### Description: logo_small

[Insert Company Name]

#### Personnel Manual

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For advice on any section and help when implementing any of the information, particularly with disciplinary or dismissal matters, contact ***The AP Partnership Ltd*** on 01733 217691.

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##

## Data Protection

What is the Data Protection Act?

The Employment Practices Data Protection Code is written primarily for businesses where the employment of staff constitutes a significant activity. Much of the Code, though, will be applicable to any employer. Not every aspect of the code will be relevant to every organisation. This will vary depending on the size and the type of business that is conducted. Particularly for small businesses, some of the issues addressed may arise only rarely. Here the Code is intended to serve as a reference document to be called on when necessary

Why should you use it?

The Data Protection Act 1998, on which this Code is based, places responsibilities on any organisation to process personal data that it holds in a fair and proper way. Failure to do so can ultimately lead to a criminal offence being committed.

The effect of the Act on how an organisation processes its information on workers is generally straightforward, but in some areas it can be complex and difficult to understand, especially if your organisation has only limited experience of dealing with data protection issues. The Code therefore clearly states what you need to check, and what action, if any, you need to take. Implementing it should produce other benefits in terms of the organisation's relationship with workers, compliance with other legislation and efficiencies in storing and managing data.

What are the data protection principles?

There are eight data protection principles that are central to the Act. In brief, they say that personal data must be

1. processed fairly and lawfully
2. processed for one or more specified lawful purposes and not in any manner incompatible with those purposes
3. adequate, relevant and not excessive
4. accurate and, where necessary, kept up to date
5. not kept for longer than is necessary for the purpose for which it is being used
6. processed in line with data subjects' rights
7. kept secure with appropriate measures taken to protect the information
8. not transferred to countries that don’t protect personal data adequately

Who does data protection cover in the workplace?

The Code is concerned with data that employers might collect and keep on any individual who might wish to work or have worked for them. In the Code the term "workers" is used to cover all these individuals. As such it includes;

* Applicants (successful and unsuccessful)
* Former applicants (successful and unsuccessful)
* Employees (current and former)
* Agency workers (current and former)
* Casual workers (current and former)
* Contract workers (current and former)

Some benchmarks will also apply to others in the workplace such as volunteers and those on work experience placements.

What data is covered by the Code?

It is likely that most information about workers that is processed by an organisation will fall within the scope of the Data Protection Act and therefore within the scope of this Code.

### **Personal data**

The Code is concerned with 'personal data'. That is, information which

* relates to a living person, and
* identifies an individual either on its own or together with other information that is in the organisation’s possession or that is likely to come into its possession.

All automated and computerised personal data are covered by the Act. It also covers personal data put on paper or microfiche and held in any 'relevant filing system'. In addition, information recorded with the intention that it will be put in a relevant filing system or held on computer is covered. A relevant filing system essentially means any set of information about workers in which it is easy to find a piece of information about a particular worker.

**Processing**

The Act applies to personal data that are subject to ‘processing’. For the purposes of the Act, the term ‘processing’ applies to a comprehensive range of activities. It includes the initial obtaining of personal data, their keeping and use, accessing and disclosing them through to their final destruction.

Examples of personal data likely to be covered by the Act

* Details of a worker’s salary and bank account held on an organisation’s computer system or in a manual filing system
* An email about an incident involving a named worker
* A supervisor’s notebook containing sections on several named individuals
* A supervisor’s notebook containing information on only one individual but where there is an intention to put that information in the worker’s file
* A set of completed application forms

Examples of information unlikely to be covered by the Act

* Information on the entire workforce’s salary structure, given by grade, where individuals are not named and are not identifiable
* Staff administration, including payroll
* A report on the comparative success of different recruitment campaigns where no details regarding individuals are held
* Accounts and records
* A report on the results of “exit interviews” where all responses are anonymous and where the results are impossible to trace back to individuals
* Manual files that contain some information about workers but are not stored in an organised way, such as a pile of papers left in a basement
* Advertising, marketing and public relations for their own business

In practice, therefore, nearly all useable information held about individual workers will be covered by the Code.

What are sensitive personal data?

The Act sets out a series of conditions, at least one of which has to be met before an employer can collect, store, use, disclose or otherwise process sensitive personal data. Sensitive data are information concerning an individual’s

* racial or ethnic origin,
* political opinions,
* religious beliefs or other beliefs of a similar nature,
* trade union membership (within the meaning of the Trade Union and Labour Relations (Consolidation) Act 1992),
* physical or mental health or condition,
* sexual life,
* commission or alleged commission of any offence, or
* proceedings for any offence committed or alleged to have been committed, the disposal of such proceedings or the sentence of any court in such proceedings.

Sensitive data found in a workers’ record might typically be about their;

* physical or mental health - as a part of sickness records
* disabilities - to facilitate adaptations in the workplace,
* racial origin - to ensure equality of opportunity,
* trade union membership - to enable deduction of subscriptions from payroll.

In the context of recruitment and selection typical circumstances in which sensitive personal data might be held include:-

* relevant criminal convictions to assess suitability for certain types of employment
* disabilities to ensure special needs are catered for at interview or selection testing
* racial origin to ensure recruitment processes do not discriminate against particular racial groups.

Who is responsible for the processing of personal data?

The ‘Data Controller’. This is whoever determines the purposes for and the manner in which any personal data are or are not to be processed and can be a company or an individual. Legally the Data Controller of the HR personal data (including sensitive data) will usually be the Company, although the actual person responsible on a day to day basis is likely to be the appropriate HR person of the employing Company. Where this is not the case the Employee must be informed of the identity of the Data Controller.

What happens when a worker wishes to access information?

The Act allows for any individual to make a 'subject access request' to any organisation that he or she believes is processing his or her personal data. This request must be in writing, for example by letter or email. Once an organisation receives such a request it must respond promptly, or at the most within 40 calendar days. It must produce copies of the information it holds in an intelligible form. The organisation can charge up to £10 for doing this.

The 40 day period starts once the organisation has received the fee together with any information it needs to verify the identity of the individual making the request and to locate the information that the individual seeks.

There are some exemptions that allow organisations to withhold information. These exemptions can apply in areas such as criminal investigation, management planning such as promotion and transfer plans, and negotiations. The exemptions, though, are limited in their application even within these areas. Care must also be taken in deciding whether or not to release information identifying 'third parties' i.e. people, other than the individual who has made the subject access request.

What information can be withheld?

Although in principle individuals have access to all the personal data held about them, there are a few exceptions. In particular personal data may be withheld if:

* In that particular case to provide a copy might prejudice the prevention and detection of crime, the prosecution or apprehension of offenders or the assessment or collection of any tax or duty;
* The data identify other people who have not consented to the disclosure of their data and where, on balance, it appears wrong to provide it.

The Role of Data Protection in Recruitment and Selection

The Act gives individuals certain rights in respect of the processing of personal data about them that takes place during the recruitment process. The Act does not prevent an employer from carrying out an effective recruitment exercise but helps to strike a balance between the employer’s needs and the applicant’s right to respect for his or her private life.

Managing Data Protection

Managing data protection is concerned with how your organisation sets up methods to protect personal data about workers. This covers allocating responsibility, establishing what personal data are processed, ensuring employment practices are compliant with the Act and checking whether your organisation needs to notify the Information Commissioner about any data held. These benchmarks appear in all parts of the Code as many of them will be relevant to every employer. How far they are applicable and what is needed to achieve them will, of course, depend very much on the size and nature of the organisation.

Data protection compliance should be seen as an integral part of employment practice. It is important to develop a culture in which respect for private life, data protection, security and confidentiality of personal data are seen as the norm.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Establish a person within the organisation responsible for ensuring employment practices and procedures comply with the Act and for ensuring that they continue to do so. Put in place a mechanism for checking that procedures are followed in practice.*
 |
| 1. *Ensure that business areas and individual line managers that process information about workers understand their own responsibility for data protection compliance and if necessary amend their working practices in the light of this.*
 |
| 1. *Assess what personal data about workers are in existence and who is responsible for them.*
 |
| 1. *Eliminate the collection of personal data that are irrelevant or excessive to the employment relationship. If sensitive data are collected ensure that a sensitive data condition is satisfied.*
 |
| 1. *Ensure that workers are aware of the extent to which they can be criminally liable if they knowingly or recklessly disclose personal data outside their employer’s policies and procedures. Make serious breaches of data protection rules a disciplinary offence.*
 |
| 1. *Allocate responsibility for checking that your organisation has a valid notification in the register of data controllers that relates to the processing of personal data about workers, unless it is exempt from notification.*
 |
| 1. *Consult trade unions or other workers’ representatives, if any, or workers themselves over the development and implementation of employment practices and procedures that involve the processing of workers’ data.*
 |

Advertising

Advertising includes any method used to notify potential applicants of a specific job vacancy or range of vacancies, using such media as notices, newspapers, radio, television and the internet.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Inform individuals responding to job advertisements of the name of the organisation to which they will be providing their information and how it will be used unless this is self-evident*
 |
| 1. *Recruitment agencies, used on behalf of an employer, must identify themselves and explain how personal data they receive will be used and disclosed unless this is self-evident.*
 |
| 1. *On receiving identifiable particulars of applicants from an agency ensure, as soon as you can, that the applicants are aware of the name of the organisation now holding their information.*
 |

Applications

Applications include written responses to specific job advertisements, whether made on paper or on-line. Applications can be made on forms designed by the organisation, in answer to questions, or by supplying a CV. Benchmarks in this section also cover CVs sent 'on spec'.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *State, on any application form, to whom the information is being provided and how it will be used if this is not self-evident*.
 |
| 1. *Only seek personal data that are relevant to the recruitment decision to be made.*
 |
| 1. *Only request information about an applicant's criminal convictions if that information can be justified in terms of the role offered. If this information is justified, make it clear that spent convictions do not have to be declared, unless the job being filled is covered by the Exceptions Order to the Rehabilitation of Offenders Act 1974.*
 |
| 1. *Explain any checks that might be undertaken to verify the information provided in the application form including the nature of additional sources from which information may be gathered. (The verification checks should meet the benchmarks set out in the next section.)*
 |
| 1. *If sensitive data are collected ensure a sensitive data condition is satisfied.*
 |
| 1. *Provide a secure method for sending applications.*
 |

Verification

The term 'verification', as used in this Code, is the process of checking that details supplied by applicants are accurate and complete. Verification, therefore, should not go beyond the checking of information that is sought in the application or supplied later in the recruitment process, although in this Code it also includes the taking up of references provided by the applicant. The process can include confirmation of qualifications and financial information - if this is justified in order to meet the requirements of the position. Some specialised agencies now offer a verification service.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Explain to applicants as early as is reasonably practicable in the recruitment process the nature of the verification process and the methods used to carry it out.*
 |
| 1. *If it is necessary to secure the release of documents or information from a third party, obtain a signed consent form from the applicant unless consent to their release has been indicated in some other way.*
 |
| 1. *Give the applicant an opportunity to make representations should any of the checks produce discrepancies.*
 |

Short-Listing

Short-listing is when a selection is made of applicants who will go on to a further stage in the recruitment process, usually an interview. It can be conducted through evaluating applications and/or by conducting tests.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Be consistent in the way personal data are used in the process of short-listing candidates for a particular position.*
 |
| 1. *Inform applicants if an automated short-listing system will be used as the sole basis for making a decision. Make provisions to consider representations from applicants about this and to take these into account before making the final decision.*
 |
| 1. *Ensure that tests based on the interpretation of scientific evidence, such as psychometric tests and handwriting analysis, are only used and interpreted by those who have received appropriate training.*
 |

Interviews

Interviews are used either as the final basis of the decision of who to select, or as part of that decision. Interviews can be conducted face-to-face, by telephone or via a video link.

The Benchmark

|  |
| --- |
| ✓ |
| 1. *Ensure that personal data that are recorded and retained following interview can be justified as relevant to, and necessary for, the recruitment process itself, or for defending the process against challenge*
 |

Pre-Employment Vetting

The term ‘pre-employment vetting’ as used in this code means actively making enquiries from third parties about an applicant’s background and circumstances. It goes beyond the verification. As such it is particularly intrusive and should be confined to areas of special risk. It is for example used for some government workers who have access to classified information.

In some sectors vetting may be a necessary and accepted practice. Limited vetting may be a legal requirement for some jobs, for example under the Protection of Children Act 1999. The Data Protection Act 1998 does not necessarily prohibit the use of such vetting, but regulates whether and how it may be carried out.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Only use vetting where there are particular and significant risks to the employer, clients, customers or others, and where there is no less intrusive and reasonably practicable alternative.*
 |
| 1. *Only carry out pre-employment vetting on an applicant at an appropriate point in the recruitment process. Comprehensive vetting should only be conducted on a successful applicant.*
 |
| 1. *Make it clear early in the recruitment process that vetting will take place and how it will be conducted.*
 |
| 1. *Only use vetting as a means of obtaining specific information, not as a means of general intelligence gathering. Ensure that the extent and nature of information sought is justified*
 |
| 1. *Only seek information from sources where it is likely that relevant information will be revealed. Only approach the applicant’s family or close associates in exceptional cases****.***
 |
| 1. *Do not place reliance on information collected from possibly unreliable sources. Allow the applicant to make representations regarding information that will affect the decision to finally appoint.*
 |
| 1. *Where information is collected about a third party, e.g. the applicant’s partner, ensure so far as practicable that the third party is made aware of this.*
 |
| 1. *If it is necessary to secure the release of documents or information from a third party, obtain a signed consent form from the applicant.*
 |

Retention of Recruitment Records

It falls primarily to the employer to set retention periods in respect of recruitment records. No specific period is given in the Act; the Act merely requires that the personal data in a record shall not be kept for longer than is necessary for a particular purpose or purposes. However, any period that is set must be based on business need and should take into account any relevant professional guidelines on statutory requirements.

The Benchmarks

|  |
| --- |
| ✓ |
| 1. *Establish and adhere to retention periods for recruitment records that are based on a clear business need.*
 |
| 1. *Destroy information obtained by a vetting exercise as soon as possible, or in any case within 6 months. A record of the result of vetting or verification can be retained.*
 |
| 1. *Consider carefully which information contained on an application form is to be transferred to the worker’s employment record. Delete information irrelevant to on-going employment.*
 |
| 1. *Delete information about criminal convictions collected in the course of the recruitment process once it has been verified through a Criminal Records Bureau disclosure, unless in exceptional circumstances the information is clearly relevant to the on-going employment relationship.*
 |
| 1. *Advise unsuccessful applicants that there is an intention to keep their names on file for future vacancies (if appropriate) and give them the opportunity to have their details removed from the file.*
 |
| 1. *Ensure that personal data obtained during the recruitment process are securely stored or are destroyed.*
 |

Sensitive Personal Data

When can sensitive personal data be processed?

The Act sets out a series of conditions, at least one of which has to be met before an employer can collect, store, use, disclose or otherwise process sensitive personal data. The conditions which are most likely to be relevant to recruitment and selection include:-

* The processing is necessary for the purposes of exercising or performing any right or obligation which is conferred or imposed by law on the data controller in connection with employment.
* The processing is necessary for the purpose of, or in connection with, any legal proceedings (including prospective legal proceedings), necessary for the purpose of obtaining legal advice, or is otherwise necessary for the purposes of establishing, exercising or defending legal rights.
* The processing is of information in categories relating to racial or ethnic origin, religious or other beliefs or physical or mental health, is necessary for the purpose of identifying or keeping under review the existence or absence of equality of opportunity or treatment, there are safeguards for the data subject.
* The processing is necessary for the exercise of any functions conferred on any person by or under an enactment or for the exercise of any functions of the Crown, a Minister of the Crown or a government department. The data subject has given explicit consent to the processing.

**Using Personal Data Fairly and Lawfully**

When obtaining personal data, employers must tell the employee:

* Name of the business or organisation.
* What the business or organisation will be using this data for
* What other information is needed for lawful and relevant purposes.

Generally, individual personal data cannot be passed to another business or organisation without the individual’s consent, however, exceptions can be made, for example:

* Requests from the Police. Employers can provide employee data without notifying the employee, if by doing so it is likely to prejudice the investigation or impede the prevention of a crime.
* Disclosure necessary for a court case or to obtain legal advice, eg in connection with an employment tribunal.

The Disclosure and Barring Service (DBS)

It is recognised that in some circumstances it may be proper for an employer to know whether an applicant has a criminal record and, if so, what it contains.

With this in mind, the Government set up the Disclosure and Barring Service which is intended to put the disclosure of information about an individual’s criminal history on a statutory footing and to put proper safeguards in place concerning the handling of this information.

The information constituting a disclosure will be derived from an individual’s criminal record.

An employer can ask for a DBS check for certain roles. The DBS eligibility guidance lists most roles that are eligible for a check. However, the guidance isn’t comprehensive so you may contact the DBS if unsure.

Applicants (job candidates) can’t do a criminal records check on themselves. Instead, they can request a ‘basic disclosure’ from [Disclosure Scotland](http://www.disclosurescotland.co.uk/basicdisclosureonline/index.htm) (you don’t have to be from Scotland to do this).

**How to get a DBS check**

1. The employer [gets an application form from DBS or an umbrella body](https://www.gov.uk/disclosure-barring-service-check/arranging-checks-as-an-employer) (a registered body that gives access to DBS checks).
2. The employer gives the applicant the form to fill in and return to them along with [documents proving their identity](https://www.gov.uk/disclosure-barring-service-check/documents-the-applicant-must-provide-).
3. The employer sends the completed application form to DBS or their umbrella body.
4. DBS sends a certificate to the applicant. The employer has to ask the applicant to [see the certificate](https://www.gov.uk/government/publications/dbs-update-service-employer-guide).

If the applicant has subscribed to the [DBS update service](https://www.gov.uk/dbs-update-service), the employer can check their certificate online.

**Types of criminal records check**

There are 3 types of checks. The employer or organisation running the check should provide the applicant with more information about the level of checks required.

Criminal record check applicants must be 16 or over.

**Standard**

This checks for spent and unspent convictions, cautions, reprimands and final warnings, and will take about 2 weeks.

**Enhanced**

This includes the same as the standard check plus any additional information held by local police that’s reasonably considered relevant to the [workforce](https://www.gov.uk/government/publications/dbs-workforce-guidance) being applied for (adult, child or ‘other’ workforce). It takes about 4 weeks.

‘Other’ workforce means those who don’t work with children or adults specifically, but potentially both, e.g. taxi drivers. In this case, the police will only release information that’s relevant to the post being applied for.

**Enhanced with list checks**

This is like the enhanced check, but includes a check of the DBS [barred lists](https://www.gov.uk/disclosure-barring-service-check/dbs-barred-lists), and takes about 4 weeks.

An employer can only ask for a barred list check for [specific roles](https://www.gov.uk/government/publications/dbs-check-eligible-positions-guidance). It’s a criminal offence to ask for a check for any other roles.

**Volunteers**

Checks for [eligible volunteers](https://www.gov.uk/dbs-check-requests-guidance-for-employers#volunteer-applications) are free of charge. This includes anyone who spends time helping people and is:

* not being paid (apart from for travel and other approved out of pocket expenses)
* not only looking after a close relative

An employer can only apply for a check if the job or role is eligible for one. They must tell the applicant why they’re being checked and where they can get independent advice.

A DBS check has no official expiry date. Any information included will be accurate at the time the check was carried out. It is up to an employer to decide if and when a new check is needed.

Applicants and employers can use the [DBS update service](https://www.gov.uk/dbs-update-service) to keep a certificate up to date or carry out checks on a potential employee’s certificate.

**Status of the DBS Code of Practice in relation to Data Protection**

There is a Code of Practice issued by the DBS that sets out employers’ obligations in respect of the use of information obtained through standard and enhanced disclosure. The DBS Code does not attempt to address issues concerning the basic disclosure, but the Commissioner nevertheless considers many of its standards to be equally appropriate and a failure to comply with the relevant provisions of the DBS Code is likely to lead to a breach of the Data Protection Act 1998.

Benchmarks for the handling of information obtained through disclosure.

* Consider carefully whether it is necessary for the protection or conduct of business to request a disclosure. The collection and holding of disclosure information that is excessive will breach the data protection principles.
* Once disclosure information has been obtained and an employment decision made, do not retain the information unless there is an overriding reason for doing so. Usually it will be sufficient to record that the check has been carried out and its result. In any event, do not retain the information for more than 6 months.
* Do not share with other employers the information obtained through a disclosure.
* Do not attempt to obtain information about criminal convictions by enforced subject access or from sources other than the DBS or the applicant. The carrying out of media checks to look for spent convictions for a post that is not eligible for standard or enhanced disclosure is likely to breach the Act. Media checks involve obtaining information from old newspaper articles or similar sources about an individual.

Rehabilitation of Offenders Act 1974 (Exceptions) Order 1975

Criminal offences that are "spent" do not normally have to be declared on application forms or in answer to other requests for information about criminal convictions. There are exceptions for certain types of job which are covered in this order.

The types of job covered by this Order are divided into 3 categories.

1. The professions e.g. medical practitioners, barristers, accountants, vets and opticians
2. Those employed to uphold the law e.g. judges, police officers, prison officers and traffic wardens and those involved in the provision of social services
3. Certain regulated occupations e.g. firearms dealers, directors of insurance companies and those in charge of certain types of nursing home

Please note that this is *not* a full list. A full explanation of the Order can be obtained from The Stationery Office.

References

Employers are under no statutory or implied contractual duty to provide their employees (or former employees) with references. The Act does impose a duty on employers to respond positively to any reasonable request by employees to see and take copies of references supplied by former employers.

Section 7 of the Act cautions that an employer should not disclose the contents of a reference supplied by a former employer if doing so would reveal the identity of the individual who issued the reference unless the author has consented to being identified.

Therefore, to disclose the contents of a reference without identifying the author the employer must do so by deleting names and other identifying particulars.

Internet: Protection of Privacy

The Internet is not secure. There is a risk that information provided over the Internet might be intercepted by people you wouldn't want to read it.

Information you provide to a website or send via e-mail may be made available anywhere in the world and may not be protected by data protection legislation.

* Never provide information on-line unless you are confident you know what the website intends to use the information for.
* Is more information being collected than is absolutely necessary? Be aware of this when accessing a site or making a transaction, especially if it is not clear why this additional information is being requested.
* Show caution with your credit card and account numbers, for example, are your details security protected? Remember your information can be used and abused.
* The best way to protect your privacy when using services over the Internet is to avoid giving your name or other personal details out over the Internet. If anonymity is impractical you may use a pseudonym (if permitted by law) so that only yourself and your ISP (Internet Service Provider) know your personal identity, for example when signing on to use a chatroom.
* Information may be collected from you on the Internet without your knowledge. Your ISP will have access to a lot of detailed information relating to you. Always choose a reliable ISP. Enquire what data they collect, process and store, in what way and for what purpose. Do this periodically. If you want to know what information your ISP or any other service or website provider (based in the European Economic Area) holds about you can make a subject access request.
* Websites you visit may also implant software known as 'cookies' on your machine. Some of these cookies serve a useful purpose, for example they can be used to facilitate on line 'shopping baskets’ but some are used to track your movements on the Internet. Check your 'Cookie' files and consider deleting those you do not want.
* E-mail addresses are personal data. If you find yourself on a directory or user list you can request to be omitted from it.
* You can also ask not to be sent 'junk e-mail or SPAM' and where the sender is based in the EEA they should comply with your request.
* Consider using reliable encryption techniques for confidential e-mail
* The Company name designated signature must be attached to all internet messages.
* Try and keep up to date with the latest privacy and security risks on the Internet. Try the Internet search engine facilities using the words 'privacy' and 'security'.

Employers should make staff aware that management may monitor Internet and email usage in the following circumstances:

* It reasonably appears necessary to protect integrity, security or functionality of computing resources or to protect the company from liability
* There is reasonable cause to believe that the user has violated or is violating the internet and email policy.
* The account appears to be engaged in unusual or excessive activity.

Employers should also make members of staff aware that electronic mail should not be used for:

* Sending of unnecessary messages
* Receipt or sending of unsolicited advertising
* Electronic chain mail
* Virus hoaxes
* Transmission of email to large number of recipients

It should be clearly communicated to employees that the company computing facilities should only be used for business purposes and that the abuse of the company computing facilities may lead to disciplinary action.

Subject access & health records

What is 'subject access'?

The right of subject access allows the individual to gain access to personal data of which he or she is the subject. Typically this will involve supplying an individual with copies of records relating to them when asked to do so.

What is a 'health record'?

A 'health record' is defined in the 1998 Act as being any record which consists of information relating to the physical or mental health or condition of an individual, and has been made by or on behalf of a health professional in connection with the care of that individual.

The definition of a 'health record' could apply to material held on an X-ray or an MRI scan, for example. This means that when a subject access request is made, the information contained in such material must be supplied to the applicant within the fee structure.

It is clear, therefore, that many of the records being held by NHS Trusts, surgeries and other health care institutions will constitute 'health records' and will therefore fall within the scope of the 1998 Act's subject access provisions.

What about the Access to Health Records Act 1990?

This piece of legislation formerly gave individuals a right of access to manual health records - i.e. to non-automated records that the Data Protection Act 1984 did not apply to. However, the Access to Health Records Act 1990 has now been repealed except for the sections dealing with requests for access to records relating to the deceased. Requests for access to records relating to the deceased will continue to be made under the Access to Health Records Act 1990. However, requests for access to health records relating to living individuals, whether the records are manual or automated, will now fall within the scope of the Data Protection Act 1998's subject access provisions and must be dealt with in the manner stipulated in that Act.

How much can be charged for granting subject access?

A maximum fee of £10 may be charged for granting subject access to each request. The request does not have to state that it is made in connection with the Data Protection Act 1998 although to do so will ensure that the employer recognises the request as such.

