

You may be worried about your additional responsibilities when you employ people. But our step-by-step guide provides an organised and low-stress approach to building a strong relationship with your employees and increasing your business's chance of success

Understanding employees' rights

Insuring your employees

You must insure against any claims arising from illnesses, diseases or injuries your staff may pick up as a result of working for you

Employers' liability insurance, which protects your business against claims from employees for accidents or sickness they may suffer as a result of working for you, is a legal requirement. The statutory minimum cover is £5 million and you should display the certificate in any place of work. Keep your certificates even after they have expired — employees could make a claim many years after they have worked for you.

Next steps

- If you are an employer, you must purchase employers' liability insurance
- For more information read: *Employers' Liability (Compulsory Insurance) Act 1969: A Guide for Employers (HSE40)*. Contact HSE Books: 01787 88 11 65; www.hsebooks.co.uk

Workers and employees

All employees are workers, but not all workers are employees. Many rules, regulations and rights apply only to employees, but some apply to all workers.

An 'employee' is someone who works for you under the terms of a contract of employment, whether it is written down, agreed orally or implied by the nature of the relationship. Many casual workers are likely to be employees with short-term contracts.

A 'worker' is any individual person who works for you, whether under a contract of employment with you or not, who provides a personal service eg a casual worker, agency worker or some freelance workers. In terms of the rules and regulations in this section, genuinely self-employed people or businesses to whom you subcontract are not defined as 'workers'.

Where 'workers' are referred to in this guide, everyone working for you who isn't self-employed or employed by someone else is entitled to the employment rights in question.

Next steps

- Check whether freelancers, agency workers or any other individuals are classified as workers or not

The national minimum wage

Nearly everyone who works for you is entitled by law to receive a minimum level of pay — the national minimum wage. This includes bonuses and incentive payments — but not overtime or shift-work premiums

You must pay anyone who works for you at least the national minimum wage. This typically includes freelance and casual workers as well as employees who have a contract of employment.

The rates current from October 1, 2003 are:

- £4.50 an hour for those aged 22 or over (£4.85 from October 1, 2004)
- £3.80 an hour for people aged 18 to 21 (£4.10 from October 1, 2004)
- £3.80 an hour for anyone 22 or over who is with a new employer and receiving accredited training in the first six months of a new job (£4.10 from October 1, 2004)

From October 1, 2004 a new rate of £3.00 an hour applies to workers aged 16 and 17.

When calculating whether you're paying the minimum wage, you can take into account any incentive or performance-related payments, bonuses and tips paid through the payroll.

But extra money above basic

Check for changes in the law

Regulations, figures and sums of money may have changed since publication. Update check: 0845 600 9 006
www.businesslink.gov.uk/figures

pay — such as overtime or shift-work premiums — doesn't count.

Most benefits other than money can't be included, apart from a small amount for free accommodation.

Workers' average pay must be at or above the minimum wage for the period for which they're being paid.

For workers on a wage or salary, the number of hours worked will generally be clear. If you have pieceworkers or workers paid to do set tasks, you can agree with them a fair number of hours for the work.

From October 2004 pieceworkers must be paid at least the minimum wage for all hours worked or for the hours it takes an average worker to complete an agreed block of work. From April 2005 they must be paid at least 120 per cent of the minimum wage for the average hours needed to complete a block of work.

You'll need to keep records to prove you're complying. Workers can ask to see them if they think they're being underpaid.

If most of your staff have earnings well above the minimum wage, you probably won't need to keep any specific records beyond those you already keep for PAYE.

Next steps

- The National Minimum Wage Helpline can provide further information: contact 0845 600 0678



Potential employees are given a day's trial. We pay them and everyone knows where they stand. We find out if we can work as a team and then get a contract drawn up by a solicitor



Shawn Taylor
Shawn Taylor Racing
racing car & motorcycle
services
Norwich

- Decision trees to check if staff are eligible for the national minimum wage are available online at www.tiger.gov.uk

Staff who are off sick

Staff who can't work for four days or more because of illness are entitled to a minimum level of sick pay. You can claim some of the money back from the Inland Revenue if your business's sick pay exceeds a set level

You must pay statutory sick pay (SSP) to employees who can't work for four or more calendar days in a row because of physical or mental illness or disablement. The rate in the tax year 2004-05 is £66.15 a week.

All full- and part-time employees and agency workers who are employees for National Insurance purposes, aged between 16 and 65, qualify for statutory sick pay provided they earn more than the National Insurance lower-earnings limit, which is £79 a week (2004-05 tax year).

But you can withhold statutory sick pay if the employee has recently drawn incapacity benefit or severe disablement allowance or is in custody.

If your own arrangements are more generous than the statutory sick pay scheme you can

You also need business advice

This guide covers regulations. You should also read a guide to general business advice — from market research to writing a business plan

opt out. But you must keep detailed records.

Statutory sick pay is subject to income tax and employee's National Insurance contributions. It's payable for up to 28 weeks for any one period of sickness or series of linked periods of sickness.

You may be able to recover some SSP by deducting this money from the National Insurance contributions you pay to the Inland Revenue (and from income tax if necessary). Full details on what you can claim back is available in the Inland Revenue booklet *What To Do If Your Employee Is Sick*. Any sick pay you recover has to be recorded on your Inland Revenue P14 and P35 forms at the end of the tax year.

