

Checklist for First-Time Employers

Business Information Factsheet

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Introduction

Hiring a new member of staff can help you run and build your business, but it also brings additional responsibilities. If you are taking on an employee for the first time, it is important to understand your legal obligations as an employer and know how to select the best candidate for the job.

This factsheet explains the steps involved in taking on an employee and outlines the main legal responsibilities for new employers. It covers the recruitment process, including how to avoid discrimination and comply with data protection regulations. It explains what you need to do before you hire your new employee, such as checking their right to work in the UK, taking out appropriate insurance, and registering as an employer with HM Revenue & Customs (HMRC). The factsheet also covers what to do when your employee starts work and lists your ongoing responsibilities as an employer.

What is an employee?

An employee is someone who works for you full- or part-time under a contract of employment. This can be either a written contract or a verbal agreement. In general, an employee is required to work regularly for a minimum number of hours carrying out work that you set - they can't pick and choose when to accept the work, or send someone else to do it in their place. For more information about employment status, go to www.gov.uk/employment-status/employee.

Recruitment

There are several things you need to do when you are recruiting an employee. These include:

Defining the job

It is good practice to start by defining the job role you are recruiting for. You may find it helpful to:

- Consider if the job should be part-time or full-time, and if it could be done by job-sharers or home-workers.
- Find out what other employers pay for similar roles and work out how much you can afford to pay. (Bear in mind that you must comply with the national minimum wage (NMW) requirements. Go to www.gov.uk/national-minimum-wage for details.)
- Write a clear job description and a person specification to attract candidates with suitable skills and experience. The job description should state the main purpose of the role and the key activities that the post-holder will perform. The person specification should describe

the ideal person for the role, listing essential and desirable qualifications, experience, and abilities.

- Use application forms to make sure that you get all of the information you need from candidates. You can download templates for job descriptions, person specifications and application forms from www.acas.org.uk/index.aspx?articleid=1392.

Advertising the job

You can advertise the job through a variety of channels, including:

- Jobcentres.
- Job or career fairs.
- Schools and colleges in your area.
- Employment agencies.
- Newspapers.
- Recruitment websites.

Shortlisting applicants

You will need to draw up a shortlist of candidates that you would like to interview. Asking candidates to complete an application form, rather than send a letter and CV, can help you compare their skills fairly and consistently, assessing them against the job description and person specification.

Selecting the best candidate

You can use interviews, selection tests and references from previous employers to help you choose the right candidate for the job. You must have a candidate's permission before approaching a former employer for references.

The following tips may help if you are conducting interviews for the first time:

- Plan interviews carefully.
- Choose open-ended questions to get the most revealing answers from candidates.
- Give candidates opportunities to ask questions about your business and the advertised role.
- Take care that you will not be disturbed during the interview.
- Take notes so that you can consider each candidate carefully after all the interviews have been conducted, and so that you can give reasons for rejection to unsuccessful candidates who request this information.

Avoiding discrimination

Under the Equality Act 2010, you must not discriminate against anyone on any of the following grounds, known as 'protected characteristics':

- Gender.

- Race (colour, nationality, ethnic or national origin).
- Age.
- Being married or in a civil partnership.
- Being pregnant or having a child.
- Disability.
- Religion or lack of religion.
- Transsexuality.
- Sexual orientation.

In general, you must not ask applicants questions about protected characteristics during the recruitment process. There are some exceptions to this rule. You can ask about health and disability if:

- There are necessary requirements of the job that might not be suitable for people with particular types of disability even after 'reasonable adjustments' have been made by the employer.
- You are finding out what help a person might need to participate in the recruitment process.
- You are using positive action to recruit an employee with a disability.

It is also important to consider your approach to recruitment and make sure you avoid direct and indirect discrimination, for example:

- Phrases in a job advert such as 'recent graduate' could amount to age discrimination unless they state a genuine requirement of the job.
- Advertising only in men's magazines could be interpreted as indirect gender discrimination.