**What information do we have to give?**

Employers should:

* establish a system and respond to requests within forty days of being received
* check the identity of anyone making a subject request
* provide the person with a hard copy of information kept
* inform Managers and other relevant people in the Company of the nature of information being released.

In addition the employer should ensure that the information given is intelligible, includes sources and if possible, is in hard copy form unless disproportionate effort is involved in copying it.

The information given should remove all information which identifies a third party or which in the absence of the name of a third party could still identify that person or persons. The information must strike a balance between the person’s right to access and the right of any third party to privacy. If the third party has given consent to the release or it is reasonable in all the circumstances to comply with the request without the third party consent the employer must make the disclosure.

What could happen if our organisation does not comply with the Data Protection Act?

Enforcement

If the Commissioner considers that breaches of the principles have occurred, enforcement action can be taken against an organisation. This will require changes to bring about compliance, for example the deletion of records or the redesigning of an application form. The organisation may appeal to the independent Information Tribunal. However, if the Tribunal upholds the Commissioner's enforcement action, and the organisation continues to break the principles, this is a criminal offence.

Prosecution

Other criminal offences include a failure to notify when not exempt and a failure to keep a notification up to date. There are also offences of unlawfully obtaining personal data and unlawfully selling the data. If a criminal offence has been committed the Commissioner can and does prosecute. Company directors or people in an equivalent position can be prosecuted where an offence is due to their negligence or connivance.

Assessment of Processing

A worker or any other person affected may ask the Commissioner to assess whether an organisation’s processing of personal data is being done completely in compliance with the Act. This is often how a breach comes to light. The Commissioner is required to make an assessment when requested to do so. The Commissioner can serve an Information Notice on a data controller where information is required to determine whether the data protection principles are being complied with.

Compensation

Compensation can be awarded through the courts to an individual if damage has been caused by an organisation not meeting a requirement of the Act. If damage is proved, then the court may additionally order compensation for any associated distress.

# **Data Protection Checklist**

This checklist will help you comply with the Data Protection Act. Being able to answer yes to every question does not guarantee you are complying with the Act, but it should mean you are heading in the right direction.

 **Please Tick**

1. Do we really need this information about the employee and do we know what we are going to use it for?
2. Do employees know we hold information about them and do they understand what it will be used for?
3. Is the information held securely, whether on paper or computer?
4. Is our website secure?
5. Is the personal information accurate and up to date/does it need removing or amending?
6. Do we review the information we hold on a regular basis?
7. Do we delete/destroy personal information as soon as it is no longer relevant?
8. Is access to personal information limited to those on a strictly need to know basis?
9. If we want to put employee details on our website have they been consulted about this and the reason why?
10. If we use CCTV, is it covered by the Act and if so are we displaying notices explaining why?
11. If we want to monitor staff, for example checking their use of company email, have we explained this and the reasons why?
12. Is the person(s) responsible for Data Protection trained and aware of their duties and responsibilities under the Act.
13. If we receive requests from outside agencies/third parties for personal information on an employee are we clear on what and when the Act allows us to provide this information?
14. Are we aware of the procedure/what we should do, if an employee or customer asks for information held about them?
15. Do we have a policy for dealing with data protection issues?

## Recruitment

Recruitment is the process of having the right person, in the right place at the right time. It is crucial to organisational performance. Recruitment is a critical activity, not just for the HR team but also for line managers who are increasingly involved in the selection process. All those involved in recruitment activities should be equipped with the appropriate knowledge and skills. The importance of diversity should be taken into account at each stage pf the recruitment process. Processes and systems should be regularly reviewed to ensure hidden bias is removed and to ensure talent is not being blocked from entering the organisation. Everyone taking part in activities such as shortlisting and interviewing should be aware of relevant legislation and the importance of avoiding discrimination.

The recruitment process involves working through a series of stages:

* defining the role
* attracting applications
* managing the application and selection process
* making the appointment.

The following paragraphs give an overview of these steps.

Defining the role

Before preparing an advertisement or deciding what method of recruitment will be used, it is important to invest time in gathering information about the nature of the job. This means thinking not only about the content (such as the tasks) making up the job, but also the job’s purpose, the outputs required by the job holder and how it fits into the organisation’s structure. This analysis should form the basis of a job description and person specification/job profile. The job analysis leads you to write a Job Description and Person Specification using the forms at the end of this section. The Job Description will enable you to clarify the exact job you are recruiting for and this may involve changes from the tasks which were included in the job previously. It can also be used to communicate expectations about performance to employees and managers to help ensure effective performance in the job. The Person Specification states the necessary and desirable criteria for selection. Increasingly such specifications are based on a set of competencies identified as necessary for the performance of the job.

Competency frameworks may be substituted for job or person specifications but these should include an indication of roles and responsibilities.

**Attracting applications**

The first stage is to generate interest from candidates and there are many ways of doing this.

**Internal methods**

It is important not to forget the internal talent pool when recruiting. Providing opportunities for development and career progression increases employee engagement and retention and supports succession planning.

**Employee referral schemes**

Some organisations operate an employee referral scheme. These schemes usually offer an incentive to existing employees to assist in the recruitment of family or friends. But employers should not rely on schemes such as these at the expense of attracting a diverse workforce; rather they should complement existing methods.

**External Methods**

To comply with the Data Protection Act 1998 and the Code of Practice, candidates must know the identity of the advertiser. There are many options available for generating interest from individuals

outside the organisation and these include avenues such as employer’s website, recruitment agencies, commercial job boards and professional networking sites such as LinkedIn.

Advertisements should be clear and indicate the:

* requirements of the job
* necessary and the desirable criteria for job applicants (to limit the number of inappropriate applications received)
* nature of the organisation’s activities
* job location
* reward package
* job tenure (for example, contract length)
* details of how to apply.

**External recruitment services**

Many organisations make use of external providers to assist with their recruitment. Widely known in the industry as recruitment agencies or recruitment consultants, they offer employers a range of services - attracting candidates, managing candidate responses, screening and shortlisting, or running assessment centers on the employer’s behalf. These services might also be provided by an outsourcing provider, which will deal with all your internal recruitment requirements.

It is important that these recruitment partners develop a good understanding of the organisation and its requirements. Those employers and agencies committed to collaborative partnerships are more likely to achieve positive results.

At this point, either the agency or your organisation must let the short-listed candidates know your identity. You will need to be extremely mindful not to directly or indirectly disadvantage a potential candidate or discriminate on the grounds of age, disability, gender reassignment, pregnancy and maternity, marriage and civil partnership, race, religion or belief, sex and sexual orientation.

**Managing the application and selection process**

**Selection**

Focus on skills in relation to the Job Description and not on stereotypes. Ensure you do not make assumptions, for example about the capability or medical fitness of a candidate. Make sure the staff responsible for selecting and interviewing candidates are trained in Equal Opportunities as they may discriminate unwittingly and leave you open to a claim.

**The Employment Application**

There are two main formats in which applications are likely to be received: the curriculum vitae (CV) or the application form. It is possible that these could be submitted either on paper or electronically.

**Application forms**

Application forms allow for information to be presented in a consistent format, and therefore make it easier to collect information from job applicants in a systematic way and assess objectively the candidate’s suitability for the job. They should be appropriate to the level of the job.

Application form design and language is also important - a poorly designed application form can mean applications from some good candidates are overlooked, or that candidates are put off applying. For example, devoting lots of space to present employment may disadvantage a candidate who is not currently working. Under the Equality Act 2010 it may be necessary to offer application forms in different formats.

All candidates should complete an application form in their own handwriting. There are two application forms for use dependent on the level of the candidate and the amount of information you require. These forms are included at the end of this section. To comply with the Data Protection Act 1998 and the Code of Practice, all applications should be returned to a named person within the organisation. Application forms must not ask for information that is not relevant to the post, so review the form before using it for a specific position. The date of birth is removed and this should be included in a separate monitoring form to be retained by Human Resources/Personnel. Ensure you are not asking for unnecessary information about periods and dates, for example; education and employment history.

This form has been designed for use as part of the interview procedure and should be checked at this stage to ascertain that all of the necessary information is recorded. You should ask the candidate to indicate whom they would nominate as referees from the information provided. You should also agree with the candidate when references may be taken up and obtain their permission to do so.

A space is provided on the form for notes. This should be used to detail extra information gained during the interview and to record the assessment of the applicant’s suitability for employment.

**CVs**

The advantage of CVs is that they give candidates the opportunity to sell themselves in their own way and don’t restrict the fitting of information into boxes which often happens on application forms. However, CVs make it possible for candidates to include lots of additional, irrelevant material which may make them harder to assess consistently.

All applications should be treated confidentially and circulated only to those individuals involved in the recruitment process. It is important to make sure that all of those who are involved in the selection process, from the shortlisting stage onwards, are aware of the need to avoid discrimination and the potential risk to the organisation’s reputation should a candidate make a tribunal claim.

Technology plays an increasingly important role in recruitment ranging from attracting candidates through to the selection process. Electronic techniques are also being used to slim down the number of potential candidates. In particular, using online recruitment can mean employers receive large numbers of applications from unsuitable candidates, so it can be helpful also to use technology to help manage the application forms.

A range of different methods can be used to assess candidates. These vary in their reliability as a predictor of performance in the job and in their ease and expense to administer. Whatever method is used it is important to ensure that candidates know in advance what to expect from the selection process, for example, the type of assessment they are going to undergo and the length of time it will take. Organisations should also check whether the applicant has any need for adjustments due to a disability.

The Interview

Under current employment legislation, recruitment can be considered as a risky business. The interviewing of prospective new employees therefore takes on greater importance and remains popular because as well as providing information to predict performance, interviews also give an opportunity for the interviewer and interviewee to meet face to face. If you have an interview panel, use people of different ages to reduce the possibility of bias towards one age group. Each candidate should be interviewed before being offered employment to determine his or her suitability to fill the requirements of the job. During the interview, the candidate should be taken through the completed application form or their CV and his or her answers questioned further.

The Job Description and Person Specification should be referred to as this will assist you when comparing the candidate’s background and experience against the job requirements during the course of the interview.

For the candidate, the interview is an opportunity to:

* ask questions about the job and the organisation
* decide if they’d like to take the job.

For the organisation, the interview is an opportunity to:

* describe the job and the responsibilities the job holder would need to take on in more detail
* assess candidates’ ability to perform in the role
* discuss with the candidate details such as start dates, training provisions and terms and conditions such as employee benefits
* give a positive impression to the candidate of the company as a ‘good employer’ (who they'd like to work for should they be offered the position).

A poorly conducted interview may leave the candidate with an unfavourable impression of the organisation that they are likely to share with other potential applicants and customers. It is good practice to give feedback to candidates following an interview.

**Psychological testing**

Psychological tests are tests which can be systematically scored and administered. They are supported by a body of evidence and statistical data which demonstrates their validity, and are used in an occupational setting to measure individual differences (for example in ability, aptitude, attainment, intelligence or personality).

With the increase in the use of technology in the workplace, online testing is also growing in popularity - particularly in the recruitment of graduates and where employers are faced with high volumes of applicants.

Most tests are designed and developed by occupational psychologists and are accompanied by detailed manuals providing the data to establish the reliability of the test and the normative information against which test results may be compared. This is the information that allows employers to compare their test candidates against the scores of a normal population of similar people. Administering tests and analysing the results is a skilled task. Scoring of tests is often complex and how it is done will depend on what a test is trying to measure. With personality tests there is no right or wrong answers as they are designed to present a profile of an individual.

Before using a test, users should consider:

* whether it is appropriate to use a test at all and whether it will provide any additional relevant information
* whether there are sufficient resources in place to carry out testing effectively
* when used for selection purposes, that tests are relevant to the job/person specification
* who will choose, recommend and demonstrate the value of tests
* at what stage tests should be incorporated into the decision-making process
* equal opportunities issues
* how the results will be used and what weight will be given to them for decision-making purposes
* what their policy will be on confidentiality
* who will have access to the results
* how test results will be stored
* the law regarding the copyright of tests
* the policy and provisions for giving feedback.

Test administrators should ensure that individuals receive:

* advance notice that they will be required to take tests
* notice of the duration of tests and whether this is significant in interpreting results
* adequate time to allow them to make any practical arrangements to enable them to take the tests
* access to an appropriate environment free from interference in which to take the tests
* adequate information about the requirements of each test they will be asked to complete, and the opportunity to raise any queries they have before taking the tests
* information on the arrangements for feedback.

As part of the interview process it is important to check that each candidate is qualified to work in the UK by using the following steps:

You should follow Steps 1 - 3 set out below for every new employee you are considering employing. By doing this, you will be sure that your recruitment practices comply with the new requirements for establishing a statutory defence, and you will not be convicted for employing a person illegally.

You should carry out Steps 1 - 3 before a person begins working for you. If you take on an employee and have not established a statutory defence for that person, then you will place yourself at risk of committing a criminal offence, if that person is found to be working for you illegally.

You should also carefully record the outcome of the interview in the note section. Remember that the candidate could see anything you record if they ask to see your notes later.

For rejected candidates, a suitable letter should be sent explaining that they have not been successful in their application, but thanking them for their interest. A form of words that could be used for such a letter is shown below.

***Rejection letter – those not selected for interview:***

Dear

Job Title

Thank you for applying to be considered against the above position. I regret to inform you that on this occasion we will not be taking your application any further as we received applications that were more closely aligned to the vacancy in question.

We would like to thank you for your interest in our Company and take this opportunity of wishing you every success in your search for suitable employment.

Yours sincerely

***Invitation letter – those selected for interview:***

Dear

Job Title

We are writing further to your application for the above position to invite you for an interview at [*time*] on [*date*] at [*location*].

When you arrive at reception would you please ask for [*myself/name of person*].

Please bring along with you copies of any certificates of qualifications you have listed on your [*CV/Application Form*] and if applicable evidence of your entitlement to work in the UK.

We would be grateful if you could confirm you will be attending by contacting [*myself/name of person* on [*telephone number/email address*] as well as informing us if you require any reasonable adjustments to be made to enable you to attend the interview.

In the meantime we look forward to seeing you on the [*date*].

***Rejection letter – those interviewed:***

Dear

Job Title

Thank you for attending a meeting to discuss the above position. I regret to inform you that on this occasion we will not be taking your application any further as we have interviewed applicants that were more closely aligned to the vacancy in question.

We would like to thank you for your interest in our Company and hope that this does not discourage you from applying against any other positions we may advertise in the future. May we take this opportunity of wishing you every success in your search for suitable employment.

Yours sincerely

**Important**

A copy of this letter should be kept with the application form and retained on file for a period of six months. This information could be required for a number of reasons, such as your first choice being unable to start, or the possibility of a question of discrimination being raised at a later date. Remember that unsuccessful candidates have up to three months in which to present a claim to an Employment Tribunal. Details of unsuccessful candidates should only be retained for about six months and then discarded confidentially. If the application is being retained for any future vacancies, the candidate’s permission to retain the details should be obtained and checked at regular intervals. However, details may quickly get out of date so they should not be kept for more than a year.

**STEP 1**

You should ask all of your potential employees to provide:

* one of the original documents included in List 1; (see page 25)

or

* two of the original documents in the combinations given in List 2.

There is no need to ask your potential employee to produce documents from both List 1 and List 2. These lists can be found at the end of this Section.

**STEP 2**

Under these requirements, you must also satisfy yourself that your potential employee is the rightful holder of any of the documents they present to you. These documents should also allow them to do the type of work you are offering.

You must carry out the following reasonable steps when checking any documents presented to you by your potential employee:

* check any photographs, where available, to ensure that you are satisfied they are consistent with the appearance of your potential employee;
* check the dates of birth listed, so that you are satisfied these are consistent with the appearance of your potential employee;
* check that the expiry dates have not been passed;
* check any United Kingdom Government stamps or endorsements to see if your potential employee is able to do the type of work you are offering;
* if your potential employee gives you two documents from List 2 that have different names, you should ask them for a further document to explain the reason for this. The further document could be a marriage certificate, decree absolute, deed poll, adoption certificate or statutory declaration.

**STEP 3**

Finally, make a photocopy of the following parts of all documents shown to you:

* the front cover and all of the pages which give your potential employee's personal details. In particular, you should copy the page with the photograph and the page which shows his or her signature;

and

* any appropriate page containing a United Kingdom Government stamp or endorsement that permits your potential employee to do the type of work you are offering.

You should then keep a record of every document you have copied indefinitely in the personnel file whilst the individual remains an employee of the company. By doing this, the Immigration Service will be able to examine your right to the statutory defence if they detect anyone working illegally for you. Please remember that some of the documents you might copy will include personal information. That information must remain confidential.

If you have carried out these checks and establish that your potential employee is not permitted to work or is not the rightful holder of the document presented, then you are entitled to refuse employment to that person.

**The maximum penalty**

The maximum penalty which a court can impose on an employer for employing an illegal worker is currently £20,000, for each illegal worker. It is also a criminal offence for an employer to knowingly employ an illegal worker. You can be fined this amount for each person you are found to have employed illegally and you can be sent to jail for up to 2 years and receive an unlimited fine if you’re found to have knowingly employed an illegal worker. The UK Border Agency has the responsibility for issuing warnings and penalties.

You should use the list at the end of this section which details the documents which should be checked. A photocopy of the relevant documents should be made and retained with the applicant’s details. If, on making the relevant checks it cannot be established that the applicant is qualified to work in the UK, the interview should not proceed until appropriate proof is supplied.

The interview should confirm that:

1. the candidate is suitably qualified for the job
2. is able to fit in with the work unit
3. is able to comply with the company rules and procedures.

The interviewer should:

1. ask job related questions and be careful not to base decisions on prejudice and stereotypes.
2. use selection criteria to mark candidates against. This will help with decision making and record the fairness of the process.
3. Record an assessment of the interview on the application form in the notes section.

Your views on the candidate's suitability for the position should be recorded, together with any other relevant information obtained during the interview. You should take care to ensure that this information could not be interpreted in any way to discriminate against any applicant for reasons of sex, sexual orientation, gender reassignment, race, religion and belief, disability, age, or marriage and civil partnership. You should note that candidates who are rejected for employment and who believe they have been discriminated against can submit a claim to an Employment Tribunal and they have up to three months following the date of the interview in which to do this.

If it is decided that the candidate is unsuitable for the position, the reasons for this decision should be recorded. Note that under the Data Protection Act 1998 a candidate has the right to see any notes made at interview concerning their application including any hand scribbled notes. The candidate should then be notified using the form of words below.

A suggested interview assessment form is included at the end of this section. The use of psychological tests may be appropriate in some cases.

**Monitoring**

Monitor the number of candidates from different groups who applied, were shortlisted, interviewed and appointed. The Form at the end of this section ‘Equality of Opportunity’ should be completed by the candidate along with their application form. This form should then be detached from the application form and used statistically, along with all the others, to monitor advertising, selection and appointment systems.

1. Verification of Facts and Pre-employment Vetting

There is increasing public recognition of the need for employers to adopt practices that are both legal and ethical. In conducting pre-employment checks, employers should seek to:

* ensure non-discrimination and compliance with data protection law
* rely on fact, not opinion
* ensure relevance to the post to be filled
* see the candidate ‘in the round’
* be transparent and open to candidates about the checking process.

The Data Protection Code states that you should not go beyond the checking of information obtained from the application or supplied later in the recruitment process. This includes items such as verification of qualifications achieved, references, disclosure barring checks and the vetting of employees who will work with children and vulnerable adults. If such a check is necessary, you should explain the reason why it is necessary. You therefore need to assess what verification is required for each recruitment exercise and inform candidates of this at an early stage. The candidate’s written consent to the checks to be made should be obtained. If the checks do not verify the information given, the candidate should be given an opportunity to respond before making a decision about employment.

Offer of Employment

All applicants for employment who have successfully passed the interview should be sent or given an offer of employment letter, even if this offer has already been made verbally.

This letter should state the following:

1. Title of job
2. Wage/Salary
3. Whether employment is subject to satisfactory references
4. When the employment is to commence
5. Where and when to report on the first morning

A copy of the main conditions of employment and staff handbook should also be enclosed with the letter. By doing this, the employee has full knowledge of the terms and conditions and rules of the company from day one so cannot argue that they were unaware of a particular rule. You cannot discipline or dismiss an employee for being in breach of a rule that they were not made aware of unless it is so obvious that common sense would apply. In any event, employees are entitled under the legislation to be given a copy of the main terms and conditions and staff handbook after one month’s service and within two months of their date of commencement.

The following is an example offer letter but will need to be amended accordingly.

***Model Offer Letter***

*[Name & Address]*

*[Date]*

Dear

Thank you for attending an interview on *[date]* for the position of *[job title].* I am pleased to offer you this position on behalf of the Company at a starting salary of £*[salary]* per annum {*if hourly paid use the wording -* at a starting wage of £*[hourly rate]* per hour}, subject to the receipt of satisfactory references and the completion of our Medical Questionnaire.

The other main conditions of employment are as shown in the enclosed documents. Two copies of the contract are enclosed. Also enclosed is a copy of the associated Staff Handbook.

I understand that you can commence employment on *[date]* but to formally accept this offer would you please sign and return to me the enclosed copy of this letter along with a signed copy of your Contract of Employment. You should retain the other copy of your Contract for your records. On your first morning you should report to *[name of person]* at *[time]* a.m.

I confirm that this is a conditional offer of employment and is subject to satisfactory references, satisfactory completion of a \* post offer health questionnaire, a [three OR six] month probationary period and confirmation that the Company may lawfully employ you in the UK.

If you have any queries please feel free to contact me. Meanwhile we look forward to being able to welcome you to the Company.

Yours sincerely

I accept the above-mentioned employment on the conditions as stated.

Signed: Date:

\*NB. Please note you will need to contact your own occupational health provider to ascertain if they have a post health questionnaire form which you can send out to the new employee with the accompanying new starter documentation forms.

1. References

It is much easier to engage an employee than to dismiss one so it is essential that you take care in checking that all applicants are suitable for employment and follow up references for all prospective employees.

The names of the applicant’s referees should be obtained during the interview and should either be sent a letter as shown below or telephoned to ask the same questions.

The applicant should be made aware of two facts:

1. That his or her references will not be taken up without permission - obviously important where one of the referees is the present employer.
2. That his or her employment, or continued employment is subject to the receipt of satisfactory references.

If a written reply to a request for a reference is not forthcoming within a reasonable period of time, then a telephone call should be made to clarify the situation. With regards to reference requests, the answer received to the question "would you re-employ" will be of prime importance.

**Important**

Remember that it would be fair to dismiss an employee if the references obtained are not satisfactory provided the job offer was made conditional upon the receipt of satisfactory references. Should such an occasion arise, you should seek advice before dismissing the employee and the employee should be informed accordingly before dismissal. References are generally supplied confidentially so you would not be required to show the employee the bad reference. However, you may have to use such evidence at an Employment Tribunal should the employee subsequently make a claim.

It is the responsibility of the referee to provide an accurate reference but before dismissing an employee you should first check with the referee that the reference is accurate just in case a clerical mistake has been made.

***Reference Enquiry Model Letter***

*[Name & Address]*

*[Date]*

Dear

**Reference enquiry for:**

The above named is being considered for employment with this Company in the capacity of *[job title]* and has given us your organisation as a previous employer.

I would be grateful if you could complete the enclosed Reference Enquiry form and return it to me. The information in Sections 1 and 2 of the form has been given to us and we would appreciate your confirmation that it is correct. Additionally we would value your comments on the points raised in Sections 3 to 8. The particular areas of interest with regard to the above job are *[insert aspects relevant to the job against which judgmental views can be given such as ability to work well without supervision, quality of relationships with customers, willingness to work unsociable hours, etc.]* Your comments on these areas would be most helpful.

For your convenience and to facilitate an early reply, I enclose a stamped addressed envelope. Any information provided will be kept strictly confidential.

May I thank you in advance for your co-operation, which I should be happy to reciprocate at any time.

Yours sincerely

*The reference enquiry form to be sent with the above letter can be found at the end of this section.*

**Induction**

1. New Employee Induction Programme

Induction training should be carried out as soon as possible after a new employee commences employment, and ideally upon arrival. The objective of this training is to ensure that the new employee is familiar with all the conditions that relate to his or her employment. The conditions of employment should therefore be gone through upon commencement. The induction form should be used as a checklist, to ensure that no step has been missed out, no documentation missed, and that the employee is conversant with all aspects of his or her employment.

At the end of the induction programme, the form should be signed by the new employee and filed in his or her personnel file. A suitable induction form can be found at the end of this section.

Other steps that should be carried out at this time are:

1. Check to see whether replies have been received to the reference enquiries made concerning the employee.
2. If no replies, consider telephoning the referees to obtain this information.
3. Make a note in your diary to remind you to check that the employee's performance during the probationary period is in every way satisfactory. A probationary assessment report should be completed. A suitable form is included at the end of section 8.

**Important**

If an employee is not showing that their performance is satisfactory during their probationary period, serious consideration should be given as to whether the employment should be allowed to continue. If the problem is associated with skills, an extension to the probationary period should be made. The employee must be informed in writing if this is to take place, since without this the employee can assume that they are satisfactory and that the employment has moved from probationary period to permanent employment by default. The employee should be interviewed and told where they are failing to meet your standards or the Company’s standards and an action plan to rectify the problems should be agreed. This should then be confirmed in writing.

No employee should be dismissed either during or at the end of the probationary period without having first been told where they are going wrong and thus given the opportunity to improve. It is therefore most important that any concerns you may have regarding an employee’s performance or conduct is taken up with them as soon as these concerns arise. Always make a diary or file note of the action taken.

1. Employee’s Personnel File

All matters relating to an employee should be kept on one file in order to show the history of that employee whilst with the Company. One person within the company should ideally keep personnel files so all documents should be passed to that person for filing. Note that manual files are covered under the Data Protection Act 1998 so any data kept on the file should be accurate. The employee has a right under the Act to see their file so they should be checked from time to time to ensure that the information is accurate and still valid for the purpose for which it is intended. Personal information must only be passed to those who are lawfully entitled to it unless you have the written permission of the employee.