You must keep full records of sick pay for three years. A form (SSP2) for this purpose can be obtained from the Inland Revenue.

It's also a good idea to record sick pay paid to an employee in the relevant column on your P11 form.

Next steps

- See *Working Out Tax And NI For Employees*, page 18
- See *Employees' Pay Records At End Of Tax Year*, page 20
- The Inland Revenue offers a number of publications providing guidance on SSP including: *What To Do If Your Employee Is Sick (E14)*; *Employee's Statement Of Sickness (SC2)*.

Contact 0845 7 646 646;
www.inlandrevenue.gov.uk/employers

Arranging employees' pensions

If you've got five employees or more, you may need to offer employees access to a stakeholder pension scheme. The business is not required to make contributions to an employee's scheme — but you must deduct an employee's contributions from their pay if they ask you to

You are exempt from having to offer a stakeholder pension scheme, even if you employ five or more people, if:

- they all earn less than the National Insurance lower earnings limit
- you offer access to an occupational pension scheme which all employees can join within a year of starting work
- you offer to pay a contribution of at least 3 per cent of employees' basic pay to a personal pension scheme and to deduct their contributions if requested. The scheme shouldn't penalise members who stop contributing

If you aren't exempt, you must choose a stakeholder scheme which is registered with the



I only have one employee. If he is off sick I pay his normal wage rather than statutory sick pay. It makes sense because he is loyal and it would be hard to find a replacement



Charlie Allen
Allen & Allen Limited
tailor
London

Occupational Pensions
Regulatory Authority (OPRA).

You should consult employees about your choice and then write to the scheme provider to say you've formally chosen their scheme. Keep a copy of the letter.

Give employees details of your chosen provider and a contact name. You can give information about the scheme to employees — but you mustn't advise them about its financial benefits.

Employees aren't obliged to sign up to the scheme. Tell staff you can take their contributions from pay through PAYE but that they can pay directly into the scheme if they prefer.

You must deduct the employee's contributions from pay if asked to do so and forward them to the scheme provider. Keep records of the payments.

Employers don't have to make contributions. If you want to, tell staff how much you intend to put in.

Next steps

- *The Occupational Pensions Regulatory Authority (OPRA) offers a decision tree for employers and a register of stakeholder pension providers. Contact 01273 627600; www.stakeholder.opra.gov.uk*
- *Stakeholder Pensions — A Guide For Employers (PME1). Contact 0845 7 646 646; www.thepensionsservice.gov.uk*

Length of the working week

Rules on working time fix the maximum average working week for most workers at 48 hours. Workers can agree voluntarily to forgo this limit — but you mustn't put pressure on them to do so

For calculation purposes, hours are averaged over a 17-week period, though this can be extended by agreement. This reference period must not include time spent on holiday or sick leave. For instance, if two days are lost due to sickness the minimum reference period is 17 weeks and two working days.

Workers can voluntarily agree to waive the 48-hour limit — but you mustn't force or put pressure on them. You must ask those who do opt out to sign a written agreement.

Work-related training counts as part of the working week, as do travel as part of a worker's duties and working lunches. But lunch breaks and journeys to and from work don't.

The limits don't apply to employees who have the freedom to choose their own hours of work — typically senior managers — nor to self-employed contractors. But freelance or agency staff who get paid a regular wage or salary do qualify. For young workers — who are over the minimum school-leaving age but under 18

— the maximum is 40 hours.

Staff have a right to 11 hours' rest between each working day; young workers get 12 hours.

You mustn't force staff to work more than six days in every seven, or 12 days in every 14. Young workers should get two days off a week.

You need to keep records to show you're complying with the 48-hour limit — but you may be able to do this by using records you already keep for pay (a payslip quoting hours worked, for example).

You have to keep an up-to-date record of workers who've agreed to work more than 48 hours a week.

Next steps

- *For more information read: *Your Guide To The Working Time Regulations* (URN 03/1068). Contact www.dti.gov.uk/er*

Giving staff rest breaks

Workers have a right to minimum rest breaks during and between shifts, and a set number of days off each week. There are special rules protecting young workers

Most people who work for you — employees, freelancers, casual or agency workers — are entitled to minimum rest breaks. Workers must have a minimum 20-minute

How I look after the company team

Robert Bell founded Evolution Event Management in 1996. In his first year, as a sole trader, he turned over £68,000. Now the company employs five and turns over £1.4m

66



Organising corporate events is very time-consuming and it's difficult to talk to prospective customers while you're doing it. When I worked on my own, after a big event I'd find things would go dead. I had all these ups and downs.

When I decided to take on people I read a lot about it, but I also took advice from my solicitor. Everybody interviewed to work here now has the same interview, say 50 set questions.

The poor interviewee will get grilled and roasted but nobody can say they didn't get the job because they were black, white, pink, purple, fat or small.

People get a job offer in the post which is subject to references. Then every employee gets a contract which gives a three-month probationary period. During that time either side can walk away on a week's notice.

There are bits in the contract too about confidentiality, times of work, holiday allowance...

basically, everything is documented. It's to protect the company but also to protect staff.

And there are clauses on our grievance procedure, which is a verbal warning and then a written warning. I've only had to use that once, though. That was during somebody's probation period, but we still went through the proper processes.

