessions – and at the same time providing a new source of capital for the company.

Financial participation

Financial participation through share ownership or periodic sharing of profits can help increase employees' awareness of the financial and market forces affecting a company's performance. This can help employees identify with the progress of their own company and create a more committed workforce.

What are the types of financial participation?

There are many types of financial participation including:

- **cash schemes** in which cash is distributed to employees from company profits
- **share option schemes** where employees are given an option to buy a certain number of shares at a set price at a particular time
- employees and their representatives are consulted before schemes are put into effect
- schemes are clearly understood by employees
- schemes are reviewed regularly

How can financial participation be made to work successfully?

Financial participation is unlikely to be successful if there are weaknesses in existing payment systems. Organisations should therefore examine their wage structure and pay rates to make sure they are fair and are understood by employees. In addition financial participation is more likely to be successful if:

- it is part of an overall programme of measures to involve employees.

Other forms of involvement

Other forms of employee involvement include:

- **autonomous work groups** which have some degree of autonomy or responsibility within a defined area, for example responsibility for work organisation, quality and output
- **job enlargement, job enrichment and job rotation** which seek involvement and motivation by improving job satisfaction and effectiveness
- **joint working parties** which involve representatives of management and employees seeking joint solutions to problems. They are non-negotiating forums in which participants work together.

Equal

opportunities

Equal opportunity issues arise throughout employment, particularly in recruitment, selection and promotion. Employers who actively encourage equal opportunities within their organisations may not only have a more satisfied workforce but may also find that they use their human resources more effectively.

The Equality and Human Rights Commission issues various publications on equal opportunities, including codes of practice.

Sex discrimination

Under the Sex Discrimination Act 1975, it is unlawful for employers to discriminate on grounds of sex or marriage. The Employment Equality (Sexual Orientation) Regulations 2003 give protection against discrimination and harassment on the grounds of sexual orientation.

There are three types of discrimination:

- **direct discrimination** where a woman is treated less favourably than a man or vice versa, or a married person is treated less favourably than a single person; for example, dismissal of a pregnant woman may amount to sex discrimination
- **indirect discrimination** where a

man or woman cannot comply with an unjustifiable requirement which on the face of it applies equally to men and women (or to married and single people), but in practice, can only be met by a smaller proportion of one sex (or by a smaller proportion of married people compared to single people). For example, a requirement that applicants must be six feet tall could be met by significantly fewer women than men

- **victimisation** of someone who has made a complaint under the Act or under the Equal Pay Act 1970 (see p34).

Race discrimination

Under the Race Relations Act 1976, direct and indirect discrimination and victimisation are unlawful on the grounds of colour, race, nationality (including citizenship), ethnic or national origins.

The Employment Equality (Religion or Belief) Regulations 2003 give protection against discrimination and harassment on the grounds of religion or belief.

The current definition of harassment – as applied to sexual orientation, religion or belief and race and ethnic or national origin – is:

“unwanted conduct that violates people’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment.”

Enforcement

Where an individual considers that he or she has been the victim of discrimination, a complaint may be presented to an employment tribunal within three months of the act. An Acas conciliation officer will contact both parties to the complaint in an attempt to bring about a voluntary settlement.

Maternity rights

Pregnant women have the right:

- not to be unreasonably refused time off for ante-natal care and to be paid for such absences
- to receive all their contractual benefits except wages during the period of statutory maternity leave
- to be provided with a written statement of the reasons for dismissal without the need to request it, if dismissed by the employer during pregnancy or statutory maternity leave
- to be offered alternative suitable work if they would otherwise have to be suspended on certain health and safety grounds
- to receive their normal remuneration during suspension for health and safety reasons if alternative suitable

work is not available.

- Women whose **expected date of childbirth is or on after 1 April 2007** are entitled to 52 weeks’ maternity leave – made up of 26 weeks’ ordinary maternity leave and 26 weeks’ additional maternity leave – regardless of how long they have worked for their employer.

In addition pregnant women may qualify for:

- Statutory Maternity Pay for up to 39 weeks, if they have 26 weeks’ continuous service and earn above the lower limit for payment of National Insurance contributions.

These rights are generally available to all women employees, married or unmarried, but some are subject to conditions and limitations which are outlined in Department of Trade and Industry booklet *Individual rights and responsibilities of employees*.

Discrimination against people with disabilities

Employers should also consider the role of people with disabilities. The Disability Discrimination Act 1995 makes it unlawful for an employer to treat a disabled person less favourably because of a reason relating to their disability, when applying for or during employment without a justifiable reason. Disability is defined under the Act as a physical or mental impairment which has a substantial and long-term adverse effect on a person’s ability to carry out normal day-to-day

activities. Employers must also make a reasonable adjustment to working conditions or the workplace where that would help to accommodate a particular disabled person.

Further guidance may be found in the Code of Practice for the *elimination of discrimination in the field of employment against disabled persons* – available from The Stationery Office. General advice on the effect of the legal requirements concerning the employment of disabled people may be obtained through Disability Service Teams who can be contacted via local JobCentres.

Age discrimination

The Employment Equality (Age) Regulations 2006 give employees protection against discrimination, victimisation and harassment on the grounds of age. Employers who discriminate on this basis are likely to exclude a group of people whose talents and skills may be necessary to the future success of their organisations. This is especially true in times of labour shortages. The Regulations also set a national default retirement age of 65. For further information see the Acas guide *Putting the Employment Equality (Age) Regulations into Practice* at www.acas.org.uk.

What are the responsibilities of employers?

Employers have a legal responsibility

to take such steps as are reasonably practicable to prevent unlawful discrimination. This responsibility should extend to recruitment, selection, training, promotion and dismissal policies and practices. Although not a legal requirement, a written equal opportunities policy has the value of showing commitment to developing non-discriminatory personnel procedures and practices.

To ensure that the policy is effective, employers should:

- give overall responsibility for the policy to a senior manager
- agree the contents, where appropriate, with trade union or employee representatives
- provide training for supervisors and other decision makers
- make all employees and job applicants aware of the policy
- monitor the policy regularly.

Monitoring potential sex discrimination

In medium and larger companies employers should analyse the sex, grade and amount of pay of individuals by department. From this it should be possible to establish whether members of one sex:

- fail to apply for jobs or promotion, or whether fewer than might be expected apply

- are recruited, promoted or selected for training in a lower proportion than their rate of application
- are concentrated in certain jobs or departments.

Monitoring potential race discrimination

A similar analysis can be undertaken to ensure that the equal opportunities policy regarding race is effective.

Examine:

- the number and relative proportions of employees by racial group
- the distribution of these employees by skill and job grade
- induction programmes and training needs
- the policy and procedures for promotion.

From an analysis of this information it may appear that certain racial groups are being disadvantaged and that some further investigation may need to be made to establish whether this is so and how the situation can be remedied.

Developing and monitoring a policy on employing people with disabilities

Employers need to ensure that their

organisation is operating an effective equal opportunities policy for its disabled employees and that its employment procedures reflect that policy. This is important whatever legislation is in place and will help the organisation to operate more effectively. Employers should:

- review recruitment procedures to ensure they are free from bias or discrimination
- assess applicants for jobs on their abilities rather than disabilities
- take care not to impose physical, mental or other health standards not required by the job
- seriously consider possible modifications to the workplace or working conditions where these would allow a disabled person to have the chance to take up an opportunity of a job or promotion
- monitor the success of their policies.

Monitoring of policies on employing disabled people is essential to evaluate what is happening in the organisation and progress made in furthering equal opportunity policies. The monitoring system used will depend on the size of the organisation and the stage reached in developing a policy on employment of people with disabilities. It might include both statistical analysis and observation or subjective assessment, eg what is

happening to particular individuals.

Advice on employing disabled people and monitoring may be obtained from your local Disability Service Team, contactable through the JobCentre service.

Monitoring potential age discrimination

Employers need to keep records on how all their employees fit into various age bands. The following age bands might provide a useful starting point for gathering information.

16-21, 22-30, 31-40, 41-50, 51-60, 61-65+

Also keep data on employees who:

- apply for jobs (and those who are successful)
- apply for training (and those who receive training)
- apply for promotion (and those who are successful)
- are being assessed to measure their performance
- are involved in disciplinary and grievance processes (and the outcomes of these processes)
- leave the organisation

Staff attitude surveys and questionnaires are another useful source of information. For more information see the Acas guide *Putting the Employment Equality (age) Regulations into place* at www.acas.org.uk.

Positive action

Employers may not discriminate in the actual selection for a post on the grounds of age, race, sex, disability, gender identity, religion or belief and sexual orientation but the legislation does allow measures to be taken to encourage members of under-represented groups to take advantage of opportunities. However, positive action which is lawful should not be confused with positive discrimination which is unlawful.

The right to equal pay

The Equal Pay Act 1970, as amended by the Sex Discrimination Acts 1975 and 1986, provides that a woman has the right to equal pay with a man working for the same employer if the woman is employed:

- on work of the same or broadly similar nature to that of her male comparator; or
- in a job which, although different from that of a man, has been rated as equivalent to the man's job under a job evaluation scheme.

The Equal Pay (Amendment) Regulations 1983 provide for a woman to seek equal pay with a named male comparator in the same employment engaged in dissimilar work on the grounds that the work done, although different, is of equal value in terms of the demands that it makes. Where the two jobs are of equal value, an employer can justify difference in pay only where the

variation in basic pay is genuinely due to a material factor which is not the difference of sex.

It is important to remember that the Equal Pay Act 1970 does not give women the right to fair pay. It gives the more limited right for women to have equal pay to men, when all other circumstances are the same or similar.