1. Retention of Personnel Information

Only relevant and up to date information should be kept on a personnel file. Information gained at the time of recruitment should therefore be removed after a period of six months unless it is absolutely relevant to the ongoing job. For example, vetting information should not be kept but you should keep a note of the outcome. Anything that is irrelevant beyond that date should be destroyed.

**Job Description**

***Job Title:***

***Job Purpose***

***Specific Responsibilities***

1.

2.

3.

4.

5.

6.

***Other Responsibilities***

1.

2.

3.

4.

5.

6.

*The above is a list of the responsibilities of the job but the Job Holder will be required to undertake other duties within their capability as required.*

*Prepared by: Date:*

**Person Specification**

***Job Title***:

***Reports to:***

|  |  |  |
| --- | --- | --- |
| **Characteristics** | **Essential** | **Desirable** |
| **Physical** |  |  |
| **Education Qualifications and Training** |  |  |
| **Skills and Knowledge** |  |  |
| **Experience** |  |  |
| **Personality/Disposition** |  |  |
| **Special Circumstances** |  |  |

**Prepared by: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Date:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_**

**Job Application form**

**Unique identification number:**

(For office use only)

**Post applying for:**

|  |  |
| --- | --- |
| **Personal information** |  |
| Full name: |  |
| Address: |  |
| Contact phone number: |  |
| Contact email address: |  |

**Qualifications**

Please give details of any educational or professional qualifications that you hold.

|  |  |  |  |
| --- | --- | --- | --- |
| Establishment | Qualification | Grade achieved | Date awarded |
|  |  |  |  |

Please use an additional sheet if necessary.

**Current employment**

Please give details of your current employment.

|  |  |
| --- | --- |
| Job title: |  |
| Name of employer: |  |
| Address of employer: |  |
| Date started: |  |
| Please give an outline of the duties and responsibilities of your current job: |  |
| Notice required: |  |

**Previous employment**

Please give details of your employment history, starting with the most recent. Please also explain any significant gaps in your employment history.

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| Position held | Name of employer | Duties and responsibilities | Start date and finish date | Reason for leaving |
|  |  |  |  |  |

If necessary, please use the Previous employment continuation sheet to continue.

**Other qualifications**

Please give details of any other skills, abilities, knowledge or experience that you have that you believe will be relevant to this position.

|  |
| --- |
|  |

Please use an additional sheet if necessary.

**Other information**

Please let us know of any other information that might be relevant to your application.

|  |
| --- |
|  |

**References**

Please give us details of two people who are prepared to act as referees. These people should not be family members and one should be your current or most recent employer. Referees will not be contacted unless you are successful at interview.

**Referee One**

Name:

Address:

Phone number:

Email:

Relationship to you:

**Referee Two**

Name:

Address:

Phone number:

Email:

Relationship to you:

**\*\*Rehabilitation of offenders**

The Rehabilitation of Offenders Act 1974 allows certain people to consider their criminal convictions as ‘spent’ meaning that they don’t have to reveal those convictions when applying for jobs. This job is exempt from the provisions of the Act in order to protect the public. As such you need to inform us of any criminal convictions you have received. Any of the information you give us will be treated as confidential and will not necessarily mean that your application will fail.

Have you ever been convicted of a criminal offence? YES NO

If yes, please give details:

**Declaration**

I hereby confirm that the information I have provided in this application is, to the best of my knowledge, accurate and true. I understand that if I give any false or misleading information that my application may be rejected or, if I am offered a job, it might lead to dismissal.

Signed \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Equal opportunities**

*[Insert name of Organisation]* is an equal opportunities employer and is committed to ensuring that our recruitment process is open, fair and not influenced by irrelevant considerations. To that end an Equal Opportunities Recruitment Monitoring Form will be sent to each applicant.

*\*\*Use this only where a job role is exempt from the provisions of the Rehabilitation of Offenders Act 1974.*

**Application form for External Applicants**

Personal information (confidential)

|  |
| --- |
| **Unique identification number:**(For office use only) |

|  |
| --- |
| **Organisation name:** *[insert name of organisation]* |

|  |
| --- |
| **Application for employment** |
| The information provided on this application form will remain private and confidential and will be used for the purpose of selection/recruitment.The form is divided into three parts. Please complete all three parts. Please do not separate any part of the form.Where the application is successful the organisation may wish to process this information (as updated periodically) for personnel and business management purposes. Where this is the case, processing will take place in accordance with the provisions of the Data Protection Act 1998.Please also note that the organisation may approach third parties to verify the information that you have given. By signing this form you will be providing the organisation with your consent to all these uses.On completion please return this form to:Name: *[insert name]*Position: *[insert position]*Address: *[insert address]* |
| **Personal information (confidential)**Please refer to the guidance when completing your application. |
| **Post title:** |
| **Advert reference number:** |
|  |
| **1. Personal details** |
| Name: |  |
| Address: |  |
| Contact details:(Please tick preferred contact method – calls to business numbers will be made discreetly.) |
| Email: |  |
| Telephone Home: |  |
| Telephone Work: |  |
| Mobile: |  |
|  |
| **2. General** |
| Do you hold a current driving licence? | Yes |  | No |  |
| Is it a full/provisional/HGV/PCV licence? | Yes |  | No |  |
| Is your driving licence free of endorsements? | Yes |  | No |  |
| Please give details of any points or driving convictions, including any pending convictions. (Any declarations are subject to the Rehabilitation of Offenders Act 1974 (as amended).) |
| If the job requires it (delete as appropriate) |
| 1 Will you relocate? | Yes |  | No |  |
| 2. Are you willing to travel? | Yes |  | No |  |
| Are there any adjustments that may be required to be made should you be invited for interview?If yes, please give details: |
| Please indicate two people who can provide references – one of whom should preferably be your present/most recent employer. |
| 1. Name: |  | 2. Name: |  |
| Address: |  | Address: |  |
| Tel. no.: |  | Tel. no.: |  |
| Email: |  | Email: |  |
| Occupation: |  | Occupation: |  |
| I give/do not give permission to take up my reference prior to an offer of employment being made.(Please delete as appropriate) |
|  |
| **3. Employment history** |
| Please give details of all jobs held including part-time and unpaid work, starting with your current or most recent employer. |
| Name and full address of employer; nature of business. | Job title(s); key responsibilities & key achievements | Reason for leaving and date of leaving |
|  |  |  |
|  |
| **4. Educational, technical and professional qualifications** |
| Please name any awarding institute or professional body in full and include attainment level specifying relevant grades or grade of membership.  |
|  |
| **5. Personal development** |
| Please include any courses, membership, voluntary work or responsibilities you have obtained that you consider relevant, with outcomes where applicable.  |
|  |
| **6. Other skills** |
| Languages spoken/written (please indicate level of competence).  |
| Computer literacy (please specify software and level of competence). |
| Do you have armed service/public duty commitments?(eg are you a member of the TA/ a JP/ a councillor, etc.) | Yes |  | No |  |
| If yes, please give details:  |
|  |
| **7. Other information** |
| How/where did you hear about this vacancy?  |
| Have you made an application to this organisation before? | Yes |  | No |  |
| If yes, please give details: |
| Are you currently eligible for employment in the UK? | Yes |  | No |  |
| Please state what documentation you can provide to demonstrate this, eg British passport/European Economic Area identity card/full birth certificate/passport or travel document showing an authorisation to reside and work in the UK. |
| Have you ever been convicted of a criminal offence? | Yes |  | No |  |
| If yes, please give details. (Declarations are subject to the provisions of the Rehabilitation of Offenders Act 1974 as amended.) |
|  |
| **Data protection statement** |
| The information that you provide on this form and that obtained from other relevant sources will be used to process your application for employment. The personal information that you give us will also be used in a confidential manner to help us monitor our recruitment process.If you succeed in your application and take up employment with us, the information will be used in the administration of your employment with us and to provide you with information about us or a third party via your payslip. We may also use the information if there is a complaint or legal challenge relevant to this recruitment process.We may check the information collected, with third parties or with any other information held by us. We may also use or pass to third parties, information to prevent or detect crime, to protect public funds, or in other ways as permitted by law.By signing this application form we will be assuming that you agree to the processing of sensitive personal data (as described above), in accordance with our registration with the Information Commissioner. |
|  |
| **Declaration** |
| I declare to the best of my knowledge and belief, all particulars I have given in all parts of this application form are complete and true. I understand that any false declaration or misleading statement or a significant omission may disqualify me from employment and render me liable to dismissal. I understand that any job offer is subject to references, checks on relevant qualifications, employment eligibility and criminal convictions (if this is required for the role), a probationary period and (if the organisation believes it appropriate) a medical report, all of which must be deemed by the organisation as satisfactory. |
| Signed: |  | Date: |  |
| Please return your completed application form to *[insert name and address]*.  |
| (Please continue on a separate sheet if necessary, giving page number and title heading.)  |

Equality of Opportunity - Monitoring Information

The Company is committed to EQUAL OPPORTUNITY for all applicants applying for jobs.

For these reasons Applicants are requested to complete and submit this questionnaire along with their Application.

The information given will be detached for monitoring purposes and will be treated in **strict confidence**.

**Ethnic Origin -** Choose one section below then tick appropriate box to indicate how you would describe your ethnic origin.

|  |  |  |  |
| --- | --- | --- | --- |
| (a) | White |  |  |
|  | 🞏 | British |  |
|  | 🞏 | European |  |
|  | 🞏 | Any other White background - please specify [e.g. Travellers] |  |
|  |  |  |  |
| (b) | Mixed |  |  |
|  | 🞏 | White and Asian |  |
|  | 🞏 | White and Black African |  |
|  | 🞏 | White and Black Caribbean |  |
|  | 🞏 | Any other mixed background - please specify |  |
|  |  |  |  |
| (c) | Asian or Asian British |  |
|  | 🞏 | Bangladeshi |  |
|  | 🞏 | Indian |  |
|  | 🞏 | Kashmiri |  |
|  | 🞏 | Pakistani |  |
|  | 🞏 | Any other Asian background - please specify |  |
|  |  |  |  |
| (d) | Black or Black British |  |
|  | 🞏 | African |  |
|  | 🞏 | Caribbean |  |
|  | 🞏 | Any other Black background - please specify |  |
|  |  |  |  |
| (e) | Chinese or other ethnic group |  |
|  | 🞏 | Chinese |  |
|  | 🞏 | Any other - please specify |  |

|  |  |
| --- | --- |
| **Nationality** - My nationality is |  |
| **Date of Birth** |  |
| Gender | 🞏 Male | 🞏 Female |
| **Disability** - Do you consider yourself to be disabled? | 🞏 Yes | 🞏 No |
| **Source of Introduction (please tick relevant box)** | Friends/family 🞏 Job Centre 🞏 Other 🞏Local press 🞏 In house advert 🞏 |

**EQUALITY OF OPPORTUNITY**

The Company is committed to a policy of ensuring that all job applicants and employees receive equality of opportunity.

It is committed to pursue actively a positive strategy to ensure fair representation of disadvantaged groups at all levels within it’s employment.

No applicant or employee will receive less favourable treatment on the grounds of sex, sexual orientation, gender reassignment, race, religion and belief, disability, age, or marriage and civil partnership or will be disadvantaged by conditions or requirements which cannot be shown to be justifiable.

Selection criteria and procedures are regularly reviewed to ensure that individuals are selected, promoted and treated on the basis of their relevant merits and abilities. The Company will continue to review its personnel policies and practices generally and take appropriate action to make this policy fully effective.

The information will not be used for any other purpose than monitoring of the Equal Opportunities Policy. The analysis will be carried out by the Personnel Department and all information supplied will be kept strictly confidential.

**List of Acceptable Documents for Right to Work Checks**

The documents that are considered acceptable for demonstrating right to work in the UK are set out in two lists – **List A and List B**. These are shown in Tables 4 and 5 below.

**List A** contains the range of documents which may be accepted for checking purposes for a person who has a permanent right to work in the UK. If you follow the prescribed right to work checks you will establish a **continuous statutory excuse** for the duration of that person’s employment with you.

**List B** contains the range of documents which may be accepted for checking purposes for a person who has a temporary right to work in the UK. If you follow the prescribed right to work checks, you will establish a **time-limited statutory excuse**. You will be required to carry out a follow-up check as set out below.

**List A – Acceptable documents to establish a continuous statutory excuse**

## List A

1. A passport showing the holder, or a person named in the passport as the child of the holder, is a British citizen or a citizen of the UK and Colonies having the right of abode in the UK.
2. A passport or national identity card showing the holder, or a person named in the passport as the child of the holder, is a national of a European Economic Area country or Switzerland.
3. A Registration Certificate or Document Certifying Permanent Residence issued by the Home Office to a national of a European Economic Area country or Switzerland.
4. A Permanent Residence Card issued by the Home Office to the family member of a national of a European Economic Area country or Switzerland.
5. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder indicating that the person named is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK.
6. A **current** passport endorsed to show that the holder is exempt from immigration control, is allowed to stay indefinitely in the UK, has the right of abode in the UK, or has no time limit on their stay in the UK.
7. A **current** Immigration Status Document issued by the Home Office to the holder with an endorsement indicating that the named person is allowed to stay indefinitely in the UK, or has no time limit on their stay in the UK, **together with** an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
8. A **full** birth or adoption certificate issued in the UK which includes the name(s) of at least one of the holder’s parents or adoptive parents, **together with** an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
9. A birth or adoption certificate issued in the Channel Islands, the Isle of Man or Ireland, **together with** an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.
10. A certificate of registration or naturalisation as a British citizen, **together with** an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.

**List B – Acceptable documents to establish a statutory excuse for a limited period of time**

## List B

### **Group 1 – Documents where a time-limited statutory excuse lasts until the expiry date of leave**

1. A **current** passport endorsed to show that the holder is allowed to stay in the UK and is currently allowed to do the type of work in question.
2. A **current** Biometric Immigration Document (Biometric Residence Permit) issued by the Home Office to the holder which indicates that the named person can currently stay in the UK and is allowed to do the work in question.
3. A current Residence Card (including an Accession Residence Card or a Derivative Residence Card) issued by the Home Office to a non-European Economic Area national who is a family member of a national of a European Economic Area country or Switzerland or who has a derivative right of residence.
4. A current Immigration Status Document containing a photograph issued by the Home Office to the holder with a valid endorsement indicating that the named person may stay in the UK, and is allowed to do the type of work in question, together with an official document giving the person’s permanent National Insurance number and their name issued by a Government agency or a previous employer.

### **Group 2 – Documents where a time-limited statutory excuse lasts for 6 months**

1. A Certificate of Application issued by the Home Office under regulation 17(3) or 18A(2) of the Immigration (European Economic Area) Regulations 2006 to a family member of a national of a European Economic Area country or Switzerland stating that the holder is permitted to take employment which is less than 6 months old together with a **Positive Verification Notice2** from the Home Office Employer Checking Service.
2. An Application Registration Card issued by the Home Office stating that the holder is permitted to take the employment in question, together with a Positive Verification Notice from the Home Office Employer Checking Service.
3. A Positive Verification Notice issued by the Home Office Employer Checking Service to the employer or prospective employer which indicates that the named person may stay in the UK and is permitted to do the work in question

2 A ‘Positive Verification Notice’ is official correspondence from the Home Office Employer Checking Service which confirms that a named person has permission to undertake the work in question.

## Follow-up right to work checks

If you conduct the prescribed right to work checks, you will establish a statutory excuse as follows:

**In List A:** your statutory excuse will be for the whole duration of your employee’s employment with you because there are no restrictions on their permission to be in the UK. You do not have to repeat the right to work check.

**In List B**: your statutory excuse will be limited because your employee has restrictions on their permission to be in the UK and to do the work in question. In order to retain your excuse, you must undertake follow-up right to work checks as follows:

### **Group 1 Documents:**

* If your employee is able to produce a current document in this list, you should make a follow-up check using this document. Your time-limited statutory excuse will continue for as long as your employee has permission to be in the UK and do the work in question, as evidenced by the document, or combination of documents, your employee produced for the right to work check.
* If however, at the point that permission expires, you are reasonably satisfied that your employee has an outstanding application or appeal to vary or extend their leave in the UK, your time-limited statutory excuse will continue from the expiry date of your employee’s permission for a further period of up to 28 days. This is to enable you to verify whether the employee has permission to continue working for you.
* During this 28 day period you must contact the Employer Checking Service and receive a Positive Verification Notice confirming the employee continues to have the right to undertake the work in question.
* In the event that you receive a Positive Verification Notice your statutory excuse will last for a further six months from the date specified in your Notice. You will then need to make a further check upon its expiry.
* In the event that you receive a Negative Verification Notice, your statutory excuse will be terminated

### **Group 2 documents:**

* If your prospective employee or employee holds one of the documents in Group 2, or is unable to present an acceptable document because they have an outstanding application with the Home Office or an appeal in respect of their leave, you must contact the Employer Checking Service and receive a Positive Verification Notice. Your time-limited statutory excuse will last for six months from the date specified in the Positive Verification Notice. You will then need to make a further check upon its expiry.

**Interview Assessment**

 *Grading: A-Unsatisfactory, B-Weak, C-Adequate, D-Good*

 A B C D Notes:

**Impression:**

 appearance

 manner

 speech

**Qualifications & Experience:**

 general education

 professional training

 .

 .

 .

**Ability:**

 general intelligence

 judgement & foresight

 communication skills

 .

 .

**Motivation:**

 initiative

 enthusiasm & stimulus

 interests - practical

 - intellectual

 - social

**Adjustment:**

 stability & reliability

 acceptability to others

 influence on others

**Overall Evaluation:**

**Reference Enquiry**

To:

**Reference Enquiry for:**

|  |  |
| --- | --- |
| **Information given to us** | **What your records show** |
| 1. Period of employment:

From:To: | From:To: |
| 1. Final Job Title:

Final Salary: |  |
| 1. Comments on performance and ability whilst working with you:
 |
| 1. Comments on personal integrity, character and reliability:
 |
| 1. Comments on health and absence record:
 |
| 1. Any other information which you feel may be of assistance:
 |
| 1. Reason for leaving your employment:
 |
| 1. Would you re-employ if a suitable vacancy arose?
 |

Signed: Date:

Position:

**New Employee Induction Programme**

**Employee: Department:**

**Job Title: Date of Joining:**

Introduction

The following Induction Programme should be undertaken within the first two or three weeks of a new employee joining the Company. A number of items will of course have to be undertaken on the first day and others within the first two or three days. However, those of lesser priority must not be forgotten or overlooked and it is the responsibility of the employing manager to ensure that the programme is completed.

On completion of the programme, the form should be signed by the Manager and the new employee to confirm that all the relevant items have been covered. The form should then be returned to the person responsible for holding the personnel files.

Objective

The purpose of the programme is to help the new employee quickly integrate into the Company's procedures and style of operation, as well as making the person concerned feel welcome. Whether the new employee is at the beginning of their career or 'well down the track', the same feelings of apprehension in some form or another will be experienced. It is therefore important to help the person to overcome these feelings as quickly as possible in order to enable them to become more effective in the job.

Three Month Performance Review

A performance review must be undertaken by the supervisor/manager before the end of three months and a record of this review should be made on the form provided. It is important that this review takes place in order to provide feedback for the employee on their progress and integration into the Company.

| *(Initial against each item when completed)* | ***Initials*** |
| --- | --- |
| **Reception & Documentation**A nominated person will receive the new employee on their first morning and deal with the following items. |  |
| 1. Collect P45 and National Insurance number.
 |  |
| 1. Check that basic details such as full name, address, telephone number, and date of birth have been taken and that they are correct.
 |  |
| 1. Obtain a point of contact for emergencies.
 |  |
| 1. Obtain details of bank account for payment of salary and explain when the first and subsequent payments should be received.
 |  |
| **Conditions of Employment**The following items will be dealt with by the employing Manager or their nominated deputy on the first morning. |  |
| 1. Explain the normal hours of work and the method of recording attendance where appropriate.
 |  |
| 1. Explain the Company's Sick Pay scheme (where appropriate) and how Statutory Sick Pay fits in with this. Emphasise the need to contact their Manager as soon as possible on the first morning of any absence to notify the reason for the absence and when a return to work is expected.
 |  |
| 1. Enquire whether any Statutory Sick Pay has been received during the past 8 weeks and if so obtain the necessary form SSP1(L) from the employee (should have been issued by the previous employer) and pass to the Wages Department.
 |  |
| 1. Explain the holiday entitlement the employee can take during the current holiday year, when the new holiday year commences and the entitlement due.
 |  |
| 1. Where appropriate, explain when the employee will be eligible to join the Company Pension Scheme and provide the pension scheme booklet.
 |  |
| 1. Explain the procedure that should be followed in the event of any problems.
 |  |
| Answer any queries on the contract of employment and Staff Handbook |  |
| **Tour of Premises & Introduction to their Department**Following the above items, a nominated person will give the employee a brief tour of the premises in order to identify where the main departments are situated. Key locations including toilets, first-aid facilities and time recording points will also be shown.  |  |
| **Departmental Structure, Rules & Procedures**The employing manager or nominated deputy will deal with the following items. |  |
| 1. Explain the structure of the department, who's who, and how the department fits in to the organisation as a whole.
 |  |
| 1. Explain where the new employee fits into the departmental structure and their importance within the team. The new employee should be made to feel part of the team in order to emphasise the role they are expected to play and the level of commitment expected.
 |  |
| 1. Detail any special departmental rules concerning hours of work and how to record authorised overtime hours if applicable.
 |  |
| 1. Detail any specific rules/arrangements for taking lunch and refreshment breaks.
 |  |
| 1. Detail any other specific departmental procedures that are important to be aware of at this stage.
 |  |
| **Health & Safety**This is an important element of the induction programme and must not be overlooked. In order to emphasise its importance, this aspect should wherever possible be dealt with by the departmental manager. The following items should be included. |  |
| 1. Explain the Company's responsibilities under the Health & Safety at Work Act and emphasise the importance of acting in a safe manner at all times and complying with health and safety rules.
 |  |
| 1. Explain the arrangements for health and safety by going through the Company’s Health & Safety Policy.
2. Explain the employee’s obligations for health and safety. The objective of this task is to make the employee more aware of health and safety and their own obligations.
 |  |
| 1. Emphasise the importance of keeping the work area tidy, and keeping gangways clear at all times.
 |  |
| 1. Discuss the importance of accident prevention and, where applicable, the need to use protective clothing provided.
 |  |
| 1. Discuss any specific hazards in the work area and/or areas where the new employee is likely to visit in the course of their work.
2. Explain what to do in cases of emergency including where the nearest fire exits are situated, fire alarm points and the point of assembly outside the building.
 |  |
| **Communications within the Department and the Company**The manager or nominated deputy will explain what communication systems exist within the department for general and specific items of information (e.g. notice boards, mail collection/delivery points, regular meetings, etc.)Company wide communication systems should also be explained as appropriate including general notice boards, company news sheets/magazines, etc. |  |
| **Introduction to Supervisor**Where appropriate, the manager will introduce the new employee to the relevant first line supervisor. |  |
| **Departmental 'Carer'**The first few days for any new employee can often be very confusing and the need to have quick access to information is obviously much greater during this early period. To overcome this problem, introduce the new employee to a Departmental Carer whose function is to 'look after' the employee during the first few days.The Carer should be someone who has a good knowledge of the department and its style of operation, as well as being someone who is approachable and considerate when dealing with queries. Once introduced, the Carer should deal with the following items. |  |
| 1. Introduce the new employee to departmental colleagues (or, if the department is too large to do this, to those within the immediate section of working).
 |  |
| 1. Show the location of washroom & toilets, refreshment facilities, and time recording system.
 |  |
| 1. Introduce to departmental or nearest first-aider and show where first-aid facilities are located.
 |  |
| 1. Explain procedure to be followed in the event of an accident/injury including obtaining first aid and reporting of accident/injury.
 |  |
| 1. Discuss the importance of reporting items considered to be unsafe and the procedure for doing so.
2. Undertake a tour of the department as appropriate, explaining the functions being undertaken and how they fit in to the overall operation of the Department and Company
 |  |
| **Quality (where applicable)**The departmental manager or supervisor as appropriate will deal with the following items relating to quality.1. Discuss the importance of quality and the Company's policy and philosophy on this, including its commitment to maintaining the Quality Assurance Standard where applicable.
2. Issue a copy of the Company's Quality Statement where applicable.
3. Discuss the Company's general quality procedures as appropriate.
 |  |
| **Job Induction**This part of the programme will vary according to the job being undertaken. However, the training given should follow a structured format, which should identify the items to be covered, approximate time scales, and who will be giving the training. A copy should be given to the new employee so that they have an understanding of what they are aiming to achieve. Where possible, measurable objectives should be included. |  |
| **Use of Photocopier**Where appropriate, a member of the employing Department will show the employee how to use the photocopier. This will include basic operation, special features, how to load paper into the paper tray, collation, and what to do in the event of a machine fault. |  |
| **Stationery Items**The departmental manager/supervisor will explain where and how relevant stationery items are obtained. |  |
| **Purchasing Procedures**Where appropriate, the departmental manager/supervisor will explain the procedure for initiating purchase orders. |  |
| **Keyboard Skills**If the job requires the use of a computer and the employee does not have keyboard skills or at a sufficient level of competence, the departmental manager should arrange for keyboard skills training to be given. |  |
| **Product Training**The level and depth of product training will depend on the job being undertaken. The departmental manager will ensure that a suitably experienced person provides appropriate training. This training will include the range of products and their use or services provided by the organisation to its customers. |  |

**We confirm that the above programme has been completed.**

**Signed (Manager) Date:**

**Signed (Employee) Date:**

## Terms and Conditions of Employment

Terms and conditions of employment should be issued preferably with the offer letter or on the first day of employment. The information should be explained as part of the induction process. The issuing of these documents is extremely important since it lays down the terms and rules under which the employee is employed. Legally an employee is entitled to the written terms of their employment after one month and the employer must provide these within two months of the employee’s start date. However, things can go wrong within that period so it is essential that they be issued at the beginning of the employment to avoid any misunderstanding.