We run normal nine-to-five hours in the office but an event can mean a very long day. People try to take quick breaks but after an event we still give a day off in lieu. I've been talking to my solicitor about the Working Time Regulations and at the moment we're fine but it's one of those areas we're looking at closely. We don't want tired staff anyway.

When you're in a small business it's amazing how many people don't take breaks. Time goes quickly when you're busy. But it's important you rest your eyes from the screen, go for a walk, and mentally you need a break. In my view it's not good to be sitting at a PC for more than

Treat people as you'd like to be treated, says Robert

an hour. We've got two fish tanks so I say: 'Go and talk to the fish.'

You should treat people the way you'd like to be treated. Seats, chairs, keyboards — they all need to be right. We use technology a lot, so everybody has a palm-rest and/or screen reflectors. It sounds a small thing but repetitive strain injury can be a big thing.

Staff have gym membership, and there's training available for them as well. That's above and beyond what you're required to do by law but to me it's an important part of being a well-run company.



Evolution Event Management Ltd
London
Tel 020 8543 3033
www.evolutionevent.com



Advice in Scotland

Business Gateway in Lowlands
(0845 609 6611;
www.bgateway.com);
Highlands & Islands Enterprise
(01463 234171; www.hie.co.uk)

rest break in each shift lasting more than six hours. Young members of staff (under 18) are entitled to at least 30 minutes' break for each four and a half hours they work.

Staff have a right to 11 hours' rest between each working day; young workers get 12 hours.

You mustn't force staff to work more than six days in every seven, or 12 days in every 14. Young workers should get two days off a week.

In certain specified circumstances, rest breaks, rests between shifts and days off can be accumulated and used later. For example, this may happen during busy peak periods, when an emergency crops up or where someone works a long way from home and wants to work longer hours over fewer days to complete a task more quickly.

A young worker's entitlement to breaks can only be changed or not taken in exceptional circumstances. Young workers must not work more than eight hours a day and 40 hours a week.

If you are covered by the Disability Discrimination Act and you have a worker who requires extra rest breaks, for example to take medication privately, you may be discriminating by unreasonably refusing.

Next steps

- See *Workers With Disabilities*, page 70
- For more information read:

Your Guide To The Working Time Regulations (URN 03/1068).
Contact www.dti.gov.uk/er

People working at night

There are special regulations governing night workers' hours and they must also be offered a free health assessment to check they're fit to work at night

Night time is defined as a period of at least seven hours between 10pm and 7am. Unless you agree otherwise with your staff, it is defined as the period between 11pm and 6am.

Nearly everyone who works for you, including employees, freelancers and agency workers, are covered by these rules.

Night workers — people who regularly work at least three hours during night time — shouldn't average more than eight hours in each 24-hour period. This is normally calculated over 17 weeks, though it can be extended by agreement with staff.

If a night worker's job involves special hazards or physical or mental strain, there is no averaging — they mustn't work more than eight hours in any one 24-hour period.

In general, young workers (under 18) are not permitted to work at night — though there are exceptions for a number of business sectors.

You must offer workers a free health assessment before they start working at night and repeat it regularly (typically once a year) after that. This will generally be in the form of a questionnaire, with a medical examination following if you have any doubts about the employee's fitness for night work.

A sample assessment questionnaire is available from www.dti.gov.uk/er. You must keep records of these assessments for two years.

Next steps

- For more information read:
Your Guide To The Working Time Regulations (URN 03/1068).
Contact www.dti.gov.uk/er

Paid annual leave

People who work for you must get a minimum of four weeks' paid annual leave a year — though this can include bank holidays

Most people who work for you, including your employees, freelancers and agency workers, are entitled to a minimum of four weeks' paid annual leave, with part-time workers enjoying leave proportionate to the amount of days they work each week. You are of course free to specify a longer period in your employees' contracts if you wish.

So a full-time worker who

works five days a week is entitled to 20 days' annual leave, while a part-timer who works two days a week is entitled to eight days.

The minimum leave period can include bank holidays. There's no automatic right to take bank holidays off.

The leave entitlement starts building up from a worker's first day at work. With your staff's agreement, during their first year of work you can use a system in which they get one twelfth of their annual leave entitlement for each month they work, rounded to the nearest half day.

Holiday pay must be based on the worker's average pay. If, for example, their normal pay includes additional money for working unsocial hours, so must the holiday pay.

You should agree with staff how much notice of leave they should give. If you don't have an agreement, the notice period should be twice the length of the leave requested.

If someone stops working for you, they're entitled to be paid for any leave they haven't taken.

Next steps

- For more information read: *Your Guide To The Working Time Regulations (URN 03/1068)*. Contact www.dti.gov.uk/er Holidays and Holiday Pay. Contact Acas Publications: 08702 42 90 90; www.acas.org.uk

Time off work other than annual leave

There is a range of other circumstances in which employees will be eligible for paid or unpaid time off — including acting as a safety representative, going to antenatal appointments and dealing with an emergency involving a dependant

You must allow staff time off in a number of circumstances.

If an employee is pregnant, she is entitled to time off for any appointments made on the advice of a registered medical practitioner, midwife or health visitor.

In other cases, you only have to allow 'reasonable' time off.