If a woman considers she is being paid less than a man, she can apply to an employment tribunal. This is done by filling in a Claim Form, known as an ET1, which is available from the employment tribunal's website at www.employmenttribunals.gov.uk. Before she can claim, it is necessary for her to have sent a grievance letter to her employer, setting out her claim. She should also identify the man or men who she says is being paid more than her (whilst doing a broadly similar job, or work that is of equal value or has been rated as equivalent under a job evaluation scheme). If she does not give the employer the chance to put things right through its own internal grievance process, an employment tribunal will not allow her to bring a claim (note: this requirement to use the employer's internal grievance process before submitting a tribunal claim is expected to be abolished from April 2009).

As it can be difficult for a woman to know who to compare her salary with, she can use a 'questionnaire' procedure first, which requires an employer to disclose certain information to the employee so both parties can be clear of the facts before any action is taken. You can see more about the questionnaire procedure (and download a sample) at

www.womenandequalityunit.gov.uk/pay/update_question.htm.

The law applies in the same terms to a man who claims he is entitled to equal pay with a woman comparator.

What are the implications of the 'equal value' legislation?

The law is complicated and making or defending a claim can be time consuming. In order to help avoid claims, employers should try to ensure that:

- job evaluation schemes are analytical and free from sex bias
- the pay structure is fair to both sexes and that differences can be justified on grounds other than sex
- they develop a strategy for dealing with identified inequalities, perhaps as part of the annual pay review
- they involve employees and their representatives in reviewing pay structures.

Flexible

working practices

In recent years a number of pressures have forced employers to examine the way they operate and attempt to make working practices more flexible. These pressures include: intensive international competition, the increasing pace of technological change and the need to exploit new opportunities. In addition, employees often want to change the way they work to achieve a better balance between work and home life.

Parents of young and disabled children and carers of adults have the right to request a flexible working pattern and employers have a legal duty to consider such requests seriously and to refuse them only if there are clear business reasons for doing so.

Types of flexibility

Flexibility can be introduced in a number of ways including:

- **numerical flexibility** which involves taking steps to increase or reduce the size of the workforce in line with seasonal or other fluctuation in demand. This may be done through measures such as the use of part-timers, job sharers, temporary workers, sub-contractors, employees on fixed-term contracts and homeworkers
- **functional flexibility** which involves attempts to relax demarcations between crafts, between craftsmen and production workers and between white collar and blue collar workers
- **flexibility in hours of work** where hours are arranged to make optimum use of capital equipment and to cater for seasonal pressures or other variations in customer demand. This form of flexibility may involve new shift working arrangements or annual hours working (see section on Hours of Work on p50)
- **flexibility in pay** which involves relating pay more directly to organisational goals, for instance by:
 - changing from national to plant level bargaining
 - widening differentials between

skilled and unskilled workers

- rewarding increased flexibility in the range of tasks carried out or the acquisition of new skills
- introducing merit pay
- developing integrated job evaluation and payment structures and harmonising the terms and conditions of blue and white collar workers.

Introducing flexibility

Flexible working practices are only likely to be successful if measures are taken to gain the commitment of all those affected. There should be a joint approach between managers, employees and employee representatives and a continuing programme of communications and involvement.

Grievance

procedures

What are grievance procedures?

They are procedures whereby individual employees can raise grievances with management.

Why are grievance procedures important?

If grievances are not dealt with, they are likely to fester and result in bad employee relations. In some cases they may develop into major disputes.

If an employee wishes to use a grievance as the basis of a complaint to an employment tribunal they must first complete step one of the statutory grievance procedure:

- step one: inform the employer of the grievance in writing
- step two: meet to discuss the grievance and
- step three: hold an appeal, if requested.

Employment tribunals may adjust any award of compensation by between 10 and 50 per cent for

failure by either party to follow relevant steps of the statutory procedure. For more information see the Acas advisory handbook *Discipline and grievances at work* (call 08702 42 90 90 or visit www.acas.org.uk/publications).

How should grievance procedures operate?

Grievance procedures should aim to settle a grievance fairly, quickly and as closely as possible to the point of origin and help to prevent minor disagreements developing into more serious disputes. For this reason, it is usually advisable for the first stage to be between the employee and his or her immediate supervisor or line manager. This can also help to maintain the authority of the supervisor and can often lead to the issue being resolved directly between the parties without the involvement of a representative. Grievance procedures should be clearly communicated to all employees. If a dispute is not settled at the first stage, the procedure should provide for employees to have their grievance heard at further agreed levels. The number of levels will

depend on the size and nature of the organisation and in small firms the second and final stage will frequently be the employer. Larger organisations may have one or more of the following stages:

- departmental head
- works manager
- personnel manager
- managing director
- national level.

The employee's right of appeal should be built into each stage.

The employee has the right to be accompanied by another employee or trade union representative at any grievance hearing concerning the legal duties of the employer in relation to the worker, eg contractual commitments. Reasonable time limits should be applied at each stage. Training should be provided for all those who have responsibility for handling grievances.

Handbooks

A handbook can be a valuable reference document containing important information about an organisation in a form which can be readily consulted by employees. It can:

- be an aid to induction, training, communication and recruitment
- meet legal obligations by supplying employees with written information about their terms and conditions of employment.

Producing a handbook

A handbook can often be produced fairly easily by bringing together existing material. Care should be taken with the layout and presentation so that the handbook is clear and readable. Wherever possible, professional advice should be sought on design and printing. It should:

- keep the language simple and straightforward and avoid being pompous, legalistic or using management jargon
- 'break up' the text by varying the typeface and by using illustrations, charts and cartoons

- limit the width of the text and leave space between paragraphs and chapters
- provide an index
- indicate which parts of the handbook are included in employees' terms and conditions of employment.

Contents of a handbook

The format and content of the handbook will depend to some extent on the type of organisation and its employees, but most handbooks should contain information on:

- the organisation and its products or services
- employment policies
- pay
- hours of work
- induction
- training and promotion
- equal opportunity policies
- communications

- trade unions
- absence
- holidays
- disciplinary and grievance matters
- redundancy
- retirement and pensions benefits
- health, safety and hygiene rules
- termination of employment.

Acas has a free Self help guide
Producing a company handbook.
This can be downloaded by going to
www.acas.org.uk/publications.

Harmonisation

What is harmonisation?

Harmonisation is the process of reducing differences, in the pay structure and other employment conditions, between categories of employees – normally manual and non-manual workers. The purpose is to eliminate differences based on the status of employees.

What conditions of employment can be harmonised?

Conditions of employment offering scope for harmonisation may include:

- payment systems and method of payment
- overtime and hours of work
- shift premiums
- actual times of work
- clocking or other time recording procedures
- sick pay schemes
- holiday entitlement and holiday pay
- pension arrangements
- period of notice (above the statutory minimum)
- redundancy terms
- lay off/guaranteed week
- canteen facilities
- fringe benefits such as health insurance and company cars.

Why introduce harmonisation?

Benefits will vary with each organisation but may include:

- improved productivity since there is often a trade-off between harmonisation and productivity agreements
- simplified systems leading to savings in administration
- better morale by breaking down 'them and us' attitudes
- improved recruitment or retention of employees
- a more involved workforce.

Difficulties in introducing harmonisation

There may be some problems involved in introducing harmonisation including the following:

- it can be expensive, particularly when pension schemes are involved. An immediate switch to common terms and conditions or 'single status' can have a significant impact on the wage bill
- there can be resistance from managers who may not be convinced of the wisdom of harmonisation and from employees who may not believe that they will be better off. For example, those employees who already have staff status may resent the harmonisation of certain conditions and subsequently seek to restore the differentials which previously existed
- supervisors may have difficulty adjusting to a new role when traditional controls, such as clocking, are removed.

Introducing harmonisation into the workplace

Senior managers must be committed to a harmonisation programme if it is to succeed.

Managers, employees and their representatives should be fully consulted and involved before the programme is drawn up and during its introduction. Costs and possible benefits should be worked out and consideration given to whether any of the costs could be offset by changes in working practices.

A realistic timescale should be worked out for the introduction of the programme and any necessary training (for example, for the changed role of supervisors) should be put in hand.

Finally, provision should be made to monitor and maintain the new arrangements.

Health *and safety*

The Health and Safety at Work Act (1974)

The Health and Safety at Work Act (HSW Act) places general duties for health and safety on all people at work – employers, employees and self-employed, manufacturers, suppliers, designers and importers of materials used at work, and people in control of premises. Individuals as well as or instead of the organisation may be prosecuted for breaches of the Act.

The HSW Act also imposes a duty on all employers with a total of five or more employees to produce a written health and safety policy.

Health and safety regulations

Specific regulations are issued under the HSW Act on certain aspects of health and safety or covering certain industries, for example those covering safety committees and representatives, notification of accidents and dangerous occurrences, control of lead at work, diving operations, and the control of substances hazardous to health. Health and safety regulations, emanating from a range of EC

Directives, came into force on 1 January, 1993. They are:

- Management of Health and Safety at Work Regulations
- Health and Safety (Display Screen Equipment) Regulations 1992
- Manual Handling Operations Regulations
- Provision and Use of Work Equipment Regulations
- Personal Protective Equipment at Work Regulations, and
- Workplace (Health, Safety and Welfare) Regulations.

One of the key elements of the Management of Health and Safety at Work Regulations, for example, is that employers are required to appoint competent people to help them take health and safety measures; appropriate specialist advice should be obtained where necessary. Additionally all employers must carry out a risk assessment (and if five or more people are employed, record the main findings

and the arrangements for health and safety). The Health and Safety Executive publishes a range of booklets giving guidance on all the above Health and Safety at Work Regulations.