Your conditions of employment documents should be filed in this section. The appropriate version, as indicated by the footer in those documents, should be issued and a copy that has been signed by the employee placed on their personnel file.

Any change to the terms of employment covered within the statement or any handbook must be notified to the employee concerned in writing within one month of the change occurring, with a copy of the amendment being retained in the personnel file.

A copy of your Company’s current terms and conditions of employment should be placed here.

## Absence

1. Absence Record

It is essential that a proper and correct record be made of all employee absences. Ideally this should be done using a chart format so that patterns of absences can be identified. This should either be done using a manual method or by use of a spreadsheet on a computer so that it can be printed off should it be necessary to do so. If an employee is to be disciplined or spoken to about their poor level of attendance, you will need to have an accurate absence record to show them. Never rely on memory.

Be sure to monitor absence levels and act quickly if you consider it is becoming unacceptable. The incidence of absence is as important as the amount of time off so keep a watch on that as well. An employee who has numerous odd days of absence is more disruptive to the operation than an employee who has genuine illness for longer periods, although both categories need to be monitored carefully.

1. Absence Monitoring

Whenever an employee is absent, other than for pre-arranged reasons, they should always complete a self-certification form and a return to work interview should be conducted on their return ideally on their first day back. An example of a form can be found at the end of this section. This should be completed as soon as the employee reports for work and should be done in the presence of the manager or supervisor. This then gives you the opportunity to raise any concerns you may have over the absence record. Most managers know which employees are genuine and which are off work for the slightest excuse. If the employee is genuine, it gives the manager the opportunity to welcome them back and make them feel wanted. Management control at this stage is essential if absence is to be minimised.

Clearly no manager can query whether an employee was sick and very often a Fit Note is not that reliable since the Doctor also has to rely on the integrity of the person. However, whether or not the reason given for the absence is genuine, you can point out to the employee that they are required to carry out the contract which is in place between them and the Company and to attend work and undertake their job. In return, the Company pays them for that work. If they are unable to meet their part of the contract, the Company may have to take action.

A judgement has to be made as to what action is taken in respect of a poor absence record and when to do so. There is no limit that is either acceptable or not since so much depends on the nature of the work being undertaken and the employee’s length of service. For example, a receptionist/telephonist is going to be missed more acutely than a clerk whose work can possibly wait a day or so.

The action taken may be purely a counselling interview with the employee to ascertain whether there is an ongoing problem and if so what can be done. On the other hand, it could be that the record shows that the employee has numerous absences for different reasons. You need to decide are they linked in any way, if so there could be a medical problem, or is the employee abusing the system. Either way, be sure to give the employee advance warning of any meeting to be held and the reason for it. If necessary a medical report may need to be sought. Also be sure to make a detailed file note of what was discussed and if necessary confirm this in writing to the employee. Due care should be taken, when deciding what action to take particularly if taking formal disciplinary action in that you are consistent with the treatment. For example, it is unwise to discipline an employee for unacceptable absence if there are other employees with worse attendance records and no action has been taken.

1. Statutory Sick Pay

Subject to certain qualifying rules, an employee is legally entitled to Statutory Sick Pay (SSP) if they have been absent due to sickness or injury for more than three continuous qualifying days. In most organisations, the qualifying days are usually Monday to Friday but the conditions of employment will state this.

If an employee is being paid company sick pay then SSP is inclusive within the payment being made, provided the total pay is equal to or in excess of SSP. The maximum period for which SSP is payable is 28 weeks in any one SSP year (6 April to 5 April) or period of incapacity of work (PIW).

If a second absence occurs within a period of eight weeks of a previous absence that has qualified for SSP, the first three waiting days do not apply and SSP is payable immediately. This is known as a linked period of incapacity for work.

It should be noted that SSP is only payable if the employee has supplied a self-certificate to cover the first seven continuous days of absence and/or a Fit Note issued by a Doctor or a hospital. It is therefore important that these are received from employees on their return or during such absence in order to be eligible for SSP. Failure to provide a self certification form or a Fit Note could result in SSP not being paid by the company. Likewise, an employee must follow the correct rules laid down by the company in relation to advising the Company of their absence.

1. Absence Notification

The company rules clearly state that an employee must notify their manager or other designated person of the reason for their absence either as soon as possible on the first day of that absence or by a specific time. Thereafter, they must notify that person of their absence on a regular basis unless they have submitted a Doctor’s Fit Note. If an employee notifies you as the manager directly of their absence, you must inform the person who keeps the absence records immediately. When speaking to the employee or their representative, you should always find out what is causing the absence and when the employee is likely to return to work. Always make a diary or file note of any such message received by any of your employees.

If an employee fails to notify the Company of their absence as stated above, it should be taken up with the employee on their return. With modern communication, there should be no excuse for an employee not to get a message through to the company. If the employee persists in failing to notify the company when absent, the failing should be treated as a disciplinary matter.

1. Seeking a Medical Report

If an employee’s absence record becomes unacceptable or the period of absence for one particular period of absence extends, for example, beyond a month, then a medical report may have to be sought. When this point is reached clearly depends on the reasons for the absence. If you know that the employee is likely to return within a set period of time, there is no point in obtaining a medical report. This should generally only be done when there is no sign of an imminent return or the overall level of absence is causing concern and the reasons for each absence appear to be linked in some way or if for some other reason it is considered likely to be beneficial to obtain a Medical Report.

Before you can obtain a medical report from the employee’s Doctor or medical specialist, you have to obtain the employee’s permission in writing. Under the Access to Medical Reports Act 1988, a Doctor is not allowed to divulge any information relating to their patient without their written permission so there is no point in contacting the Doctor without having obtained this. You do not have to obtain their written permission if you are sending them to see an independent Doctor employed by the Company. On the other hand you cannot force an employee to attend a medical arranged by the Company and you cannot force them to give you permission to contact their Doctor. In the event of such a refusal it would be necessary to advise the employee in writing of the consequences of their refusal – for example the Company may have to make a decision concerning their future in the absence of a medical or a medical report on the basis of the information available at the time.

Before any decision is made concerning the continued employment of an employee who is absent due to sickness or injury it is necessary to fully consult with the employee concerned. In most situations this means having a face to face meeting with the employee – ideally on Company premises but if necessary at their home. *The AP Partnership* should always be consulted prior to any final decision being made.

The following model letters and notes on the Access to Medical Reports Act 1988 should be used when seeking a medical report.

**Application for a Medical Report**

##### Letter to be sent or given to employee prior to contacting Doctor

Dear

\*For reasons which have already been explained to you, \* I am writing regarding your absence due to illness to advise you that, we require a medical report for employment purposes, which gives information about your current state of health. Under the Access to Medical Reports Act 1988, we need to have your consent to contact your Doctor for this purpose.

You are not bound to give your consent for us to make an application but if you do withhold consent for such a report, we shall then need to make decisions on the facts about yourself that are known to us at this point in time.

Would you please complete the enclosed form but before doing so, please study the attached notes that summarise your rights under the above Act and the procedures for applying them.

If you have any questions concerning the contents of this letter please contact the undersigned.

Yours sincerely

[*The form to be used and the guidance notes can be found at the end of this section*]

##### Alternative letter to be sent or given to employee regarding arranging a consultation meeting and medical report

Dear

**Re: Consultation Meeting – [*Absence from Work / Capability*]**

I write with reference to your current \* [*absence from work / medical condition*]. You have now been \* [*absent / unable to carry out your normal duties*] since [*date*] \* [*and we would confirm that your entitlement to receive Statutory Sick Pay (SSP) {has}* {*is} due to expire{d} from {date}*. *You may, however, be able to claim Employment and Support allowance from Job centre Plus and we would suggest that you make enquiries into this accordingly*].

We would therefore ask that you attend a consultation meeting to discuss your [*absence / medical condition*] on [*date*] at [*time*]. The meeting will be held in [*location*] and will be conducted by [*name*] in the presence of [*name of other person to be present*]. A fellow employee or Trade Union representative may accompany you if you so wish.

The main items to be discussed at this meeting are as follows:

1. Consideration of whether you will be able to return to your substantive role\* [*to work and/or your normal duties in the near or foreseeable future*].
2. Any reasonable adjustments that could be made to assist a return \* [*to work and/or to carry out your normal duties*].
3. Any alternative roles that might be available, should you be unable to return to your substantive role\* [t*o work and/or your normal duties*].

In order to assist us with decisions regarding the above we require a medical report, which gives information about your current state of health. Under the Access to Medical Reports Act 1988, we need to have your consent to contact your Doctor for this purpose.

You are not bound to give your consent for us to make an application but if you do withhold consent for such a report, we shall then need to make decisions on the facts about yourself which are known to us at this point in time.

Would you please complete the enclosed form and bring this to the meeting with you, but before doing so please study the attached notes summarising your rights under the above Act and the procedures for applying them.

If you have any questions concerning the contents of this letter, please contact the undersigned.

Yours sincerely

\* [*Amend/delete as applicable*]

##### Letter to be sent after consent has been received

Dear

Thank you for returning your consent form dated [insert date].

We confirm that we have made application today to [*insert Doctor’s name*] for a medical report in relation to yourself \*[and that you do not wish to see the medical report which will be sent to us direct.] \*[at the same time recording the fact that you require access to the report before it is supplied to us.]

We take this opportunity of reminding you of the procedure to be followed in seeking access to the report from [*insert Doctor’s name*] which was outlined in Option B of the Explanatory Notes sent to you with your consent form.

Yours sincerely

\* [*Amend/delete as applicable*]

##### Letter to be sent to Doctor following consent from employee

Dear

Re: *[insert employee’s name and address]*

Under the terms of the Access to Medical Reports Act 1988, the above named employee has given us written consent (see attached) to make an application to you for a medical report. We employ *[insert employee’s name]* as a *[insert job function].* This involves *[give brief description of duties and include any particular points about the physical requirements of the job as appropriate].*

We are particularly interested in your opinion as to the following questions plus any other information you feel would be useful in order that we can plan for the future in the interests of our employee and the Company:

1. When is *[insert employee’s name]* likely to be fit to return to work?
2. In your opinion, will [*insert employee’s name*] be able to carry out the duties detailed above, on their return?
3. On return, will there be any restrictions on the type or amount of work *[name]* is able to undertake?
4. If there are any restrictions, how long are these likely to be for?
5. Could there be a re-occurrence of his/her current condition after he/she returns to work?

In your opinion, does [*insert employee’s name*]’s condition fall within the definition of a disability under the Equality Act 2010. We realise it may be difficult to give precise answers to some of these questions but as much information as you can give at this stage will be greatly appreciated.

Would you note that *[insert employee’s name]* [has] [has not] *[use appropriate words]* requested access to the report prior to it being supplied to us. He/She is aware of the provisions of the Act with regard to amendments that he/she may seek to make to a report and the exemptions available to you for not making certain parts of the contents available to him/her.

Yours sincerely

*[The above text may need to be adjusted to suit the particular need but consent must be obtained from the employee prior to contact with the Doctor. Such consent is best obtained by means of a face to face meeting with the employee rather than by letter.]*

Once you have received the Medical Report, please contact your Consultant for further advice.

1. Time Off for Dependants

An employee has the right to take a reasonable amount of time off for one of the following reasons:

* Where a dependant falls ill, gives birth or is injured or assaulted.
* To organise arrangement of care for a dependant who is ill or has been injured.
* Arrangement in consequence of the death of a dependant.
* Unexpected disruption or cessation in the care of a dependant.
* Unexpected incident at an educational establishment involving a dependant.

To be able to enforce this right, an employee must tell the employer the reason for this absence as soon as is reasonably practicable and, where possible, how long the absence is likely to last.

The term "dependant" is said by the legislation to include the employee's spouse, child and parents or a person who lives with them in the same household other than an employee, lodger or boarder. Beyond this, a dependant is also anyone who reasonably relies on the employee for assistance in the event of illness, injury, assault or the provision of care in the event of injury or illness or relies on the employee to make arrangements for the provision of care.

The above time off is unpaid unless there is a contractual arrangement to pay for such leave.

**Absence Statement**

|  |
| --- |
| **Name:** |
| **PLEASE COMPLETE APPROPRIATE SECTIONS** |
| **Sickness or Injury** I was unable to attend work because of: (give appropriate reason) Illness • Injury at work • **Period of Absence** I was away for working day(s) from (start date)to (end date) If you had to leave work early - time you finished am/pm |
| **Details of Sickness or Injury** (Please give brief details of your illness)Did you consult your doctor for this sickness absence? Yes/No |
| **Other Absences (except holidays)** I was away from work because  I was away for working day(s) from (start date) to (end date) |
| DeclarationI declare that the information given is correct and I understand that any attempt to give false information could lead to disciplinary action. I also agree to the above information being kept on my personnel file for absence record purposes.Employee's Signature Date Absence dates agreed by Date  |

**Application for a Medical Report**

To: *(name of Doctor)*

 *(address)*

1. I have been informed of my statutory rights under the Access to Medical Reports Act 1988 and I hereby:
	1. Give my consent for my employer to apply for a medical report from my medical practitioner who has been responsible for my clinical care and it may be supplied direct.

*or*

* 1. Withhold my consent to an application being made for a medical report from my medical practitioner.

*Please delete a) or b) as appropriate*

1. In the event of my giving consent under paragraph 1a above, I understand that this form will be copied to my medical practitioner and it will be equally valid as the original.
2. I do / do not\* wish to see the medical report before my medical practitioner sends it to the Company.

*\*Please delete as appropriate*

Signed: Date:

Employee’s name:

ACCESS TO MEDICAL REPORTS ACT 1988

**Explanatory Notes on your Rights**

This is a guide to your principal rights under the above Act, which is concerned with medical reports provided for employment (or insurance) purposes by a medical practitioner who is, or has been, responsible for your clinical care.

**OPTION A**

You can withhold your consent to an application to be made by us for a medical report from your medical practitioner.

**OPTION B**

You can give your consent to the application being made but indicate your wish to see the report before it is supplied.

Following receipt of your decision, your medical practitioner will be informed by us that you wish to have access to the report and you are allowed 21 days to make arrangements to see and approve it before it is supplied to us. If the medical practitioner has not heard from you within this time from the date of application for the supply of the report, the doctor will assume that you do not wish to see the report and that you consent to its being supplied.

If you see the report and find there is something which you consider incorrect or misleading, you can request in writing that the report is amended but the medical practitioner is not obliged to do so.

You can then either:

* Withdraw consent for the report to be supplied.
* Ask the medical practitioner to attach to the report a statement setting out your views.
* Agree to the report being supplied unchanged.

**OPTION C**

You can give your consent for us to make an application for a medical report indicating that you do not wish to see the report before it is supplied. You may change your mind after the application is made by notifying the medical practitioner. Twenty-one days will be allowed to elapse after the date of such notification so that you may arrange to have access to the report, provided the report has not already been supplied in the intervening period.

Whether or not you decide to have access to your medical report before it is supplied, you have the right of access to it from the medical practitioner at any time up to six months after it was supplied to your employer.

A medical practitioner is not obliged to reveal parts of medical reports that he/she believes might cause serious harm to your physical or mental health or that of others; or which would reveal information about a third party or the identity of a third party who has supplied the practitioner with information about your health, unless the third party also consents or that party is one that has been involved in your clinical care. In those circumstances, the medical practitioner will inform you accordingly and your access to the report will be limited to its remaining parts.

##

## Maternity

1. Maternity Pay

Women with average earnings equal to or greater than the lower earnings limit for National Insurance contributions may qualify to be paid up to 39 weeks Statutory Maternity Pay. To qualify for Statutory Maternity Pay, a woman must have been employed by the same employer without a break for at least 26 weeks into the 15th week before the week her baby is due. SMP is payable at two rates. The higher rate is payable for the first six weeks of the period for which SMP is due, and is 90% of the employee’s average weekly earnings. The lower rate of SMP is then payable for a further 33 weeks at the statutory rate (or 90% of an employee’s average weekly earnings if less than the statutory rate).

Contractual benefits apply to the whole maternity leave period.

1. Maternity Leave

**Maternity Leave** – There are no qualifying periods for Maternity Leave, so a woman has this right immediately on commencing employment. A woman is entitled to up to 52 weeks Maternity Leave, which can commence at any time after the 11th week before the Expected Week of Childbirth) (EWC)

**Notification** - A pregnant employee must provide her employer with a certificate of expected childbirth (form MAT B1) or equivalent document signed by her Doctor or registered midwife no later than the end of the 15th week before the EWC

The employee is required to notify the employer in writing no later than the 15th week before the EWC of the date on which they intend to start maternity leave. Should they wish to change the date they are required to give the employer at least 28 days’ notice of the revised date.

Once the employer has received notification of the date on which a pregnant employee intends to start her maternity leave, the employer must write to that employee within the next 28 days acknowledging her intentions and advising her of the date on which her Maternity Leave will end.

Employers who neglect to write to a pregnant employee in the terms outlined above, will not be able to prevent her returning to work sooner than expected, nor will they have any right to dismiss her (or subject her to any other detriment) for failing to return to work on the due date. A woman who has been formally notified of the date on which she is expected to return to work must do so on that date (unless sickness or injury intervenes to prevent her doing so). If she intends to return to work before the end of her Maternity Leave, she must notify her employers at least 8 weeks before the date in question.

Once an employee has notified her employer of the date she wishes to start maternity leave, she can change this date as long as she notifies her employer of the new start date by whichever is the earlier of 28 days before the date she originally intended to start her leave, or 28 days before she wants to start her leave. In any event, this must not be earlier than the beginning of the 11th week before her expected week of childbirth.

A woman’s Maternity Leave will start automatically (regardless of the date on which she originally intended to start her leave) if she gives birth prematurely (whether before or after the beginning of that 11th week) or is absent from work with a pregnancy related illness at any time during the four weeks before the start of her expected week of childbirth. Employers should also bear in mind that it is the pregnant employee’s expected week of childbirth, not the date on which she actually gives birth, that determines her rights under the legislation.

1. Time Off for Antenatal Care

Legislation provides certain rights for time off for the purposes of antenatal care. If an appointment to receive antenatal care has been made on the advice of a Registered Medical Practitioner, a Registered Midwife or Registered Health Worker, the woman has the right to have reasonable time off **with** pay in order to attend the clinic. If they wish, the Company may request evidence of the appointment (except for the first appointment).

The amount of pay, to which she is entitled, is the amount she would normally have received if she had worked during the period of time off. If however, it is felt that the woman is taking more time than is reasonable in the circumstances, then the Company need only pay her for what is considered reasonable. Each case must, therefore, be looked at on its own merits and if necessary discussed with the employee.

Antenatal care may include relaxation and parent craft classes that the employee’s doctor, midwife or health visitor has advised her to attend, in addition to medical examinations. The employee should endeavour to give her line manager as much notice as possible of antenatal appointments and wherever, possible try to arrange them as near to the start or end of the working day as possible.

1. **Health and Safety**

Once you have been notified that an employee is pregnant you are required to carry out a risk assessment to assess the workplace risks to women who are pregnant, have recently given birth or are breastfeeding where the work is of a kind that could involve a risk of harm or danger to her health and safety or the health and safety of her unborn baby and the risk arises from either processes, working conditions or physical, chemical or biological agents in the workplace.

You will provide the employee with information as to any risks identified in the risk assessment, and any preventive and protective measures that have been or will be taken. If we consider that, as a new or expectant mother, you would be exposed to health hazards in carrying out your normal work we will take such steps as are necessary (for as long as they are necessary) to avoid those risks. This may involve:

• changing your working conditions or hours of work;

• offering you suitable alternative work on terms and conditions that are the same or not substantially less favourable; or

• suspending you from duties, which will be on full pay unless you have unreasonably refused suitable alternative work. Suspension may be for the remainder of her pregnancy until commencement of her maternity leave. If an employee is suspended in these circumstances, her employment will continue during the period of suspension and it does not affect her statutory or contractual employment and maternity rights. The employee will be entitled to her normal salary and contractual benefits during the period of her suspension, unless she has unreasonably refused an offer of suitable alternative employment.

1. Keeping in Touch

Maternity leave and pay will normally come to an end when a woman returns to work. However, a woman on maternity leave is entitled to do up to ten days work or training without losing maternity pay or bringing her leave to an end. These days may only be worked with the agreement of both the employer and employee. They may be used for any type of work, training or generally catching up and the employer and employee must agree what is to be done and how much pay will be received by the employee.

It is always best to hold a meeting with the employee concerned to explain her rights. Having done so, you should then confirm these in writing to her so that there is no misunderstanding at a later date.

Note that it is automatically unfair to dismiss an employee who is pregnant or for a maternity related reason. It is treated as sex discrimination and as such any successful award could attract high levels of compensation. If you have any queries concerning maternity cases you should seek advice from *The AP Partnership*.

1. Letter to be given after first knowledge of pregnancy

Dear

**Maternity Leave**

\*Confirming our recent conversation/\*Further to your notification that you are pregnant, I list below the points which you should be aware of concerning Maternity Leave and Maternity Pay.

Provided you have notified the Company in writing that you are leaving for maternity reasons, you may be entitled to receive Maternity Pay and to take Maternity Leave as follows.

1. *Maternity Pay* – Provided that your average weekly earnings are higher than the lower earnings limit for National Insurance contributions and you have been employed for 26 weeks at the 15th week before the EWC, you qualify to be paid up to 39 weeks Statutory Maternity Pay (SMP) whilst absent from work on Maternity Leave. Payment is made at the rate of 90% of your average weekly earnings for the first 6 weeks, and the remaining 33 weeks are paid at the current statutory rate (or 90% of your average weekly earnings, if that is less than the statutory rate). SMP is treated as earnings so is subject to deductions for tax and National Insurance contributions. If you do not qualify for SMP, you should claim the State Maternity Allowance.
2. *Maternity Leave* – You are entitled to 52 weeks Maternity Leave. During this period, your normal conditions of employment will continue to apply with the exception of remuneration. Maternity leave may be taken at any time after the beginning of the 11th week before the expected week of childbirth.

You are required to notify the Company in writing no later than the 15th week before the expected week of childbirth of the date on which you intend to start Maternity Leave. Should you wish to change the date you intend to start Maternity Leave you are required to give the Company at least 28 days’ notice of the revised date.

On receipt of this information, the Company will write to you within 28 days acknowledging your intentions and advising you of the date on which your Maternity Leave will end. Once you have been formally notified of the date on which you are expected to return to work, you must do so on that date, unless sickness or injury prevents you from doing so.

If you wish to return early from maternity leave you are required to give the company at least 8 weeks’ notice.

As soon as is practicable, but no later than the end of the 15th week before the expected week of childbirth (EWC), you must also provide a certificate of expected childbirth (form MAT B1) or equivalent document signed by your Doctor or registered midwife.

1. *Keeping in Touch -* Your maternity leave and pay will normally come to an end when you return to work. However, you are entitled to work for up to ten days during your maternity leave without losing maternity pay or bringing your leave to an end. These days may only be worked with the agreement of both of us. The days may be used for any type of work or training and the type of work etc. to be undertaken and the level of pay you receive must be agreed by both of us.

As your employer we need to ensure that your health and safety is protected while you are working, and that you are not exposed to any risk.  Now that you have told us that you are pregnant, I will arrange for a specific risk assessment of your job. We will discuss what actions to take if any problems are identified.  If you have any further concerns following this assessment and specifically in relation to your pregnancy, please let me know immediately.

If you have any further queries concerning any of the above points please let me know. Meanwhile, I wish you health and happiness for the future.

Yours sincerely

1. Letter acknowledging notification of commencement of maternity leave

Dear

**Commencement of Maternity Leave**

Thank you for notifying me of the date that your baby is due.

As we have discussed, you are eligible for 52 weeks’ maternity leave

Given your chosen start date of [*insert date*] your maternity leave will end on [*insert date*].

*[Add the following sentence, amend as appropriate]* Whilst on maternity leave you will accrue [X] days annual leave therefore your first day back in the office will be [*insert date*]. Please notify me in writing, at least 28 days before your proposed return to work, so that we can make the arrangements for your return.

If you wish to change the date your leave starts you are required to advise me at least 28 days before your proposed new start date.

If you decide to return to work from maternity leave before [*insert date due back*], you must give me at least 8 weeks’ notice.

[*Delete one of the following as appropriate*]

You are eligible for 39 weeks’ Statutory Maternity Pay. Your maternity pay will be £[*insert amount*] from [*insert date*] to [*insert date*] and £[*insert amount*] from [*insert date*] to [*insert date*].

[*Or*]

You are not eligible for Statutory Maternity Pay. You may however be entitled to the Maternity Allowance and you should contact Job Centre Plus for details.

Yours sincerely

Paternity

**Antenatal Appointments**

Expectant fathers or the partner of a pregnant woman (including same sex) is entitled to take unpaid time off work on up to two occasions for a maximum time period of 6.5 hours on each occasion to attend antenatal appointments

Employees may be required to make a written declaration of the date and time of the appointment, to confirm eligibility for unpaid leave through their relationship with the expectant mother, that the time off is to attend an ante-natal appointment and that the appointment has been made on the advice of a registered medical practitioner, nurse or midwife

**1. Paternity Leave**

All employees who are natural or adoptive fathers of a child born or placed with them for adoption will have the right to take up to two weeks paid Paternity Leave. To be able to claim Paternity Leave, an employee must have been continuously employed for 26 weeks at the 15th week before the expected week of childbirth (EWC) or They must also self-certify their wish to take Paternity Leave, during or before the 15th week before the EWC, or ending with the week in which the employee is notified of being matched for adoptionusing Form SC3. This advises the employer when the baby is due, when they would like to take leave, and for how long. (This form can be found on the HMRC website)

https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-a-birth-parent-sc3

Employees can change their mind about when they wish to start leave and for how long, but they must give their employer 28 days’ notice. Paternity Leave is for one or two consecutive weeks, not odd days, and must be taken within 8 weeks from the start of the expected week of childbirth or the baby’s actual birth date.