For more information about employers' responsibilities under the Equality Act 2010, go to www.acas.org.uk/index.aspx?articleid=3017. See also BIF 473, A Guide to the Equality Act 2010.

Complying with data protection regulations

When handling information about job applicants, you must comply with data protection regulations. You should pay attention to the following points:

- Only ask for personal information that is necessary on application forms.
- Don't ask for irrelevant information, such as banking details.
- Don't use the information you collect for any purpose other than recruitment.
- Keep all personal information securely and only for as long as necessary.
- Be aware that data protection rules will also apply to any staff records that you keep once you have recruited your employee.
- Familiarise yourself with the data protection rules for employers. For details, go to <https://ico.org.uk/for-organisations/guide-to-data-protection/employment/>.

Appointing the successful applicant

Once you have chosen the person you want to employ, you need to complete the following tasks:

Check that the candidate has a right to work in the UK

Before hiring someone you must check that they have a right to work in the UK, or you could face a £20,000 fine. You must examine original versions of the documents that prove such a right. This must be done in the employee's presence, and you must keep a copy of the documents and a written record of the check. For more information, go to www.gov.uk/check-job-applicant-right-to-work.

Find out whether the job requires a criminal records check

For some jobs, such as working with children or in healthcare, you must carry out a criminal records check before your new employee can begin work. In England and Wales, criminal records checks are known as 'DBS' checks and are processed by the Disclosure and Barring Service (DBS, www.gov.uk/government/organisations/disclosure-and-barring-service). Normally, you will need to request a DBS check through an umbrella body registered with the DBS. For a list of umbrella bodies, go to www.gov.uk/find-dbs-umbrella-body.

In Scotland and Northern Ireland, the rules and procedures are different. In Scotland, criminal records checks are known as 'disclosures' and are processed by Disclosure Scotland (www.disclosurescotland.co.uk). In Northern Ireland, checks are processed by Access Northern Ireland (AccessNI, www.accessni.gov.uk). For more information, see BIF 255, Applying for Criminal Records Checks in England and Wales.

Make relevant, legally permitted health checks, if any are necessary

You can check aspects of an employee's health provided that:

- It is a legal requirement - for example, vision tests for commercial vehicle drivers.
- The job requires it - for example, for the purposes of getting insurance cover.

Get employers' liability insurance

You must have employers' liability insurance as soon as you become an employer. It must be from an authorised insurer and cover you for at least £5 million in the event of an employee being injured or becoming ill as a result of their work for you. You can be fined £2,500 for every day during which you are an uninsured employer.

Give your new employee a written statement of employment particulars

Employees who will be working for you for more than one month must receive a 'written statement of employment particulars' within two months of starting work and ideally on their first day. This is a legally-binding document which must include specific information about the employee's terms and conditions of employment. For details, see BIF 42, A Guide to Statements of Employment.

Register as an employer with HMRC

With some exceptions, you must register as a new employer with HMRC so that you can report and pay tax and National Insurance contributions on behalf of your employee via HMRC's PAYE Online system. HMRC provides an online tool (www.gov.uk/register-employer) to help you work out if you need to register.

In most cases, you can register online. You will need to provide specific information about your business and your employee, so have all of this information to hand before you register. For more information, see BIF 498, A Guide to Registering with HMRC as a New Employer.

You must be registered in advance of your employee's first payday, so it is important to allow enough time to receive your online registration details and set up your payroll system.

Set up a payroll

You need to establish a payroll system to take care of your employee's salary and report the required information to HMRC via their PAYE Online system. You can buy payroll software to organise this task, or you may choose to hire a payroll service to do it all for you.

When your employee starts work, you will need to ask them to give you their P45, or to complete the information you need using HMRC's New Starter Checklist. For more information, go to www.gov.uk/government/publications/payee-starter-checklist.