The Safety Representatives and Safety Committees Regulations 1977

These regulations give recognised trade unions the right to appoint safety representatives to represent employees in consultation with the employer about health and safety matters. The Act also provides for the possibility of employers being required by safety representatives to set up safety committees which would keep under review measures to ensure health and safety at the workplace. Full details are contained in the approved Code of Practice *Safety Representatives and Safety Committees*, available from The Stationery Office.

The requirement for employers to provide facilities and assistance to safety representatives for carrying out inspections has been extended under the Management of Health and Safety at Work Regulations; employers now have to provide facilities and assistance for all their functions. The regulations also provide for increased rights of consultation for health and safety representatives.

Other health and safety legislation

Certain legal requirements of earlier Acts – such as the Factories Act 1961 and the Offices, Shops and Railway Premises Act 1963 – remain in force. However, an objective of the HSW Act is gradually to replace those requirements by regulations and approved codes of practice. The Health and Safety Executive (HSE) produces a guide to the HSW Act, which also lists regulations and approved codes of practice made under the Act, together with other Acts dealing with health and safety at work¹⁴.

Health and Safety (Consultation with Employees) Regulations 1996

Employees not in groups covered by trade union safety representatives must be consulted by their employer, under the Health and Safety (Consultation with Employees) Regulations 1996. Employers can choose to consult directly with employees or through elected representatives. For further information see the leaflet *Consulting Employees on Health and Safety* IND (G) 232L, available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel 01787 881165.

Employees' rights

The Trade Union Reform and Employment Rights Act 1993 provides protection against dismissal, or other detrimental action short of dismissal, for health and safety representatives and other employees in particular circumstances where health and safety is an issue. Employees who claim this right has been violated can complain to an employment tribunal, irrespective of their length of service.

General health of employees

In recent years a growing number of employers and trade unions have become interested in the provision of additional facilities and the development of education programmes and health policies aimed at improving the general health of employees. Such measures can improve employment relations, increase productivity, lower absence and accident rates and improve the organisation's public image.

A wide range of health facilities are provided by some employers, which may include:

- regular voluntary health checks
- eyesight tests
- dental checks

- screening for cancer (eg cervical or breast cancer)
- an alternative 'healthy' menu in the staff canteen or restaurant
- exercise facilities
- assistance in giving up smoking, alcohol or drugs
- stress counselling
- relaxation classes.

An information and education programme forms an essential part of any health campaign at work. The simplest way of providing information is to distribute material either produced in house or obtained from sources such as the HSE, the Department of Health or the Health Education Authority (HEA).

The Health and Safety Executive (HSE) is currently focusing on the issue of stress at work. HSE defines stress as "the adverse reaction a person has to excessive pressure or other types of demand placed upon them". The HSE has developed Management Standards to help employers deal with stress. These standards help measure an employer's performance in managing the key causes of stress at work and identify areas for improvement. For more information visit www.hse.gov.uk/stress and see the

Acas advisory booklet *Stress at work*.

The HEA also provides a wide range of useful and informative leaflets on health matters and has developed health promotion campaigns such as Look after yourself and Look after your heart. Further advice and help can be obtained from local Health Education Units listed in the telephone book under the name of the local health authority.

Health policies can help organisations to prepare for and perhaps avoid problems. This can be particularly important in the case of potentially sensitive issues such as

mental health, alcohol and drugs. The development of clear policies can help ensure that decisions affecting employees:

- are generally understood and consistently and fairly applied within the organisation
- take full account of their effect on all areas of the organisation's activity
- satisfy legal requirements
- contribute to good relations between employer, employees and their representatives.

For further information see the Acas guide *Health, work and wellbeing* at www.acas.org.uk/publications.

Holidays

and time off

The legal requirements

Entitlement to holidays and holiday pay is determined by the contract of employment subject to the minimum provisions laid down in the Working Time Regulations 1998 (as amended). Workers covered by the Regulations (including part-timers, and most agency and freelance workers) have the right to

- 4.8 weeks' paid leave each year
- payment for untaken statutory leave entitlement on termination of employment.

Statutory annual leave entitlement will increase from 4.8 weeks to 5.6 weeks (capped at 28 days) on 1 April 2009. Many workers already get contractual leave which is more than 28 days. Their holiday entitlement will not change as a result of the amendments to the Working Time Regulations.

See Acas advice leaflet *Holidays and holiday pay* for more information on the Regulations and their coverage. The BERR *Guide to the Working Time Regulations* gives details visit www.berr.gov.uk/publications.

Entitlement for many employees over the statutory minimum is established

by agreements between employers and trade unions, at national or local level, which are incorporated into individual contracts. Most employees are legally entitled to a written statement of main terms and conditions of employment which must include holiday rights. The statement must detail holiday entitlement, including public holidays, and give sufficient information to allow any entitlement to accrued holiday pay on the termination of employment to be calculated precisely.

Calculating holiday pay

There are many different methods of calculating holiday pay. Salaried employees usually receive their normal rate of pay, including any additions such as location or shift allowance. Holiday pay for manual workers varies widely, from basic pay to average earnings calculated over a specified period prior to the holiday.

Extended leave without pay

Apart from parental leave, and time off for emergency reasons involving dependants, as set out in the Employment Relations Act 1999, there is no general statutory right to extended leave without pay and whether it is granted is a matter for

agreement between employer and employee, or where appropriate with trade unions. It may help to have a policy on extended leave and if so, the following points should be borne in mind:

- the policy should apply to all employees
 - any conditions attached to the granting of extended leave should be carefully explained to the employee and the employee's signature obtained as an acknowledgement that he or she understands and accepts the conditions
 - if an employee fails to return on the agreed date, this should be treated as any other failure to abide by rules and the circumstances should be investigated in the normal way as fully as possible
 - care should be taken that foreign medical certificates are not treated in a discriminatory way
 - before deciding to dismiss employees who overstay leave, their age, length of service, reliability and any explanations given should be taken into account.
- maternity leave
 - paternity leave
 - adoptive leave
 - time off for family emergencies
 - to look for work if declared redundant with at least two years' service
 - public duties
 - trade union duties and activities.

Further information

Acas Code of Practice 3 *Time off for trade union duties and activities* – available from The Stationery Office. Department of Trade and Industry booklets PL958 *Maternity Rights: a guide for employers and employees*, PL514 *Paternity – leave and pay*, PL515 *Adoptive parents – rights to leave and pay*, PL506 *Family emergency? – your right to time off*, PL703 *Facing redundancy? – time off for job hunting or to arrange training* and PL702 *Time off for public duties*. For DTI publications visit www.dti.gov.uk/publications.

For the most up-to-date information also visit the Employment Matters section of the Department for Business, Enterprise and Regulatory Reform website at www.berr.gov.uk/er. See also p68–69 of this handbook for paternity pay, adoptive pay and recent changes to maternity leave.

Other time off

Employees have a statutory entitlement to time off for the following:

- ante-natal care

Hours of work

There are many pressures which are prompting employers to change traditional working patterns, including the pace of technological change, increasing international competition, varying seasonal pressures, customer demand and pressures to reduce working hours. Equally, employees often want to change the hours they work to achieve a better balance between work and home life. The following paragraphs describe various patterns of hours of work that some organisations are using to provide greater employee flexibility. The Working Time Regulations 1998 set limits on how many hours many people can legally work. BERR has produced a *Guide to the Working Time Regulations* giving detailed guidance (available from the BERR orderline on 0870 1502 500).

The Government has also introduced new rights for working parents. Parents of young and disabled children and carers of adults have the right to request a flexible working pattern and employers will have a legal duty to consider such requests seriously and to refuse them only if there are clear business reasons for

doing so. For further information visit the Employment Matters section of the Department for Business, Enterprise and Regulatory Reform website at www.berr.gov.uk/er or read the Acas advisory handbook *Flexible working*.

Annual hours

What is meant by annual hours?

This is a system whereby the period of time within which full time employees must work is defined over a whole year; for example, an average 38-hour week becomes 1,732 annual hours, assuming five weeks of holiday entitlement. Once the yearly hours of work have been agreed these hours are usually distributed in a schedule. Some of the hours may be held in reserve to be used when the employer and employee agree, or they may all be used within the schedule. It will also be necessary to determine the arrangements for public holidays and overtime. Annual hours can be applied to all employees, including day workers and white collar employees, but in practice the system is often restricted to shift workers.

Why introduce annual hours?

An annual hours system may be considered appropriate for one or more of the following reasons:

- to assist in the reduction of the working week
- to reduce, abolish or control overtime
- to cope with seasonal variations and/or peaks and troughs in demand
- to maximise productivity
- to help introduce technological change
- to harmonise terms and conditions of employment.

The advantages and disadvantages of annual hours

For employers annual hours can provide greater employee flexibility, reduce overtime and maximise productivity and efficiency. The benefits for employees can include improved basic pay and progress towards salaried status. Most annual hours agreements specify that employees can be asked to work extra hours at short notice which may be beneficial to employers but can reduce the freedom of employees to plan their leisure.

Introducing an annual hours system

Before introducing an annual hours system, employers should explain to employees and their representatives what is meant by the concept of annual hours and consult with them fully on any proposals. An annual work rota should be calculated and agreed before the proposals are implemented. Those groups of employees who have high overtime earnings may resist the introduction of annual hours.

Flexible working hours

A system of flexible working hours gives employees some choice over the actual times they work their contracted hours.

How do schemes usually operate?