Adoption

**1. Adoption Leave**

All employees (both male and female) who are notified by an approved Adoption Agency of a match with a child or children are entitled to adoption leave. An employee can choose to take adoption leave when a child is placed for adoption or up to 14 days before the expected date of placement. If a couple adopt jointly, one of them can take Adoption Leave and the other can take Paternity Leave. Both parents may be eligible to take shared parental leave.

Parents who will become the legal parents of a child under a surrogacy arrangement are entitled to take statutory adoption leave. Local authority foster parents who are also prospective adopters (foster to adopt) are entitled to take ordinary adoption leave in relation to children matched for adoption

Adoption Leave (AL) may last up to 52 weeks. Ordinary Adoption Leave (OAL) lasts for 26 weeks as does Additional Adoption Leave (AAL). The total leave being up to 52 weeks. The prospective parent must have notified the employer of their acceptance of the placement and agreed a date. To change this date, the employee must give the employer at least 28 days’ notice before the original start date and the new start date. Employees must notify their employer as to when the child is expected to be placed for adoption and the date on which they want leave to begin. Adoption leave can start on the day the child is placed for adoption, or up to 14 days earlier. The employer may request written confirmation on the placement from the Adoption Agency.

**2. Adoption Pay**

To qualify for Statutory Adoption Pay (SAP), the employee must have 26 weeks continuous service calculated as at the week in which notification of matching was given by the adoption agency and have average weekly earnings not les than the lower earnings limit for national insurance contributions. Statutory adoption pay is payable for up to 39 weeks.The first 6 weeks of SAP is paid at 90% of normal earnings for the first six weeks, the remaining 33 weeks is paid at the statutory weekly rate(or 90% of normal earnings, if that is lower than the statutory rate. SAP is recoverable in the same manner as SMP. For an employee to elect to receive SAP, they must complete the HMRC Form SC4. (This form can be found on the HMRC website)

https://www.gov.uk/government/publications/ordinary-statutory-paternity-pay-and-leave-becoming-an-adoptive-parent-sc4

If the employee is NOT entitled to SAP then the employer must give the employee a SAP1 Form which explains the reasons why. (This form can be found on the HMRC website)

<https://www.gov.uk/government/publications/statutory-adoption-pay-non-payment-explanation-sap1>

1. Time off to Attend Adoption Appointments

The main adopter will be able to take paid time off for up to five adoption appointments. The secondary adopter will be entitled to take unpaid time off for up to two appointments. The appointment must have been arranged by or at the request of the adoption agency. The time off must be taken before the date of the child’s placement for adoption with the employee.

The Company will ask the individual for proof of the date and time of the appointment and that the appointment has been arranged by or at the request of the adoption agency. In addition, if the employee is adopting jointly, the Company will ask the individual to sign a declaration, to be submitted alongside the documentary evidence, confirming that he/she has elected to exercise his/her right under the Employment Rights Act 1996 to take time off to attend an adoption appointment. The Company will ask for the declaration on the first occasion on which the individual asks for time off to attend an adoption appointment.

1. Keeping in Touch

Adoption leave and pay will normally come to an end when the Adopter returns to work. However, an Adopter on adoption leave is entitled to do up to ten days work or training without losing adoption pay or bringing the leave to an end. These days may only be worked with the agreement of both the employer and employee. They may be used for any type of work, training or generally catching up and the employer and employee must agree what is to be done and how much pay will be received by the employee.

It is always best to hold a meeting with the employee concerned to explain their rights. Having done so, you should then confirm these in writing so that there is no misunderstanding at a later date.

1. **Transfer of Adoption Leave to Shared Parental Leave**

Shared parental leave enables adopters to commit to ending their adoption leave and pay at a future date, and to share the untaken balance of leave and pay as shared parental leave and pay with their partner, or to return to work early from adoption leave and opt in to shared parental leave and pay at a later date.

Shared parental leave must be taken in blocks of at least one week. The employee can request to take shared parental leave in one continuous block (in which case the organisation is required to accept the request as long as the employee meets the eligibility and notice requirements), or as a number of separate blocks of leave (in which case the employee needs the organisation's agreement).

To be able to take shared parental leave, an employee and his/her partner must meet various eligibility requirements and have complied with the relevant curtailment, notice and evidence requirements. This includes the adopter curtailing his or her adoption leave.

Employees can refer to the organisation's policy on shared parental leave, where they will find full details of the eligibility requirements, as well as instructions as to how the adopter's adoption leave can be curtailed.

**Surrogate Parents**

Provided the employee meet the eligibility criteria parents who have a child through surrogacy will be permitted to take ordinary paternity leave and pay, adoption leave and pay and shared parental leave and pay.

Both parents will also be entitled to take unpaid time off to attend two antenatal appointments with the woman carrying the child.

**Parental Leave (Unpaid)**

1. Entitlement to parental leave

Entitlement is based on two factors, firstly an employee must have been continuously employed for one year at the time of commencing the leave and secondly, they must be expected to have responsibility for the child.

* The Parental Leave entitlement is subject to a maximum of eighteen weeks’ unpaid leave for each child, including disabled children.
* An employee can choose to take Parental Leave at any time up until the child's Eighteenth birthday.
* Parental Leave must be taken in blocks or multiples of one week, except where the employee is the parent of a disabled child, when they can take the leave in blocks or multiples of one day.
* In all cases the Parental Leave is for a maximum of four weeks for each child in any one year. Any leave taken which is less that one week, except in the case of a disabled child, will count as one week.
1. **Notice to take Leave**

The employee must give at least twenty-one days’ notice of their intention to take Parental Leave.

1. **Postponement Procedure**

The request for Parental Leave, except for leave immediately after the child is born or placed with the family for adoption, can be postponed for up to six months where the Company believes the business would be particularly disrupted if the leave was taken at the time requested.

The employer should discuss the matter with the employee and confirm the postponement arrangements in writing no later than seven days after the employee's notice to take leave. The employer's notice should state the reason for the postponement and set out the new dates for the parental leave. The length of leave should be equivalent to the employee's original request.

However, leave cannot be postponed where the employee gives notice to take leave immediately after the child is born or placed with the family for adoption. The employee needs to give at least 21 days’ notice before the expected week of childbirth. In the case of adopted children, the employee needs to give notice 21 days before the expected week of placement.

1. Documentary evidence of parental responsibility

An employer can ask to see evidence to confirm that the employee is the parent of the child, or the person who is legally responsible for the child. This evidence might take the form of information contained in the child's birth certificate, papers containing the child's adoption or date of placement, or in cases of a disabled child, the award of the disability living allowance. In any event the employer’s request for documentation must remain reasonable.

1. Right to return after Parental Leave

An employee, who takes parental leave for a period of four weeks or less, other than immediately after taking maternity leave, is entitled to return from leave to the job in which they were employed before their absence.

Where leave is taken for more than four weeks then entitlement to return to the job is dependent upon whether it is reasonable for the employer. Where it is not reasonable for that individual to return to their job then they should be offered another job, which is both suitable for the employee and appropriate for them to do in the circumstances. This does not apply where there is a redundancy situation.

Where an employee takes parental leave for four weeks or less following maternity leave, then she can only return to her job if it would have been reasonably practical after her maternity leave and it still is. Otherwise she is entitled to return to another job, which is both suitable for her and appropriate for her to do in the circumstances. This does not apply where there is a redundancy situation.

An employee has the right to return on the same terms after leave as those which they would have been on had they not been absent from work. Where that individual has returned from parental leave taken immediately after maternity leave then the terms should be those which preceded her maternity leave period. In the case of an employee returning from parental leave (other than parental leave taken immediately after maternity leave); it should be on the terms which preceded the commencement of the parental leave.

In reference to seniority, pension and similar rights, these should remain the same as the employment contract prior to the parental leave, or the maternity leave period if she has taken parental leave immediately after maternity leave.

**Shared Parental Leave Policy and Procedure**

The Company recognises that, from time to time, employees may have questions or concerns relating to their shared parental rights. It is the Company’s policy to encourage open discussion with employees to ensure that questions and problems can be resolved as quickly as possible. Employees should clarify the relevant procedures with their Manager to ensure that they are followed.

1. **Who is eligible for Shared Parental Leave (SPL)?**

SPL can only be used by two people:

* The mother/adopter **and**
* One of the following:
	+ the father of the child (in the case of birth) or
	+ the spouse, civil partner or partner of the child's mother/ adopter.

Both parents must share the main responsibility for the care of the child at the time of the birth/placement for adoption.

Additionally, an employee seeking to take SPL must satisfy each of the following criteria:

* the mother/adopter of the child must be/have been entitled to statutory maternity/adoption leave or if not entitled to statutory maternity/adoption leave they must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have ended or given notice to reduce any maternity/adoption entitlements;
* the employee must still be working for the organisation at the start of each period of SPL;
* the employee must pass the ‘continuity test’ requiring them to have a minimum of 26 weeks' service at the end of the 15th week before the child’s expected due date (or at the week in which an adopter was notified of having been matched with a child or adoption) and is still employed in the first week that Shared Parental Leave is to be taken
* the employee’s partner must meet the ‘employment and earnings test’ requiring them in the 66 weeks leading up to the child’s expected due date/matching date have worked for at least 26 weeks and earned an average of at least £30 (this is correct as of 2015 but may change annually) a week in any 13 of those weeks;
* the employee must correctly notify the Company of their entitlement and provide evidence as required.
1. **The Shared Parental Leave entitlement**

Eligible employees may be entitled to take up to 50 weeks SPL during the child’s first year in their family. The number of weeks available is calculated using the mother’s/adopter’s entitlement to maternity/adoption leave, which allows them to take up to 52 weeks’ leave. If they reduce their maternity/adoption leave entitlement, then they and/or their partner may opt-in to the SPL system and take any remaining weeks as SPL.

A mother/adopter may reduce their entitlement to maternity/adoption leave by returning to work before the full entitlement of 52 weeks has been taken, or they may give notice to curtail their leave at a specified future date.

If the mother/adopter is not entitled to maternity/adoption leave but is entitled to Statutory Maternity Pay (SMP), Statutory Adoption Pay (SAP) or Maternity Allowance (MA), they must reduce their entitlement to less than the 39 weeks. If they do this, their partner may be entitled to up to 50 weeks of SPL. This is calculated by deducting from 52 the number of weeks of SMP, SAP or MA taken by the mother/adopter.

SPL can commence as follows:

* The mother can take SPL after she has taken the legally required two weeks of maternity leave immediately following the birth of the child
* The adopter can take SPL after taking at least two weeks of adoption leave
* The father/partner/spouse can take SPL immediately following the birth/placement of the child, but may first choose to exhaust any paternity leave entitlements (as the father/partner cannot take paternity leave or pay once they have taken any SPL or ShPP).

Where both parents satisfy the continuity of employment test requirement, they will both be able to make use of the pot of Shared Parental Leave.

It is for the mother/adopter to decide whether to just use their maternity/adoption entitlement or use Shared Parental Leave at some point.

Where a mother/adopter gives notice to curtail their maternity/adoption entitlement then the mother/adopter’s partner can take leave while the mother/adopter is still using their maternity/adoption entitlements.

SPL will generally commence on the employee's chosen start date specified in their leave booking notice, or in any subsequent variation notice (see "Booking Shared Parental Leave" and "Variations to arranged Shared Parental Leave" below).

If the employee is eligible to receive it, Shared Parental Pay (ShPP) may be paid for some, or all, of the SPL period (see "Shared Parental Pay" below).

SPL must end no later than one year after the birth/placement of the child. Any SPL not taken by the first birthday or first anniversary of placement for adoption is lost.

1. **Notifying the Company of an entitlement to Shared Parental Leave**

An employee entitled and intending to take SPL must give their line manager notification of their entitlement and intention to take to SPL, at least eight weeks before they can take any period of SPL.

Part of the eligibility criteria requires the employee to provide the Company with correct notification. Notification must be in writing and requires each of the following:

* the name of the employee;
* the name of the other parent;
* the start and end dates of any maternity/adoption leave or pay, or maternity allowance, taken in respect of the child and the total amount of SPL available;
* the date on which the child is expected to be born and the actual date of birth or, in the case of an adopted child, the date on which the employee was notified of having been matched with the child and the date of placement for adoption;
* the amount of SPL the employee and their partner each intend to take
* a non-binding indication of when the employee expects to take the leave.

The employee must provide the Company with a signed declaration stating:

* that they meet, or will meet, the eligibility conditions and are entitled to take SPL;
* that the information they have given is accurate;
* if they are not the mother/adopter they must confirm that they are either the father of the child or the spouse, civil partner or partner of the mother/adopter;
* that should they cease to be eligible they will immediately inform the Company.

The employee must provide the Company with a signed declaration from their partner confirming:

* their name, address and national insurance number (or a declaration that they do not have a national insurance number);
* that they are the mother/adopter of the child or they are the father of the child or are the spouse, civil partner or partner of the mother/adopter;
* that they satisfy the ‘employment and earnings test’ (see “Who is eligible for Shared Parental Leave?” above), and had at the date of the child’s birth or placement for adoption the main responsibility for the child, along with the employee;
* that they consent to the amount of SPL that the employee intends to take;
* that they consent to the Company processing the information contained in the declaration form; and
* (in the case whether the partner is the mother/adopter), that they will immediately inform their partner should they cease to satisfy the eligibility conditions.
1. **Requesting further evidence of eligibility**

The Company may, within 14 days of the SPL entitlement notification being given, request:

* the name and business address of the partner’s employer (where the employee’s partner is no longer employed or is self employed their contact details must be given instead)
* in the case of biological parents, a copy of the child's birth certificate (or, where one has not been issued, a declaration as to the time and place of the birth).
* in the case of an adopted child, documentary evidence of the name and address of the adoption agency, the date on which they were was notified of having been matched with the child and the date on which the agency expects to place the child for adoption

In order to be entitled to SPL, the employee must produce this information within 14 days of the employer’s request.

1. **Fraudulent claims**

The Company may, where there is a suspicion that fraudulent information may have been provided or where the Company has been informed by the HMRC that a fraudulent claim was made, investigate the matter further in accordance with the usual Company investigation and disciplinary procedures, and also without acting in a discriminatory manner in relation to any of the protected characteristics defined in the Equality Act 2010.

1. **Discussions regarding Shared Parental Leave**

An employee considering/taking SPL is encouraged to contact their Line Manager to arrange an informal discussion as early as possible regarding their potential entitlement, to talk about their plans and to enable the Company to support the individual.

The Line Manager may upon receiving a notification of entitlement to take SPL seek to arrange an informal discussion with the employee to talk about their intentions and how they currently expect to use their SPL entitlement.

Upon receiving a leave booking notice the Line Managerwill usually arrange a meeting to discuss it. Where a notice is for a single period of continuous leave, or where a request for discontinuous leave can, without further discussion, be approved in the terms stated in the employee's notice booking leave, a meeting may not be necessary.

Where a meeting is arranged will take place in private and be arranged in advance. If the initial date is problematic then another date will be arranged if possible. If an alternative date cannot be arranged then the meeting may be held over the telephone.

At the meeting the employee may, if they wish, be accompanied by a workplace colleague or trade union representative.

The purpose of the meeting is to discuss in detail the leave proposed and what will happen while the employee is away from work. Where it is a request for discontinuous leave the discussion may also focus on how the leave proposal could be agreed, whether a modified arrangement would be agreeable to the employee and the Company, and what the outcome may be if no agreement is reached.

1. **Booking Shared Parental Leave**

In addition to notifying the employer of entitlement to SPL/ShPP, an employee must also give notice to take the leave. In many cases, notice to take leave will be given at the same time as the notice of entitlement to SPL.

The employee has the right to submit three notifications specifying leave periods they are intending to take. Each notification may contain either (a) a single period of weeks of leave; or (b) two or more weeks of discontinuous leave, where the employee intends to return to work between periods of leave.

SPL can only be taken in complete weeks but may begin on any day of the week. For example if a week of SPL began on a Tuesday it would finish on a Monday. Where an employee returns to work between periods of SPL, the next period of SPL can start on any day of the week.

The employee must book SPL by giving the correct notification at least eight weeks before the date on which they wish to start the leave and (if applicable) receive ShPP.

*Continuous leave notifications*

A notification can be for a period of **continuous leave**, which means a notification of a number of weeks taken in a single unbroken period of leave (for example, six weeks in a row).

An employee has the right to take a continuous block of leave notified in a single notification, so long as it does not exceed the total number of weeks of SPL available to them (specified in the notice of entitlement) and the employer has been given at least eight weeks’ notice.

An employee may submit up to three separate notifications for continuous periods of leave.

*Discontinuous leave notifications*

A single notification may also contain a request for two or more periods of **discontinuous leave**, which means asking for a set number of weeks of leave over a period of time, with breaks between the leave where the employee returns to work (for example, an arrangement where an employee will take six weeks of SPL and work every other week for a period of three months).

Where there is concern over accommodating the notification, the Company or the employee may seek to arrange a meeting to discuss the notification with a view to agreeing an arrangement that meets both the needs of the employee and the Company (see “Discussions regarding Shared Parental Leave” above).

The Company will consider a discontinuous leave notification but has the right to refuse it. If the leave pattern is refused, the employee can either withdraw it within 15 days of giving it, or can take the leave in a single continuous block.

1. **Responding to a Shared Parental Leave notification**

Once the Line Manager receives the leave booking notice, it will be dealt with as soon as possible, but a response will be provided no later than the 14th day after the leave request was made.

All notices for continuous leave will be confirmed in writing.

All requests for discontinuous leave will be carefully considered, weighing up the potential benefits to the employee and to the Company against any adverse impact to the business.

Each request for discontinuous leave will be considered on a case-by-case basis. Agreeing to one request will not set a precedent or create the right for another employee to be granted a similar pattern of SPL.

The employee will be informed in writing of the decision as soon as is reasonably practicable, but no later than the 14th day after the leave notification was made. The request may be granted in full or in part: for example, the Company may propose a modified version of the request.

If a discontinuous leave pattern is refused then the employee may withdraw the request without detriment on or before the 15th day after the notification was given; or may take the total number of weeks in the notice in a single continuous block. If the employee chooses to take the leave in a single continuous block, the employee has until the 19th day from the date the original notification was given to choose when they want the leave period to begin. The leave cannot start sooner than eight weeks from the date the original notification was submitted. If the employee does not choose a start date then the leave will begin on the first leave date requested in the original notification.

1. **Variations to arranged Shared Parental Leave**

The employee is permitted to vary or cancel an agreed and booked period of SPL, provided that they advise the Company in writing at least eight weeks before the date of any variation. Any new start date cannot be sooner than eight weeks from the date of the variation request.

Any variation or cancellation notification made by the employee, including notice to return to work early, will usually count as a new notification reducing the employee’s right to book/vary leave by one. However, a change as a result of a child being born early, or as a result of the Company requesting it be changed, and the employee being agreeable to the change, will not count as further notification. Any variation will be confirmed in writing by the Company.

1. **Statutory Shared Parental Pay (ShPP)**

Eligible employees may be entitled to take up to 37 weeks ShPP while taking SPL. The amount of weeks available will depend on the amount by which the mother/adopter reduces their maternity/adoption pay period or maternity allowance period.

ShPP may be payable during some or all of SPL, depending on the length and timing of the leave.

In addition to meeting the eligibility requirements for SPL, an employee seeking to claim ShPP must further satisfy each of the following criteria:

* the mother/adopter must be/have been entitled to statutory maternity/adoption pay or maternity allowance and must have reduced their maternity/adoption pay period or maternity allowance period;
* the employee must intend to care for the child during the week in which ShPP is payable;
* the employee must have an average weekly earnings for the period of eight weeks leading up to and including the 15th week before the child’s expected due date/matching date are not less than the lower earnings limit in force for national insurance contributions;
* the employee must remain in continuous employment until the first week of ShPP has begun;
* the employee must give proper notification in accordance with the rules set out below.

Where an employee is entitled to receive ShPP they must, at least eight weeks before receiving any ShPP, give their line manager written notice advising of their entitlement to ShPP. To avoid duplication, if possible, this should be included as part of the notice of entitlement to take SPL.

In addition to what must be included in the notice of entitlement to take SPL, any notice that advises of an entitlement for ShPP must include:

* the start and end dates of any maternity/adoption pay or maternity allowance;
* the total amount of ShPP available, the amount of ShPP the employee and their partner each intend to claim, and a non-binding indication of when the employee expects to claim ShPP;
* a signed declaration from the employee confirming that the information they have given is correct, that they meet, or will meet, the criteria for ShPP and that they will immediately inform the Company should they cease to be eligible.

It must be accompanied by a signed declaration from the employee’s partner confirming:

* their agreement to the employee claiming ShPP and for the Company to process any ShPP payments to the employee;
* (in the case whether the partner is the mother/ adopter) that they have reduced their maternity/adoption pay or maternity allowance;
* (in the case whether the partner is the mother/ adopter) that they will immediately inform their partner should they cease to satisfy the eligibility conditions.

Any ShPP due will be paid at a rate set by the Government for the relevant tax year.

1. **Terms and conditions during Shared Parental Leave**

During the period of SPL, the employee's contract of employment continues in force and they are entitled to receive all their contractual benefits, except for salary. In particular, any benefits in kind (such as use of a Company car, laptop, mobile phone and gym membership) will continue and contractual annual leave entitlement will continue to accrue.

Pension contributions will continue to be made during any period when the employee is receiving ShPP but not during any period of unpaid SPL. Employee contributions will be based on actual pay, while the Company’s contributions will be based on the salary that the employee would have received had they not been taking SPL.

1. **Annual Leave**

SPL is granted in addition to an employee's normal annual holiday entitlement. Employees are reminded that holiday should wherever possible be taken in the year that it is earned. Where an SPL period overlaps two leave years the employee should consider how their annual leave entitlement can be used to ensure that it is not untaken at the end of the employee’s holiday year.

1. **Contact during Shared Parental Leave**

Before an employee's SPL begins, the Company will discuss the arrangements for them to keep in touch during their leave. The Company reserves the right in any event to maintain reasonable contact with the employee from time to time during their SPL. This may be to discuss the employee's plans to return to work, to ensure the individual is aware of any possible promotion opportunities, to discuss any special arrangements to be made or training to be given to ease their return to work or simply to update them on developments at work during their absence.

1. **Shared Parental Leave in Touch days**

An employee can agree to work for the Company (or attend training) for up to 20 days during SPL without bringing their period of SPL to an end or impacting on their right to claim ShPP for that week. These are known as "Shared Parental Leave In Touch" or "SPLIT" days. Any work carried out on a day or part of a day shall constitute a day's work for these purposes.

The Company has no right to require the employee to carry out any work, and is under no obligation to offer the employee any work, during the employee’s SPL. Any work undertaken is a matter for agreement between the Company and the employee. An employee taking a SPLIT day will receive full pay for any day worked. If a SPLIT day occurs during a week when the employee is receiving ShPP, this will be effectively ‘topped up’ so that the individual receives full pay for the day in question. Any SPLIT days worked do not extend the period of SPL.

An employee, with the agreement of the Company, may use SPLIT days to work part of a week during SPL. The Company and the employee may use SPLIT days to effect a gradual return to work by the employee towards the end of a long period of SPL or to trial a possible flexible working pattern.

1. **Returning to work after Shared Parental Leave**

The employee will have been formally advised in writing by the Company of the end date of any period of SPL. The employee is expected to return on the next working day after this date, unless they notify the Company otherwise. If they are unable to attend work due to sickness or injury, the Company's normal arrangements for sickness absence will apply. In any other case, late return without prior authorisation will be treated as unauthorised absence.

If the employee wishes to return to work earlier than the expected return date, they may provide a written notice to vary the leave and must give the Company at least eight weeks notice of their date of early return. This will count as one of the employee’s notifications. If they have already used their three notifications to book and/or vary leave then the Company does not have to accept the notice to return early but may do if it is considered to be reasonably practicable to do so.

On returning to work after SPL, the employee is entitled to return to the same job if the employee’s aggregate total statutory maternity/paternity/adoption leave and SPL amounts to 26 weeks or less, he or she will return to the same job. The same job is the one they occupied immediately before commencing maternity/paternity/adoption leave and the most recent period of SPL, on the same terms and conditions of employment as if they had not been absent.

If their maternity/paternity/adoption leave and SPL amounts to 26 weeks or more in aggregate, the employee is entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is both suitable and appropriate and on terms and conditions no less favourable.

If the employee also takes a period of unpaid parental leave of 4 weeks or less this will have no effect on the employee’s right to return and the employee will still be entitled to return to the same job as they occupied before taking the last period of leave if the aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks.

If a parent takes a period of 5 weeks of unpaid parental leave, even if the total aggregate weeks of maternity/paternity/adoption and SPL do not exceed 26 weeks, the employee will be entitled to return to the same job they held before commencing the last period of leave or, if this is not reasonably practicable, to another job which is suitable and appropriate and on terms and conditions no less favourable.

1. **Special Circumstances and further information**

In certain situations an employee’s rights and requirements regarding SPL and ShPP may change. In these circumstances the Company will abide by any statutory obligations and an employee should refer to the documents listed below and/or clarify any issues or queries with their Line Manager.

 Maternity, Paternity, Adoption, Parental and Shared Parental Leave

1. Contractual rights to maternity, paternity, adoption, parental and shared parental leave

Where an employee has, in addition to their statutory right, a contractual right, then the employee may choose which they prefer to exercise, but will not be allowed to exercise them separately.

2. Application of terms and conditions during periods of leave

The contract of employment continues during maternity, paternity, adoption, parental and shared parental leave. As such the duty of trust and confidence must continue between employer and employee and more specifically the benefit of any terms in their contract which relate to notice of termination, compensation for redundancy, disciplinary or grievance procedures.