Introducing the new employee to the workplace

When your employee arrives, you will need to welcome them to the workplace and give them the information they need to do their job safely and effectively. You will need to provide:

A general induction

The induction should help the employee understand the purpose and ethos of your business and tell them everything they need to know to do their job. You should also tell them who they can talk to if they have any problems in their new role. For more information, see BIF 84, A Checklist for Inducting a New Employee.

Health and safety training

You have a legal duty to provide your new employee with adequate health and safety training to ensure that they can carry out their work safely. You must tell your new employee about any health and safety risks associated with their role and about the workplace procedures for minimising the risks. You must also tell them about emergency procedures in the event of fire or other serious dangers. These are requirements under the Management of Health and Safety at Work Regulations 1999. (In Northern Ireland, the Management of Health and Safety at Work Regulations (Northern Ireland) 2000 apply.) For more information, see BIF 140, A Guide to the Management of Health and Safety at Work Regulations 1999.

Your ongoing responsibilities as an employer

You must observe all of the following employee rights:

- Pay the NMW or above.

- Don't make deductions from wages unless you are legally required to or have a contractual right or other written agreement to do so.
- Provide the statutory minimum level of paid holiday.
- Provide the statutory minimum length of rest breaks.
- Do not require an employee to work more than 48 hours on average per week unless they choose to opt out of this right.
- Do not discriminate unlawfully.
- Do not penalise an employee for 'whistleblowing' - reporting wrongdoing in the workplace.
- Do not treat an employee less favourably if they work part-time.
- Provide statutory sick pay.
- Provide maternity, paternity and adoption leave and pay.
- Respect minimum notice periods - usually one week per year of service up to a maximum of 12 weeks.
- Do not dismiss an employee without good reason or without following proper disciplinary procedures.
- Allow time off for emergencies.
- Consider employee requests for flexible working fairly and do not penalise an employee for making such a request.
- Provide statutory redundancy pay.

Most of these rights are effective from the first day that your employee starts work. Others, such as flexible working requests and redundancy pay, only apply after a specific length of continuous employment.

Further information

BIF 3 A Guide to the Data Protection Act 1998

BIF 42 A Guide to Statements of Employment

BIF 84 A Checklist for Inducting a New Employee

BIF 140 A Guide to the Management of Health and Safety at Work Regulations 1999

BIF 255 Applying for Criminal Records Checks in England and Wales

BIF 328 A Guide to the National Minimum Wage

BIF 374 A Guide to Handling Flexible Working Requests

BIF 473 A Guide to the Equality Act 2010

BIF 498 A Guide to Registering with HMRC as a New Employer

Useful publications

'Recruitment and Induction'

Acas

Website: www.acas.org.uk/media/pdf/8/d/Recruitment-and-induction-advisory-booklet.pdf

'A Guide for New Employers'

Acas

Website: www.acas.org.uk/media/pdf/q/m/A-guide-for-new-employers.pdf

Data protection: A quick guide to the employment practices code

The Information Commissioner's Office (ICO)

Website: <https://ico.org.uk/for-organisations/guide-to-data-protection/employment/>

'Delivering Equality and Diversity'

Acas

Website: www.acas.org.uk/media/pdf/a/c/Delivering-equality-and-diversity-advisory-booklet.pdf

Useful contacts

The Disclosure and Barring Service (DBS) helps employers to prevent unsuitable people from working with children and other vulnerable groups. It replaces the Criminal Records Bureau (CRB) and Independent Safeguarding Authority (ISA).

Tel: 0870 909 0811

Website: www.gov.uk/government/organisations/disclosure-and-barring-service

Acas provides information, advice, training, conciliation and other services to help prevent and resolve workplace problems. It is available to assist both employers and employees.

Tel: 0300 123 1100

Website: www.acas.org.uk

The Information Commissioner's Office (ICO) provides advice and guidance about data protection regulations.

Tel: 0303 123 1113

Website: <https://ico.gov.uk>

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