You must give paid time off to employees who are:

- carrying out duties or receiving training as a safety representative
- carrying out industrial-relations duties or being trained as an official of a recognised trade union
- carrying out duties as a pension scheme trustee
- looking for another job or arranging training for future employment when being made redundant
- carrying out duties or receiving training as an employee representative for consultation over collective redundancies or business transfers

- young people studying or in training leading to a relevant qualification

In the following instances you have to give employees time off but you're not obliged to pay them if you don't want to:

- taking action to deal with an emergency involving a dependant — a child, husband or wife, parent or someone living with the employee (other than a tenant, boarder or employee of the household). Valid reasons for taking time off include helping a dependant who falls ill, is injured or assaulted, arranging a dependant's funeral, helping a dependant give birth, dealing with an unexpected breakdown in care arrangements for a dependant or dealing with an incident at a school attended by a child of the employee
- taking part in certain trade union activities
- a range of public duties, including acting as a magistrate; a member of a local authority, police authority, health authority or NHS trust; a member of a school governing body. If you don't release an employee for jury service, you could be prosecuted for contempt of court

If you are covered by the Disability Discrimination Act and you have a worker who requires time off for reasons related to the disability, for example for treatment or rehabilitation, you

may be discriminating by unreasonably refusing.

Next steps

- See *Workers With Disabilities*, page 70
- *Time Off For Public Duties (PL702); Redundancy Entitlement: Statutory Rights (PL808); Time Off For Dependants (URN 99/1186)* Contact www.dti.gov.uk/er
- *Time Off For Trade Union Duties And Activities*. Contact Acas Publications: 08702 42 90 90; www.acas.org.uk

Race, sex and religious discrimination

People have the right not to be discriminated against on the grounds of race, sex, marital status, sexual orientation or religion. And this doesn't just mean giving all your staff access to the same opportunities — you must also protect them against verbal or physical harassment

You mustn't discriminate against anyone who works for you (including self-employed contractors) or treat them less favourably because of their:

- colour
- race
- nationality
- ethnic or national origin
- sex (including gender reassignment)



We pay our staff slightly more than the going rate because it creates loyalty and we manage to get the best staff. The better you treat them, the better they will treat you



Kingsley Jones
Icicle Mountaineering Ltd
alpine climbing courses
Deddington, Oxfordshire

- status as a married or unmarried person
- sexual orientation
- religion or belief

Apart from yourself, you also have to ensure that other managers or members of staff don't discriminate against their colleagues.

And the way you recruit staff mustn't be discriminatory.

You mustn't offer less favourable contractual terms — including those covering pay and benefits — to any employee or group of employees on these grounds. Nor must you deny them access to promotion, transfers, training or any other schemes, facilities or services.

You mustn't dismiss an employee on these grounds.

Under equal-pay laws, you must offer the same level of pay to men and women doing the same or similar work as someone of the opposite sex.

Any attempt at separating people of a particular race from other staff counts as discrimination.

You must also avoid indirect discrimination — where you apply a seemingly unbiased requirement or practice with which any of the above categories of employee is much less likely to be able to comply.

Examples of indirect discrimination might be creating new shift patterns which make things hard for working mothers or introducing a uniform banning headgear when some people wear headwear for reasons

relating to their religious or ethnic background.

Remember that you may be held responsible for any discrimination or harassment practised by your employees, so you must deal with any problems.

Discriminatory harassment might include demeaning remarks, graffiti, jokes, verbal abuse or physical assault.

You mustn't victimise anyone who makes a complaint of discrimination against you.

There are a few limited exceptions to the rules — for example, some restaurants where food is served in a particularly authentic setting may be allowed to recruit from particular racial groups. In areas such as care work, it may be necessary to appoint someone of a particular sex for reasons of privacy and decency.

It's best to take advice if you intend to apply one of the exceptions.

You may also take positive action to help men or women or members of a particular racial group, religion or sexual orientation compete on equal terms when looking for work — perhaps by running a training course or offering work experience. You can encourage people to apply for work — but you must always select the best person for the job when recruiting.

Next steps

- See *How To Recruit And Select Employees*, page 58



The key to success with staff is finding someone who actually cares about your business. It's down to a particular mentality — if you get a team around you who care and are diligent it makes a huge difference



Anita Fitzgerald
Little Gatcombe Farm
farm and guest house
Gatcombe, Isle of Wight

- Acas provides advice and information on anti-discrimination legislation and best practice. Contact 08457 47 47 47; www.acas.org.uk
- For more information read: *Religion Or Belief And the Workplace*; *Sexual Orientation And The Workplace*. Contact Acas Publications: 08702 42 90 90; www.acas.org.uk
- *The Commission for Racial Equality's Employment Code Of Practice*. Contact 020 7939 0000; www.cre.gov.uk
- *The Equal Opportunities Commission provides a number of publications: Equal Opportunities: It's Your Business Too; Code Of Practice — Sex Discrimination; Code Of Practice On Equal Pay*. Contact 0845 601 5901; www.eoc.org.uk
- Equality Direct can offer more advice. Contact 0845 600 3444

Workers with disabilities

If you have 15 employees or more, you mustn't treat staff less favourably on the grounds of their disability unless you can justify such treatment. From October 2004 these rules apply to businesses of all sizes

Disability is defined as a physical or mental impairment which has

Advice in Northern Ireland

*Invest Northern Ireland
(028 9023 9090; www.investni.com)*

a substantial and long-term adverse effect on a person's ability to carry out normal day-to-day activities.