Equally, the employee is expected to keep good faith with the employer, specifically in relation to notice of termination of the contract, confidentiality, acceptance of gifts or benefits and non-participation in another business.

3. Protection from detriment

The employer must not discriminate against an employee where maternity, , paternity, adoption, parental and shared parentalleave has been sought or taken

4. Unfair dismissal

When an employee has exercised their right to maternity, paternity, adoption, parental and shared parental leave and has then been selected for redundancy, they are entitled to claim they have been unfairly dismissed if they can show that other employees in similar circumstances, who did not exercise these rights, have not been dismissed.

In the event of a dispute in a redundancy it will be for the employer to prove that they fulfilled their duties under the legislation. You should always obtain advice from *The AP Partnership* prior to taking any action regarding the termination of an employee on or returning from maternity, paternity, adoption, parental or shared parental leave.

##

## Flexible Working

The legislation provides eligible employees with the right to request a flexible working pattern and places a duty on the employer to consider such requests seriously. If agreed, the change will result in a permanent change to the employees’ contract of employment.

**1. Who will be eligible for flexible working*?***

All employees with at least 26 weeks continuous service at the date the application is made and who have not made another application for Flexible Working during the past twelve months may apply for Flexible Working, regardless of parental caring responsibilities. Employers have a duty to consider a request in a reasonable manner and can only refuse a request for flexible working if they can show that one of a specific number of grounds apply.

**Eligibility:**

**MUST:**

1. Be an employee.
2. Have worked for the employer continuously for 26 weeks at the date the application is made.
3. Not be an agency worker.
4. Not have made another application for flexible working during the past twelve months.

**2. What is a Flexible Work pattern?**

* Part-time working. For example, an employee might start work later and finish early in order to care for children after school.
* Flexi-time. Employees may be required to work within essential periods but outside ‘core times’ they often get flexibility in how they work their hours.
* Job-sharing. Typically, two employees share the work normally done by one employee.
* Working from home. New technology makes communication with office and customers possible by telephone, fax and email from home, car or other remote locations.
* Term-time working. An employee on a permanent contract takes paid or unpaid leave during school holidays.
* Staggered hours. Employees in the same workplace have different start, finish and break times often as a way of covering longer opening hours.
* Annual hours. This is a system which calculates the hours an employee works over a whole year. The annual hours are usually split into ‘set shifts’ and ‘reserve shifts’ which are worked as the demand dictates.
* Compressed working hours. Employees work their total agreed hours over fewer working days. For example, a five-day working week is compressed into four days.
* Shift-working. Shift-work is widespread in industries which must run on a 24-hour cycle, such as newspaper production, utilities and hospital and emergency services.

**3. Making an application*:***

The initial responsibility is on the employee to provide the written application well in advance of when they would like the change to take effect. An application under the Statutory Procedure must:

1. be in writing; specifying what Flexible Working arrangements are being requested and whether the request is in relation to The Equality Act 2010
2. state whether the employee has previously made any such application to the employer and, if so, when; and
3. be dated.
4. **Considering an application:**

Each application should be considered objectively on the basis of whether the requested work pattern can be accommodated and not on the basis of whether one applicants need for Flexible Working is

greater than another.

1. **Procedure:**

**Notes for the Employer on receipt of a FW request**

*Discuss with employee*

Once you have received a written request, you must consider it. You should arrange to talk with your employee as soon as possible (within 14 days is recommended) after receiving their written request. It will help you get a better idea of what changes they are looking for and how they might benefit your business and the employee. If you intend to approve the request then a meeting is not needed.

You should allow an employee to be accompanied by a work colleague for this and any appeal discussion. The employee should be informed about this prior to the discussion. Wherever possible the discussion should take place in a private place where what is said will not be overheard.

You should confirm receipt of the application using the following letter:

***Invitation to meeting to discuss flexible working:***

Dear

Thank you for your request for flexible working. I would like to meet with you on [*time/date/place]* to discuss your request further.

Should you wish, you may be accompanied at this meeting by a fellow employee or a trade union representative, provided they are an employee of the Company. If you would like to be accompanied at this meeting, please let me know who your companion will be.

Yours sincerely

***Deal with requests promptly***

The law requires that all requests, including any appeals, must be considered and decided on within a period of three months from first receipt, unless you agree to extend this period with the employee.

If you arrange a meeting to discuss the application including any appeal and the employee fails to attend both this and a rearranged meeting without a good reason, you can consider the request withdrawn. If you do so, you must inform the employee.

If you accept the employee’s request, or accept it with modifications, you should discuss with the employee how and when the changes might best be implemented.

***Acceptance of flexible working arrangements***

Dear

Following receipt of your flexible working application and our meeting on [*date]*, I have considered your request and would advise you as follows:

I am pleased to confirm that I am able to accommodate your application and your new working pattern will be as follows:

* *[Set out details of new day/hours/times of work/holiday/pay etc.].*

Your new working arrangements will begin from [*date]*.

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment.

To confirm your acceptance of the above changes to your Terms & Conditions of Employment, please sign the [*attached copy of this letter] [enclosed Terms and Conditions of Employment statement]* and return it to me as soon as possible.

If you have any questions on the information provided in this letter, please contact *[name]* to discuss them as soon as possible.

Yours sincerely

If you cannot accommodate the requested working pattern you may still wish to explore alternatives to find a working pattern suitable to you both as per the following letter:

***Alternative proposal to flexible working by employer***

Dear

Further to your application for flexible working and our meeting on *[date]*, unfortunately I am unable to accommodate your original proposal for flexible working.

However, as discussed with you at the meeting, I am able to offer the following alternative working arrangements.

*[insert details of the changes and how they may affect salary, holiday etc.]*

These new arrangements could start on *[date]*.

Please note the change in your working pattern will be a permanent change to your terms and conditions of employment.

 To confirm your acceptance of the proposed changes to your Terms & Conditions of Employment as detailed above , please sign the attached *[copy of this letter] [revised Terms and Conditions of Employment statement]* and return it to me as soon as possible.

Should you have any queries please do not hesitate to contact *[name]*.

Yours sincerely

If you cannot accommodate the request for flexible working use the following letter**.** Before completing this you must ensure that full consideration has been given to the application. You must state the business ground(s) as to why you are unable to agree to a new working pattern and the reasons why this applies in the circumstances. The rejection must be for one of the following business reasons as set out in the legislation:

* planned structural changes
* the burden of additional costs
* a detrimental impact on quality
* the inability to recruit additional staff
* a detrimental impact on performance
* the inability to reorganise work among existing staff
* a detrimental effect on ability to meet customer demand
* lack of work during the periods the employee proposes to work

If you reject the request you should allow your employee to appeal the decision. It can be helpful to allow an employee to speak with you about your decision as this may reveal new information or an omission in following a reasonable procedure when considering the application.

***Rejection of Flexible Working Application:***

Dear

Further to our meeting on *[date]* I have now fully considered your application for flexible working however, I am sorry to have to advise you that I am unable to accommodate your proposed working pattern for the following business reasons:

*[detail the business reasons and why they apply in these particular circumstances. You may need to explain why other proposed work patterns may also not be suitable. SEE Guidance notes to Employers under the Procedure Section]*

You may appeal against my decision. Should you wish to do so, then you must either appeal in writing or complete the enclosed Flexible Working Appeal Form and return it to [name & position] within 14 calendar days of receiving this letter. You must set out clearly the grounds for your appeal.

Yours sincerely

The employee will have the right to appeal within a reasonable time frame from the decision being given.

The employee’s appeal must be acknowledged as soon as reasonably practicable and a meeting arranged to hear the appeal using the following letter:

***Invitation to appeal hearing***

Dear

I have received your appeal regarding the recent decision to turn down your request for flexible working. I would like to meet with you to discuss this on *[time/date/place].* If this is not convenient please let me know as soon as possible.

You may if you wish be accompanied at this meeting by fellow employee or trade union representative, provided they are an employee of the company. If you would like to be accompanied at this meeting please let me know who your companion will be.

Yours sincerely

Following the appeal meeting, you must reply to the employee within as soon as reasonably practicable with either a letter that you can now accommodate their application for flexible working **OR** a letter rejecting their appeal as follows:

***Acceptance following appeal***

Dear

Further to the appeal meeting on *[date]* I am pleased to confirm that I am able to accommodate your proposed flexible working pattern of *[insert details of the changes and how they may affect salary, holiday etc.]*

Your new working arrangements will begin on *[date]*.

Please note that the change in your working pattern will be a permanent change to your terms and conditions of employment.

To confirm your acceptance of the above changes to your Terms & Conditions of Employment, please sign the attached *[copy of this letter] [Terms and Conditions of Employment statement]* and return it to me as soon as possible.

Should you have any queries please do not hesitate to contact *[name].*

Yours sincerely

**I accept the above detailed changes to my Terms & Conditions of Employment.**

Name of Employee: ……………………………………………………………….…………………..

Signed:………………………………………………..………….. Date: ……………………..……….

**OR**, the following letter for rejection following the appeal:

***Rejection following Appeal***

Dear

Further to the appeal meeting on *[date]* I am sorry to have to advise you that your appeal has been rejected for the following reasons:

*[detail the business reasons and why they apply in these particular circumstances. You may need to explain why other proposed work patterns may also not be suitable]*

This now completes the Company’s procedure for dealing with a flexible working request.

Yours sincerely

If an employee wishes to withdraw their application for Flexible Working this will be done as per the following letter:

***Withdrawal of application for flexible working***

Dear

I wish to withdraw my application to work flexibly which I submitted to you on *[date].*

I understand that I will not be able to make another application until twelve months after the above date.

Yours sincerely

Once you have received this letter from the employee, the application must be considered as withdrawn and you are not required to give it any further consideration. You should confirm receipt of the withdrawal as per the following letter:

***Acknowledgement of withdrawal of application for Flexible Working***

Dear

I confirm that I have received notice that you wish to withdraw your application for flexible working which you submitted to me on *[date].*

Under the right to apply, you will not be eligible to submit another application until twelve months has elapsed.

Yours sincerely

1. **Additional Information:**

**Incomplete Application *–*** if the employee fails to provide all of the required information the employer can ask them to resubmit their application. The employer has the right not to consider the application until it is complete and re-submitted.

Should the employee unreasonably refuse to provide the employer with the information required, e.g, has not described the new working pattern, the employer is entitled to treat the application as withdrawn. The employee would not then be able to make another application under the statutory procedure for another 12 months.

**Employee fails to attend the meeting without notification** – the employee must contact the employer to rearrange the meeting. Should the employee fail to attend the meeting more than once and does not provide a reasonable explanation, the employer is entitled to treat the application as withdrawn.

1. **Potential Implications of refusing Flexible Working Request**

**Penalties**

An employer may be ordered to reconsider the employee’s application for flexible working and may also be ordered to pay compensation. This does not just cover a refusal, but also a failure to follow the correct procedure.

Maximum compensation is 8 weeks’ pay, subject to the statutory limit on a week’s pay.

If the employee is not allowed to be accompanied: 2 weeks’ pay in compensation.

**Additional Risks**

A refusal could lead to resignation and a claim for constructive dismissal, with the added risk of a claim for sex discrimination.

If an employee is dismissed as a consequence of making an application: Automatic unfair dismissal, subject to the eligibility qualifications required for the right to make an application.

## The right to request Flexible Working

## Form FW(A): Flexible Working Application Form

# **Note to the employee**

You can use this form to make an application to work flexibly under the right provided in law to eligible employees. Before completing this form, read the guidance on the right to request flexible working on GOV.UK, and check that you are eligible to make a request.

You should note that under the right it may take up to 3 months for your employer to consider a request and possibly longer where you have agreed to a longer decision period with your employer. You should therefore ensure that you submit your application to the appropriate person well in advance of the date you wish the request to take effect.

It will help your employer to consider your request if you provide as much information as you can about your desired working pattern. It is important that you complete all the questions as otherwise your application may not be valid. When completing sections 3 and 4, think about what effect your change in working pattern will have both on the work that you do and on your colleagues.

Once you have completed the form, you should immediately forward it to your employer (you might want to keep a copy for your own records). If the request is granted, this will be a permanent change to your terms and conditions unless otherwise agreed.

### **Note to the employer**

This is a formal application made under the legal right to apply for flexible working and the duty on employers to consider applications in a reasonable manner. You have three months after the day you received this application in which to decide whether to grant the request. This period can be extended if you agree to a longer deadline with the employee; any such agreement must be made either within period in which the decision is to be made or in the three months immediately following the end of that deadline.
You should confirm receipt of this application using the attached confirmation slip.

Forms accompanying the guidance have been provided for you to respond to this application.

**1. Personal Details**

Name: Staff or payroll number:

Manager: National Insurance No:

 **To the employer**

I would like to apply to work a flexible working pattern that is different to my current working pattern under my right provided under section 80F of the Employment Rights Act 1996. I confirm I meet each of the eligibility criteria as follows:

* I have worked continuously as an employee of the company for the last 26 weeks.
* I have not made a request to work flexibly under this right during the past 12 months.

Date of any previous request to work flexibly under this right:

If you are not sure whether you meet any of the criteria, information can be found on Gov.UK.

If you are unable to tick all of the relevant boxes then you do not qualify to make a request to work flexibly under the statutory procedure. This does not mean that your request may not be considered, but you will have to explore this separately with your employer. Many employers offer flexible working to their staff as best practice.

**2a. Describe your current working pattern (days/hours/times worked):**

**2b. Describe the working pattern you would like to work in future (days/hours/times worked):**

**2c. I would like this working pattern to commence from:**

Date:

**3. Impact of the new working pattern**

I think this change in my working pattern will affect my employer and colleagues as follows:

**4. Accommodating the new working pattern**

I think the effect on my employer and colleagues can be dealt with as follows:

Name: Date:

#### NOW PASS THIS APPLICATION TO YOUR EMPLOYER

✂

* - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - - -

Cut this slip off and return it to your employee in order to confirm your receipt of their application

**Employer’s Confirmation of Receipt** (to be completed and returned to employee)

Dear:

I confirm that I received your request to change your work pattern on:

Date:

I shall notify you of my decision on this application within three months of this date, unless we agree a longer deadline for this decision.

From:

# **FW06 - Flexible Working Appeal Form**

|  |  |
| --- | --- |
| **Employee’s name**  |  |

|  |
| --- |
| **The grounds for my appeal are:**  **(continue on a separate sheet as necessary)** |

Signed: Date:

## Holiday Procedures

1. Booking Holiday

If the Company closes for periods during the year employees must be given the dates of these closures as early as possible each year and certainly well in advance of the closures so that they may plan their own holidays. If employees are required to retain days of their annual holiday entitlement for these closure periods, they should be reminded accordingly.

Employees must agree their holiday with their manager as far in advance as possible and no more than two weeks will normally be allowed at any one time each year without the authorisation of a Director. It is the responsibility of the manager to ensure that this rule is adhered to and that sufficient staff cover is available at any one time allowing for any sickness that may occur during such periods. Managers should make it clear to employees that they must clear their holiday dates with their manager before making any firm holiday commitments or paying holiday charges. The Company has the right to refuse a holiday request if the Company’s workload makes it impractical to approve, or the absence is likely to interfere with normal business operation. However, it should be noted that an employee is entitled to take holiday so every co-operation should be applied as far as possible.

An employee now has the right to 5.6 weeks holiday each year inclusive of Public and Bank holidays, based on a five day week unless the Contract of Employment allows for a higher level of entitlement. This holiday cannot be paid in lieu at the end of the year so every effort must be made in order to ensure that the employee is allowed to take their holiday. Such breaks enhance the performance of an employee so it is not in your interests to prevent them from having holidays. In addition, the Company has a duty under the Health and Safety at Work Act to ensure the safety and welfare of its employees. In other words if an employee has an accident due to fatigue, you could be held responsible under the legislation!

1. Sickness and Holidays

If an employee falls sick whilst on holiday, the employee should in this instance contact their line manager on the first day of absence and follow the correct reporting absence procedure for sickness related absences. This period then should revert to sickness absence and the unused holiday allowed to be taken at a later date. The Company is however entitled to ask for medical evidence to satisfy itself that the sickness was genuine.

1. Holidays on Joining and Termination

When an employee joins the Company during the holiday year you will need to calculate the amount of holiday that the employee may take within that holiday year. The entitlement is calculated at the rate of one-twelfth of the annual holiday for each calendar month employed within the holiday year, rounded to the nearest half-day. In the case of part time employees this will be pro rata to the hours and days worked. The employee should be informed of this entitlement during their induction.

When an employee leaves the Company he or she will be entitled to any holiday accrued at the time of leaving less any holiday already taken within that holiday year. The entitlement is calculated at the rate of one-twelfth of the annual holiday for each calendar month employed within the holiday year, rounded to the nearest half-day. Any sum owing will be included in their final payment. Since a monetary sum is involved the calculation can be calculated to the exact amount. If an employee has taken more days of holiday than they are entitled to at the time of leaving, any excess can be deducted from their final salary.

### **Holiday Request Form**

Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ Dept: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Holiday Entitlement in current year: \_\_\_\_\_\_\_\_\_\_ Days.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| From – To | No of Days | Employees Signature | Approved | Total Days Taken | Days Still Due |
|  |  |  |  |  |  |
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##

## Performance Appraisal

1. Annual Appraisal

It is strongly recommended that all employees have their performance regularly assessed. This need not be a formal affair but some form of appraisal meeting should take place with the employee each year. This gives the employee an opportunity to raise matters that in the ordinary course of day to day business may not be raised and gives the manager the opportunity to discuss how the employee is performing. A good employee needs motivation to continue the good work and the employee who is a poor performer needs to be told where they are failing. A note of what is discussed and agreed should be recorded either as a file note or using one of the suggested forms shown at the end of this section.

The purpose of staff appraisal from your point of view is to improve the results achieved through your team by examining and recommending:

* Ways of improving the performance of each individual
* How best to develop each to his or her full potential

A most important aspect of the exercise is the appraisal discussion between you and each member of your team.

**Key Elements:**

Measurement Assess performance against agreed targets and objectives

Feedback Provide information to the employee on their performance and progress

Positive reinforcement Emphasise what has been done well and make only constructive feedback about what might be improved

Exchange of views A frank exchange of views about what has happened, how performance can be improved, what support they need to achieve and aspirations for their future career

Agreement Mutually coming to an understanding by all parties about what needs to be/ has been done to improve performance generally and overcome any issues raised in the course of the discussion

Objectives Setting SMART (specific, measurable, achievable, realistic and timebound) objectives for the coming year

In preparing for the appraisal discussion, collect, check and analyse all the information needed to discuss with the employee. Preparing for the performance appraisal meeting Checklist is included within this Section for your reference. You may also need to consult with your superior. You should keep an open mind about what will finally be agreed with the employee and be prepared to have your mind changed on any point as a result of the discussion with the jobholder. It is suggested that you prepare notes in readiness for the appraisal discussion rather than do it from memory. This will indicate to the jobholder that you are prepared to discuss your assessment and opinions. As a general rule, it is helpful to have information on the following:

* OBJECTIVES: Whether they were achieved and if not, why not.
* COMPETENCE: Whether the individual’s performance is below, within or above the requirements of the role.
* TRAINING: What training they have received within the review period and what training and development they would like/need in the future.
* ACTIONS: A note of any actions that need to be carried out by the individual or the appraiser.

**Preparing for the Performance Appraisal Meeting Checklist**

Both parties should prepare for the meeting beforehand to ensure a successful outcome.

The Appraiser should:

1. Consider how well the individual has performed since the last meeting.
2. Consider to what extent any agreed development plans from the last meeting have been implemented.
3. Think about the feedback to be given at the meeting and the evidence that will be used to support it.
4. Review the factors that have affected performance both within and outside the individual’s control.
5. Consider the points for discussion and the possible actions that can be taken by both parties to develop or improve performance.
6. Consider possible directions the individual’s career might take.
7. Consider possible objectives for the next review period.

***Letter inviting the appraisee to the meeting***

Dear

**Performance Appraisal**

I am writing to invite you to an appraisal meeting. This will be held on *[date]* at *[time]* in *[location]* and will give us the opportunity to discuss your performance over the past *[number]* months and agree objectives for the future.

As part of your preparation you may find the following points useful:

1. What you have achieved during the review period, with examples and evidence.
2. Any examples of objectives not achieved with explanations.
3. What you most enjoy about the job and how you might want to develop the role.
4. Any aspect of the work in which improvement is required and how this might be achieved.
5. Your learning and development needs with justification to support your case for specific training.
6. What level of support and guidance you require from your Manager.
7. Your aspirations for the future, both in current and future roles.
8. Objectives for the next review period.

If you have any questions prior to the meeting, please do not hesitate to contact me.

Yours sincerely

If there is disagreement on any point, this should be recorded in the appropriate section at the end of the form. Questions of pay should not be dealt with at the appraisal discussion; if the jobholder raises them make arrangements to discuss them on a separate occasion. Although pay and performance are linked to a certain extent they do not mix when trying to discuss performance. You should also concentrate on the future rather than dwell on past performance. You should only look at the past in order to assist the employee in recognising concerns or when congratulating the employee on a job well done.

When the appraisal discussion has taken place, you have completed the record you intend making, and the form has been signed by all concerned you should pass it to the person who holds the personnel records for filing on the employee’s file. You should also let the employee have a copy of what you finally place on file.

Remember – that all employees, whatever their level may be within the Company, require motivation and guidance on how they are performing.

1. Probationary Assessments

Employees are likely to be employed subject to the satisfactory completion of a probationary period. The length of that period will depend on the job to be undertaken and is shown in their offer letter and conditions of employment. It is essential that you assess their performance during this critical period for several reasons.

* An employee who is not performing may become the perfect employee if issues are dealt with during the first few weeks.
* An employee who is clearly not going to perform to the standards required is better removed at this stage than being allowed to continue
* Current employment legislation makes it more and more difficult to terminate an employee once they have over two years of service.

You should therefore assess the employee’s performance throughout the probationary period and take up with the employee any concerns you may have at the time. It is unfair to leave your comments until the end and then inform the employee that they have not achieved the standard and are therefore being dismissed. You never know, they may be able to improve and become a good employee if they know where they are going wrong. In addition, it is far more economical to try and correct an employee than dismiss and start again. The cost of recruitment and termination can be very expensive.

If you do have to speak to the employee about any concerns ensure you make a diary or file note of when you do so and what you have discussed. Towards the end of the probationary period you should undertake a more formal review. It is important that this review is carried out before the end of the probationary period because if the end date goes by, the employee might assume successful completion of the probationary period. The form shown at the end of this section is a suggested format to use. Once completed, this should be filed on the employee’s personnel file.

If the employee has not completed their probationary period satisfactorily then they should be called to a formal probationary review meeting and inform them accordingly. If appropriate, extend their probationary period by a further one, two or three months, and review before the end of the extended period. Always give them the opportunity to be accompanied if they so wish and make a note of the meeting for the record.

If the employee has completed the probationary period satisfactorily, don’t forget to tell them. See model letter below. This all helps towards maintaining their motivation and hence their desire to remain employed by the Company. A good employee is a valuable asset and should be treated as such.

***Successful Completion of Probationary Period***

Dear

I refer to your appointment on a probationary period of \*3 \*6 months effective from *[date]* in the position of *[job title].*

I am very pleased to advise that you have successfully completed your probationary period and hereby confirm your appointment as permanent.

I would like to take this opportunity to offer my congratulations and wish you a continued successful and rewarding \*employment \*career with *[company name].*

Yours sincerely

**Probationary Assessment**

Name: Department:

Job Title: Period in job:

**Performance Profile**

*Consider each of the job functions as appropriate and tick the desired box*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| A=Substantially exceeds requirementsB=Exceeds requirementsC=Meets requirementsD=Does not meet requirements | **A** | **B** | **C** | **D** | If performance level is A or Dstate reasons |
| Basic job skills |  |  |  |  |  |
| Numerical accuracy |  |  |  |  |  |
| Office administration |  |  |  |  |  |
| Verbal communicationTelephone and personal |  |  |  |  |  |
| Written communication |  |  |  |  |  |
| Planning and organising ability |  |  |  |  |  |
| Effective use of timeIncluding delegation where appropriate |  |  |  |  |  |
| Quality of work |  |  |  |  |  |
| Productivity |  |  |  |  |  |
| Understanding of work undertaken |  |  |  |  |  |
| Knowledge of and compliance with Company procedures |  |  |  |  |  |
| Overall Evaluation of Performance |  |  |  |  |  |

**Personal Profile**

*Indicate your evaluations by ticking the desired box*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | A=Very goodB=GoodC=AdequateD=Does not meet requirements | **A** | **B** | **C** | **D** |
| Ability to Learn | Speed with which employee learns and understands new procedures and ability to retain knowledge |  |  |  |  |
| Co-operation | Extent to which employee helps co-workers and gets along with others |  |  |  |  |
| Attitude | General attitude towards work |  |  |  |  |
| Attendance | Employee's record in respect of sickness and absence |  |  |  |  |
| Punctuality | Employee's record in respect of timekeeping |  |  |  |  |

Additional Comments

Do you recommend continued employment? YES / NO

If not, please give reasons why:

Signature of Assessor: Date:

**Performance Assessment**

Name: Department:

Job Title: Period in job:

Notes for Guidance

The aim of this form is to help you make a more systematic assessment of the performance of your staff.

Study the ratings for each factor and decide which is the most appropriate for the person you are assessing. Rating 'C' has been divided into two parts, 'C-' and 'C+'. This is to enable you to make a more precise assessment of those who do not warrant inclusion in rating 'B' or 'D'.