Most schemes have a period during the day, known as core time, when employees must be present. A typical core time would be 10:00–16:00.

Employees may choose their starting and finishing times within flexible bands at the beginning and end of each day. These bands are typically 08:00–10:00 and 16:00–18:00 but there is wide scope for variation depending on the core time, the hours the work place is open and the nature of the business. Some schemes also have a flexible band during the middle of the day so that

employees have some choice over the time they take their lunch break.

Contracted hours are made up by employees working the core time plus hours of their choice during the flexible bands over an agreed period. This period is known as the accounting period and is typically four weeks long. Some schemes allow for an excess or deficit (within set limits) to be carried over to the next accounting period. Hours are credited for absences such as sickness or holidays.

Introducing flexible working hours

The scheme should be carefully planned by all those likely to be affected. A joint working party comprising representatives of management and employees is usually the best approach and any recognised trade union should be fully involved. The working party should consider:

- whether the scheme is to be voluntary or compulsory
- what type of recording system should be used (eg manual, clocking or computerised)
- the degree of flexibility
- arrangements to deal with absences, or lateness
- arrangements for managing and monitoring the scheme.

When the details have been agreed there should be a trial period of, perhaps, three months to help identify and eliminate any problems. Supervisors and managers should be trained to operate the scheme.

Advantages of flexible working hours

The introduction of a flexible working hours scheme gives employees greater freedom and can make travelling easier. This can benefit employers by improving morale and reducing absence and lateness. Other benefits may include reduction in overtime and less lost time since long lunch breaks or late arrivals are not recorded as time worked.

Disadvantages of flexible working hours

There will be some costs involved in administering the scheme and, if the premises are open longer, there may be increased costs for lighting and heating. Flexible working means that employees will not be in work at certain times and therefore it may not be suitable for organisations where continuous cover is necessary.

Overtime

Unless specifically provided for in the contract of employment, any requirement to work overtime is a matter for agreement between employer and employees either directly or through their trade union representatives.

Sensible use of overtime

The sensible use of overtime can result in a more flexible workforce. For example, it can be used to:

- undertake work such as maintenance that can only be done outside production hours
- deal with temporary bottlenecks
- meet temporary increases in demand
- cover absence or labour shortages
- meet customer requirements.

The main arguments against overtime

The regular use of high levels of overtime is expensive. It may cause problems by reducing management's ability to cope with unexpected demand and may act as a disincentive to complete work during normal working hours. It may also affect an employee's social life and, perhaps, lead to health problems. Payment for overtime is variable and an over-dependence on it may cause problems when it is no longer available.

How should overtime pay be calculated?

The basic hourly rate is often used as the basis for calculating overtime. Time and a third or time and a half is commonly paid for overtime on

Mondays to Saturdays and double time on Sundays and bank holidays.

Reducing overtime

Any reduction in overtime should be planned in consultation with employees and their representatives. Attempts to control overtime may include:

- inserting a clause in an agreement to reduce overtime
- giving time off in lieu
- increasing the basic hourly rate to compensate for any reduced overtime
- reducing hours but deferring the time at which overtime rates start, so that the first hour or two of overtime is at flat rate
- introducing annual hours.

Organisations should consider other methods of dealing with increased workloads, before using overtime and choose the most appropriate. Factors to be considered will include whether the increased work is likely to be permanent or temporary and the availability of suitable local labour.

Part-time working

(see also Job sharing on p59)

The advantages of part-time work

Part-time work can provide employers with an alternative pool of labour and allow employees to choose their hours to suit their personal circumstances. Other advantages include:

- lower total wage costs if the employee is below the earnings limit which attracts national insurance contributions
- higher productivity and lower absence rates than full-timers
- the facility to provide cover for busy periods or to extend the running of expensive capital equipment without adding full-time shifts or incurring overtime payments.

The disadvantages of part-time work

For employers part-time workers can mean higher training, administrative and recruitment costs and higher labour turnover. In addition because many part-timers combine work and family responsibilities they may not be available to work extra hours. Part-time employees should have the same pay (pro-rata), training and career prospects as full-time workers.

Making a success of part-time working

If employers are to get the best out of part-time workers they should pay attention to the following:

- wherever possible arrange hours of work to suit the needs of employees as well as the needs of the organisation
- make sure that pay and benefits are proportionately no less favourable than for full-timers doing equivalent work. As in most organisations the majority of part-time workers are women, to offer less favourable terms could be classed as indirect discrimination and would be likely to contravene the Part-time Workers Regulations 2000.
- make sure that part-timers are included in the communications chain and are kept informed about events that happen in their absence.

Shiftwork

What is shiftwork?

Shiftwork is a pattern of work in which one employee replaces another on the same job within a 24-hour period. Shiftworkers normally work in crews, which are groups of workers who make up a separate shift team. In most shift systems, each crew will regularly change its hours of work and rotate from morning, to afternoon, to night shift, depending on the shift system. Continuous shift systems provide cover for 24 hours, seven days a

week. Non-continuous or discontinuous shift systems may provide cover, for example, for five 24-hour periods out of seven days, or for 12 hours out of 24.

Why are more organisations using shiftwork?

The main reasons are:

- as the pace of technological change has quickened, so has the rate at which plant and equipment becomes out of date. Shiftwork enables employers to make maximum use of plant which can reduce production costs and increase output
- because certain processes in manufacturing industries must be operated continuously for technical reasons
- to assist service industries to increase the period for which they provide services, eg by late night or weekend opening.

How should shiftwork be introduced?

If shiftwork is to be introduced successfully it is essential to plan thoroughly and involve employees and their representatives at the earliest possible moment. Further information on the advantages and disadvantages of shiftwork and the choice, planning and introduction of a suitable system can be found in the Acas advisory booklet *Flexible working and work-life balance*.

Human

resource planning

What is human resource planning?

Human resource planning (HRP) is a way of assisting the best deployment of human resources and can help organisations to:

- assess future recruitment needs
- anticipate and possibly avoid redundancies
- formulate training programmes
- develop a promotion and career development policy including succession planning
- keep staff costs to a minimum while permitting salaries to be competitive
- assess future premises requirements.

What does HRP involve?

HRP can be divided into three main stages:

- forecasting labour requirements by examining:

- future plans for marketing, production, finance and reorganisation
- changes in working practices
- changes in productivity
- the extent of temporary and sub-contract work
- seasonal variations.

- assessing labour supply by:

- analysing personnel records
- measuring current labour turnover and predicting future turnover
- examining external factors such as the economy, unemployment population changes, competition from other firms in the area and the numbers of school and college leavers available.

- matching the available supply against the forecast demand by:

- planned recruitment, selection, promotion and staff development.

How far in advance should labour be planned?

The period will vary according to the size and type of organisation. It may be necessary to operate more than one plan; for example:

- a five-year strategic plan
- a three-year operating plan
- a six-monthly detailed plan.

HRP is not an exact science and plans will need updating in the light of changed circumstances.

Job design

What is job design?

Job design is the organisation of tasks and the structuring of jobs in a way that provides satisfaction for job holders and increases their effectiveness.

Well-designed jobs

The aim should be to design jobs so that individuals can see that their efforts make a significant contribution to an organisation in a way that is visible to them. Job holders should also have some discretion and control over the timing, sequence and pace of their work and be given some responsibility for results. Other important characteristics of well designed jobs include:

- feedback on performance
- opportunities for learning, problem solving and individual development
- an opportunity to contribute to decisions and objectives affecting jobs
- clear goals that provide some challenge

- provision of sufficient resources (eg training, information, equipment and materials).

Re-designing jobs

It is good practice to consult employees and their representatives about proposed job changes. Job designers should analyse jobs by finding out what people actually do, the difficulties and problems they experience and their expectations. The aim is to find a satisfactory match between the needs of individual job holders and the needs of their employers and colleagues.

The effects of job design

Job design can help to improve motivation and commitment by involving individuals in planning the way their jobs are done. In addition re-designing jobs can often change the structure of an organisation as employees take on more individual responsibility leading to a reduction in the number of tiers of management.

Job sharing

What is job sharing?

Job sharing involves dividing a single full-time job between two people who share the responsibility, pay and benefits.

How can jobs be shared?

Jobs can be shared between two people on a daily basis, with one sharer working mornings and the other afternoons, or on a weekly basis, with sharers working half a week each.

Another method is for sharers to work alternate weeks.

When deciding how to split a job the following should be considered:

- the flexibility of the job sharers
- the need for any overlap
- travel costs (if significant, alternate weeks may reduce costs through the purchase of weekly tickets).

The advantages of job sharing

Job sharing allows companies to recruit skilled, experienced workers who may not be available for or willing to do full-time work and allows one post to be filled by two people with different but complementary experience. In addition, it provides some continuity if one sharer leaves or is absent.

Disadvantages of job sharing

Job sharing involves some additional administrative and training costs and extra time spent on supervision and communication. Furthermore, where job sharers have managerial responsibilities staff may find it difficult or confusing to work for two people. In addition, some job sharers may feel that they are achieving proportionately more than a full-time employee and that they are being inadequately paid.

Employee

turnover

High employee turnover is costly, lowers productivity and morale and tends to get worse if not dealt with. For further guidance see Acas advisory booklet *Managing attendance and employee turnover*.

What is employee turnover?

Employee turnover is the total movement of employees in and out of an organisation. However, the term is commonly used to refer only to 'wastage' or the number of employees leaving.

