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## Managing the Employment Relationship – The Fundamentals

By Evelyn Quinn

With the vast amount of legislation, codes of practice and general guidelines that surround the area of employment, one question we are often asked by employers is “What do I absolutely need to have in place for my employees?”

The first thing for employers to consider is the type of employment they are offering. Is this a permanent position? Is it full-time or part-time? If considering a fixed term contract, the provisions of the Protection of Employees (fixed term) 2003 may need to be considered. This Act provides that employees cannot remain indefinitely on a series of fixed term contracts. If employing part-timers, it is important to remember that part time employees cannot be treated in a less favourable manner than a comparable full time employee in relation to their conditions of employment (Protection of Employees (part time work) Act 2001).

Regardless of the type of employment, all employees are entitled to a written statement of certain particulars of their employment (Terms of Employment Information Act 1994 & 2001). This should be issued within 2 months of the employee commencing employment and should be accepted and signed by the employee. This document covers areas such as: hours of work, place of work, rate of pay, frequency of pay, holiday entitlements etc...

Also to be given consideration right from the commencement of the employee relationship is the obligation to record working hours. This requirement is laid down in the Organisation of Working Time Act 1997. This legislation is underpinned by Health and Safety provisions and sets out statutory entitlements in relation to rest, maximum working time & holidays.

When it comes to pay day, employers need to be aware of the provisions of the Payment of Wages Act 1991 which gives employees the right to a negotiable mode of payment (cheque, credit transfer etc) and the right to receive a written statement of wages (i.e. payslip) showing any additions & deductions. Employers should also obtain written consent for any deductions from pay such as health care premiums and trade union dues.

Also to be considered here is the National Minimum Wage Act 2000 which establishes legally enforceable minimum rates of pay & the Pensions Act 1990 & 2002 which requires that all employees have access to an occupational pension scheme and/or a standard PRSA.

So what happens if things go wrong and the employment relationship isn't working out? This is something that all too often isn't considered until things have actually begun to deteriorate which in many cases may be too late. Under the Unfair Dismissals Act 1977, employees must be advised at commencement of employment, the procedure to be used in the case of dismissal (the disciplinary procedure) and are entitled to notice periods based on length of service (Minimum Notice & Terms of Employment Act 1973 to 2001) unless the employee is dismissed for gross misconduct.

Underpinning the entire employment relationship is the Employment Equality legislation (Employment Equality Act 1998 amended by the Equality Act 2004) which prohibits discrimination across nine grounds (gender, family status, marital status, age, race, religion, disability, sexual orientation, membership of the traveller community), provides for equal pay for equal work and prohibits harassment and sexual harassment.

Finally, in the area of leave, employers should refer to the Maternity (Protection of Employees) Act 1981, 1994 & 2004, the Adoptive Leave Act 1995, the Parental Leave Act 1998 and Parental Leave (Amendment) Act 2006 and the Carers Leave Act 2001.

It may seem that there are a lot of considerations in what is on the surface a simple "contract" of employment but a proactive and clear approach at the outset can save a lot of time, effort and even cost during (and after) the employment relationship.

"An ounce of prevention is worth a pound of cure".

**For further information on this article or any HR matter,  
Contact Clarigen: +353 (0) 1 470 7100, email: [info@clarigen.com](mailto:info@clarigen.com)**