You must be prepared to make 'reasonable adjustments' for disabled people — changes that would assist them to work or continue to work for you.

Examples might include:

- making alterations to your premises
- giving some of the disabled person's duties to another member of staff
- buying special equipment
- changing the person's working hours

In some circumstances you may be justified in refusing such adjustments. This might include when the adjustment would:

- make no significant difference to the disabled person's ability to do the job
- not be practical
- cost more than you could afford, particularly when there is no financial help available to you
- contravene other legislation, such as health and safety rules

The way you recruit staff (including self-employed contractors) should not discriminate against people with a disability.

You may need to make reasonable adjustments to your recruitment process to make sure people with disabilities are not disadvantaged in their application. For example, this may mean holding an interview in

a room that is more accessible to a wheelchair user, removing a requirement that people phone in to discuss a vacancy or providing special equipment or a sign language interpreter for an interview.

You mustn't offer less favourable contractual terms — including those covering pay and benefits — to staff because they're disabled. Nor can you deny them access to promotion, transfers, training or any other schemes, facilities or services.

You mustn't dismiss staff on the grounds of disability or victimise anyone who makes a complaint of disability discrimination against you.

Next steps

- *See How To Recruit And Select Employees, page 58*
- *For more information read: The Disability Discrimination Act 1995: What Employers Need To Know. Contact the Disability Rights Commission: 08457 622 633; www.drc-gb.org*
- *The Employers' Forum on Disability is an organisation led by businesses which examines the issues of disability in the workplace and generates best-practice advice. Contact 020 7403 3020; www.employers-forum.co.uk*

Rights of part-time workers

Part-time workers are generally entitled to the same treatment as full-timers — from the same hourly rates of pay to access to promotion opportunities, pension schemes and training

You mustn't treat part-time workers less favourably than a comparable full-timer — anyone working for the same employer doing the same or broadly similar work. The rules cover employees, freelancers or casual workers, but not the genuinely self-employed. However, you may be able to treat a part-timer differently from a full-timer if you can show that it's necessary and appropriate to achieve a real business aim.

Part-time workers should get the same hourly rates of pay as comparable full-timers. Overtime rates must be the same, too — but legally you do not need to pay overtime rates until they have exceeded normal full-time hours.

In addition, part-time employees enjoy leave proportionate to the amount of days they work each week. So if a full-time employee who works five days a week is entitled to 20 days' annual leave, a part-timer who works two days a week is entitled to eight days.

You must also treat part-timers the same as full-timers when calculating entitlement to maternity and parental leave and

Check for changes in the law

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0845 600 9 006
www.businesslink.gov.uk/figures

calculating levels of sick pay and maternity pay.

You must give them the same access as full-time workers to promotion opportunities and pension schemes.

Part-timers mustn't be treated unfavourably if you're selecting positions for redundancy.

You shouldn't exclude people from training because they work part-time. Where possible, training should be organised when all staff can attend.

You mustn't victimise part-timers who've made a complaint of unfair treatment against you.

Next steps

- For more information read: *Part-Time Workers: The Law And Best Practice*. Contact www.dti.gov.uk/er

Right to belong to a trade union

You mustn't penalise employees for joining — or refusing to join — a trade union

You mustn't base recruitment decisions on whether or not an employee belongs to a trade union. Staff don't need your permission to belong to a union. You can't dismiss or threaten to dismiss someone for being a member.

You cannot take any other action to prevent, penalise or

deter an employee from belonging to a union — such as refusing to promote them. Nor can you make an employee join or stay in a union.

If you employ more than 20 people and refuse to recognise a union for bargaining purposes, you may be required to do so after a ballot or if the majority of the relevant workforce are union members.

Next steps

- For more information related to trade unions read: *Union Membership: Rights Of Members And Non-Members (PL871)*. Contact www.dti.gov.uk/er
Trade Union Recognition And Derecognition. Contact www.cac.gov.uk
Representation At Work (free online, £3.95 hard-copy). Contact 08702 42 90 90; www.acas.org.uk
Acas Codes of Practice: Disclosure Of Information To Trade Unions; Time Off For Trade Union Duties And Activities. Contact Acas Publications: 08702 42 90 90; www.acas.org.uk

When an employee is pregnant

A pregnant employee automatically qualifies for ordinary maternity leave. Those

with a minimum length of service can also take additional, unpaid leave if they wish

You mustn't dismiss a pregnant employee — or single her out for redundancy — for reasons connected with her pregnancy, childbirth or maternity leave. Nor must you treat her unfairly.

Regardless of the size of your business or the hours she works, a pregnant employee is entitled to a minimum standard of treatment — though you can be more generous if you wish.

You must give pregnant women paid time-off to attend antenatal care appointments which may include relaxation and parentcraft classes attended on the advice of a registered medical practitioner, midwife or health visitor.

All pregnant employees are entitled to at least 26 weeks' ordinary maternity leave, regardless of how long they have been working for you.

Many women will be entitled to receive statutory maternity pay during ordinary maternity leave (see Pay For Women On Maternity Leave below).

Ordinary maternity leave can start any time from the 11th week before the baby is due to be born.

A woman expecting a baby must notify you by the end of the 15th week before the expected week of childbirth:

- that she is pregnant
- when the expected week of childbirth is, confirmed with a medical certificate if you request one

“

We employ a lot of mothers. We're flexible with them and they're flexible with us. While we constantly have people on maternity leave, it's not a problem and, of course, we claim maternity pay back from the Government

”



Heather Gilchrist
Happitots Day Nursery Ltd
Edinburgh

- when she intends her maternity leave to start

You'll have to write to her within 28 days stating when you expect her to return to work if she takes her full maternity leave entitlement.

A pregnant woman keeps all her normal terms and conditions except wages or salary while she's on ordinary maternity leave. Her holiday entitlement will continue to build up as normal, for example.

You must allow a woman to return to her old job after taking ordinary maternity leave.

If her job becomes redundant during the maternity leave, you must offer any suitable alternative work available.

You must also 'seriously consider' any request by the employee to return to work part-time. Refusal to offer such an option may amount to indirect sex discrimination.

If a woman has worked for you for a period of at least 26 continuous weeks by the beginning of the 14th week before the baby is due to be born, she can also take up to 26 weeks' unpaid additional maternity leave running from the end of ordinary maternity leave.

Only some terms and conditions of employment remain during the unpaid additional leave period — relating to compensation in the event of redundancy, notice periods and discipline and grievance procedures, for example.

After additional maternity

leave, an employee is entitled to return to the same job. If this job has been made redundant, you must offer any suitable alternative available. But if her job has been made redundant and you've got five employees or fewer, you don't have to re-employ her if it wouldn't be practical to do so and there's no suitable alternative work. However, you may need to prove this to an employment tribunal.

If there's an unavoidable health or safety risk to a new or expectant mother or her baby, and you can't find other suitable work for her, you must suspend her on full pay.

It is illegal for new mothers to return to work within two weeks of giving birth (four weeks for factory workers).

Next steps

- For more information read: *Maternity Rights: A Guide For Employers And Employees (PL958)*; *Maternity Leave Changes: A Basic Summary (PL507)*; *Suspension From Work On Medical Or Maternity Grounds (PL705)*. Contact www.dti.gov.uk/er Flexible Working. Contact Acas Publications: 08702 42 90 90; www.acas.org.uk
- Online advice is available from www.tiger.gov.uk

How family friendly policies help my business

Christine McGrory is managing director of Kids Clubs Direct, which operates six out-of-school clubs and offers software programs and training to help similar childcare businesses run more effectively. The business was founded in 1996 and now employs 30

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Before launching Kids Clubs Direct I'd been working in a large business, a very legislatively guided environment. So when my business partner and I set up on our own one of the first things we did was take what was relevant for a small business and put policies and procedures in place.

If the regulations are there you're as well adopting them rather than creating something new, then finding out you're doing it wrong and having to change it at some later point.

We're a pretty flexible company. We look at staff's needs and the business's needs and work to see if the two can be aligned. For example, one of our staff recently said he and his wife



Christine: helping staff can help the business

were having to look again at their childcare arrangements, and his hours in the short-term might need to be adjusted.

We do have set hours for folk but if anything comes up like this and we can accommodate it then we do. I know it's now become law, but we've been happy to do this for a while anyway.

Another example of how we have gone further than what the law says is when we had a girl on staff who had been on maternity leave and wanted to extend it for three months.

The legislation says she could take additional unpaid maternity leave, but we're contributing toward her childcare costs to make sure she comes back to us.

We do go a wee bit further than is required by legislation — it's an investment in our business.

We're in a challenging position because we have child-to-staff ratios to work with and if people are off on long-term sick or maternity leave it can have a huge impact. You just have to remember you're dealing with individuals and that's always going to be fraught, but you need to recognise the legislation is there to protect both you and your employees. There's nothing we haven't been able to overcome.

Small businesses tend to think they can't afford family-friendly policies but it depends how future-driven a company is. That's why we introduced other things like training programmes for staff, in order that people commit to us. We've also



Phil Rider

looked at incentive ideas and have built that into our business plan.

We're an Investors in People company. That's a proven system that drives toward better business performance but at the same time helps you look after and reward your employees. For us it was a tried and tested system so we just adopted it.



Kids Clubs Direct Ltd
Motherwell
Tel 0845 0454214
www.kidsclubsdirect.com

Pay on maternity leave

Many pregnant women also have the right to receive a minimum level of pay during their ordinary maternity leave. You can claim most — or all — of this money back from the Government

Pregnant women and those who have just given birth are entitled to receive 26 weeks' statutory maternity pay during their ordinary maternity leave if they:

- have worked for you for a continuous period of at least 26 weeks into the 15th week before the week the baby is due; and
- earn more than the lower earnings limit for National Insurance contributions (£79 for the 2004–05 tax year)

The rate of statutory maternity pay for the first six weeks is 90 per cent of the woman's average weekly earnings.

For the remaining 20 weeks, a standard rate of statutory maternity pay is payable. From April 4, 2004 this rate is £102.80 a week or 90 per cent of the woman's average weekly earnings, whichever is the lower.

Statutory maternity pay is subject to income tax and National Insurance contributions in the same way as normal pay.

Employers recover statutory maternity pay from the income

You also need business advice

This guide covers regulations. You should also read a guide to general business advice — from market research to writing a business plan

tax and National Insurance contributions they pay to the Inland Revenue.

If your business's total annual National Insurance contributions are £45,000 or less, you can claim back from the Inland Revenue 100 per cent of statutory maternity pay plus a compensation payment of 4.5 per cent for payments made on or after April 6, 2004. Otherwise you can claim 92 per cent of the payments you make.

You must record maternity payments in the relevant sections of your P11, P14 and P35 tax forms from the Inland Revenue (see **Next steps** below).

You can also use form SMP2 to keep a record of statutory maternity payments if you wish. This is available from the Inland Revenue.

All records must be kept for three years.

Next steps

- *More information on maternity can be found in **Pay And Time Off Work For Parents (E15)**. Contact 0845 7 646 646; www.inlandrevenue.gov.uk/employers*
- *Inland Revenue Employers' Helpline: information and advice on statutory maternity pay. Contact 08457 143 143*
- *Inland Revenue Employers' Orderline: provides all relevant forms. Contact 0845 7 646 646; www.inlandrevenue.gov.uk/employers*

Paid paternity leave

Working fathers can take up to two weeks' paid leave following the birth of a baby. Their pay is set at the same level as statutory maternity pay

To qualify, an employee must:

- have or expect to have a responsibility for the child's upbringing
- be the child's biological father or the mother's husband or partner
- have worked continuously for you for at least 26 weeks by the end of the 15th week before the week the baby was due and have continued working for you until the birth
- (when paternity leave is being taken by an adoptive parent) have worked for you for at least 26 weeks by the week in which they were told they had been matched with a child, and have continued working for you until the child was placed with the adopter

You can ask an employee to fill in a self-certificating form as evidence of their entitlement to statutory paternity pay. You can use the Inland Revenue's form *Becoming A Parent* (SC3).

Fathers can take a block of either one or two whole weeks' leave — but not odd days.

Leave must be taken within 56 days of the child's birth or, if the child is born early, in the period

from the actual date of birth until 56 days after the expected week of birth.

Employees have the right to return to the same job after taking paternity leave. You must not dismiss an employee or treat him unfairly because he's taken paternity leave.

Working fathers are entitled to keep their normal terms and conditions of employment — except those relating to wages or salary — while taking paternity leave.

Most fathers are entitled to statutory paternity pay. From April 4, 2004 this rate is £102.80 or 90 per cent of the employee's average weekly earnings, whichever is lower.

Staff who earn less than the lower earnings limit for National Insurance contributions don't qualify for statutory paternity pay.

You can recover statutory paternity pay from the income tax and National Insurance contributions you pay to the Inland Revenue.

If your business's total annual National Insurance contributions are £45,000 or less, you can claim back all statutory paternity pay plus a compensation payment of 4.5 per cent on top.

Otherwise you can claim 92 per cent of the payments you make.

You should record paternity payments in the relevant sections of the P11, P14 and P35 tax forms available from the Inland Revenue; a number of Government explanatory booklets are also available

Advice in Scotland

Business Gateway in Lowlands
(0845 609 6611;
www.bgateway.com);
Highlands & Islands Enterprise
(01463 234171; www.hie.co.uk)

(see **Next steps** below).

All records must be kept for three years.

Next steps

- *The Acas helpline can offer advice. Contact 08457 47 47 47*
- *For more information on paid leave for fathers read: *Paternity Leave And Pay: A Basic Summary* (PL514); *Working Fathers: Rights To Paternity Leave And Pay* (PL517). Contact www.dti.gov.uk/er*
- *Online advice is available from www.tiger.gov.uk*
- *Paternity leave payment information is also available in *Pay And Time Off Work For Parents* (E15); *Statutory Paternity Pay Record Sheet* (SPP2); *Becoming A Parent: Self-Certificate* (SC3). Contact 0845 7 646 646; www.inlandrevenue.gov.uk/employers*
- *Inland Revenue Employers' Helpline: information and advice on statutory paternity pay. Contact 08457 143 143*
- *Inland Revenue Employers' Orderline provides all relevant forms. Contact 0845 7 646 646; www.inlandrevenue.gov.uk/*

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It's very important to keep up to date with employment law changes so I regularly check the Business Link, Department of Trade and Industry and Acas websites

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Sally Minns
The Old School House
Nursery
Market Weighton, E Riding

Paid leave for adoptive parents

Employees who are newly matched with a child for adoption by an adoption agency can take adoption leave if they have worked for you for at least 26 weeks. While they are off work, they are also entitled to a minimum level of statutory adoption pay

One member of a couple — or an individual — who adopts a child is entitled to adoption leave and pay. The other member of a couple may qualify for paternity leave and pay.

To qualify for adoption leave, an employee must have worked continuously for you for at least 26 weeks when they've been matched with a child by an approved adoption agency.

Employees must give you evidence from the adoption agency as proof of their entitlement to adoption leave and pay: for example, a letter on headed paper confirming the matching.

Adoptive parents are entitled to up to 26 weeks' ordinary adoption leave. This period of leave can start from the date of the child's placement or from up to 14 days beforehand.

You mustn't dismiss employees or treat them unfairly because they've taken adoption leave.

They are entitled to keep their normal terms and conditions of

employment — except those relating to wages or salary — throughout this period.

They are also entitled to statutory adoption pay. From April 4, 2004 this is the lower of £102.80 a week or 90 per cent of the employee's average weekly earnings — though you can pay more than this if you wish.

Employees with average weekly earnings below the lower earnings limit for National Insurance contributions don't qualify for statutory adoption pay. Employers can recover statutory adoption pay from the income tax and National Insurance contributions they pay to the Inland Revenue.

If your business's total annual National Insurance contributions are £45,000 or less, you can claim back all statutory adoption pay plus a compensation payment of 4.5 per cent on top.

Otherwise you can claim 92 per cent of the payments you make.

You must record statutory adoption payments in the relevant sections of your P11, P14 and P35 forms available from the Inland Revenue; a number of Government explanatory booklets are also available (see **Next steps** below).

All records must be kept for three years.

Parents who take ordinary adoption leave can also take 26 weeks' additional adoption leave. This is unpaid unless the employee's contract states otherwise.

Some terms and conditions of

employment remain during this period — relating to compensation in the event of redundancy and notice periods, for example.

Next steps

- See *Paid Paternity Leave*, page 76
- The Acas helpline can offer advice on adoption leave and pay for adoptive parents. Contact 08457 47 47 47
- For more information read: *Adoptive Parents: Rights To Leave And Pay — A Basic Summary (PL515)*. Contact www.dti.gov.uk/er
- Online advice on adoptive parents' rights is available from www.tiger.gov.uk
- Other related publications include:
Pay And Time Off Work For Adoptive Parents (E16);
Statutory Adoption Pay Record Sheet (SAP2). Contact 0845 7 646 646;
www.inlandrevenue.gov.uk/employers
- Inland Revenue Employers' Helpline: information and advice on statutory adoption pay. Contact 08457 143 143
- Inland Revenue Employers' Orderline provides all relevant forms. Contact 0845 7 646 646;
www.inlandrevenue.gov.uk/employers



Insurance premiums have gone up a lot and some businesses say they can't afford them. But it's important I know that if one of my staff or customers injure themselves on my premises, I'm covered for millions of pounds



John Wild
 Packet Bridge Fish and
 Chip Shop
 Carnforth, Lancs

Unpaid leave for parents

Parents can take extra, unpaid time off during the first few years of their children's lives. Generally, you agree with your employee how this parental leave is to be taken

Mothers and fathers have a right to take unpaid parental leave to look after young and disabled children.

Parents can take 13 weeks' unpaid parental leave for each child born or adopted on or after December 15, 1999. They can take leave until the child's fifth birthday or until five years after they have adopted a child. They must have completed a year's continuous service with you.

Regulations have also been introduced to help parents with children born before the original starting date of December 15, 1999. As a result, parents with children born between December 15, 1994 and December 14, 1999 can claim 13 weeks' unpaid leave until March 31, 2005. Parents of children adopted during this time have until this date or the child's 18th birthday, whichever is sooner.

In these pre-December 15, 1999 cases, parents must have completed one year's continuous service with an employer — not necessarily you — between December 15, 1998 and January 9, 2002.

Advice in Wales

Business Eye (08457 969798;
www.busesseye.org.uk)

Parents of disabled children born on or after December 15, 1994 can take 18 weeks' unpaid leave until the child's 18th birthday.

Employees remain employed while on parental leave. Some contractual terms and conditions — such as those relating to notice periods and redundancy — still apply.

You must allow staff returning from parental leave of four weeks or less to return to the same job.

With longer periods of leave, you must let them go back to the same job or, if that's impractical, to a job with similar or better terms and conditions.

You can agree how and when leave is to be taken with staff or their representatives, though there's a fallback scheme if there isn't an agreement. Under this, up to four weeks' leave can be taken in one year, in blocks of one week at a time.

You can postpone parental leave if you think an employee's absence would disrupt the business too much — perhaps when work is at a seasonal peak or when an employee's skills are essential to the business at a particular time. You must discuss the postponement with the employee and then give them written notice. The leave can be postponed for a maximum of six months.

Next steps

- The Acas helpline can offer advice. Contact 08457 47 47 47
- For more information read:

Parental Leave: A Short Guide For Employers And Employees (PL510);

Parental Leave: A Detailed Guide For Employers And Employees (PL509).

Contact www.dti.gov.uk/er

Employees and flexible working

Flexitime, job-sharing and term-time working — all are examples of the kind of flexible working patterns parents can request from you

You have to 'consider seriously' requests to work flexibly from parents of children under six or disabled children under 18. To make a request, parents must have worked continuously for you for at least 26 weeks. Where you may have a clear business reason why the work pattern cannot be accommodated, you may refuse the request.

Flexible working includes working patterns such as annualised hours, flexitime, job-sharing, shift-working and term-time working. Or it might simply be starting half-an-hour later and making up the time later in the day.

Employees have to make a written application to work flexibly. You are required to meet them within 28 days to discuss their request.

You then have 14 days to write to the employee with your

decision. Staff have a further 14 days to appeal if they disagree with it.

If you are covered by the Disability Discrimination Act and a disabled person needs to work different hours for a reason related to their disability, for example to avoid travelling on public transport during rush hour or because their disability means that they work better later in the day, you may be discriminating if you refuse this.

Next steps

- For more information read: *Flexible Working: The Right To Request And A Duty To Consider — Guidance For Employers And Employees (PL520)*. Contact www.dti.gov.uk/workingparents
- For guidance read: *Changing Patterns Of Work* (free online, £3.95 hard-copy). Acas Publications: 08702 42 90 90; www.acas.org.uk
- See *Workers With Disabilities*, page 70