

## **CLIENT GUIDE 1 : TAKING ON EMPLOYEES**

It is important for an employer to be up to date on employment rights and obligations, as these are changing all the time through new regulations and case law.

### **Taking on an employee**

- When advertising a position, make sure that the advertisement and recruitment process do not discriminate against applicants on the grounds of age, sex, sexual orientation, disability, religion or race.
- Set out the terms of employment in a written document. It is also good practice to set out employees' duties in job descriptions.
- If you are recruiting a key member of staff, for example a director, the employer should consider taking out insurance protection against the employee's death or critical illness.
- Make sure that the employment contract protects trade secrets if you need to protect your business from competitors.
- If you have acquired staff through the purchase of a business, the employees' existing contractual rights may be protected under the Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE).
- It is a criminal offence to employ an overseas applicant in breach of their visa conditions.

### **Rights in employment**

- An employee must be paid the minimum wage and be given a minimum period of paid holiday.
- Make sure you know the latest rules on working time regulations.
- Consider whether your tax treatment of contractors and temporary staff is watertight.
- Maternity rights will apply if an employee is pregnant. An employer will also need to consider health and safety aspects and to offer other employment, if appropriate.
- Consider whether any adjustments are needed to the workplace if an employee has informed you of a disability.
- Make enquiries before taking any action if an employee is absent on long term sick leave. You should also consider the possibility of disability and making reasonable

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adjustments to enable the employee to return to work.

- The employer may be liable if an employee has an accident at work.
- The employer may be liable for the actions of its staff if an employee makes a complaint about discrimination in the workplace.
- Are you aware of the rights of employees to require disclosure of information under the Data Protection Act?
- Do you have an effective up-to-date email/internet policy?

## **The end of an employment**

- If you wish to dismiss an employee, there must be a fair reason. You must act reasonably and comply with statutory procedures.
- If you are dissatisfied with an employee's conduct or if gross misconduct has occurred, as set out in the terms of employment, you may be able to dismiss the employee immediately. If the misconduct is less serious, you should make sure you follow the disciplinary procedures.
- If you are thinking about implementing redundancies, you need to follow the redundancy selection and consultation procedure. You also need to be aware that employees with at least 2 years' service will be entitled to redundancy payments.
- If an employee is approaching retirement age, you must comply with the procedures set out in the Employment Equality (Age) Regulations 2006.

*Please refer also to our Client Guide on dismissing an employee.*

If you require more information, please contact **Judith Long**.

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