When you have completed the form please return it to your Manager.

|  |  |  |
| --- | --- | --- |
| **Rating** | **Quantity & Standard of Work** | **Disposition** |
| **A** | Most work fails to meet specified standards; unproductive | Uncooperative and obstructive; persistent absentee; bad time-keeper |
| **B** | Needs a lot of help to meet standards and objectives | Indifferent to work; erratic time-keeper; occasionally uncooperative |
| **C -****C+** | Copes adequately with own work and specified standards | Usually reliable; will cope with own problems but cannot go beyond them |
| **D** | Systematic and efficient; can do extra work if required | Positive; constructive; reliable; responsible; helpful |
| **E** | Always has spare capacity; well organised; fully effective; work exceeds specified standards | Steady under pressure; always reliable; exceeds in all respects |
|  | **Your Rating Assessment:** | **Your Rating Assessment:** |

|  |  |  |
| --- | --- | --- |
| **Rating** | **Application** | **Knowledge** |
| **A** | Often found not working; has to be constantly supervised and 'pushed' | Very slow to learn; poor work performance; poor understanding of job |
| **B** | Needs to be motivated; not always working | Slow but able to learn; makes a number of definable mistakes; understands most of job |
| **C -****C+** | Usually works steadily without supervision but needs to be told next task; follows instructions | Learns readily; generally accurate; fully understands job |
| **D** | Works consistently at required pace; moves onto next task without being told; makes an effort | Quick to grasp new ideas; very few errors; knows how job fits into context of company |
| **E** | Self starter; only has to be directed; looks for work to do; makes a lot of effort | Very quick to learn and adapt to change; uses initiative at all times; conscious of detail |
|  | **Your Rating Assessment:** | **Your Rating Assessment:** |

**Additional Comments**

**Suggested Training & Development**

External or on-the-job

Signature of Assessor: Date:

**Comments by Reviewing Manager**

Signature of Reviewing Manager: Date:

**Performance Appraisal**

Name: Department:

Job Title: Period in job:

**Performance Profile**

Consider each of the job functions as appropriate

|  |  |  |
| --- | --- | --- |
| A=Substantially exceeds requirementsB=Exceeds requirementsC=Meets requirementsD=Does not meet requirements | Tick appropriate box  | If performance level is A or D, state reasons |
|  | A | B | C | D |  |
| **Basic job skills** |  |  |  |  |  |
| **Numerical accuracy** |  |  |  |  |  |
| **Office administration** |  |  |  |  |  |
| **Verbal communication**Telephone and personal |  |  |  |  |  |
| **Written communication** |  |  |  |  |  |
| **Planning and organising ability** |  |  |  |  |  |
| **Effective use of time**Including delegation where appropriate |  |  |  |  |  |
| **Quality of work** |  |  |  |  |  |
| **Productivity** |  |  |  |  |  |
| **Understanding of work undertaken** |  |  |  |  |  |
| **Knowledge of & compliance with Company procedures** |  |  |  |  |  |
| **Overall Evaluation of Performance** |  |  |  |  |  |

**Personal Profile**

Indicate your evaluations

|  |  |  |
| --- | --- | --- |
| A=Very goodB=GoodC=AdequateD=Does not meet requirements |  | Tick appropriate box  |
|  |  | A | B | C | D |
| **Ability to Learn** | Speed with which employee learns and understands new procedures and ability to retain knowledge |  |  |  |  |
| **Co-operation** | Extent to which employee helps co-workers and gets along with others |  |  |  |  |
| **Attitude** | General attitude towards work |  |  |  |  |
| **Attendance** | Employee’s record in respect of sickness and absence |  |  |  |  |
| **Punctuality** | Employee’s record in respect of timekeeping |  |  |  |  |

**Additional Comments**

**Suggested Training & Development**

External or on-the-job

Signature of Assessor: Date:

**Comments by Reviewing Manager**

Signature of Reviewing Manager: Date:

##

## Handling Discipline

Employers now face a future where discontented staff are more willing to seek redress and compensation for an infringement of their rights. In addition, there is no shortage of ‘free’ legal advice available. However, recent legislation now requires an employee to pay an issue fee to lodge a claim and a further hearing fee to have their case heard which, depending on the severity of the case can be either a total of £390 or £1200.

The following provides guidance on the most important issues to bear in mind when dealing with discipline. Unfair dismissal claims still make up the highest percentage of all claims submitted to tribunals.

1. **Investigations**

An important yet rather obvious point when conducting an investigation, is write everything down.

Too many tribunals have been lost on the basis of documentation or the lack of it. In this situation tribunals are only interested in tangible evidence that you as an employer can point to, which demonstrates and supports your conduct. This is important in all investigations, therefore whenever conducting an investigation, all meetings should have notes taken and those notes written up immediately afterwards. Both the hand-written notes and the typed transcript should be retained in case they are needed later. In addition if you have an investigatory meeting this is not part of the formal disciplinary process therefore the employee does not have the statutory right to be accompanied. However, it would be deemed good practice to allow them to have a fellow employee present if they so wished. These meetings should however, always be minuted. Such measures will help convey (for any subsequent analysis) that this was a proper investigation, that the company took its responsibilities seriously and will reduce in the tribunal's mind any suggestion that the outcome was predetermined.

1. **Follow procedure**

Before any investigation is conducted an examination should be made of the company disciplinary procedure. This will aid the planning of the timetable for the length and resources required and will prevent any embarrassment where the employee is more familiar with the company rules than the employer.

Furthermore, should the matter later lead to litigation a competent advocate could make great capital of any variation from procedure. Divergence from this documentation will require explanation and it is unlikely that the tribunal will understand or accept a reason that does not have the interests of justice at its core.

1. **Separate in time**

There are a number of stages within any procedure and they must be kept separate. Should this not happen this will allow those questioning the validity and propriety of the process to consider whether it was real and the outcome not predetermined.

In any investigation concerning a disciplinary issue the investigation should be separate from the disciplinary hearing and this in turn should be kept separate from the decision concerning disciplinary action. Where these separate and distinct stages overlap or their boundaries become greyed then the whole process could come into question.

In any unfair dismissal case where the dismissal is admitted, it is for the company to show that it acted reasonably and that it based its conclusion on a reasonably held belief. Such a test will become more difficult to satisfy where the divisions between an investigation, the disciplinary hearing and the decision to dismiss have become interwoven. Therefore any situation which has these three events separated in time will improve its chances of demonstrating fairness to the tribunal’s satisfaction and will also reduce substantially the ammunition available to a potential Claimant.

This policy of separation must also be applied to any appeals procedure to make it meaningful.

1. **Decision taking**

An important consideration in any disciplinary matter is who will undertake which role in the process. These also should be separated, where possible, so that any conclusion drawn at the investigation stage is not automatically absorbed into the decision making process which determines the outcome of the hearing.

In addition there are also further practical considerations that must be addressed at the beginning of the process to prevent any suggestion that the whole thing is tainted. For example, care must be taken where a member of staff raises a grievance and the allegations are directed at another employee. This employee should not be involved in any part of the investigation or subsequent actions, to avoid it being said that they had any influence on the matter.

Equally, disciplinary procedures should be addressed with the appeal process borne in mind, and provision should be made to ensure that should the employee not be satisfied with the outcome there is sufficient and appropriate management left to hear and decide an appeal.

These are practical considerations to be thought about and which must be addressed early on. For those companies that have a limited management structure, such issues may seem excessive or even impossible in some very small companies. In such cases you should follow the procedures discussed in the best possible way.

1. **Appropriate sanction**

All disciplinary procedures should have three warning stages before dismissal and dismissal should not be considered as the appropriate first sanction unless it is a case of gross misconduct or misconduct serious enough to justify dismissal. Many successful unfair dismissal cases concern issues of dismissal for the first offence where the tribunal does not regard the offence to be serious enough.

**Taking Action**

Taking disciplinary action should only be considered once the informal stages of counselling and guidance have been found to be ineffective. Few employees these days respond to the ‘big stick’ so there is no point in using it too soon. However, the point does eventually come when formal disciplinary action has to and should be taken. But, remember that once you commence the process you should continue should the employee not take note of the early disciplinary action being taken. There is no point in starting the process unless you intend completing it to the stage of dismissal should this be necessary.

Disciplinary warnings with time limits placed on them run the risk that the employee will re-offend the day after the warning expires and you have to start again with that stage of the procedure. However, as time goes by any warning will become less effective. For example if you have given an employee a final warning a year ago you cannot then dismiss the next time they commit that offence unless it is serious enough to dismiss without previous warning.

The following guidance notes should be read prior to taking disciplinary action. You should also be aware of the Company’s disciplinary procedure that is detailed in the Staff Handbook so as to ensure that you follow the procedures and that you have the authority to take the action proposed.

1. Establish the Facts

Check out what rules or standards have not been met and by how much. Are they still applicable? Is this misconduct or gross miscon­duct?

Is there previous relevant disciplinary action? Check personal history, records of discipline etc.

Is disciplinary action necessary?

Check out any precedents and the Company disci­pline procedure.

If the act of indiscipline involves a particu­lar incident, obtain a comprehensive account of events immediately from all involved.

When doing so ask open ques­tions, i.e. Who? What?, When?, Why?. Ask each person to sign a written statement. Check the state­ments for con­flicting information.

1. Present the Facts
2. Ensure the employee knows when and for what he/she will be interviewed. A letter should be given to the employee forewarning them of the disciplinary meeting and stating what the meeting will discuss. Any documentary evidence to be used at the hearing should be included. At least a clear working days’ notice of such a meeting should be given. It will be considered unfair if the employee does not have the opportunity to prepare for the meeting.
3. The letter must also give the employee the opportunity to have a fellow employee or trade union representative present.
4. At the meeting, explain the problem and support with facts. Advise the employee what standards are expected and discuss the shortfall.
5. Allow the employee to respond to the allegation and be prepared to con­sider further investigation of mitigating circum­stances. If statements have been obtained from other employees, these should be discussed and if necessary they should be given the oppor­tunity to question the witnesses if it is reasonable to do so. If this is not possible then find out what questions the employee wishes to ask and put these to the witnesses yourself at a separate meeting. Then pass the answers back to the employee.
6. Do not humiliate, be abusive or joke.
7. Summarise your understanding of the case.
8. Advise the employee how you will communicate your decision. This can be by letter or by a further meeting. Depend­ing on the circumstances and the complex­ity of the case, the second meeting may be held after a short adjournment on the same day.
9. However, sufficient time must be given in order to consider the matter fully.
10. *Ensure minutes of meeting are taken.* This would include a note of who else was present at the meeting, the date the meeting was held and the time it commenced and closed.
11. Review Action Necessary
12. Resolve any questions left unanswered.
13. Establish the necessary action based on:
	* + Facts
		+ Previous history
		+ Company Procedure
		+ Precedents (avoid setting precedents if possible)
14. Take Action
15. When communicating the decision summarise the events. Where appropriate state the action to be taken by both parties, such as further training and support, and the time-scale in which the improvement must occur.
16. Confirm action to be taken:

 Performance Improvement Plan

* First written warning
* Second written warning
* Final written warning
* Suspension without pay
* Demotion
* Dismissal
1. Advise employee of right of appeal. (See the Company’s Disci­plinary Procedure for details.)
2. Once the formal disciplinary procedure has been started, it should be followed in logical order. For example, avoid jumping from a first to a final warning unless it is justifiable. If the previous warning is still valid but it is not appropriate to move to the next step, then issue a written reminder that the employee is still under a disciplinary warning.
3. Each series of warnings should be for the same or similar offence. For example, if a final warning has been given for absenteeism the employee could not be dismissed if they then became unsatisfactory in their work performance. In this example it would be necessary to issue a first warning for the performance problem.
4. Levels of action:

**First written warning** - This level of warning would normally be given by a supervisor or manager and confirmed in writing.

**Second written warning** - This level of warning would normally be given by a manager and confirmed in writing.

**Final written warning** - Final warnings should be given by a senior manager or director and should be confirmed in writing.

On no account should a pre-prepared writ­ten warning be given during or at the end of the disciplinary hearing.

**Suspension without pay** - This should only be used as a disciplinary measure if the company rules allow for it and the offence justifies it.

Where suspension is being used whilst facts are being investigated, the employee should be paid.

**Demotion -** This should only be used if the Company rules allow and demotion is appropriate for the situation.

**Dismissal** - This should only be handled by a senior member of management or a Director of the Company.

As for warnings, on no account should a pre-prepared dismissal letter be given during or at the end of a disciplinary hearing. The termination letter is therefore a confirmation of the action taken as a result of the hearing.

If possible always have another member of management present at disciplinary meetings to act as a witness and always be sure to give the employee the opportunity to have a fellow employee or Trade Union representative present. Make a written record of all meetings during or immedi­ately afterwards and retain any hand written notes you make during the meeting.

1. Appeal Hearings

A person who has not been involved at any earlier stage of the disciplinary process should hear the appeal. This person should ideally be more senior than the manager who took the original disciplinary decision. It must be apparent from the appeal decision that the person hearing the appeal is approaching the evidence with a fresh pair of eyes and is following their own reasoning even if they ultimately arrive at the same decision. The final appeal decision should be made outside of the appeal hearing and relayed to the employee in writing.

1. Disciplinary Letters

The following model letters should be adapted as necessary to suit your particular circumstances. However, they will give you the basic format to be followed and a reminder of the points that should be included. Be sure to keep a copy of all letters issued and pass these to the person who maintains the personnel records for placing on the employee’s file. Remember that these letters could be used at a subsequent Employment Tribunal so should be drafted with extreme care. Also make sure that each letter is dated correctly. It is recommended that warning and dismissal letters be first approved or drafted by *The AP Partnership* before issuing.

***Notice of disciplinary hearing***

Dear

You are required to attend a disciplinary hearing on [*date*] at [*time*]. The hearing will be held in [*location*] and will be conducted by myself in the presence of [*name of other person to be present*]. *[Add the following sentence, amend as appropriate]* This letter serves to give you the required notice of the hearing under the company’s disciplinary procedure. *[Add the following sentence, amend as appropriate]* You may be accompanied at the hearing by an accredited trade union representative or a workplace colleague.

At this hearing, disciplinary action will be considered with regard to the following allegation(s):

A)

B)

This/These allegation(s) if, proved are/is considered to constitute [Gross Misconduct OR Misconduct] under the company’s disciplinary procedures and could result in [disciplinary warnings being invoked against you \*demotion OR the termination of your employment].

A copy of the Disciplinary Procedure is enclosed for your information, together with the pack of documentary evidence which will be presented at this hearing. At the meeting you will have the opportunity to answer the above allegation (s).

 [*If the employee is being suspended pending the disciplinary hearing add the following.*]

In the meantime you are suspended on full pay pending the outcome of the disciplinary hearing. You should not enter the Company’s premises unless authorised to do so by a member of management and when you attend for the hearing you should report to reception and ask for myself.

If you cannot attend the hearing for any reason you must contact [Name and contact tel no.]

immediately to explain the reason. [INSERT/DELETE, only to be used if hearing is being scheduled for the second time] I must advise you that if you fail to attend the meeting, and the Company has not previously agreed to defer the date/time following communication with you, the meeting will proceed in your absence based on the documents, which are enclosed. A decision would then be made and sent to you in writing.

Yours sincerely

\*Delete as appropriate

***Confirmation of a formal disciplinary warning***

Dear

Further to the disciplinary hearing conducted by myself in the presence of [*name*] that you attended on [*date of hearing*] I am writing to \*inform you of the decision/\*confirm the decision taken to give you a [*first, second or final*] written warning under the Company’s disciplinary procedure. At the hearing you \*were accompanied by [*name*]/declined to be accompanied.

The purpose of the hearing was to discuss [*detail issues*]. You responded by stating that [*detail response*]. Having carefully considered this response it was decided that it was unacceptable because [*state reasons*].

This warning will be placed on your file but will be disregarded for disciplinary purposes after a period of \*6/12 months. However should the same or a similar incident occur during this period further disciplinary action will be taken, \*which could result in demotion from your present position/ or termination of your employment.

You have the right of appeal against this decision. If you wish to do so you should write to [*name*] within seven days from the date of this letter stating fully your reasons for the appeal.

Yours sincerely

\* Delete as necessary.

***Confirmation of a suspension***

Further to the \*complaints of [*detail complaint*] \*allegations of [*detail allegations*] \*incidents of [*detail incidents*] of which you were advised of on [*date*], this letter is to confirm that you are suspended from your position as [*job title*] effective as of today pending a full investigation into \*this matter/\*these matters.

The investigation will be conducted by [*name*] and we aim to complete the investigation within five days, however, should that not be possible you will be advised and we will aim to complete in as short a time as is practicably possible.  In the meantime, you will remain on full pay.

Dependent on the findings of the investigation will determine whether further action is necessary and you will be notified in writing accordingly.  If the outcome of the investigation warrants disciplinary action you will be required to attend a formal disciplinary hearing, full details of which will be given to you including the findings of the investigation and any evidence to be used as part of the disciplinary process.

If you have any questions regarding this letter please do not hesitate to contact me.

Yours sincerely

\* Delete as necessary.

***Confirmation of a demotion following disciplinary action***

Dear

Further to the disciplinary hearing that you attended on [*date of hearing]* after very careful consideration I am writing to \* advise you of / \*confirm the decision taken regarding your employment

As a disciplinary sanction it has been decided to demote you to ……………………….with effect from (*date*)

This position is on the following terms and conditions [*detail terms and conditions*]. Should your performance fail to reach a satisfactory level in this position then further disciplinary action will be taken which could result in the termination of your employment.

You have the right of appeal against this decision. If you wish to do so, you should write to [*name*] within seven days from the date of this letter stating fully your reasons for the appeal.

Yours sincerely

\* Delete as necessary

***Letter of dismissal***

Dear

Further to the disciplinary hearing conducted by myself in the presence of [*name*] that you attended on [*date of hearing*], at which you \*were accompanied by [*name]* / \* declined to be accompanied. I am writing to \* inform you of the decision / \* confirm the decision taken to terminate your employment with effect from [*date]* due to [*state reasons]*.

[*If notice is being given to work the notice or the employee is to be put on garden leave state the following]*

You are entitled to [*number]* weeks notice of termination so your last day of employment will be [*date of termination*]. \*However, during this period you will be placed on garden leave so are not required to attend work. You should note, however, that during the period of garden leave you are not allowed to undertake any other work and you must ensure that you remain available to attend work if required at any time.

[*If the employee is not required to work their notice then state the following]*

You are entitled to (*number) weeks* notice however you are not required to work your notice period so your last day of employment will be [*date of termination*] and you will be paid in lieu of notice. Any payments due to you along with your P45 will be sent to you shortly.

[*If the offence is considered gross misconduct and the employee is being dismissed without notice then state the following]*

Since you are being dismissed for gross misconduct you are not entitled to any notice or pay in lieu. Any payments due to you along with your P45 will be sent to you shortly.

You have the right of appeal against this decision. If you wish to do so you should write to [*name*] within seven days from the date of this letter stating fully your reasons for the appeal.

Yours sincerely

***Notice of appeal hearing***

Dear

We are in receipt of your letter dated [*date*] appealing against your recent [*disciplinary warning/demotion/dismissal*].

An appeal hearing has been arranged for [*date*] at [*time*] and will be held at [*location*]. Your appeal will be heard by [*name of person hearing the appeal*] who will be accompanied by [*name*]. *[Add the following sentence, amend as appropriate]* You may be accompanied at the hearing by an accredited trade union representative or a workplace colleague.

At the hearing you will be allowed to state the reasons for your appeal and present any other facts that you feel should be taken into account. You may do this either verbally or in written form. The decision of the appeal hearing is final and there is no further right of review. When you attend for your appeal hearing you should report to reception and ask for myself.

Yours sincerely

***Result of appeal hearing***

[Please seek advice from *The AP Partnership* when preparing this letter.]

1. **Conclusion**

This section deals with some of the issues that should be in your mind when conducting proceedings. The thought of a potential employment tribunal application landing on your desk should concentrate the mind when considering such matters! Such concerns can be greatly reduced when you are confident that all investigations and subsequent actions were informed and fair. Furthermore the establishment of a best practice policy at all stages will have additional benefits for your business.

Your management team will be more confident in their approach to staffing problems if they know how to properly deal with such issues when they arise. The relationship that they have with staff will also be improved since those who have been subjected to disciplinary procedures will know where they stand and that they have been treated fairly. Furthermore the staff will recognise that legitimate issues will be dealt with.

There is no way to stop ex-employees from making applications to an employment tribunal, but the adoption of good practice will reduce their likelihood and will also help the company defend their actions and show that they have acted reasonably.

**PERFORMANCE IMPROVEMENT PLAN TEMPLATE**

**TO: (insert employee’s name)**

**FROM: (insert manager’s name)**

**DATE: (insert date)**

The purpose of this Performance Improvement Plan (PIP) is to define serious areas of concern, gaps in your work performance, reiterate the company’s expectations and allow you the opportunity to demonstrate improvement and commitment.

**Areas of Concern:**

*Bullet point issues and how employee’s lack of performance and/or behaviour has affected his/her co-workers, the company and clients/customers.*

**Observations, Previous Discussions or Counselling:**

*Recap dates/times you have addressed the issues in the recent/relevant past. Reference previous documents when applicable.*

**Step 1: Improvement Goals:** These are the goals related to areas of concern to be improved and addressed:

|  |  |
| --- | --- |
| 1. |  |
| 2. |  |
| 3. |  |

.**Step 2: Activity Goals:** Listed below are activities that will help you reach each goal:

|  |  |  |  |  |
| --- | --- | --- | --- | --- |
| **Goal**  | **Activity** | **How to Accomplish** | **Start Date** | **Projected Completion Date** |
|  |  |  |  |  |
|  |  |  |  |  |
|  |  |  |  |  |

**Step 3: Resources:** Listed below are resources available to you to complete your Improvement activities (may include other people’s time or expertise, funds for training materials and activities, or time away from usual responsibilities.)

|  |  |
| --- | --- |
| 1. |  |
| 2. |  |
| 3. |  |

Listed below are ways in which your manager will support your Improvement activities.

|  |  |
| --- | --- |
| 1. |  |
| 2. |  |
| 3. |  |

**Step 4: Expectations:** The following performance standards must be accomplished to demonstrate progress towards achievement of each Improvement goal:

|  |  |
| --- | --- |
| 1. |  |
| 2. |  |
| 3. |  |
| 4. |  |
| 5. |  |

**Step 5: Progress Review Meetings:** The following schedule will be used to evaluate your progress in meeting your Improvement activities.

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| **Goal**  | **Activity** | **Review Date** | **Type of Follow-up**(memo/call/meeting) | **Progress Expected** | **Notes** |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |
|  |  |  |  |  |  |

**Follow-up Updates**: You will receive feedback on your progress according to the following schedule:

|  |  |  |  |
| --- | --- | --- | --- |
| **Date Scheduled** | **Activity** | **Conducted By** | **Completion Date** |
|  | 30-day | [Supervisor/Manager] |  |
|  | 45-day  | [Supervisor/Manager] |  |
|  | 60-day  | [Supervisor/Manager] |  |

**Timeline for Improvement, Consequences & Expectations:**

Effective immediately, you are placed on a **(insert 60, 75, or 90)**-day PIP. During this time you will be expected to make regular progress on the plan outlined above. Failure to meet or exceed these expectations, or any display of gross misconduct will result in further disciplinary action, up to and including dismissal. In addition, if there is no significant improvement to indicate that the expectations and goals will be met within the timeline indicated in this PIP, your employment may be terminated prior to **(insert 60, 75, or 90)** days. Furthermore, failure to maintain performance expectations after the completion of the PIP may result in additional disciplinary action up to and including termination.

We will meet again on [date] to discuss your Performance Improvement Plan. Please schedule accordingly.

**Signatures:**

Print Employee Name:\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Employee Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Print Supervisor/Manager Name: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Supervisor/Manager Signature: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

Date: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Handling Grievances**

Employers are now in a situation where staff are more willing to seek redress through formal procedures for a variety of issues. In addition, there is no shortage of legal advice available to assist staff.

The following provides guidance when dealing with formal grievances.

1. **Follow procedure**

Before any action is taken an examination should be made of the Company grievance procedure. This will aid the planning of the timetable for the length and resources required and will prevent any embarrassment where the employee is more familiar with the company rules than the employer. The checklist GRC01 is intended to guide you through the process and should be referred to.

Furthermore should the matter later lead to litigation a competent advocate could make great capital of any variation from procedure. Divergence from this documentation will require explanation and it is unlikely that the tribunal will understand or accept a reason that does not have the interests of justice at its core.

1. **Decision taking**

An important consideration in any grievance situation is who will undertake which role in the process. These should be separated, where possible, so that any conclusion drawn is seen as independent.

In addition there are also further practical considerations that must be addressed at the beginning of the process. For example, care must be taken where a member of staff raises a grievance and the allegations are directed at another employee. This employee should not be involved other than in providing their account of the situation. Equally, grievance procedures should be addressed with the appeal process borne in mind, and provision should be made to ensure that should the employee not be satisfied with the outcome there is sufficient and appropriate management left to hear and decide an appeal.

These are practical considerations to be thought about and which must be addressed early on. For those companies that have a limited management structure, such issues may seem excessive or even impossible in some very small companies. In such cases you should follow the procedures discussed in the best possible way.

**Taking Action**

These guidance notes outline the process that should be followed in the event that you receive a grievance from an employee. A grievance, or complaint, may relate to working practices/conditions, the work itself, pay and benefits, health and safety breaches as well as treatment received from fellow workers.

Most grievances are best resolved informally in discussion with the employee’s immediate Supervisor or Line Manager. Only if this proves to be unsatisfactory will a more formal approach be necessary. An investigation needs to be carried out if a grievance has been made by an employee. The exact nature of the matter(s) of concern must be explained to the subject of the grievance by their Line Manager. If the grievance is against your Line Manager then you need to make a formal complaint to their Manager.

The following guidance notes should be read prior to holding a grievance meeting. You should also be aware of the Company’s grievance procedure that is detailed in the Staff Handbook so as to ensure that you follow the procedures and that you have the authority to take the action proposed.