Measuring employee turnover

Employee turnover should be measured on a regular basis to identify problems, assist human resource planning and help assess the success of any measures taken to reduce turnover. The simplest measure involves calculating the number of leavers in a period (usually a year) as a percentage of the number employed during the same period. This is known as the separation rate or crude wastage rate and is expressed as follows:

$$\frac{\text{no of leavers}}{\text{average no employed}} \times 100$$

The stability index illustrates the extent to which the experienced workforce is being retained and is calculated as follows:

$$\frac{\text{no of employees with one or more year's service now}}{\text{no employed one year ago}} \times 100$$

Turnover will vary between different groups of employees and measurement will be more valuable if broken down by department or section or according to such factors as length of service, age or occupation.

Patterns of employee turnover

The biggest proportion of leavers tends to be among those who have recently joined an organisation. Longer serving employees are more likely to stay, mainly because they become used to the work and the organisation and have an established relationship with those around them.

Establishing the reasons for employee turnover

The causes of employee turnover are more likely to be brought directly to management's attention where there is effective consultation with employee representatives. The views of individuals should also be obtained by asking existing employees what they like and dislike about the job and asking leavers why they are leaving. This may be done systematically through the use of opinion surveys, questionnaires and exit interviews.

Dealing with employee turnover

Areas commonly in need of attention may include:

- recruitment and selection
- induction and training
- pay and grading
- communication and consultation
- management and supervision
- disciplinary procedures
- working conditions
- employee involvement.

Management *of change*

Why may change be necessary?

Several pressures are acting together to oblige employers to consider introducing change. The main ones at present are:

- increased competition
- customer demand
- demographic and structural changes in the labour market
- threats and opportunities arising from the Single European Market and expansion of the European Union
- changing employee relations.

Employers are responding to these pressures in one or more important ways, for example by:

- introducing new technology
- developing new products
- developing new markets overseas
- introducing 'quality management' and/or 'customer care' programmes

- decentralising and/or restructuring the organisation
- introducing one or more forms of flexibility (see sections on Flexible working practices p36 and Hours of work p50).

What is meant by the management of change?

Management of change is the careful consideration, during the planning stage, of all the factors involved in or affected by the proposed change. It also involves taking all the steps necessary to ensure smooth implementation. However, despite planning, the implementation of change may be adversely affected by events external to the organisation which it could not have foreseen or over which it has no control.

What factors must be taken into account?

The following factors should be examined in an integrated way, taking care that action in one area does not have an adverse effect elsewhere:

- **strategic factors** – is the change in line with the organisation's overall strategic plan?
- **financial factors** – is the change financially sound and in line with the business circumstances of the organisation?
- **organisational factors** – does the change require alterations in, for example structure, culture, pay and grading, recruitment, selection, training or communications?
- **employment relations factors** – does the change have the support of recognised trade unions?
- **work structure and job design factors** – how can the jobs affected directly or indirectly by the change be best designed to ensure that there is no loss of job satisfaction (see also p58 on Job design)?
- **human factors** – does the organisation have the commitment of senior managers and all other employees affected and do employees have the necessary skills and competencies required by the change?

to be neglected, causing stress and resentment among the workforce. Positive steps must be taken to foster enthusiasm and commitment at an early stage and throughout the change process. Steps should include:

- ensuring that communications arrangements are effective, that they begin as early as possible and continue throughout the change process (see also p13 on Communications)
- consulting with employee representatives and, if necessary, involving full-time officials
- tapping the resources and ideas of employees through, for example, departmental meetings, task forces and working parties especially in relation to job design
- ensuring that adequate training takes place early enough to develop the necessary skills and competencies.

Through communication, consultation, involvement and training, all those affected can be encouraged to become parties to the change and be willing to try to make it work.

A recent European directive giving employees in the UK new rights to information and consultation has

Dealing with the human factor

The last of the factors above – the human factor – is the one most likely

been agreed. The directive gives employees the right to be informed about the business's economic situation and to be informed and consulted about employment prospects and about decisions which may lead to substantial changes in work organisation or contractual relations, including redundancies and transfers. The directive applies to businesses with 50 or more employees.

What other steps are necessary for successful change?

- appoint someone with accepted status and influence to be responsible for the change
- try to create a climate of openness and trust
- consider the use of an external change agent or facilitator
- monitor the change process throughout and revise plans and objectives as appropriate.

Opportunities and benefits

Most changes create opportunities as well as problems. In particular opportunities may be taken to:

- improve employment relations

- improve the quality of working life.

The successful management of change can also help to:

- increase job interest and commitment to the organisation
- develop the capacities of employees to take initiatives and exercise discretion and control over their work
- develop the capacity of the organisation to change in response to new pressures
- strengthen the organisation at all levels but particularly at its base.

Pay and *grading*

Pay and payment systems can have a considerable effect, for good or ill, both on the efficient running of an enterprise and on management/employee relations. For the effect to be good it is important to choose the system carefully so that all employees feel they receive a fair reward for their efforts.

Types of payment system

Payment systems can be divided into two main types:

- **basic rate systems** where pay is directly related to hours worked. This is the most common system with a set rate per hour, week or month. Higher rates may be paid for overtime or shiftworking but pay is still related to the length of time worked
- **incentive payment systems** which are designed to encourage employees to work harder in order to increase earnings. Many types of incentive systems are used and some firms operate different systems for different groups of workers. The main types of incentive scheme are as follows:
 - payment by results where individuals or groups of employees are paid according to the amount they produce or sell
 - measured day work where pay is fixed at a higher rate than the normal time rate on the understanding that the employee maintains a specified level of performance. Some measured day work schemes are ‘stepped’ so that employees can be moved to different performance levels at differing rates of pay
 - plant and enterprise schemes where bonus is paid according to the performance of a unit or the whole company. The bonus may be based on volume of output, sales value or the value added to raw materials by production or other process
 - merit rating where employees receive bonuses or increments linked to an assessment of their performance (see also Appraisal schemes on p6)

– share incentive schemes involve the provision of shares to employees – either by giving them direct or allowing them to be bought. The aim is to encourage staff involvement in the company's performance and therefore improve motivation and commitment.

- performance
- qualifications
- experience.

One method of systematically assessing the relative demands of different jobs can be provided by job design (see p58).

Selecting the right payment system

For a payment system to be successful it should:

- be carefully selected to take account of the needs of the organisation and its employees
- have the commitment of all employees and all levels of management
- be developed and maintained with the participation of employees and their representatives.

Grading

Relative pay between individuals and groups of employees is of crucial importance to recruitment, retention and employee relations. A fair and non-discriminatory method of assessing differences in pay needs to be devised and a number of criteria may be used, for example:

Methods of payment

Traditionally many employees, especially manual workers, have been paid in cash. However in an attempt to reduce costs and increase security more employers are moving to payment by cheque or credit transfer. Furthermore, since the repeal of the Truck Acts, manual workers no longer have a statutory right to payment in cash although many workers have an established contractual right.

Moving to cashless pay

Moving to cashless pay can bring problems for both employers and employees unless it is handled carefully. Employees who are used to payment in cash may have no experience of operating bank accounts and find the prospect daunting. An employer who simply imposes a change may be in breach of contract (see Contracts of employment on p16). In addition the imposition may cause financial

difficulties for some employees during the transition period and lead to resentment.

How can cashless pay be introduced successfully?

There are many ways of easing the introduction of cashless pay including:

- consultation with employees and their representatives so that potential problems can be discussed and solutions found
- inviting high street banks to provide information and talks on the operation of bank accounts and the facilities available
- the provision of pay advances, during the transition period, if a move to cashless pay also involves a change from weekly to monthly pay
- allowing employees sufficient time on pay day to get to the bank
- sharing with employees any financial savings made through the introduction of cashless pay.

Deductions from wages

The Employment Rights Act 1996 provides that deductions by employers, or payments by employees to employers, are

unlawful unless they are allowed by one of the following:

- law, for example income tax or national insurance
- the contract of employment
- the prior written consent of the employee.

These provisions do not apply where a deduction is made:

- to recover an earlier over payment of wages or expenses by the employer from the employee, for example as a result of a calculation or computer error¹⁵
- as a result of statutory disciplinary provisions, for example police disciplinary proceedings
- because the employee takes part in a strike or other industrial action
- to satisfy a court order or employment tribunal decision.

Where an employer relies on a term in the contract to make a deduction, he or she must ensure that the worker has been given, prior to making the deduction, a written copy of the term or an explanation of its existence and effect. Deductions in respect of conduct that took place before the contract was varied or the consent was obtained are unlawful.

Additional provisions in retail employment

Employees in retail employment, broadly defined as those selling or supplying goods or services, have the following special protection against deductions arising from cash shortages or stock deficiencies:

- any sum owing to the employer can only be recovered by instalments limited to 10 per cent of the gross wages on each pay day. (This 10 per cent limit does not apply to the employee's final pay day)
- any deduction because of a shortage is unlawful if it is made more than 12 months after the shortage was established.

For further guidance see the Department for Business, Enterprise and Regulatory Reform leaflet PL810 *The law on the payment of wages and deductions*, visit www.berr.gov.uk/publications.

Remedies

Where an employee considers a deduction to be unlawful, he or she may complain to an employment tribunal. An Acas officer will contact the parties to try to help them reach a voluntary settlement¹⁶.

If the matter reaches the employment tribunal, they will simply consider the facts and decide if there was an unlawful deduction.

If the deduction is judged to be unlawful, the employer will be ordered to pay it back.

Where employment has been terminated, an employee may be able to make a claim for breach of contract to an employment tribunal for wages or sums of money due under the contract, where the claim 'arises or is outstanding on the termination of employment'.

The employer may be able to make a claim against the employee where the employee has claimed against the employer under this legislation¹⁷.

Statutory maternity pay

Pregnant women may qualify for Statutory Maternity Pay for up to 39 weeks (26 weeks for women whose babies are due up to and including 31 March 2007), if they have 26 weeks' continuous service and earn above the lower limit for payment of National Insurance contributions.

Full details are contained in the Department for Work and Pensions manual NI257 *Statutory Maternity Pay* – manual for employers, available from local Social Security offices. See the 'Work and Families Act' section of the Department for Business, Enterprise and Regulatory Reform website under 'Employment policy and legislation'.

Statutory paternity pay and statutory adoptive pay

Employees can qualify for two weeks Statutory Paternity Pay if they have completed 26 weeks' continuous service with an employer and earn above the lower earnings limit for National Insurance Contributions. As with maternity pay, this is also paid by the employer, who can obtain reimbursement via National Insurance and tax payments. See Department for Business, Enterprise and Regulatory Reform leaflet *Paternity – leave and pay*.

Employees may qualify for 39 weeks Statutory Adoption Pay (26 weeks for employees who expect to have children placed with them for adoption before 1 April 2007). See the 'Work and Families Act' section of the Department for Business, Enterprise and Regulatory Reform website under 'Employment policy and legislation'.

Itemised pay statements

Employees have a statutory right to receive from their employers, a detailed written pay statement at or before the time of payment. For an outline of the provisions relating to itemised pay statements see Department for Business, Enterprise and Regulatory Reform booklet PL704 *Itemised pay statements*.

Minimum wage

The National Minimum Wage Act 1998 and National Minimum Wage Regulations 1999 came into force on 1 April 1999, setting minimum rates of pay for workers over the age of 18. The rates are subject to review by the Low Pay Commission and may change over time. The Agricultural Wages Board sets the minimum rates for agricultural workers.

Pensions

What types of pension provision are there?

A number of Acts of Parliament have contributed to legislation governing pensions arrangements in this country. These include the Social Security Act 1975, the Social Security Act 1986 and the Pensions Act 1995. The main types of pension arrangements currently available are:

- a flat rate pension (old age pension)
- a state earnings related pension supplement
- an occupational pension
- a personal pension
- a stakeholder pension.
- state earnings related pension (SERPS) supplement where a portion of the state scheme relates to earning
- graduated retirement benefit based on a person's National Insurance contributions paid between April 1961 and April 1975.

Leaflet NP46, available from Social Security offices, gives details of the state pension.

Occupational pensions

Membership of SERPS is not compulsory and it is open to employers to contract out and make their own arrangements.

Most contracted out schemes have the following components:

State pensions

These are financed by contributions from employers and employees with a subsidy from general taxation. The state pension may consist of up to three components:

- flat rate pension which is subject to a minimum contribution level before being paid to all employees on retirement, currently age 65 for men and 60 for women
- a pension based on either final salary (ie related to average earnings over the last two, three or five years) or on money purchase (ie based on flat percentage contributions)
- a lump sum benefit on retirement
- benefits for dependants
- benefits for early leavers.

Some are non-contributory with the employer meeting the full cost.

Where an employer wishes to establish a contracted out scheme, proper notice must be given to employees and to any independent trade unions recognised to any extent for collective bargaining purposes for the employees concerned. The 1975 Social Security Act requires an employer to formally consult with the recognised trade unions about the proposal to establish a contracted-out scheme. The employer must send an election to contract out to the Contributions Agency, Contracted Out Employment's Group for issue of a contracting-out certificate¹⁸.

Additional voluntary contributions (AVC)

Everyone in a company pension scheme has the right to make additional voluntary contributions up to a specified maximum.

These contributions may be to a separate scheme which an individual employee can arrange or to the company pension scheme itself where there is a facility to do so.

Personal pensions

Employees may decide to take out a personal pension instead of joining

their company's scheme and if so they will receive a contribution, linked to earnings, from the Government to their personal pension scheme. In addition they can transfer from one personal pension to another or into an occupational scheme. However, employees should proceed with care and take appropriate advice before deciding to take out a personal pension. They should also bear in mind that employers can refuse to re-admit any employees who opt out of the occupational scheme.

Stakeholder pensions

Introduced in 2001 these are a form of personal pension available to almost everyone – workers, non-earners, people already in company schemes and the self-employed. Tax relief is available on contributions. Organisations employing five or more people who earn over the lower earnings limit are obliged to offer access to a stakeholder pension scheme (from 8 October 2001) if they do not already offer pension provision.

Employment relations implications

Many companies recognise the need to negotiate or consult about pensions as part of the overall pay package, including, more specifically:

- conditions of entitlement
- size of pensions
- attitude towards those taking personal pensions
- size of employer contribution
- use of pension fund surpluses
- the involvement, if any, of employees as trustees.

Employers should ensure that all employees are aware of the recent legislative changes and their impact on the company's own pension scheme, where appropriate.

Personnel

records

Personnel records provide the basic information for human resource policies, plans and procedures. They enable managers to learn more about their workforce so that decisions can be based on facts rather than guess work or impressions. They can also help to detect and control problems of recruitment, labour turnover, lateness, discipline, absence and health and safety. More detailed information on personnel records and examples of personnel forms can be found in the Acas advisory booklet *Personnel data and record keeping*.

What records are required?

Some records, such as those for statutory maternity pay and statutory sick pay, are required by law. In addition, all organisations need some information on individual employees such as:

- personal history
- employment history
- terms and conditions
- absence

- accidents
- disciplinary action
- training.

Other records should be tailored to the needs of the organisation by consulting those who will use them, but should normally include:

- the numbers and occupation of employees required for optimum production, taking into account plans for the future
- analyses of employees by age, sex, grade, length of service, ethnic origin and disability (see Equal opportunities on p30)
- timekeeping, labour turnover and absence statistics
- records of total wage and salary costs.

The record system

Personnel record systems range from simple card indexes to sophisticated computerised systems. Other methods include ledgers, folders,

punched and notched cards and microfilm. Whichever method is chosen there is a considerable variety of commercial systems available.

Data protection

The Data Protection Act 1984 requires employers who hold personal data on computers to register with the Data Protection Registrar. Computerised personal data must be available, so that, at reasonable intervals and expense, individuals can be informed about their personal data and, where appropriate, have it corrected or erased. 'Personal data' includes not just factual information but also opinions expressed about employees. However, any indication of intentions, such as an intention to promote, is outside the scope of the Act. The Act also exempts personal data held only for payroll purposes – eg for the calculation of pay and

pensions. Other exemptions include data for salary surveys (provided the subjects cannot be identified) and tax collection.

The Data Protection Act 1998 replaces in its entirety the 1984 Act and widens both the definition of 'data' and the coverage of the Act's protection. It also extends the rights of workers to have access to data held about them, to know for what purpose information is held and its relevance to their working life. The Information Commissioner – responsible for enforcement of the Data Protection Act – has published *The Employment Practices Code* to help employers comply with the provisions of the Act. The code – covering recruitment and selection, employment records, monitoring at work and medical information – is available from the Commissioner at www.ico.gov.uk (tel 01625 545745).

Recruitment,

selection and induction

Why are good recruitment, selection and induction important?

Effective recruitment and selection can:

- create a more effective workforce
- reduce employee turnover and thereby reduce costs.

Induction is important because it can reinforce a person's satisfaction following appointment and also:

- allow the new employee to settle in more quickly
- assist the employee to become fully productive
- reduce any unsettling effect on other workers
- maintain the enthusiasm of the newcomer.

For more detailed guidance see Acas advisory booklet *Recruitment and induction*.

Equal opportunities

By law employers must not discriminate on the grounds of age, race, sex, marriage, disability, gender identity, sexual orientation or religion or belief.

All stages of the recruitment process must treat all races and both sexes equally. The Equality and Human Rights Commission produces codes of practice, available from JobCentres, which explain how to avoid discrimination – visit www.equalityhumanrights.com. It is unlawful under the provisions of the Disability Discrimination Act 1995 for an employer to treat a disabled person less favourably because of a reason relating to their disability, when applying for or during employment, without a justifiable reason. Employers are required to make a reasonable adjustment to working conditions or the workplace where that would help to accommodate a particular disabled person. Disability is defined under the Act as a physical or mental impairment which has a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities. Further

guidance may be found in the *Code of Practice for the elimination of discrimination in the field of employment against disabled persons* – available from The Stationery Office.

Recruiting suitable applicants

Before employees are recruited it is advisable to draw up a job description describing the main purpose, the main tasks and the scope of the job. A person specification of the type of person who would best fit the job should then be prepared. Rates of pay should also be borne in mind.

What skills and characteristics will be necessary when recruiting?

A person specification might include the following headings under which the attributes of candidates can be placed:

- Attainments
- Intelligence
- Motivation
- Special aptitudes
- Interests
- Disposition

- Individual circumstances.

Attracting applicants

The best medium for recruitment is the one which reaches the target population at the least cost. The main methods are:

- internal recruitment
- factory gate noticeboards
- local schools, colleges and careers services
- local newspapers, radio, television
- JobCentres
- private employment agencies
- national newspapers
- specialist or professional journals
- recruitment consultants
- executive search organisations
- the internet, particularly for specialist and professional recruitment.

A further method of recruitment is through introduction by existing employees. However, it should be borne in mind that word of mouth recruitment might perpetuate the existing make-up of the workplace

and lead to allegations of discrimination – for instance on grounds of sex or race. This is especially so if word of mouth is the sole method of recruitment.

Selecting the best candidate

It should be established who will decide on selection: the personnel specialist, the line manager and/or the supervisor. Candidates may then be matched against the personnel specification by using, as appropriate:

- application forms, CVs, letters
- aptitude tests
- psychological tests
- references
- interviews.

Selection criteria and tests should be examined to ensure that they are job-related and free from discrimination.

Application forms

Application forms have the following advantages:

- they make it easier to compare like with like
- the employer determines what information is included

- the information obtained can be used as the basis for the interview
- it can be easier for applicants to complete an application form than to write a letter.

It should be borne in mind that the application form may also lead to discrimination if it is used as a means of testing literacy where this is not necessary for the needs of the job. Where information is asked about sex, marital status or ethnic origin the application form should make it clear that this information is for the sole purpose of monitoring the organisation's equal opportunities policy.

Conducting the interview

Good interviewing is not easy and managers and supervisors should be trained in interviewing skills. The objective of the interview is to get an accurate picture of the candidate and so be able to decide whether he or she fits the job. Ideally this should be achieved while the interviewee is relaxed. The following suggestions may be helpful:

- try to put the candidate at ease
- give some background information on the company and the job
- start asking questions on subjects familiar to the candidate

- use open-ended questions that cannot be answered by 'yes' or 'no'
- avoid interruptions
- allow time for questions
- make sure the candidate is familiar with the terms and conditions of employment
- tell the candidate when to expect the outcome.

Immediately after the interview, any notes should be written up reflecting the views of the interviewers. Candidates should be told as soon as possible whether or not they have been successful. For successful candidates the next step is to plan for their arrival.

What is induction?

The purpose of the induction period (which may be a few hours or a few days) is to help the new employee to settle down quickly into the job by becoming familiar with the people, the surroundings, the job, the firm and the industry. It is important not only to give a recruit a good impression on the first day of work but also to have a systematic induction programme, spread out over a number of days, to cover all the ground in the shortest effective time. Employers are advised to monitor the operation of any

induction plan to ensure that it is being followed by managers and supervisors. Further information on induction can be found in Acas advisory booklet *Recruitment and induction*.

The induction plan

The overall plan should be drawn up in consultation with those involved. According to the size of the organisation this may include one or more of the following:

- supervisor
- personnel officer
- safety officer
- safety representative
- employee or trade union representative.

Usually induction involves the new employee meeting and listening to different people talk about aspects of the organisation. Other methods include written information, audio visual aids and group discussion.

What should be included in an induction programme?

The following items should be covered in the programme:

- introduction to the company/department and its personnel structure
- layout of the establishment
- terms and conditions of employment
- relevant personnel policies, such as training, promotion and health and safety
- company rules and procedures
- arrangements for employee involvement
- welfare and employee benefits or facilities.

It is a good idea to provide an induction checklist as an aide memoire to those involved.

Employees needing special attention

Everyone who is newly-employed or is transferred from one job to another needs some induction. Some employees may need particular consideration, including:

- school leavers
- people returning to work after a break
- disabled employees
- management trainees
- employees with language difficulties.

Redundancy and lay-offs

What is redundancy?

Redundancy may arise where:

- a business is closing down, either completely or at a particular site, or
- there is a diminishing need for employees to carry out work of a particular kind.

For further guidance see Acas advisory booklet *Redundancy handling*.

Avoiding redundancies

Management is responsible for developing a plan to determine existing and future staffing needs. As part of this strategy it may be helpful to develop a formal approach on how to handle a reduction in staffing requirements, should this become necessary. The advantages of such an approach are that it will:

- help to ensure fair and consistent treatment
- avoid uncertainty
- assist the process of change.

What types of approach are there?

Redundancy is normally dealt with in one of three ways:

- an ad hoc approach where the actual practice varies according to the circumstances
- a formal policy proposed by management
- a formal agreement following negotiation with trade union or other employee representatives.

In the interest of good employment relations it will be prudent to adopt the latter approach since this will reduce the possibility of conflict and misunderstanding. It also makes planning easier and helps to implement change, for example following the introduction of new technology.

What measures can be taken to minimise or avoid redundancies?

Long-term options include:

- reviewing staffing levels to meet changes in the market

- agreeing changes in working practices
- withdrawing contracted-out work
- considering suitable alternative work
- considering relocation or transferring production
- introducing early retirement.

Short-term options include:

- reducing overtime, introducing short-time working or laying off staff
- stopping recruitment, particularly of temporary staff
- pursuing a policy of retiring those already beyond retirement age.

What are the most common criteria when selecting for redundancy?

Objective non-discriminatory criteria should be used when deciding who is to be made redundant. Non-compulsory selection criteria include voluntary redundancy and voluntary early retirement. Compulsory selection criteria include proficiency through skills and qualifications, standard of work performance and attendance or disciplinary records.

If an employer is thinking of dismissing an employee on the grounds of redundancy they must follow a standard dismissal procedure. This involves writing to the employee, setting out the reasons for the dismissal; meeting with the employee to discuss the dismissal; and, where necessary, holding an appeal. The procedure does not apply to some collective redundancies. For further information, see the Acas advisory handbook *Discipline and grievances at work (section 1 of 2)*. The Government is proposing to repeal the statutory dispute procedures in April 2009. For further information visit the Department for Business, Enterprise and Regulatory Reform at www.berr.gov.uk.

Consultation

Employers must consult appropriate representatives when it is proposed to dismiss 20 or more employees at one establishment over a period of 90 days or less. Appropriate representatives are either representatives of a recognised independent trade union or other elected representatives of the affected employees.

However, if the organisation recognises trade union representatives for the affected employees, then it cannot choose to consult with any other form of employee representative

and not the trade union.

Employee representatives may be elected solely for the purpose of consultation about specific redundancies or they could be part of an existing elected consultative body.

The process of consultation must be properly carried out, with a view to reaching agreement with the trade union or other elected employee representatives on key issues which should include ways of:

- avoiding the dismissals
- reducing the number of employees to be dismissed
- mitigating the effects of dismissals.

Minimum periods of consultation are laid down by law depending on the timescale of the redundancy and the numbers involved.

However, it is a good practice to consult in all cases at the earliest opportunity. Individual employees who are affected by the redundancies should also be consulted.

For further information see Acas advisory booklet *Redundancy handling* and Department for Business, Enterprise and Regulatory Reform booklet PL833 *Redundancy Consultation and Notification*.

What information has to be disclosed to trade union or employee representatives?

Employers subject to the consultation requirements must disclose in writing to the trade union or other elected employee representatives the following information:

- the reasons for the proposed redundancies
- the number and descriptions of those it is proposed to make redundant
- the total number of employees of any such description that work in the establishment in question
- the selection method and how the dismissals will be carried out (including the proposed timescale)
- the proposed method of calculating any non-statutory redundancy payments.

In addition, it is good practice for employers to consult and, where appropriate, negotiate:

- relocation arrangements
- time off for employees to look for other work
- any retention of company benefits

- the length of trial periods in a new job where retraining is involved
- the effect on earnings if another job is accepted in preference to redundancy
- the arrangements for the transfer of apprenticeships.
- extend the consultative exercise to others affected by the redundancy programme
- call for volunteers, where appropriate
- consider availability of other work or retraining

How to handle redundancies: a checklist

The following steps should be taken where appropriate:

- decide on the numbers to be made redundant
- consult with trade unions or other elected employee representatives ‘in good time’ and within time limits laid down by legislation
- disclose the required information
- allow the appropriate representatives access to the affected employees and provide them with accommodation and other facilities as necessary
- notify the Department for Business, Enterprise and Regulatory Reform of the redundancies if 20 or more employees are to be dismissed at one establishment

- select employees for redundancy bearing in mind any agreed procedure
- inform employees as soon as possible of their impending redundancies
- allow them time off to look for work or to arrange training
- issue dismissal notices.

Redundancy is subject to extensive legal provisions. For further guidance on these see Department for Business, Enterprise and Regulatory Reform booklets PL833 *Redundancy consultation and notification*, PL703 *Facing redundancy? – Time off for job hunting or to arrange training* and PL808 *Redundancy payments*, visit www.berr.gov.uk/publications.

Lay-offs

Most employees who are laid off for a full day or more are entitled to a guarantee payment for up to five

days in any period of three months. Whether or not an employer has the right to lay off an employee is determined by individual contracts of employment. An employee who is laid off or put on short-time for four consecutive weeks or six weeks in a continuous period of 13 weeks, because of shortage of work, may claim a redundancy payment without waiting to be made redundant.

For further information see Acas advice leaflet *Lay-offs and Short-time Working* and Department for Business, Enterprise and Regulatory Reform booklets PL724 *Guarantee payments* and PL808 *Redundancy Payments*, visit www.berr.gov.uk/publications.

Relocation

Why relocate?

Organisations may wish to relocate because of:

- the physical limitations of existing premises
- recruitment and retention difficulties
- high accommodation costs
- re-structuring of the organisation.

Employers need to pay particular attention to the importance of consulting and communicating with individuals as well as with their representatives. Employees may resist relocation because of:

- the attitude of family and friends
- house price differentials
- their age
- the effect on the education of any children.

Employers should therefore be prepared to offer advice and assistance to employees and give them sufficient information on which

to base any decision on whether to relocate. In particular some information should be given on the facilities available in and around the new area.

The relocation package

The biggest task is often to persuade key employees to move. In order to overcome employees' fears, employers may wish to offer relocation packages, which might include the following:

- reimbursement of legal costs
- help in arranging a mortgage
- payment of excess housing costs allowance
- award of a disturbance allowance
- reimbursement of house hunting costs.

Employers should be aware that further costs may be incurred through a need to provide for the redundancy or early retirement of those either not selected for relocation or not offered a suitable alternative job.

Supervision

Supervisors are first line managers with the responsibility for leading a team. Their role and duties should be clearly set out in their job description.

Selecting supervisors

It is unwise to assume that the person with the best technical knowledge necessarily has the right leadership qualities. A prospective supervisor should:

- honestly want the job
- have some record of achievement
- have the ability to develop
- be acceptable to the work group
- know what the job involves.

Training supervisors

Ideally supervisors should be introduced gradually to the job by:

- standing in for an existing supervisor
- taking charge of a small section
- taking charge of a project
- progressive delegation.

Supervisors should be involved in planning their own induction and training. It is important that their progress is monitored and they are given feedback and counselling as necessary. External training courses can help to broaden horizons and develop self-confidence.

Support for supervisors

Managers should take care to involve supervisors in the management chain. This can be achieved by giving the supervisor responsibility for:

- communicating management information to the work group
- dealing with day-to-day matters such as holidays, sick leave, safety and training
- the first stage in grievance or disciplinary matters.

Some companies also give supervisors responsibility for issuing appointment letters. Further advice can be obtained from Acas advisory booklet *Supervision*.

Training

and development

For an organisation to succeed its employees must possess the appropriate skills and expertise. In some cases, trained personnel may be recruited but changing needs and technology mean that most organisations will need to train and develop employees on a continuing basis. Information on local and national training schemes may be obtained from your local Learning and Skills Council.

Reviewing training needs

To carry out a review of training needs, it will be necessary to gather together all the relevant information. This may include:

- business plans and objectives, including planned new products or services
- details of the labour market – how easy is it to recruit trained employees?
- views of managers, employees and their representatives on what training is needed

- a breakdown of employees by age, length of service and qualifications
- training and development needs of employees identified in appraisal reports.

It is important when carrying out such a review to explain the reasons for the exercise to all those involved. Once all the views and information have been assembled, it should be possible to work out what training is needed for the organisation to be able to achieve its objectives.

Training methods

Training may be carried out in a number of ways including:

- on-the-job training where employees sit with experienced colleagues who have been trained to pass on their skills
- planned work experience where an individual is moved around the organisation (or perhaps seconded to another organisation) in order to gain the necessary skills and knowledge

- in house training courses run by the organisation's own trainers or training consultants
- external courses at colleges or training centres
- open learning or distance learning where the trainee is provided with study material often including audio, video or computer based aids.

Evaluating training

The success of training should be assessed against measurable objectives. This is important both to ensure that the standard of training is satisfactory and to help determine the future training needs of individuals.

Human resource development

Some companies, recognising that employees are their greatest asset, are introducing human resource development (HRD) programmes to:

- ensure that employees have the skills and knowledge needed by the organisation
- encourage the personal development of individuals
- help employees to be well motivated and adaptable.

HRD usually involves planned activities offering opportunities for development.

There is a wide range of activities to choose from including the following:

- exchanges or secondments
- further education
- training courses
- job rotation
- special projects
- supervised work at a higher grade.

Individual development programmes may be agreed which set out the training and experience required.

Written

statements

Who is entitled to a written statement?

The Employment Rights Act 1996 requires employers to provide employees¹⁹ within two calendar months of starting work, with a written statement of the main terms and conditions of employment.

What information should it contain?

The statement should contain information on the following:

- the employer's name
- the place of work and the address of the employer
- the employee's name
- the date employment began
- the date on which the employee's period of continuous employment began (taking into account any employment with a previous employer which counts towards that period)
- where the employment is not permanent, the period it is expected to continue
- where the employment is for a fixed-term, the date when it is to end
- the job title
- the amount of pay and the interval between payments
- hours of work
- holiday pay and entitlement
- sickness and sick pay arrangements
- pensions
- whether a contracting out certificate under the Social Security Pensions Act 1975 is in force
- notice periods
- a note specifying any disciplinary rules and to whom employees can apply if they are dissatisfied with a disciplinary decision

- a note on grievance procedures specifying to whom employees can apply to seek redress of any grievance (the detail of the rules may be held in another document, see below)
- any collective agreements which directly affect the terms and conditions
- where the person is required to work outside the UK for more than one month, the period he/she is to do so; the terms and conditions relating to his/her return to the UK.
- disciplinary rules
- particulars of sick pay terms
- particulars of pension entitlements
- terms relating to notice of termination of the contract (ie relevant statutory provisions or a collective agreement).

What about changes to written statements?

If there is any change to any of the terms and conditions set out in the written statement after it has been issued, the employer must give the employee a fresh written statement. The new statement must be issued not later than one month after the change. Where the change results from the employee being required to work outside the UK for more than one month, the new statement must be issued at the time the employee leaves the UK, if that is less than one month after the change.

The written statement must set out the employee's terms and conditions in full; it is not sufficient to refer employees to some other document, such as a collective agreement or a staff handbook. There are, however, certain exceptions to this rule. The written statement can refer the employee to some other easily accessible document for detailed information on:

Notes

1. The Access to Medical Reports Act 1988 requires employers to obtain written consent from individuals before applying for a medical report from their doctor. The Act also gives individuals the right of access to a medical report before it is supplied to employers and sets out a formal procedure to be followed by employers, doctors and individuals. Further information is contained in the Acas advisory handbook *Discipline and grievances at work*.
2. See Acas Code of Practice 2 *Disclosure of information to trade unions for collective bargaining purposes*.
3. See Acas Code of Practice 3 *Time off for trade union duties and activities*.
4. See Health and Safety Commission booklet *Safety representatives and safety committees*.
5. Constructive dismissal occurs if the employer's action was a substantial breach of contract which justified the employee's resignation.
6. See Department for Business, Enterprise and Regulatory Reform leaflet PL707 *Rights to notice and reasons for dismissal*.
7. In law 'frustration' occurs when, without the fault of either party some event, which was not reasonably foreseeable at the time of the contract, renders performance either impossible or something radically different from what was contemplated originally.
8. For exceptions see Department for Business, Enterprise and Regulatory Reform leaflet PL707 *Rights to notice and reasons for dismissal*.
9. See Department for Business, Enterprise and Regulatory Reform leaflet PL711 *Rules governing continuous employment and a week's pay*.
10. See also Department for Business, Enterprise and Regulatory Reform leaflet PL707 *Rights to notice and reasons for dismissal*.
11. See Trade Union and Labour Relations (Consolidation) Act 1992, s 146.

12. See Trade Union Reform and Employment Rights Act 1993, s 14.

13. Applying unnecessarily low age limits may result in indirect sex discrimination as it would exclude many women from returning to work after raising a family.

14. Available from HSE Books, PO Box 1999, Sudbury, Suffolk CO10 2WA. Tel 01787 881165.

15. The employer may not be able to recover the overpayment if the employee was led to believe that he or she was entitled to the money has 'changed his or her position' with respect to the money (ie spent it) and the overpayment was not made because of the employee's own fault.

16. See p21 for reference to Acas conciliation when a formal complaint to a tribunal has not been made.

17. Section 131 of the Employment Protection (Consolidation) Act 1978 as amended by Section 38 of the Trade Union Reform and Employment Rights Act 1993.

18. The address of the Contracted Out Employment's Group is: Inland Revenue Long Benton, Newcastle upon Tyne, NE98 1ZZ. Tel 08459 150150. For help with problems concerning an occupational or personal pension scheme, contact: Occupational Pensions Advisory Service, 11 Belgrave Road, London SW1V 1RB. The Authority ensures that occupational pensions comply with the 1995 Pensions Act. Its National Helpline is 0845 6012923.

19. Employees who are employed for less than one month do not have a statutory right to a written statement.

Acas Publications

Book time with your Employment specialist

Whether you need to know how to write a contract of employment, how much holiday you are entitled to or about the latest employment legislation, our range of booklets and leaflets give practical information and advice for both employers and employees on employment matters.

You can choose from our handbooks offering comprehensive guidance to the modern workplace or our *Getting It Right* pocket guides, providing vital checklists to help small firms run their business.

View and order online at www.acas.org.uk or call Acas Publications on 08702 42 90 90.

Other Acas material that might be of interest includes:
Advisory booklet – *Managing attendance and employee turnover*
Advisory handbook – *Discipline and grievances at work*
Getting it right – *full set of guides on various topics*
Rights at work – *summary leaflets*

Acas Training

Our training is carried out by experienced Acas staff who work with businesses every day. They will show you the value to your business of following good practice in employment matters and how to avoid the common pitfalls. We also run special training sessions on new legislation.

Look at the Acas website for up-to-date information about all our training or if you want to book a place online.

Training sessions are specially designed for smaller companies and our current programme includes:

- Managing discipline and grievances at work
- Managing absence at work
- Dealing with bullying and harassment at work
- Employing people: an overview
- The written statement and contracts of employment
- New employment legislation.

We also have free online learning to help you – just go to www.acas.org.uk and click on E-learning to look at the topics covered.

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Information in this booklet has been revised up to the date of the last reprint – see date below.

Legal information is provided for guidance only and should not be regarded as an authoritative statement of the law, which can only be made by reference to the particular circumstances which apply. It may, therefore, be wise to seek legal advice.

Acas aims to improve organisations and working life through better employment relations. We provide up-to-date information, independent advice, high quality training and we work with employers and employees to solve problems and improve performance.

We are an independent, publicly-funded organisation and many of our services are free.

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08456 06 16 00

for Minicom users

08456 00 34 44

for questions on managing equality in the workplace

08702 42 90 90

for ordering Acas publications



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