1. The Grievance Meeting
2. A grievance hearing is not the same as a disciplinary hearing. Discussion and dialogue are important factors in achieving successful outcomes.
3. The Company has a responsibility to carry out a full and fair investigation of any grievance. You should ensure that you are familiar with the Company’s Grievance Policy and conduct the investigation and hearing promptly, without unreasonable delay, ensuring that it is in line with any timescales set out in the Company’s policy
4. The investigation should be conducted in a confidential manner and should only be discussed with those directly involved. All staff interviewed should be made aware of the need to treat the matter in strict confidence
5. Grievances should be dealt with by the most appropriate level the Company structure allows. This would normally be the employee’s Line Manager. If the individual’s Line Manager is the subject of the grievance this would be passed to an independent Line Manager or, if this is not applicable, the Line Manager’s Manager
6. The letter inviting the employee to attend a grievance meeting must also give the employee the opportunity to have a fellow employee or trade union representative present.
7. The Manager to address the grievance should meet with the individual who has raised the grievance to obtain their version of the matter and to ascertain their expectations in relation to the outcome
8. A formal grievance hearing should be arranged in accordance with the Company’s Policy and Procedure
9. If applicable, a meeting should then be held with the individual who is the subject of the grievance, for them to be able to give their version of the matter.
10. If applicable, you should meet with any witnesses to obtain their account of the incident or events and take their statements. Collect any relevant documentation and check that there are no other potentially relevant witnesses, documents or issues to be followed up before considering all the information
11. At any interviews during the process you must allow the employee raising the grievance to be accompanied by a fellow employee or certified trade union representative who may support and advise them if they so wish. If the chosen representative is unavailable to attend on the given date, the meeting can be postponed to an alternative date. The timescales for the adjournment must be reasonable and agreed
12. The representative has the right to address the hearing, sum up the case and respond to points raised on the employee’s behalf at the meeting and confer with the worker during the hearing. The companion does not however have the right to answer questions on the workers behalf, address the hearing if the worker does not wish it or prevent the employer from explaining their case.
13. Once the investigation/hearing has been completed and all relevant information has been considered, a decision should be made as to the recommended course of action to bring the matter to an acceptable conclusion. However, sufficient time must be given in order to consider the matter fully.
14. You should meet with the employee who raised the grievance, and if applicable the subject of the grievance, to convey any decisions and recommendations made or confirm in writing to them
15. You must give the employee the right to appeal against the decision and recommendations made, and explain the process for any appeal in line with Company policy.

***Ensure minutes of meeting are taken****.* This would include a note of who else was present at the meeting, the date the meeting was held and the time it commenced and closed.

Confirm your decision in writing and include the right of appeal.

1. Appeal Hearings

A person who has not been involved at any earlier stage of the process should hear the appeal. This person should ideally be more senior than the Manager who dealt with the grievance. It must be apparent from the appeal decision that the person hearing the appeal is approaching the evidence with a fresh pair of eyes and is following their own reasoning even if they ultimately arrive at the same decision. The final appeal decision should be made outside of the appeal hearing and relayed to the employee in writing.

1. Grievance Letters

The following model letters should be adapted as necessary to suit your particular circumstances. However, they will give you the basic format to be followed and a reminder of the points that should be included. Be sure to keep a copy of all letters issued and pass these to the person who maintains the personnel records for placing on the employee’s file. Remember that these letters could be used at a subsequent Employment Tribunal so should be drafted with extreme care. Also make sure that each letter is dated correctly. It is recommended that letters be first approved or drafted by *The AP Partnership* before issuing.

***Invitation to Grievance Meeting***

Dear

I acknowledge receipt of your formal grievance letter dated *[date]*

Accordingly, I am writing to invite you to a meeting to discuss your grievance at *[time]* on *[date]* at *[location]*. It will be conducted by *[name]* who will be accompanied by *[name]*.

You may be accompanied to this meeting by a work colleague or Trade Union representative if you so wish. Please let me know before the day of the meeting the name of your companion if you are to be accompanied.

If you or your companion are unable to attend this meeting please let me know as soon as possible so that it can be re-arranged.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

***Outcome of Grievance Meeting***

Dear

I write further to the grievance meeting held on *[date]* under the First Formal Stage of the Company’s grievance procedure.

\*You were accompanied by *[name]* \*You declined to be accompanied. I was accompanied by *[name]*.

At the meeting

*[Detail the issues discussed and the outcome and if the employee has been away from work, specify a return to work date]*

The First Formal Stage of the grievance procedure has now been completed and I do hope that your grievance is now resolved.

However, if the issues have not been resolved to your satisfaction, you can appeal against this decision. Should you wish to appeal you must do so in writing to *[name]* within seven days of the date of this letter stating fully your reasons for the appeal.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

\* Delete as necessary.

***Invitation to a Grievance Appeal Meeting***

Dear

I acknowledge receipt of your appeal letter dated *[date]*.

Accordingly, I am writing to invite you to a meeting to discuss your appeal at *[time]* on *[date]* at *[location]*. It will be conducted by *[name]* who will be accompanied by *[name]*.

You may be accompanied to this meeting by a work colleague or Trade Union representative if you so wish. Please let me know before the day of the meeting the name of your companion if you are to be accompanied.

If you or your companion are unable to attend this meeting please let me know as soon as possible so that it can be re-arranged.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

***Outcome of Grievance Appeal Meeting***

Dear

I write further to the appeal meeting held on *[date]* under the Company’s grievance procedure.

\*You were accompanied by *[name]* \*You declined to be accompanied. I was accompanied by *[name]*.

At the meeting

[Detail the issues discussed and the outcome and if the employee has been away from work, specify a return to work date]

The Company’s grievance procedure is now complete.

Should you have any queries please do not hesitate to contact me.

Yours sincerely

\*Delete as necessary.

1. **Conclusion**

These guidelines cover some of the issues that should be in your mind when conducting proceedings. The thought of a potential employment tribunal application landing on your desk should concentrate the mind when considering such matters! Such concerns can be greatly reduced when you are confident that all investigations and subsequent actions were informed and fair. Furthermore the establishment of a best practice policy at all stages will have additional benefits for your business.

Your management team will be more confident in their approach to staffing problems if they know how to properly deal with such issues when they arise. The relationship that they have with staff will also be improved since those who have raised a grievance will know that they have been treated fairly. Furthermore the staff will recognise that legitimate grievances will be dealt with.

There is no way to stop ex-employees from making applications to an employment tribunal, but the adoption of good practice will reduce their likelihood and will also help the company defend their actions and show that they have acted reasonably.

**Disciplinary Checklist**

|  |  |
| --- | --- |
| **Step 1** | **Gather all the relevant facts** |
|   | * Promptly before memories fade.
* Take statements, collect documents.
* In serious situations consider suspension while investigations are conducted.
 |

|  |  |
| --- | --- |
| **Step 2** | **Be clear about the complaint** |
|  | * Is any action needed at this stage?
 |

|  |  |
| --- | --- |
| **Step 3** | **If so, decide whether the action should be:**  |
|  | * Advice and counselling.
* Formal disciplinary hearing.
 |

|  |  |
| --- | --- |
| **Step 4** | **If formal action is required, arrange a disciplinary hearing:** |
|  | * Ensure the individual is aware of the complaint.
* Include any documentation to be included in the hearing
* Tell the individual when and where the hearing will take place.
* Inform the individual of their right to be accompanied by a fellow employee or trade union representative.
 |

|  |  |
| --- | --- |
| **Step 5** | **Start by introducing:**  |
|  | * Those present and the purpose of the hearing.
* The nature of complaint.
* The supporting evidence.
* Give the individual the opportunity to challenge any statements.
 |

|  |  |
| --- | --- |
| **Step 6** | **Allow the individual to state his/her case**  |
|  | * Consider any explanations given.
 |

|  |  |
| --- | --- |
| **Step 7** | **If any new facts emerge:**  |
|  | * Decide whether further investigation is required.
* If so, adjourn the hearing and reconvene when the investigation is completed.
 |

|  |  |
| --- | --- |
| **Step 8** | **Except in very straightforward cases, call an adjournment before reaching a decision.**  |
|  | * Come to a clear view about the facts.
* If they are disputed, decide on the balance of probability as to which version of the facts are correct.
 |
| **Step 9** | **Before deciding the penalty, consider:**  |
|  | * The gravity of the offence
* The penalty applied to similar cases in the past.
* The individual’s past record
* Whether the proposed penalty is reasonable in the circumstances
* Be sure of all the facts before any dismissal.
 |

|  |  |
| --- | --- |
| **Step 10** | **Reconvene the disciplinary hearing to:**  |
|  | * Inform the individual of the decision and penalty (if any).
* Explain the right of appeal and how it operates.
* In the case of a warning, explain what improvement is expected, how long the warning will last and what the consequences of failure to improve are
 |

|  |  |
| --- | --- |
| **Step 11** | **Record the action taken:**  |
|  | * Formal warnings should be in writing
* Keep a record of the action taken.
* Write up a summary of your decision.
 |

|  |  |
| --- | --- |
| **Step 12** | **Monitor the individual’s progress:** |
|  | * Disciplinary action should be followed up with the objective of encouraging improvement.
* Monitor progress regularly and discuss with the individual.
 |

**Disciplinary Note**

Name: Department:

Date of offence:

Date of warning:

Level of warning: \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_

**Detail of Offence**

**Record of Employee's Explanation**

**Details of Warning Given** (*Include standard of performance/conduct expected and timescale)*

MEETING CONDUCTED BY…………………………………………………………………

NAMES OF OTHERS PRESENT……………………………………………………………..

DATED:………………………………………………………………………………………...

**GRC01 - Formal Grievance or Appeal Checklist**

Use this checklist for grievances or appeals. Tick each box to show you have considered each item. Use “common sense” and adapt the basic procedure as necessary to suit the circumstances.

|  |  |
| --- | --- |
| **Name of person making grievance or appeal** |  |
| **Person appointed to look into the grievance or appeal** |  |
| **Step 1** | **Determining the issue**  |
|   | The person appointed to look into grievance or appeal must not have had any previous involvement in the circumstances which have lead to the formal grievance or appeal being lodged.  |
|  | Examine the employee’s grievance/appeal to establish the basis upon which the grievance or appeal is raised. |
|  | Briefly examine the employee’s personal file and training record to gain an overall picture as necessary. |
|  | Arrange to speak with the employee as soon as possible to determine if there is any further/more detailed information.Ask the employee if they would like to accompanied at this meeting and arrange to be accompanied yourself.  |
|  | Examine any written documentation provided by the employee. |
|  | Given the nature of the appeal or complaint – will an investigation be required?*For example: if an employee alleges that a member of staff is breaching several company rules and procedures – then you will need to arrange for an investigation to be carried out into the allegations.***If the answer is YES – carry on through step 2** of this checklist.**If the answer is NO** (an investigation is not necessary) **go to step 3** of this checklist if it is a first stage grievance or step 4 if it is an appeal. |

|  |  |
| --- | --- |
| **Step 2** | **Carry out an investigation** |
|  | If an investigation is considered necessary in the circumstances:Explain to the employee what action this will involve and that the “grievance or appeal” is held in abeyance until the investigation has been completed. |
|  | Arrange to carry out an investigation as appropriate. |
|  | Explain to witnesses under what circumstances you are interviewing them. |
|  | If you end up holding any **investigatory interviews**, remember to explain to the employee that the notes taken at the interview may be used at any subsequent hearings. |

|  |  |
| --- | --- |
| **Step 3** | **First stage of the grievance procedure** |
|  | Invite the complainant to a first formal grievance meeting.  |
|  | Establish whether companions are required or if witnesses are involved. |
|  | Arrange to be accompanied by another member of management. (Also make arrangements for note taking) |
|  | Make sure the setting will be appropriate, the seating adequate and that there will be no interruptions. |
|  | Start by explaining the purpose of the meeting and how it will be conducted. |
|  | Introduce all those present and explain their part in the proceedings. |
|  | Notes should be taken of what is said. |
|  | State the nature of grievance. |
|  | Explore the evidence that supports the grievance. |
|  | Invite the other party to respond to the evidence.  |
|  | Identify and suggest areas of agreement. |
|  | Identify and agree areas of misunderstanding. |
|  | Ask the employee what they seek by way of resolution. |
|  | Agree action points where relevant. |
|  | If necessary adjourn the meeting to consider the case or if more time is needed, agree a date and time for the meeting to be reconvened.  |
|  | Once all meeting(s) under this first formal stage have been concluded, confirm the outcome in writing and include the right of appeal, ask the employee whether the grievance is resolved or not. |

|  |  |
| --- | --- |
| **Step 4** | **Appeal stage of the grievance procedure** |
|  | The person holding the appeal should where possible be senior to the person who held the first stage grievance meeting. In addition, they should not have been involved in any previous part of the procedure. |
|  | The person should review the documentation gained under the first stage of the procedure.An appeal meeting should be arranged with the new facilitator. As a guide, use **step 3** of the checklist. |
|  | Once the appeal stage is complete the employee should be advised of the outcome in writing. |

|  |  |
| --- | --- |
| **Step 5** | **Written records** |
|  | Place a copy of all paperwork on the employee’s personal file. |

##

## Equal Opportunities & Harassment

It is the policy of this Company to provide equal opportunities for all employees. The Company will also take every action possible to avoid discrimination on the grounds of sex, sexual orientation, gender reassignment, race, religion and belief, disability,age, or marriage and civil partnership. These are known as protected characteristics. A copy of this policy can be found on the Notice Board or can be obtained from your Manager.

In addition, the Company will not tolerate any form of harassment amongst employees. If any employee is found guilty of harassing another, disciplinary action will be taken which could lead to dismissal. In cases of serious harassment, criminal action may be taken against the perpetrator.

It is the duty of all Supervisors and Managers to uphold this policy and to report any known actions of harassment to a Director immediately. All employees are responsible for their own behaviour and are expected to act in a manner that avoids and discourages any form of harassment.

A copy of the Company’s policies is shown below and should be brought to the attention of all managers or supervisors.

1. **Equal Opportunities Policy**

It is the policy of this Company to provide equal opportunities for all employees. The Company will also take every action possible to avoid discrimination on the grounds of sex, sexual orientation, gender reassignment, race, religion and belief, disability,age, or marriage and civil partnership. A copy of this policy can be found on the Notice Board or can be obtained from your Manager.

In recruitment

* Ensure that there is no discrimination shown to applicants coming for interview for new appointments, temporary or contract work.
* Ensure that job titles are not sex biased and are accurate.
* Avoid unnecessary job criteria in person specifications when recruiting new employees.
* Check that job requirements are really necessary to do the job and are not a reflection of traditional practices that may be operating to the disadvantage of men or women, minorities, the disabled or younger or older people.
* Guard against sex/race stereotyping, particularly in illustrations, advertisements and recruitment literature.
* Ensure that recruitment methods used are fair to all potential applicants and advertised in the most appropriate way to reach applicants with the right qualifications. Ensure that no age or age inference is stated in recruitment advertising.
* Ensure person and job specifications are limited to those requirements that are necessary for the effective performance of the job. Candidates for employment or promotion will be assessed objectively against the requirements for the job, taking account of any reasonable adjustments that may be required for candidates with a disability.
* Ensure managers and others likely to be involved in recruitment or other decision making where equal opportunities issues are likely to arise are provided with training in equal opportunities.
* Inform all existing and new employees to help them understand their rights and responsibilities under this policy and the dignity at work policy.
* Promote flexible working policies and practices to increase opportunities for those with, in particular, caring responsibilities or health issues.
* Ensure that interviewers avoid questions that could be construed as discriminatory.
* Maintain clear interview notes and records of all applicants.

Training and Promotion

* Check that all staff are being trained and developed and have the same opportunities for advancement within the Company.
* Not use age as a discriminator in training and promotion decisions.
* Examine selection criteria for training and promotion opportunities to ensure they do not indirectly discriminate.
* Monitor the progress of all trainees against the equal opportunities policy and its requirements.
* Ensure that equal standards are being operated when undertaking performance reviews and assessments.
* Where appropriate encourage all staff to put themselves forward for training and promotion.

**Types of unlawful discrimination**

* **Direct discrimination** is where a person is treated less favourably than another because of a protected characteristic. An example of direct discrimination would be refusing to employ a woman because she is pregnant.
* In limited circumstances, employers can directly discriminate against an individual for a reason related to any of the protected characteristics where there is an occupational requirement. The occupational requirement must be crucial to the post and a proportionate means of achieving a legitimate aim.
* **Indirect discrimination** is where a provision, criterion or practice is applied that is discriminatory in relation to individuals who have a relevant protected characteristic (although it does not explicitly include pregnancy and maternity, which is covered by indirect sex discrimination) such that it would be to the detriment of people who share that protected characteristic compared with people who do not, and it cannot be shown to be a proportionate means of achieving a legitimate aim.
* **Harassment** is where there is unwanted conduct, related to one of the protected characteristics that has the purpose or effect of violating a person’s dignity; or creating an intimidating, hostile, degrading, humiliating or offensive environment. It does not matter whether or not this effect was intended by the person responsible for the conduct.
* **Associative discrimination** is where an individual is directly discriminated against or harassed for association with another individual who has a protected characteristic (although it does not cover harassment because of marriage and civil partnership, and pregnancy and maternity).
* **Perceptive discrimination** is where an individual is directly discriminated against or harassed based on a perception that he/she has a particular protected characteristic when he/she does not, in fact, have that protected characteristic (other than marriage and civil partnership, and pregnancy and maternity).
* **Victimisation** occurs where an employee is subjected to a detriment, such as being denied a training opportunity or a promotion because he/she made or supported a complaint or raised a grievance under the Equality Act 2010, or because he or she is suspected of doing so. However, an employee is not protected from victimisation if he or she acted maliciously or made or supported an untrue complaint. There is no longer a need for a complainant to compare his or her treatment with someone who has not made or supported a complaint under the Equality Act 2010. For example, if a blind employee raises a grievance that the employer is not complying with its duty to make reasonable adjustments, and is then systematically excluded from all meetings; such behaviour could amount to victimisation.
* **Failure to make reasonable adjustments** is where a physical feature or a provision, criterion or practice puts a disabled person at a substantial disadvantage compared with someone who does not have that protected characteristic and the employer has failed to make reasonable adjustments to enable the disabled person to overcome the disadvantage.

Discrimination and harassment

* Investigate all complaints of discrimination and harassment thoroughly however minor they may be considered to be at first sight.
* Take disciplinary action against any employee found to have discriminated against another employee on the grounds of sex, sexual orientation, gender reassignment, race, religion and belief, disability,age, or marriage and civil partnership.
* Take disciplinary action against any employee found to have harassed another employee on the grounds of sex, sexual orientation, gender reassignment, race, religion and belief, disability,age, or marriage and civil partnership.

Publication of this Policy

* Ensure that all employees, especially new employees and those in positions of authority are made aware of this Policy.

### **Harassment Policy**

Whilst sexual harassment is a significant workplace problem, it is one of many types of harassment at work. People can be subject to harassment on a wide variety of grounds including:

* Their race
* Their sex , sexual orientation, or gender reassignment
* Their religion, religious belief or similar philosophical belief
* Their willingness to challenge harassment, leading to victimisation
* Their disabilities
* Their age

This list is not exhaustive. Anyone who is perceived as different, or who is in a minority, or who lacks organisational power, runs the risk of being harassed. Thus, health, physical characteristics, personal beliefs and numerous other factors may lead to harassment, and this can occur between people of the same sex or the opposite sex.

Forms of Harassment

Harassment may also take many forms. It can range from extreme forms such as violence and bullying, to less obvious actions like ignoring someone at work. Whatever the form of harassment, it will be unwanted behaviour which is unwelcome and unpleasant. Forms of harassment may include:

* Physical contact ranging from touching to serious assault
* Verbal and written harassment through jokes, offensive language, gossip and slander, sectarian songs, and letters
* Visual display of posters, graffiti, obscene gestures, flags and emblems
* Isolation or non-co-operation at work, exclusion from social activities
* Coercion ranging from pressure for sexual favours to pressure to participate in political/religious groups
* Intrusion by pestering, spying and following.

This list is not exhaustive.

Employees can be subject to fear, stress and anxiety, which may put great strains on personal and family life. Harassment can lead to illness, increased absenteeism, an apparent lack of commitment, poor performance and even resignation. All these have a direct impact on organisational effectiveness.

Policy Statement

This Company will not tolerate any form of harassment amongst employees. If any employee is found guilty of harassing another, disciplinary action will be taken, which could lead to dismissal. In cases of serious harassment, criminal action may be taken against the perpetrator.

It is the duty of all Supervisors and Managers to uphold this policy and to report any known actions of harassment to a Director immediately. All employees are responsible for their own behaviour under the policy and for discouraging any form of harassment.

Making Complaints of Harassment

Any employee, who considers they have been harassed, can raise the matter informally and will be treated in confidence. However, if formal action is to be taken against the perpetrator, it will be necessary for a senior member of management to speak to the complainant directly in order to ensure that the facts are correct.

Dealing with Complaints

When a complaint has been made, it will be thoroughly investigated by a Director as quickly as possible. The rights of the alleged perpetrator as well as those of the complainant will be protected. All parties will have the right to be represented and accompanied by a fellow employee at any investigation meetings. Confidentiality will be upheld throughout all investigations to protect all concerned. A Director will be responsible for deciding what action should be taken against any employee found guilty of harassment.

Advice and Counselling

Where necessary, a person who has complained of genuine harassment will have access to someone who can give them sympathetic, informed advice and counselling. Depending on the severity of the harassment, this may involve internal members of senior management or the use of external professional counsellors. Where appropriate, counselling may also be given to individuals whose behaviour has been found unacceptable. If the counsellor is someone from within the Company, that person will not be part of the formal investigation procedure.

## Termination of Employment

An employee may leave the Company for many reasons. Whether it is resignation, termination by the Company, redundancy or retirement, the employee should be treated with dignity. They should leave the Company feeling that whatever the reason for leaving they have been treated fairly and reasonably.

If the Company has terminated the employment then the section on Disciplinary Matters should have been followed. If the reason is redundancy then you will have been given guidance notes on how to handle the particular situation at the time. There is a correct procedure to follow whenever an employee’s contract of employment is terminated as a result of redundancy and this must be followed to avoid any unfair dismissal claim being successful. Advice should therefore always be sought.

If on the other hand an employee’s contract may be terminated on mutual grounds i.e. such as a settlement agreement then advice should be sought from The AP Partnership to obtain guidance on how this should be conducted.

1. Exit Interviews

In the case of resignation it is good practice to undertake an Exit Interview with the employee concerned. This often enables you to find out the true reason why the employee is leaving and whether there is anything you should be doing to avoid further losses. It may also enable you to decide whether you need to replace the person leaving and if so what changes if any should be made to the job for the next person. Very often an outgoing employee can give you valuable information regarding the job they have undertaken and the environment in which they work. Also be prepared to listen to comments about your style of management or your department that may be unpalatable. Learn from the experience and do not over react! An exit interview is also often worthwhile in preparation for recruiting their replacement when an employee is retiring from the Company.

1. Termination Report

The report shown at the end of this section is designed to ascertain whether the employee should be considered for re-employment, should the occasion arise, and to assist the Company in completing any reference enquiries that may be received. The information given should therefore be carefully considered in order to provide, as far as possible, an honest and accurate assessment. On completion, the form should be returned to the person who holds the personnel files.

**Exit Interview Form**

Name: Department:

Job Title: Payroll/employee no:

Line Manager/Supervisor: Location:

Start Date: Leaving date:

**What did you like most about your job? (Give examples)**

**What did you like least about your job? (Give examples)**

**Were your duties clearly defined?**

**Was your workload manageable?**

**Did you receive regular feedback on your performance?**

**Has the job changed since you started? If yes, in what way?**

**Did you take on any additional responsibilities within the job?**

**Did you receive adequate and relevant training to do the job?**

**What new skills have you acquired?**

**Were you able to complete all the tasks within the normal working day?**

**Did you feel morale in your department was . . . ?**

Very good 

Good 

Fair 

Poor 

**Did you receive support from your Manager/Supervisor?**

**Is the reason you are leaving the Company for . . . ?**

Better pay and conditions 

Better promotion prospects and a career move 

Other reasons [give details below] 

Any other comments:

\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_\_ \_\_\_\_\_\_\_\_\_\_\_\_\_

**Employee’s Signature Interviewer’s Signature Date**

**INTERVIEWER’S NOTES:**

**Termination Report**

Name: Department:

Job Title: Date of Leaving:

*Notes on Completion*

The following report is designed to ascertain whether the employee should be considered for re-employment, should the occasion arise, and to assist the Company in completing any reference enquiries that may be received. The information given should therefore be carefully considered in order to provide, as far as possible, an honest and accurate assessment. On completion, the form should be returned to the personnel administrator.

### Reason for Leaving

Your comments on the reasons given:

Any further information:

## Assessment

*Indicate your evaluations by ticking the desired box*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
|  | A=Very goodB=GoodC=AdequateD=Does not meet requirements | **A** | **B** | **C** | **D** |
| Ability | Knowledge of the job and ability to learn new things |  |  |  |  |
| Co-operation | Extent to which employee helps co-workers, accepts constructive criticism, and gets along with others |  |  |  |  |
| Attitude | General attitude towards work |  |  |  |  |
| Attendance | Employee's record in respect of sickness and absence |  |  |  |  |
| Punctuality | Employee's record in respect of timekeeping |  |  |  |  |
| Disciplinary Record | Formal disciplinary action only |  |  |  |  |

Additional Comments

## Re-employability

Please ring A, B or C

A Should be considered for re-employment (should the occasion arise)

B Should be considered for re-employment only after his/her previous record has been fully examined

C Should not be considered for re-employment

If B or C, state reason

Signature of Manager: Date: