



HOUSE OF COMMONS



MEMBERS OF PARLIAMENT AS EMPLOYERS

A Good Practice Guide

Issued by the Personnel Advice Service

Department of HR and Change

November 2012



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WELCOME

Being an employer and a Member of Parliament

Members of Parliament are individual employers who staff their offices much as any small business does. Under the standards and rules and within your budget ceiling, this gives you the ability to set up your office or offices in the way that works best for you. There is no single model. However, as for all small businesses, there are good and less good ways of organising and managing your office and the people you take on. Your own reputation and the reputation of the House can be affected by how well this is done.

The Parliamentary Staffing Expenditure, funded by the taxpayer, can amount to over £0.5 million per Member over the lifetime of a Parliament. This is a considerable sum of public money for which you are personally accountable. You need to ensure that it is used only for purposes that taxpayers would recognise as legitimate, and to keep records to be able to demonstrate this.

This guide is designed to help you to avoid poor employment practices that can lead to expensive outcomes. For example, reducing the turnover of your staff can save significant sums and improve efficiency; if you have to face an Employment Tribunal, it is not unusual for legal fees to be charged at around £1,000 a day, and for settlements to run into thousands of pounds.

This good practice guide is designed to help you

- Organise
- Run and
- Change your office as smoothly as possible.

Each page in the guide covers one topic, and sets out what you might aim for; practical information on ways of doing things; Members' frequently asked questions; and useful links to other sources of advice.

Please note that this good practice guide operates at the level of general principle and can be no substitute for specific personnel or legal advice in individual instances.

HOW THE PERSONNEL ADVICE SERVICE CAN HELP FURTHER

The Personnel Advice Service (PAS) of the House of Commons has been set up to help you with tailored advice on the particular circumstances within your office. PAS staff are qualified and experienced in advising on the issues you may face. They are fully versed in the rules relating to staff contracts, job types, and pay ranges. They can also suggest ways of applying good practice and avoiding risk, from an in-depth knowledge of the workings of a wide range of Members' offices. Decisions on what to do in any instance within the agreed parameters are, however, yours to make as the employer.

Help is available from PAS, which is part of the Department of HR and Change, via the Members' Centre in Portcullis House.

You can also find useful material on many of the matters covered here on the websites of Business Link (the Government's advice service for small and medium-sized businesses) www.businesslink.gov.uk and the Advisory Conciliation and Arbitration Service (ACAS) www.acas.org.uk, as well as the Independent Parliamentary Standards Authority (IPSA) www.parliamentarystandards.org.uk.

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The Personnel Advice Service (PAS) in the House of Commons will help you with tailored advice on the particular circumstance within your office. You can get in touch whenever you need to talk through any personnel issues you might be facing.

1.1

DECIDING YOUR STAFFING STRUCTURE

- Ensuring your office is fit for purpose
- Ensuring you have the right processes in place
- Staff numbers and types
- Family members and friends
- Connected parties
- Volunteers and unpaid interns

AIM ➔ To know your business needs and organise your office to meet them.

Ensuring your office is fit for purpose

Although Members' offices are small and the relationships within them are necessarily close, it is helpful to step back and give objective and considered thought to what you need from your office. It is your place of business and you will want to run it professionally and on sound business principles.

It is also particularly important to bear in mind that, unlike other small private sector employers, your staffing budget comes from the taxpayer and is therefore subject to high standards of accountability, value for money and probity.

It is your responsibility to ensure that employees paid from Staffing Expenditure are:

- Employed to meet a genuine need in supporting you, the Member, in performing your parliamentary duties
- Able and (if necessary) qualified to do the job
- Actually performing the job.

Within the financial limits set by IPSA, the agreed pay ranges and the requirements of law and propriety, you are free to employ those staff you require. You will know your overall Staffing Expenditure budget in April every year. However, it may be wise not to commit the whole of your annual budget immediately, to give yourself some flexibility later on. There are also other costs, such as employers' National Insurance (at around 13.8% of salary) the pension contribution (10%) and some other business expenses, to take into account.

The level of your own engagement with the running of your office will have a significant effect on its ability to support you. Your own time spent in managing the people in your office and thinking forward to head off any problems before they get out of hand is probably the most important factor in keeping the office efficient and happy.

Ensuring you have the right processes in place

You will need a few basic systems to keep track of the management of your employees. These include:

- Contract files for each employee
- A simple way of noting time worked and planned absence such as holidays
- A simple way of recording unplanned absences such as sickness
- Files for any performance, conduct, sickness, redundancy or dismissal cases
- Files to record your drawdown of all staffing-related expenditure and the purpose of each element of expenditure. Receipts should be kept.

If you take on an Office Manager, organising this would normally be part of their job.

Staff Numbers and Types

Most Members employ 3 or 4 people, although many run a perfectly efficient operation with 1 or 2. Part time working is not uncommon. Most Members' staff work in constituency offices, with about a third in Westminster.

The makeup of your offices will clearly depend on the needs of your work. A Member with a heavier-than-usual constituency caseload will need more casework support. More staff necessarily means more management. So, whilst having extra staff eases your workload, the time needed to manage them increases.

If you are a new Member, you may not know immediately how your office needs will pan out. The use of short-term contracts may give you flexibility until the pattern of work settles down.

There are 7 basic types of employee, for which there are model job descriptions provided by IPSA (see Section 1.3 and Template 1). Each requires particular skills. A good administrator might not make a good caseworker, and vice versa.

Administrative

- Office Manager
- Senior Secretary
- Junior Secretary

Caseworker

- Senior Caseworker
- Caseworker

Parliamentary

- Senior Parliamentary Assistant
- Parliamentary Assistant

It is not always easy for a busy Member to keep a close eye on his or her offices. So in recent times some Members with larger offices have chosen to employ one of the staff as an Office Manager, with responsibility for the well-being and output of the office, for running the basic office systems, and for reporting back to the Member. Choosing the right person for this role, someone who has both your trust and the confidence of the other employees, is clearly critical.

Family Members and Friends

It is not uncommon for Members to employ family members, party colleagues and friends (see also 'Connected Parties' below). Such arrangements can work well, so long as the person concerned works to the same standards of

professionalism as any other employee. However, you will also be aware of the risks in taking on employees with whom you also have personal relationships. If a work problem, such as a poor work rate, emerges in respect of someone who has always been a friend, it can be difficult to address. If things go badly wrong with the office relationship, it can affect the personal relationship, and vice versa. So it makes sense to reflect before promising employment in these, as in any other, circumstances. If you do go ahead, it will be up to you to set down clearly in the job description what work is expected and to ensure that it is indeed carried out. You will also need to register the employment as IPSA requires.

Connected Parties

The scheme rules published by IPSA stipulate that an MP will not receive funds from Staffing Expenditure for the salary of more than one connected party. A connected party is defined as:

- A) A spouse, civil partner or cohabiting partner of the Member or
- B) A parent, child, grandparent, grand-child, sibling, uncle, aunt, nephew, niece of the Member or of a spouse, civil partner, or cohabiting partner of the Member or
- C) An individual or organisation where there is a relationship as set out in the Companions Act 2006. There are exceptions for arrangements which were in place before the scheme Rules were set out on 29th March 2010; please refer to IPSA.

Volunteers and Unpaid Interns

If you take on volunteers or unpaid interns you do not do so as an employer because you do not manage their work in the normal way or pay them a salary, so the material in this Guide is not applicable. Care is needed to avoid organising your office in a way that could imply that there is a contractual employment relationship with a volunteer or unpaid intern. If you wish to pay travel and/or meal expenses to a volunteer/intern, you must complete a written agreement in accordance with the IPSA model, with the individual before you can claim these costs from official expenditure. The model agreement is on the IPSA website.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: If I employ a family member, party colleague or friend, do I need to invite others to apply too?

A: Whether you hold a competition for any post is a matter for you, but you will want to be sure that the family member, party colleague or friend is going to work to the same standards as any other employee. Having a competitive selection recruitment procedure ensures you have a wider field from which to select the best candidate.

Q: How can I use volunteers and unpaid interns efficiently if I cannot manage their time and output?

A: Although, as you are not the employer, you cannot manage their time and output, you can have conversations with any volunteer or unpaid intern about what they are proposing to do, and come to a mutual agreement with them.

Q: Can I share an employee with another Member?

A: Yes. You will need to set up two part-time contracts with the two employers. However, bear in mind that sharing staff can lead to conflicts between Members or their offices as each wants to draw on the time of the employee. In the event of under-performance or a disciplinary issue, handling the problem between two employers can also be complex and difficult for the employee.

USEFUL LINKS AND INFORMATION

Business Link on employing people: www.businesslink.gov.uk

IPSA website: www.parliamentarystandards.org.uk

1.2 RECRUITMENT – FACTORS TO NOTE

- The selection process
- Employment rights
- Foreign nationals

AIM ➔ To recruit within the law.

How to go about selection and making an appointment

Many Members will have years of experience in recruitment. Some may not. It is up to you as the employer to decide how to recruit. You do not, for example, have to use competitive selection for your posts. However, you will have a better chance of finding employees with the particular skills and experience you are looking for if you invite a number of applicants. If you do, you need to be able to demonstrate that you have been fair to all.

PAS has developed a series of tools, templates and standard letters to help with competitive selection processes. The main steps to take are as follows.

STEP ONE: Review the relevant job description, outlining the key work tasks and responsibilities. Template 1 in the Template Pack contains the model job descriptions and you can download these from the IPSA website. You may vary or amalgamate some of the content, provided that the format matches the IPSA model and that the job content is in general accordance with the model. Please note that IPSA will not implement the salary until a contract and job description have been lodged with IPSA.

Template 2 is a person specification in which you should note all the skills and experience that are essential for effective performance and those that are desirable. These will be your criteria for the selection.

STEP TWO: Draw up an advert; consider whether to advertise and whether to use an agency. You can use the selection criteria as a good shortcut to the text of your advert. Your advert must contain the following clause: “Upon appointment you will be required to comply with the Baseline Personnel Security Standard, undertaken by the Members’ Staff Verification Office (MSVO)”.

The best way of attracting candidates will depend on the job in question. Cost is a real consideration – an advert in the national press is very expensive, and not necessarily the best route to gain specialist or local skills. Agencies typically charge 15-20% of starting salary as their fee. Some Members post their vacancies on www.w4mp.org.uk and this website is used by many applicants. PAS can advise on the best source for your particular post.

STEP THREE: Acknowledge applications, shortlist up to six candidates for interview, and set up a file for each. The selection criteria are there to help you shortlist. It is sensible to keep your record of the short-listing decisions for 6 months, so you can demonstrate the objectivity of your process if there is any question of unfair discrimination. Template 3 for this is in the Template Pack. You should only shortlist candidates who meet all of the essential criteria for the post.

STEP FOUR: Arrange and carry out interviews. Usually allow an hour for each. (If you want the candidates to give a presentation or take tests, tell them well in advance). If you have an interview panel, ensure you have decided on the areas of questioning between you.

You will want to use open questions ('tell me about...?'), which allow the candidate to elaborate. It helps you to make the final decision if all the interviews have been based around the same key questions.

Personal questions about life style, marital status or childcare are not appropriate as they could be considered unfairly discriminatory.

This is a good time to check on each candidate's eligibility to work in the UK. If you discover that you need to apply for permission for the individual to work in the UK, you will want to speak to PAS about what that means for your selection process.

It is important to give the candidate a chance to ask you questions. If salary or benefits come up, be careful not to offer more than the ranges allow and that you can afford within the budget ceiling.

It helps to assess each candidate immediately after each interview. Use Template 4 in the Template Pack for this. This should help ensure you have a short, objective record of your judgements based on the material from the application and interview.

STEP FIVE: If there is a further interview stage between close candidates, use the same processes as for Step Four.

STEP SIX: Make the offer. You will want to make this subject to references; these should normally be completed before the person takes up the job. Taking up references needs care. It should only be done after the candidate has given permission, so that he or she can tell their current employer. See Template 5 for a Reference Request Form. In addition all employees must complete a Members' Staff Verification Questionnaire (MSVQ) as part of the Baseline Personnel Security Standard. The questionnaire can be downloaded from the IPSA website; links are given at the end of this section. You will need to give your new employee a contract in accordance with the IPSA model contract as soon as possible. The salary will not be paid until this, together with a job description and MSVQ is lodged with IPSA. Model contracts can be downloaded from the IPSA website.

STEP SEVEN: Once your offer has been accepted, contact those who have not been selected, preferably by letter or email. If you are asked for feedback, it is good to relate it to your objective assessment notes following the interview. If you speak to an unsuccessful candidate, you will want to

note down what was said and add it to the interview file.

In case of challenge, it is wise to keep all short-listing and candidate files for at least six months.

Employment rights

Members will be fully aware of the legal framework affecting recruitment and selection. It is set out below for convenience. There are two main types of legislation:

- To prevent unfair discrimination between classes of people
- To protect individual rights.

Discrimination

It is unlawful to treat candidates unfairly on grounds of sex, age, marital/civil partnership status, sexual orientation, gender reassignment, pregnancy or maternity, race (including colour, nationality, ethnicity or national origin); religion/belief, or physical or mental disability. These categories are known as "protected characteristics".

- 1) Discrimination may be direct or indirect: direct discrimination may also occur by association (because the person in question associates with someone who possesses a protected characteristic) or by perception (where others think an individual possesses a protected characteristic – even if they don't.) Indirect discrimination occurs when you have a condition, rule, policy or practice which applies to everyone but disadvantages people who share a protected characteristic. Indirect discrimination can be justified in certain circumstances if it is proportionate but you should never assume that this is so without taking professional advice. Please speak to PAS for further guidance if needed. You will need to ensure that your interview arrangements allow ease of access for a candidate with a disability and perhaps provide arrangements for a helper to accompany the candidate. You may also need to make other reasonable adjustments – seek PAS advice.

It is also unlawful to treat part-timers or employees on fixed-term contracts unfavourably. If a candidate wants to work part time you will need to consider whether your post can be organised to meet that wish. If it cannot you may need to explain the business reasons.

As the recruiter you must act fairly to all candidates and you may need to demonstrate that you have done so.

- 2) The Equality Act allows you to take positive action if you think that employees or applicants who share a particular protected characteristic suffer a disadvantage connected to that characteristic.

Individual Rights

There are also some basic rights enshrined in law that have a particular bearing on recruitment. For example, you must offer equal pay to women and men for equivalent work or work of equal value; you need to respect an employee's right to privacy and freedom of expression and you need to be aware that spent criminal convictions do not have to be declared to employers. Interviews should not be conducted in a way that distresses or alarms the person being interviewed.

Foreign Nationals

It is unlawful to employ anyone who does not have authorisation to work in the UK. If you did, you could face a fine of £10,000 for each illegal worker, and/or imprisonment. The employee will also face severe penalties. Potential employees will need to supply original documents at the time of recruitment to provide sufficient evidence of authorisation to work in the UK. This function is carried out by the Members' Staff Verification Office (MSVO). When you make a job offer, it is your responsibility to ensure that the prospective employee completes and returns an MSVO Questionnaire. This can be downloaded from the IPSA website.

Where there is doubt, please consult the Personnel Advice Service (PAS) who can help.

Note: The rules change fairly regularly, so if in any doubt, it is worth checking the Home Office websites www.ukvisas.gov.uk and www.ukba.homeoffice.gov.uk

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: Do I have to hold an open competition for the posts I am filling?

A: No. It is up to you as an employer how you recruit. However, you will have a better chance of finding more skilled and experienced employees if you invite a number of applicants. If you do so, you need to be able to demonstrate that you have been fair to all.

Q: If I hold an open competition for a post, can I then decide to appoint someone who has not applied through that process?

A: Having held a competition it would be illogical to appoint someone who had not been assessed against the wider field. If you did so, you could open yourself to the risk of challenge on grounds of unfair discrimination before an Employment Tribunal.

Q: Do I determine the salary to offer?

A: There are agreed salary ranges provided by IPSA for each type of post. These can be downloaded from the IPSA website. You need to start new employees at the bottom of the range, unless they have particular skills or experience to warrant a salary higher up the range.

Q: If I want to take on a disabled candidate needing changes to my office, what allowances are available?

A: You should make a written case to IPSA applying for Disability Assistance.

Q: Can I contact candidates by e-mail rather than letter?

A: Yes. Be aware that any information or offer conveyed by e-mail, or telephone, has the same weight as if in a letter.

Q: What if I want to take on a foreign national who does not have an ongoing entitlement to work in the UK?

A: It may still be possible, but the process of getting permission to work in the UK is rigorous and subject to a points-based system.

Q: Can I ask candidates for a photograph of themselves?

A: That could be taken as an intention to discriminate unfairly, and is therefore not advisable.

Q: How should I go about recruitment in the run up to a General Election?

A: The main thing is to be open with the candidates about the uncertainty of their future employment, because if you lose your seat, they lose their employer. The arrangements for staff redundancy as a result of a General Election are set out in Section 3.2.

USEFUL LINKS AND INFORMATION

IPSA on payroll, employment contract and job description: www.parliamentarystandards.org.uk

MSVO on Baseline Personnel security Standards and employment of Foreign Nationals:

intranet: <http://intranet.parliament.uk/access-security/MSVO>

Business link on employing people: www.businesslink.gov.uk

ACAS on recruitment best practice: www.acas.org.uk

Home Office on authorisation to work:

www.ukvisas.gov.uk

www.ukba.homeoffice.gov.uk

1.3

NEGOTIATING CONTRACTS AND PAY AND SETTING EXPECTATIONS

- Describing your posts
- Types of contract
- Setting pay
- Standards of behaviour you expect

AIM ➔ To ensure your staff are aware of their duties and the standards expected of them and to match pay to skills and outputs.

Describing your posts

Every employee needs a job description so that you can be sure that you are paying them fairly for what they do. If you have set out what you expect, it is easier to make decisions on future performance. This need not be an elaborate exercise. Standard descriptions of the seven basic types of post are available for you to draw on in the Template Pack. The job description is an integral part of your contract with your employees.

Types of contract

To help Members as employers there are model contracts of employment that have to be used for staff who are paid from parliamentary allowances. Three standard contracts are available: for permanent full/part-time workers; fixed term workers and casual staff.

A contract and job description, together with the MSVQ, should be sent to the employee, and signed copies should be lodged with IPSA as soon as possible; we suggest that you send these documents to the employee as soon as the verbal job offer is accepted. This is important because without a copy of the contract, job description and MSVQ, IPSA will not be able to start paying your employee and make his or her pension and NI contributions. (By law you must issue the employee with a contract within 8 weeks of their start date).

The standard contracts include some elements specific to the post:

- Your name as the employer
- The constituency
- The place of work (address)
- Employee's name
- Job title and job description (see above)
- Start date
- End date (if not a permanent post)
- Annual pay (pro-rata for part-timers; adjusted for term-timers)
- Hours (the standard full time week is 37.5 hours net of lunch breaks. However, from January 2009 flexibility was introduced to allow a full-time working week of up to 42 hours. Please see FAQ's below.) Part timers and term timers also need their hours set out.
- Holiday leave (pro rata for part-timers; adjusted for term-timers).

They also include some general elements

- Duty of confidentiality
- Right to trade union membership.

- Probationary period
- Disciplinary and grievance processes
- Overtime/additional hours
- Maternity/paternity/adoption/caring leave
- Sickness absence and pay
- Notice periods
- Pension
- Employee rights to time off for public duties.

Some matters are not explicitly set out in individual contracts but nonetheless have contractual force. For example, your right not to be robbed or defrauded; an employee's right not to be subjected to unfair discrimination, bullying or harassment; your expectation that the employee will abide by the rules, customs and practice of the House, and so on.

Some elements in contracts can be varied at a later date by agreement with the employee. Please see Section 2.1.

Setting Pay

Your staff budget is paid from your Staffing Expenditure, which is notified to you in March each year. More details on the operation of the Staffing Expenditure are in the IPSA Expenses Scheme Booklet and on the IPSA website.

There are set pay ranges for each of the seven basic types of post, based on full-time work. These ranges are reviewed (but not necessarily increased) every year. The ranges should give you enough flexibility to reflect the job weight/responsibility level, skills and experience for each post. Before setting each individual's pay within the range you will want to consider:

AFFORDABILITY – will it stretch your budget too far? Have you taken account of the 13.8% employer's National Insurance contribution, 10% pension contributions and possible overtime?

VALUE – are you paying too much for the work to be done? You must be able to justify the salary level you have set against the skills and experience of the employee. It is important not to open yourself to the risk of a charge of favouritism.

ROOM FOR GROWTH – starters will expect to be towards the bottom of the scale unless they have good and relevant experience

LOCAL COMPARATORS – pay rates vary across the country reflecting local labour markets and differing living expenses

FAIRNESS – are you treating your staff equally for equal work and equal experience?

Pay Ranges 2012 - 2013

London Area		
Post	£ pa full time	£ pa full time
Administrative	Starting Salary	Ceiling
Office Manager	30,000	40,000
Senior secretary	21,000	30,000
Junior Secretary	17,000	24,000
Casework		
Senior Case Worker	23,000	31,000
Case Worker	19,000	28,000
Parliamentary		
Senior Parliamentary Assistant	33,000	42,000
Parliamentary Assistant	23,000	33,000

National (excluding London Area)		
Post	£ pa full time	£ pa full time
Administrative	Starting Salary	Ceiling
Office Manager	26,000	37,000
Senior secretary	18,000	27,000
Junior Secretary	15,000	22,000
Casework		
Senior Case Worker	19,000	28,000
Case Worker	16,000	25,000
Parliamentary		
Senior Parliamentary Assistant	30,000	39,000
Parliamentary Assistant	20,000	30,000

The starting pay rates quoted above are generally recommended so that Members treat new staff on a similar basis. They reflect the employment market for posts with broadly similar responsibilities. There may be occasions on which a new employee needs to start higher up the range because of their particular skills, qualifications or experience. If so, you will naturally need to be able to justify your decision if asked.

Standard of behaviour you expect

Set out the basic standards of behaviour you expect from the outset, probably in your introductory discussions with a new member of staff. This prevents later misunderstandings. You may want to set them out in writing too. PAS will be able to help. Matters to consider covering might include:

CONFIDENTIALITY AND INTEGRITY – You expect to be able to trust in the discretion of your staff, who may be dealing with sensitive matters of policy or constituency

business. Please see the separate booklet on the Act and its operation in your office.

PROFESSIONALISM AND TEAM WORKING – You want a happy and productive office. Any problems need to be brought to you quickly and not allowed to escalate.

USE OF OFFICE RESOURCES – These are provided for parliamentary use, not personal or party political use.

ENVIRONMENTAL AND SUSTAINABILITY ISSUES – You will want to encourage your staff to reduce the carbon footprint of your office by switching off lights, recycling paper and so on.

PERSONAL USE OF THE INTERNET – Using the internet for personal business takes the employee's time, so you may want to restrict it to lunch times or other set times. If you have an Office Manager, he or she can keep an eye on this. Access to internet sites may also be monitored in the House of Commons system to check for illegal or undesirable internet use. You need to tell your staff this.

FITNESS FOR WORK – To promote office efficiency and personal health, you may want to set a clear policy, for example in relation to alcohol.

SMOKING – This is now illegal in public places, including your offices, but you may want to tell a smoker where he or she can smoke during the working day.

You may have other standards of behaviour that are important to the smooth running of your particular office. This could include behaviour outside work or the conduct of your staff towards others, including constituents and those employed across the Parliamentary Estate, as this could affect your reputation as a Member of Parliament.

Every new employee, no matter how experienced, needs to know what you want of them. Taking time for induction will promote a faster learning process.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: Can I set a probationary period? What does it entail?

A: Yes. The probationary period is 6 months. During this time you will want to assess the employee's performance and behaviour and give feedback. Praising good work is essential. If you are dissatisfied, you need to see if you can resolve the matter informally. The probationary period may only be extended in exceptional circumstances.

In the event that performance remains unacceptable, you will need to follow the process set out in Section 2.5. "What to do if things go wrong". If a decision to dismiss were the outcome, you should do this in accordance with the process set out in Section 3.2. If you are thinking of taking this step, you should contact PAS for advice.

Q: Does every employee have to have a contract? What about family members? What about interns?

A: Yes. There must be a contract for every paid employee, because without it there is no legal basis on which to pay them, to take them into the pension scheme, to assess performance/ timekeeping and so on, or, if you need to, to end the employment. IPSA will not pay the employee unless a contract is in place.

Family members need to be given a clear sense of what your office expects from them and what are their entitlements to time off etc. This is done, as with any employee, by using the model contract.

Paid interns are employees and will be under contract. Unpaid interns are not employees, and will not be under contract. However, you can discuss with them what they are offering your office, for clarity, and come to a mutual arrangement. MPs may have a signed agreement in accordance with the IPSA model agreement, with any unsalaried interns or volunteers and this must be submitted to IPSA before claims can be made for travel or meals. Incidental expenses are limited to reasonable travel and food, and non-alcoholic beverages.

Q: How should I decide what sort of contract to offer?

A: If you need flexibility because, for example, you are unsure of future needs, then offering a shorter fixed-term contract, which can be renewed later, might make sense. If your office needs are fairly clear, then you can offer more permanent arrangements. To meet the needs of part timers, you might need to take on two people for a job share. This can be very effective, providing that the staff communicate well.

The IPSA model contracts and pay ranges have to be used for all staff. The only exclusions are those employees who were employed before May 6 2010 and whose employing MP notified them as "exceptions" to IPSA by 30 June 2010.

Q: Is it acceptable to appoint someone on a succession of fixed-term contracts?

A: Fixed term contracts are generally used when you have a specific task to be undertaken, to cover absence such as sickness and maternity leave, or if you are unsure of your future needs. If the employment lasts for 4 years, on renewal the employee's status automatically becomes permanent and a permanent contract should be issued unless you have a justification for keeping the employee on a fixed term contract.

Q: Why are there two lengths of standard week? Should all my staff work on the same basis?

A: In order to give you more flexibility as an employer, the model contract provides for the following:

Hours: These can be varied from 37.5 to up to 42 per week to allow you to reflect working patterns

Annual Holiday: This can be flexed to allow you to offer up to 30 days a year rather than 20 rising to 25

Notice Period: The standard notice period on the employee's side is four weeks but you have the choice to stipulate eight weeks if you prefer when you offer the contract.

You can mix and match from these flexibilities but to avoid unfair discrimination you must be careful to apply the same terms to new individuals appointed to do the same jobs at the same responsibility levels in the same location. You cannot normally impose new terms upon existing staff without their agreement.

You will want to think carefully about whether to increase the employer's notice period above four weeks, because this sets the notice period which must be given to an employee if you decide to end the contract.

There are benefits if all your staff work to the same conditions, but renegotiating with your existing staff, whose existing contractual arrangements cannot be changed without agreement, could be time consuming and disruptive. The key to your decision will be the business needs of your office.

Q: If I take on someone who needs time off for public duties, should that be set out in the contract?

A: The IPSA model contract covers the issue in principle. However, each case is different and to prevent later misunderstanding it is a good idea to ensure there is a clear written understanding about how much time off can be taken for public duties (while recognising that it may be difficult to anticipate all eventualities) and whether or not it will be paid. This should be part of the contract discussion and should be set out in a separate formal letter with a review date. For more detail see Section 2.3.

Q: Can I employ someone to work from home?

A: Yes, if you think that the work is suitable, that the employee can be managed at a distance and, most importantly, that security and confidentiality will not be at risk. You remain responsible for health and safety and of IT and other equipment.

USEFUL LINKS AND INFORMATION

Business Link on getting started, paperwork, setting rules, the environment and efficiency and so on: www.businesslink.gov.uk

ACAS on induction, record keeping etc: www.acas.org.uk

IPSA website: www.parliamentarystandards.org.uk

The IPSA Expenses Scheme Booklet

2.1 REVIEWING CONTRACTS & PAY

- Reviewing the needs of your office
- Annual pay reviews

AIM ➔ To adjust your requirements of and rewards to your staff in order to improve the efficiency of your office.

Reviewing the needs of your office

From time to time you may need to change the make-up of your office to ensure it stays effective. Perhaps new responsibilities mean that you need more research support, for example, or your constituency caseload increases. Whether or not there is an external reason for change, it makes sense to have a review of your office needs every two or three years. In many cases this will confirm that the office structure and working patterns are fit for purpose. In others, you may want to alter the balance between specialisms, or between full and part-time working, or between Westminster and your constituency.

In order to restructure you will need to:

- Change job content and adjust the salary if relevant, or
- Take on new staff under new conditions when people leave, or
- Face the need to delete jobs, which may lead to redundancies, or
- A combination of these.

It is rarely easy to re-cast jobs in ways that demand more of the employee. However, your staff will be aware of the needs of the office, and in general will want to be co-operative. The best practice is to hold individual meetings to discuss the office needs openly, propose your solution, and listen to anything the employee has to say. He or she may even have another workable solution to the problem. A balanced package of changes may provide a way for you to negotiate new terms. All costs would of course have to be met from your Staffing Expenditure.

Negotiating a reduction in hours can be difficult. If you are turning a full-time post into a part-time one, the incumbent might be unable to afford the salary drop unless he or she can find a complementary job. In this case, you may have no option but to make the person redundant, as there is no post to offer them. For handling redundancy please see Section 3.2.

The use of dismissal and re-engagement to achieve change is not recommended; it may leave you open to claims of unfair dismissal or breach of contract.

Annual pay reviews

IPSA will review Staffing Expenditure annually, taking account of available funding, and will also review the salary ranges. This enables you to provide your staff with an increase in pay if you wish to, provided that they have been performing satisfactorily, that IPSA agrees and that this can be met from your Staffing Expenditure.

You can decide the increase to be applied to each salary and

it need not be the same percentage applied to the pay ranges; however the increase must not exceed 10% of the base salary. An employee's salary cannot exceed the maximum of their individual pay range.

Your contract with your staff requires you to carry out an annual review of their pay; however, there is no obligation to increase the salary. Any increases will not happen automatically so, in March when you have decided whether an increase is to be applied to the salary of each individual employee, please consult IPSA before giving any undertakings to your staff.

IPSA is responsible for maintaining the rules on pay and the pay ranges. IPSA may ask you to supply the details if particularly large pay rises are asked to be applied.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: How do I deal with poor performance?

A: You need first to analyse the reason for poor performance and take action to improve it. If an employee continues to under perform and there is no prospect of improvement, there are steps to go through before you consider dismissal. Please see Sections 2.4, 2.5 and 3.2.

Q: Can I avoid the annual pay review if I think I am up to my budget ceiling?

A: No. You are contractually bound to conduct it annually at the end of the financial year. You need to decide what you are going to do on each person's pay, and tell them your decision, even if the decision is that you do not intend to increase their pay that year.

Q: If I want to take advantage of the new model contract, should I renegotiate my old contracts one by one or as a batch?

A: In general we would not recommend renegotiating existing contracts. However, if you decide to do so, contracts have to be renegotiated individually with each member of staff. It makes sense, though, to review all the contracts in your office at the same time so that you can:

- Be clear that your individual discussions will reflect the overall needs of the office
- Make sure that you do not inadvertently favour one member of staff above another in their terms and conditions in a way which might be unfairly discriminatory
- Handle all your staff in the same way at the same time, to ensure consistency.

Q: The contract flexibilities on hours and holidays give a range of options. How can I use these flexibilities in a way that suits the needs of the office and the different aspirations of my staff without running into the danger of unfair discrimination?

A: You need:

- To have a clear rationale for your decisions based on business need, and
- To be even-handed in determining the overall package (that is the balance between pay, holidays and hours) for members of staff doing the same level and type of work in the same location (for example, junior case workers in your constituency office; or senior parliamentary assistants at Westminster and so on). Take care to treat part-timers equally too, on a pro-rata basis. Providing you can show that you have done so, the individual packages do not have to be identical.

Q: Can I keep existing staff on old contracts and bring new people in on new conditions?

A: Yes. Even for the same type of work this would not be judged unfair because of pre-existing rights.

USEFUL LINKS AND INFORMATION

IPSA: www.parliamentarystandards.org.uk

Business Link on getting started, doing the paperwork, setting the rules, the environment and efficiency and so on: www.businesslink.gov.uk

2.2

IMPROVING PERFORMANCE AND GIVING FEEDBACK

- Why, when and how
- Training and development
- Handling underperformance
- Keep records

AIM ➔ To recognise that people work better when they know how you think they are doing.

Why, when and how

Why

The purpose of performance feedback is:

- To give constructive comments on the highs and lows of past performance
- To talk through what needs to be achieved in the next period
- To think with the employee about learning needs for the next period
- To discuss more generally the future aspirations of the employee.

When

It is good to feed back your views to your employees on a fairly regular basis in the normal course of the year's work (for example at the end of a particular project, or after a quarter's casework). You will find that a productive dialogue can become established and focused on your office needs.

Regular feedback also gives you the chance to pick up shortcomings before they become entrenched, and to address poor performance. Any criticism you have should not come as a surprise at the end of the year.

It makes sense also to have a more formal discussion at least once a year with each member of staff, particularly if you are looking to improve the output of your office, or to encourage better quality work.

How

The feedback session need not be long or elaborate. Template 6, with the main performance factors you might consider, is in the Template Pack.

Make a clear time and place for the discussion. The feedback is important to the employee, and how you go about it can affect your relationship with him or her. A hurried corridor chat will indicate that you really do not care.

People might be apprehensive about being appraised. Even the best of performers are wary of criticism.

Feedback works best, therefore, if you:

- Prepare in advance by giving yourself time to think about the employee and check over the last year's record
- Conduct the appraisal as a mutual conversation, not a top-down critique
- Focus on the tasks which were or were not achieved, not on the personality of the employee
- Start from the requirements of the job and the tasks set at last year's appraisal
- Encourage the employee to analyse their own performance

- Set out clearly the tasks for the next year and invite the employee's views on their feasibility, being prepared to adapt your starting point
- Ask about what training or other experience would enhance the employee's ability to do the job and to develop.

Remember – praise is a great motivator!

It helps to organise your appraisal around performance factors, which you can grade if you wish in order to arrive at a fair composite assessment of a person's overall performance.

The main ones are listed below:

- **KNOWLEDGE** – Is it relevant and up to date?
- **SKILLS** – Are they of a high level and up to date?
- **QUALITY AND OUTPUT OF WORK** – Is it accurate, timely and well presented?
- **SELF-ORGANISATION** – Is he or she punctual? Does he or she meet deadlines?
- **COMMITMENT** – Is he or she enthusiastic, motivated, co-operative and willing to take initiative?
- **COMMUNICATION** – Does he or she keep others in the loop, contribute at meetings, write good reports, present well? Is he or she persuasive?
- **PROBLEM SOLVING** – Does he or she identify problems and come up with workable solutions?
- **TEAMWORK** – Does he or she have good working relationships and help the office atmosphere?
- **STANDARDS OF BEHAVIOUR** – Are there any matters to pick up in relation to your stated expectations?

Learning and development

As the demands of work change and technology advances, your team will need to refresh its skills. The Department of HR and Change, under the Parliamentary Learning and Development initiative, have arranged free courses for your employees, at venues in London and around the country. These cover IT applications (Excel, Word, Publisher) effective writing skills, dealing with the media, assertive communications and many other skills. More details can be found on www.w4mp.org or call 0870 400 1025.

Handling underperformance

There may be difficult issues of poor performance to address. These should not come as a surprise to the employee, provided that you have given feedback as they have arisen.

People who are under performing may do so for a number of reasons:

- They do not know precisely what you want
- They are not experienced or trained well enough to do the job
- They are unwell in some way or disabled
- They lack the required level of attentiveness or motivation.

If you understand more about the issue and listen to the employee's views on what is getting in the way, there may be ways of resolving the underlying problem. The Personnel Advice Service can help. If in due course you have done what you can to support the employee through training and supervision and there is still no improvement, then you may need to start the formal process that could ultimately lead to dismissal – see Section 2.5. If illness is the problem, please see Section 2.4.

Keeping records

A simple note of the performance discussion, using the template if you want, should be placed on the employee's file. It is good practice to give a copy to the employee (under the Data Protection Act he or she will have access to it in any case).

This note will be useful to you in:

- Providing the material for the next year's appraisal
- Underpinning any action on poor performance.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: What is the point of holding an annual feedback session for established employees who are doing a perfectly good job? It just unsettles them.

A: You can adjust the length and complexity of the feedback to the circumstances. A conversation outside the normal work context with an established member of staff can allow that person to bring up matters such as ways of improving the efficiency of your office, or his or her future aspirations and plans, which you need to know, and which might not come up in the course of normal business.

Q: Does feedback have to be linked to the annual pay review?

A: Not necessarily, but it can be useful in helping you to decide whether to award a pay increase and if so, how much.

Q: What about new employees? They will not have done enough work to warrant a feedback session.

A: The nature of the feedback will be different. New employees usually need more rather than less interaction because they are learning the job; it is particularly important to monitor performance during probation.

Q: What if the person is coming to the end of his or her contract?

A: The feedback may not be needed. You may for example, want to hear any thoughts the person has on your office, thank them for their work and give them a sense of how you will respond to any future requests for references.

USEFUL LINKS AND INFORMATION

Business Link on improving staff performance and motivation:
www.businesslink.gov.uk

ACAS on appraisal schemes: www.acas.org.uk

Working for an MP website: www.w4mp.org

2.3 HELPING THE OFFICE WORK SMOOTHLY

- Providing flexibility for special personal circumstances
- Working from home
- Agreeing regular absences for public duties
- Ensuring health and safety in your office
- Employers' and Public Liability Insurance
- Abuse of alcohol and drugs
- Work-related stress, harassment and conflict
- Violent or abusive constituents

AIM ➔ To reduce the risk of disruptions to business, and to manage such disruptions well when they do occur.

Providing flexibility for special personal circumstances

You may get requests for time off for a range of reasons. Some of these will be statutory rights.

The most common are listed below:

- Work-related reasons, such as for health and safety training; for trade union duties; for re-training in the case of redundancy; or to accompany a colleague to a disciplinary or grievance hearing (see Section 2.5). This time off is usually paid.
- Parental reasons, such as maternity and paternity leave; for ante-natal and parentcraft classes, or for adoption leave. Much of this time off is paid. Mothers and fathers also have the right to 13 weeks' unpaid parental leave per child (18 weeks for a disabled child) that can be taken up to the child's 5th birthday (18th for a disabled child.) PAS can provide details of entitlements. You will be reimbursed for all statutory pay for maternity and paternity leave. You will probably need to appoint someone to cover the job when an employee goes on maternity or adoption leave. You should e-mail or write to IPSA in these circumstances, in order to claim the costs of the cover from contingency.
- Emergencies such as the injury or sudden illness of a dependant; the breakdown of care arrangements; or the need to arrange or attend the funeral of a dependant. It is for you to decide what reasonable time off in these circumstances is. This time off is usually paid.
- Jury service. You have the right to ask your staff to decline or defer jury service if you believe the office will be seriously harmed by their absence. However, few Members would wish to hold back an employee from such an essential public duty. People on jury service can claim an allowance for loss of earnings. This may be lower than the salary level. Whether to make up the pay for this time off is at your discretion; please contact PAS for advice.
- Public service. This is detailed below.

The most common non-statutory requests include doctor's and dentist's appointments; essential household maintenance; and religious observance. It makes sense to have decided in advance what your approach to such requests will be, how you will record it, which requests you will grant and whether you will agree to paid or unpaid time off.

Working from home

An employee may ask to work from home on a permanent basis. It is up to the employee to give you the information you need in order to judge whether the proposal meets

business, security and health and safety requirements.

You will also need ways of assessing productivity and ensuring that it does not suffer. If you agree, you can vary the contract to show the new place of work. Please contact PAS for more detailed advice.

Agreeing regular absences for public duties

It is not uncommon for Members to employ people who are:

- Members of a local authority, police authority, local education authority, educational governing body, health authority or primary care trust
- Members of a statutory tribunal, environmental agency or board of prison visitor, or
- Justices of the Peace.

These employees are entitled to reasonable unpaid time off to carry out these duties, but this needs to be agreed with you first. Unless it takes place outside the office's normal working hours, this can be a significant disruption to the smooth working and productivity of your office.

Such time off should in most cases be capable of some quantification in advance and you will want to come to a clear agreement with the employee on the likely effect on his or her working patterns. If possible this conversation should take place before the employment starts, and it is advisable to put the parameters in writing, with a review date. It makes sense also to review how the arrangements are working as part of your annual feedback session with the employee.

Ensuring Health and Safety in your office

As an employer, you have to assess risks at work, and if you have more than five employees in total, whether they work in Westminster or your constituency, you need to set down the risks you see and have a written policy. The risk assessment need not be elaborate but it must be done; generic risk assessments covering work on the parliamentary estate are available on the Safety, Health and Wellbeing Service's intranet pages and can be adapted by Members to use in their constituency offices.

The Palace of Westminster risk assessments are very comprehensive, but if you adapt them to your constituency workplace you will have to make sure that you adequately assess things such as:

- Asbestos, if relevant
- Handling chemicals such as cleaning materials
- Climbing ladders

- Repetitive limb movement and use of computer screens
- Electrical equipment
- Fire prevention.

It should also cover:

- Stress at work that could lead to ill health
- Protection of staff against violent or abusive constituents – local police can help with advice on the safety of your constituency office and you can claim the cost of measures to enhance office security, subject to IPSA approval.

In your office in the House of Commons, you are responsible for the Health and Safety management of your employees whilst they are working in Parliament; you might need to remind your staff of this. You should make sure that the parliamentary risk assessments available on the Intranet adequately cover the work of your employees – you may need to amend them to suit your circumstances. Additionally, you should observe your responsibilities described in the House of Commons Safety Policy; you and your staff should participate in relevant training; follow safe work practices; report accidents, incidents and near misses (to the Safety, Health and Wellbeing Service); and report unsafe conditions and hazards (to the Office Keeper responsible for the area in which the office is situated). All the information you need to know is on the website.

There are templates available on the Safety, Health and Wellbeing intranet site which will help you with record keeping and will give you further guidance on key issues which may affect you and your staff.

Employers' and Public Liability Insurance

An Employers' and Public Liability Policy is managed by IPSA, with the annual premium paid centrally.

Members are insured against any claim arising from the death or bodily injury of employees arising from their employment. This cover extends to students, temporary staff, interns and volunteers.

Additionally, Members are insured against claims in respect of accidental bodily injury or death sustained by third parties, or damage to their property.

IPSA will be able to provide additional information in respect of this policy.

Abuse of alcohol and drugs

Alcohol and drug abuse can undermine the performance of your office, through absence, unprofessional behaviour or careless work.

If you see that an employee is having problems – perhaps

because he or she arrives at work under the influence of alcohol or drugs, has frequent hangovers, takes a lot of sick leave, acts improperly, is erratic, shows mood swings or is the subject of complaints – then have a confidential word with him or her first to try and find out what is behind the problem.

It is best to be supportive. You might refer the person to his or her GP, an occupational health adviser or to other counselling services. PAS can help with suggestions.

If the person is a danger to others or to themselves, or does not improve his or her performance at work, then you will need to take firmer disciplinary action. (See Section 2.5).

Work-related stress, harassment and conflict

Persecution and demeaning behaviour can occur in organisations of all sizes. It is easy to recognise gross instances of bullying, but more difficult when aggressive or intimidating behaviour is glossed over with humour or is dismissed as unintentional.

Tackle unacceptable behaviour between colleagues as soon as you become aware of it. Otherwise it can lead to stress, ill-health and grievance, as well as undermining the happy and productive atmosphere in which people work best. It can also lead to good people leaving and increased rates of staff turnover.

Harassment is defined as ‘unwanted conduct that violates people’s dignity or creates an intimidating, hostile, degrading, humiliating or offensive environment’. If remarks are based on age, race, gender, disability, religion/belief, sexual orientation, pregnancy, maternity, gender reassignment or marriage and civil partnerships they might also be constitute unfair discrimination.

Your staff will look to you to set the tone. Remember that you have a responsibility to ensure that the zero-tolerance approach to bullying and harassment extends to the interactions your staff have not just with constituency colleagues, but with anyone they meet on parliamentary business. This may include suppliers, contractors, House of Commons staff or constituents. It is important that your own behaviour sets a good example. If you make it clear that you will not tolerate harassment or bullying, and you are seen to discuss quickly and seriously with those concerned any instances you hear about, that will do much to establish healthy norms of behaviour in the office.

In more serious cases, counselling or psychotherapy may be needed either to help change the behaviour of the bully or to support the victim. If there is a grievance or complaint, mediation between employees is also a useful informal

option. PAS can help with advice on where to go.

If supportive and informal approaches do not result in change, then you may need to move to disciplinary action. However, please talk to PAS first. (See Section 2.5).

Violent or abusive constituents

Even if incidents are few and far between, your staff should be protected against violent or abusive constituents. You need to have a contingency plan which you have discussed with your staff so that everyone in the office knows how to act to safeguard his or her own safety. To help devise this contingency plan, you will want to:

- Take advice from your local police
- Discuss the issues with your staff
- Identify the people at risk – usually those dealing with the public, handling difficult client groups or working in isolation, particularly late at night
- Set up preventative measures – alarm systems (see below), taxis home late at night etc
- Ensure everyone at risk has the training they need to deal with violence or abuse. The Members’ Staff Training Administrator in the Department of HR and Change can provide access to this
- Review the arrangements at least annually.

If the police so advise, you may also need to make physical changes to your constituency office, including perhaps:

- Secure entry systems
- Personal or push button alarms
- Improved lighting
- CCTV
- A communications link with the local police station.

If you want to do this you need to ask your local crime prevention office for a prioritised list of recommended works, get an estimate of costs from a reliable and cost-effective supplier/contractor and send them both to IPSA. Any claim must be approved in principle before a contract is entered into. Your landlord will need to give permission for the works, and you may have to get listed building consent.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: When staff are on maternity or paternity leave, what happens to their entitlement to annual leave?

A: They keep their annual leave entitlement on top of their statutory maternity/paternity leave, and, with your agreement, can carry it over into the following year. Should you have doubts about allowing this, you should call PAS. Whether you can give your agreement will depend on the business needs of your office.

Q: On return from maternity/paternity leave, does an employee have the right to work part time?

A: Any employee who has a child aged 17 or under, or a disabled child aged 18 or under has the statutory right to make a formal request to work flexibly. You need to have demonstrable business reasons for refusing.

Q: How much time off is reasonable for public duties?

A: There are no set limits. It is a matter of negotiation and agreement. You will want to consider how much you can allow without affecting the work of your office. Once agreed, it makes sense to ask the employee to let you have a note of when they need to be away so that you can ensure they respect the agreement between you.

Q: If I employ someone who also holds a paid public post, such as a local authority councillor, do I have to pay for the days when he or she is absent on public duties?

A: No. You do not have to pay for such time off, whether or not it is being remunerated elsewhere. However, you will need to discuss with the employee what the arrangement will be. Some Members do pay their staff especially if they are undertaking unpaid public duties.

Q: What should I do if an employee has been drinking at work and it is affecting his or her performance?

A: You need to signal early on that such over-indulgence is not what you expect. You might ask the person to leave early and return at an agreed time, preferably as soon as possible the next day, to discuss the problem confidentially with you. This process might be enough to prevent a repeat. If it is a recurring problem, then you might suggest the employee see his or her GP or other counselling services. PAS can advise. If there is no improvement, it may become a disciplinary matter.

Q: What should I do if my office manager is bullying other staff, or if staff are insulting and verbally abusing each other?

A: You need to confront such behaviour. Meet both perpetrator and victim separately, establish the view of each about what has happened and why, so that you can try to judge the truth of the situation. PAS can help with serious cases which may need counselling or mediation to resolve. If there is no improvement such behaviour can become a disciplinary matter.

Q: What should I do if I receive a complaint about the behaviour of my staff towards a House employee?

A: All complaints should be taken seriously and acted upon swiftly. Inappropriate behaviour – whether discrimination, bullying or harassment – must not be tolerated; if proven, it may amount to misconduct or gross misconduct. You may be asked by the House to cooperate with an investigation into the alleged behaviour and should do so impartially and fairly. It is important to look for facts and evidence and you may need to identify witnesses. If the allegation is proved to be justified you will need to take action to reprimand your employee, which may include disciplinary sanctions. The priority is to ensure that their inappropriate behaviour stops and/or their conduct improves. See Section 2.5 on 'Managing poor performance' for useful information, or speak to PAS, who can provide further advice to help you manage any staff complaints received about the conduct of your employees.

USEFUL LINKS AND INFORMATION

Business Link on allowing time off work:
www.businesslink.gov.uk

Think about Health and Safety at Parliament: Supporting Westminster MPs in their Constituencies booklet available from the House of Commons Safety, Health and Wellbeing Service.

Health and Safety Executive (HSE) guidance for small businesses: www.hse.gov.uk/alcoholdrugs

ACAS on alcohol and drug misuse:
ACAS on bullying and harassment at work, and on mediation
ACAS on "The Equality Act – What's new for employees"
www.acas.org.uk

Alcohol Concern for local treatment services:
www.alcoholconcern.org.uk

Health Safety Executive on managing work-related stress:
www.hse.gov.uk

British Association for Counselling and Psychotherapy:
www.bacp.org.uk

IPSA model employment contract containing terms and conditions in relation to absence:
www.parliamentarystandards.org.uk

2.4 HANDLING SICKNESS

- Recording sickness absence
- Disability
- Sickness and stress
- Short-term sickness
- Chronic intermittent sickness
- Long-term sickness

AIM ➔ To minimise the impact of sickness on your office.

Recording sickness absence

Someone in your office needs to be responsible for recording accurately when people are away and for informing the IPSA Payroll section immediately. Template 7 in the Template Pack is a sickness absence recording sheet for your own records.

It is in your interest to do this because Statutory Sick Pay (SSP) is reimbursed to your staffing allowance. The model contract of employment provides, in the first year of employment, one week of full sick pay for every 4 weeks the employee has worked continuously; after a year in the job, this rises to 26 weeks' sick pay on full pay and then 26 weeks on half pay – the maximum entitlement during any rolling four-year period. You also need to tell IPSA if you wish to apply for contingency funds in order to support temporary cover. Any decisions about an individual's employment, based on their attendance, will require accurate records of absence.

Disability

If an employee has or acquires a disability at anytime during their employment, you are obliged to make reasonable adjustments to help them overcome disadvantage. Please contact PAS for advice.

Sickness and stress

Most employers are aware that happy offices have lower levels of staff turnover and absence. It is becoming more and more accepted that levels of sickness at work can be related to the conditions created in the workplace. Section 2.3 notes that stress is one of the factors that the Health and Safety Executive expects employers to assess in relation to staff health.

Members' offices can be stressful places to work. There can be distinct differences in terms of staff absences depending on whether that stress is created purely by the challenging and demanding work, or if it is the result of unacceptable behaviour by staff colleagues. Please see Section 2.3 about identifying harassment and tackling it quickly.

The way in which you need to manage sickness absence depends on whether it is short or long term, intermittent or continuous.

Short-term sickness

This is the commonest form of absence. It is usually for minor complaints like colds, migraines, upset stomachs, toothache and so on.

When the employee rings in to explain his or her absence, you should take the details, ask how long he or she expects

to be away, make a note on the person's file and tell the IPSA Payroll. If they return within 7 calendar days, they must fill in a self certificate (see Template 8) that explains the reason for the absence. This should be sent to IPSA Payroll and copied to your staff file. If the absence lasts for over 7 calendar days (including the weekend), you will need a "fit note" from their doctor. This should also be sent to IPSA Payroll and copied to your staff file. You should make a point of discussing the absence with the employee on their return, when you are bringing them up to speed with work matters, to check whether there are any continuing problems.

Chronic intermittent sickness

Your record of absences will show whether there is a pattern of intermittent absence. If so, there may either be an underlying medical condition, or a problem of stress, either at home or in the office. To help with domestic stress, the person can be encouraged to seek counselling or psychotherapy. Tackling office stress is something you may be able to help with. In all cases you may want to arrange for the employee to see their GP or an occupational health adviser. (Please see Section 2.3).

If persistent poor attendance continues and becomes damaging to the office, you may have to consider dismissal. This does not imply that the sickness is not genuine. Providing that the processes have been met, Employment Tribunals recognise that an employer is entitled to terminate the contract for medical reasons (see Section 3.2. on dismissal).

Long-term sickness

Long-term sickness absence can be a real problem for any office and is felt even more keenly in small organisations. It will help both the person who is sick and your management of the situation if you handle such issues sensitively and consistently.

You will want to:

- Let the IPSA Payroll know quickly
- Be in contact with the employee about once a week to check how things are going
- Give the employee the opportunity to let you know what has led to the absence and the prognosis
- Allow reasonable time for recovery
- Consider whether you need to be flexible about working patterns and hours on their return to work
- Keep short notes of all your discussions with the person whether on the phone or face to face.

If the employee is unable to give you a date for his or her

return to work, then, with his or her written consent, you can seek a medical report from the GP. This issue clearly needs to be handled sensitively, and it is best to talk to the employee face to face if possible, perhaps at home if they are unable to travel, in order to explain the impact their absence is having and that you would like to contact their GP to find out when they might return and how you might help. Please note that it is good practice to allow the employee to be accompanied by a work colleague or trade union representative at this meeting, and that this is their statutory right at formal meetings such as disciplinary or grievance meetings.

At this meeting, particularly if you think you might have to consider dismissal in due course, you need to discuss the possible outcomes with your employee.

These are:

- A return to full-time work as normal, or
- A return to part-time or flexible working hours, either temporarily or permanently, or
- Return with a recognised disability, and any reasonable adjustments needed in the office for that, or
- Continuing prolonged absence with no end date, which may lead to your having to consider ending the employment on operational grounds.

After the meeting, you will need to write to the employee asking for formal agreement to seek a medical practitioner's report. The PAS standard letters are in the Template Pack see Template 9 (a – d).

The GP's report will advise you on matters such as how long the absence is likely to last; the prospects for a full recovery; whether there will be a disability; and whether a return to part-time or flexible work is possible. You can then decide what to do and hold another meeting with the employee (to which he or she can be accompanied as above) to tell him or her of your decision.

If the decision is to go down the road of dismissal on grounds of lack of capability, PAS can help. Please see Section 3.2.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: Can I get temporary cover for absences, and who will pay?

A: If an employee who is paid from your Staffing Expenditure has been absent for more than two continuous weeks on paid sick leave, or if illness for a shorter period is because of a disability as defined under the Equality Act, and you need to take on temporary or agency staff or provide overtime payments to existing staff, then you can apply to IPSA for contingency funding to cover this.

Q: Do I have to pay an employee a full-time rate if he or she is recuperating and working fewer hours?

A: No. You can pay pro-rata to the hours actually worked.

Q: What shall I do if an employee who is sick refuses consent for me to ask his or her GP for a medical report?

A: If you have made several attempts to gain consent, and the person is still recalcitrant, then you have to make your judgement on the evidence you have, without the benefit of medical advice. If a case is then taken to an Employment Tribunal, the tribunal will accept that you had no choice in the matter.

USEFUL LINKS AND INFORMATION

ACAS on managing ill health at work: www.acas.org.uk

Health & Safety Executive for a risk assessment on stress in your business: www.hse.gov.uk

NHS Direct on smoking and other physical health issues: www.nhsdirect.nhs.uk

The British Association for Counselling and Psychotherapy, for stress and mental health support:
Helpline: 0870 443 5252, www.bacp.co.uk

The Mental Health Foundation on mental health issues:
020 7803 1100, www.mentalhealth.org.uk

Business Link on allowing time off work:
www.businesslink.gov.uk

IPSA: www.parliamentarystandards.org.uk

2.5

WHAT TO DO IF THINGS GO WRONG

- Appropriate procedures
- Dealing with grievances
- Managing poor performance
- Handling misconduct
- Following the processes

AIM ➔ To settle matters for the good of your office as quickly as possible, limiting the damage and acting fairly to all involved.

Appropriate procedures

The procedures for handling grievances, poor performance and disciplinary issues are very similar, although the actions, omissions or behaviours that have led to the need for action can vary widely. Sickness is covered in Section 2.4.

Because you will want to handle matters quickly and fairly, and in such a way as to minimise the likelihood of drawn-out proceedings or appeal to an Employment Tribunal, you will find the simplest and safest way in every case is to consider following the ACAS Code of Practice.

You should keep in mind, where poor performance or misconduct is under consideration, that dismissal is one possible outcome. You should also consult PAS at this point.

At present the current procedures set out in the model contract of employment meet the procedures required in line with the current ACAS code of practice.

In most cases there are likely to be informal but serious conversations between you and the person concerned before you initiate a formal process as outlined in the steps below:

STEP ONE: Get the matter set down in writing. For a grievance, the employee will make a note. For poor performance or disciplinary matters, you will set the matter out. Set up a file.

STEP TWO: Hold a formal meeting with the employee within a week to discuss the problem. Make your decision on the matter and write within five working days to tell the person concerned, telling them also of their right of appeal, which they should exercise within five working days, and which would be the final stage of the process. Record and file the main points, the decision and the action you have taken.

Note: the employee has the right to be accompanied – see FAQs.

STEP THREE: If asked, provide a means of appeal, make a decision on the appeal and write with the final decision within 5 working days. Record and file the main points, the decision and the action you have taken.

Note: the employee has the right to be accompanied – See FAQs

There are many actions you can take to improve or even resolve matters that are going badly wrong. What you do will depend on what works in each particular case. If the action you take has to be dismissal then please see Section 3.2 for more help.

The three problem types are likely to have different causes and these may need to be handled slightly differently, as set out below.

Dealing with grievances

These are complaints raised by an employee and may be over matters such as pay/grade differentials or terms of employment, work relations, bullying, the office environment, health and safety, changes you are introducing or equality issues.

The best practice is to encourage the employee to raise their grievance with the Office Manager if you have one, but given the size and structure of Members' offices, it is likely that the grievance will soon come to you for action.

Before the issue escalates, it is wise to talk the problem through informally, objectively and patiently with the person concerned to see if something can be done to solve it. If not, the issue needs to be set out in writing by the aggrieved person.

The meeting that follows needs to be private and set at a reasonable time, and the employee has the right to bring a companion, who must be either a fellow employee or a staff association/trade union official. The employee should notify you in advance of who their companion will be. If you need to investigate further before making a decision, tell the employee, with an estimate of the timescale. Otherwise write to the employee within 5 working days. If there is an appeal against your decision, the employee may be accompanied in the same way as for the first meeting.

Managing poor performance

This is likely to emerge as a problem over time. A few lapses may be overlooked, but consistent underperformance reduces the efficiency of the office and you may then wish to consider formal action. This is designed to improve the performance of the individual rather than punish the failures of the past.

Again, it is better to talk the problem through first informally to get at the underlying reasons for the poor performance. You should keep a record of the discussion, which should detail the performance problem and the improvements that need to be made. This is often enough. However if there is no early improvement, the employee should be invited to a formal meeting at which they may be accompanied as above, to discuss his/her performance. This is the point to issue the first written warning. The warning should confirm the outcome of the meeting, specifically:

- The performance problem
- A description of his/her failures
- Details of improvements needed
- Any support you have arranged
- The timescale and the date of the next review

The employee should be told that it is the first stage of a process which could, in the absence of improvement, lead to a final written warning and thereafter, possibly, to dismissal. (See Section 3.2).

A copy of the warning should be kept on file for a specified period and will form the basis for the next review. If performance is still unacceptable, the employee should again be invited to a formal meeting and a final written warning issued repeating the process above, again setting out the improvements that are required and the timescale etc, and also the right of appeal.

The employee has the right to be accompanied both to the formal meetings and to any appeals by a fellow employee or a staff association/trade union official. The employee should notify you in advance of who their companion will be.

Handling misconduct

There are two types of misconduct that might attract a disciplinary response:

- Gross misconduct, which implies a serious breach of contract, such as fraud or theft, fighting, bullying or harassment, serious incapacity at work through the use of drugs or drink, serious breaches of confidence, major deliberate or negligent damage to property or health and safety, bringing your office into disrepute etc.
- Misconduct which implies bad behaviour such as poor timekeeping, unauthorised absences, repeated failure to follow instructions, unauthorised personal use of office resources such as e-mail, internet, stationery etc.

Clearly there can be some overlap between the two types. It is a matter of judgement for you to decide if gross misconduct has been committed. PAS can help here.

If you consider that gross misconduct has occurred, the employee may be liable for dismissal without notice; however the correct procedures will still need to be followed. If you are considering such a step, please discuss it with PAS first. While you are establishing the facts, a period of suspension on full pay may be wise, but you will want to make clear to the employee that the suspension does not prejudice the final outcome. Any suspension must be confirmed in writing immediately; PAS will advise.

For all cases of bad behaviour (misconduct), you should have an informal discussion first, as part of the investigatory process to establish the facts of the case and to determine whether the matter should be taken further. If, following full investigation, you decide the matter is to be taken further, the employee should be invited to a formal hearing. The allegations should be put to the employee in writing before the hearing, together with any evidence gathered. At

the hearing you should present your case to the employee, referring to the evidence gathered from your investigation, and allow the employee to do the same. Once you have considered all of the facts of the case you will need to decide whether to impose a disciplinary sanction. The level of warning given will depend on the nature of the unsatisfactory conduct. If this is the first instance of bad behaviour, in some cases this may mean that the employee is given a first written warning. Please see Section 3.2.

The warning should set out:

- The nature of the unsatisfactory conduct
- The change of behaviour that is required
- The period of time over which the warning will remain active
- The right of appeal.

A copy of the warning should be kept on file for the stipulated period – PAS will advise.

At the formal hearing and any appeal the employee has the right to be accompanied by either a fellow employee or a staff association/trade union official. The employee should notify you in advance of who their companion will be.

Following processes

Members will be keenly aware of the requirements of natural justice in all matters affecting staff if things go wrong in the office. This means, for example, investigating the facts without prejudice; explaining to the employee what he/she is alleged to have done, with any evidence, in advance of the meeting; giving him/her the right to challenge any allegations before decisions are reached; acting without undue delay (as a general guide no more than a working week should elapse between the key processes); keeping matters confidential; and providing a right of appeal.

Keeping brief but complete notes of hearings, meetings and of your actions at every stage is extremely important in case the issue goes to appeal, or even tribunal, stage. A checklist for the actions you should take is in the Template Pack (Template 10).

Many cases are lost at tribunal purely because the proper procedures have not been followed or because adequate records have not been kept to provide supporting evidence.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: Does the employee have the right to be accompanied to any meeting?

A: The employee has the right to be accompanied at formal hearings, but only by another member of staff from the same office, or by a staff association/trade union representative, whose name has been notified to the Member in advance, and who has no conflict of interest or likelihood of prejudice in the case. The accompanying person can address the meeting but may not answer questions on behalf of the employee.

Q: Can a Member hold an appeal meeting alone?

A: Members' offices are small, and so the Member might be in the position of having to take the formal meeting and also hear any appeal. This may give the impression that the outcome of the appeal is a foregone conclusion. To overcome this, a Member must do everything possible to hold to an impartial stance. It might also help if you could consider involving a third party in the process in some way. PAS can advise.

Q: What if sickness is involved in poor performance?

A: Please see Section 2.4.

Q: What if a grievance is raised during a disciplinary case?

A: You may want to suspend the disciplinary process for a short time in order to deal with the grievance. PAS can help advise in such cases.

Q: Are there time limits on Employment Tribunal referrals?

A: Yes, there are very strict time limits. An employee must make a claim to an Employment Tribunal within three months of the date when the dismissal occurred, or when the matter of the complaint happened. This can only be extended in very exceptional circumstances.

Q: Why might a case be taken to an Employment Tribunal, and why might it succeed?

A: A case might be taken if the employee, often with the support of his/her union representative, believes that the requirements of natural justice or the procedures have not been met. The claim might succeed if this is found to be the case.

Grounds for taking a case to Employment Tribunal might be:

- Unfair dismissal
- Constructive dismissal
- Breach of contract
- Unfair discrimination, direct or indirect, or discrimination by association or of perception, based on any of nine protected characteristics namely;
- Pregnancy and maternity
- Marriage and civil partnership
- Sexual orientation

- Sex
- Religion or belief
- Race
- Gender reassignment
- Disability
- Age.

Many cases are also lost because adequate records have not been kept to provide supporting evidence. The tribunal may adjust awards by up to 25% against either party, if it considers that the party failed to adhere reasonably to the ACAS code of practice.

Q: In what circumstances would a dismissal be likely to be judged unfair?

A: Please see Section 3.2.

Q: If I have issued a final written warning in relation to either performance or conduct, and the employee begins to act satisfactorily, does the warning automatically lapse?

A: No. In accordance with the model contract, it remains in force for 12 months. This means that dismissal procedures can be re-activated quickly if there is any further misconduct or deterioration in the required standard.

Q: What are my responsibilities in relation to the conduct of my staff towards House employees?

A: The Respect policy sets out expected standards of respectful conduct between Members/Members' staff and House employees. The Respect policy has all-party agreement. An employer has vicarious liability for their employees and should a member of your staff not adhere to the expected standards of behaviour you must manage the situation as a conduct issue using the disciplinary processes. The 'Respect Policy' and accompanying 'Respect Guidance for managers' set out the agreed procedures for managing complaints which relate to interactions between Members/Members' staff and House employees.

Q: What are the rules on whistle blowing and do they limit the scope for disciplinary action?

A: Anyone raising a genuine concern under the Public Interest Disclosure Act 1998 needs to be offered protection.

Q: Do I need to respond to a grievance by an ex-employee?

A: There is no legal requirement to do so.

Please refer also to the frequently asked questions in Section 3.2 'What to do when an employee has to be dismissed'.

USEFUL LINKS AND INFORMATION

ACAS has a useful guide 'Disciplinary and Grievance procedures' which can be found at: www.acas.org.uk, 0845 47 47 47

Business Link covers disciplinary problems disputes and grievances: www.businesslink.gov.uk

Remember, too, to check the terms of the employee's individual contract.

3.1

WHAT TO DO WHEN AN EMPLOYEE LEAVES IN THE NORMAL COURSE OF EVENTS

- When an employee retires
- When an employee resigns
- Following the processes

AIM ➔ To manage the changes smoothly and maintain the effectiveness of your office

Please note: These sections do not cover the working of the pension scheme.

When an employee retires

There is no longer a standard retirement age.

Everyone now has the right to work beyond the former retirement age of 65, even if a retirement age is set out in the contract. The employee does not have to make a request to remain in employment and the employer cannot normally require them to retire due to age. Employers should not ask employees questions about their future retirement plans unless they ask all team members. Please put any queries to PAS.

If an employee wants to retire early, you do not have to pay either notice or redundancy payments. The pension scheme rules allow a pension to be drawn between the ages of 55 and 75. Your employee should contact the pension provider(s) direct and can also seek help from the Pensions Unit at the House.

When an employee resigns

An unforeseen resignation can create problems for your office. The contract of employment provides for a minimum of four weeks' notice by a member of staff if they resign; some contracts stipulate a longer period. If you want to hold on to the employee, you can try to persuade them to stay, but you cannot refuse to accept the resignation. People can resign for a number of reasons; it may be important to find out why. Is it:

- Because they can get better pay elsewhere? Within the agreed pay scales and your budget, you could consider increasing the pay rate to match, if you have evidence of a job offer and if IPSA agrees.
- Because the hours do not match their family commitments? You can consider if there is flexibility your office could manage.
- Because there are problems in your office? You will want to identify these, so that the same thing does not happen again.

Occasionally people resign in the heat of the moment, perhaps after an argument. Everyone involved then needs to cool down, and the resignation should not be taken as intentional. You will need to find out if the resignation was really meant before proceeding – if you do not, you could run the risk of an unfair dismissal claim. PAS can advise.

Following the processes

The key actions that you should take in all cases are listed below:

- Establish in writing the date of the retirement or resignation. For resignation, get the employee to write to you confirming the date of resignation.
- On resignation, employees are contractually obliged to give you full notice. This can only be waived if you agree. You should check the notice period in the employee's contract to determine the final day's work, and decide whether you want the notice period to be worked (this is the normal situation), or paid in lieu, or a mixture of each. Discuss your decision with the employee and put the relevant dates in writing.
- Tell the IPSA Payroll, so that it can work out outstanding pay and tax matters. Tell IPSA if pro-rata holiday pay is due. You should use the Employer Leaver Form (see the IPSA website)
- For both retirement and resignation, set up a leaving chat. Parting on good terms is important because it can affect your reputation as a Member and as an employer. People who are leaving without a grudge are also in a good position to suggest how your office could be run more effectively or happily. (If you receive complaints at the leaving chat, be careful to seek both sides of any story before taking any action. If you then need to take further action, please see Section 2.5 on what to do if there is a grievance)
- Remind staff who are leaving of their obligations in relation to confidentiality. Offer to provide references, if appropriate.
- On the final day in the office, ensure all passes are returned to the House of Commons Pass Office, and collect in all other official property (laptops, phones etc.).

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: What if a retiring employee wants to go part time and draw a pension?

A: This is fine, if you agree to the person continuing work. If you were to agree to a part-time post, the employee could draw all or part of his or her pension while working.

However, it is strongly recommended that your employee should discuss the options with the Pensions Unit and seek independent financial advice.

Q: What about early retirement on health grounds?

A: Subject to the requirements of the scheme, the employee may be able to draw a pension based on the current value of his or her pension plan, irrespective of age.

Q: If someone resigns do I have to pay holiday pay, if they have some owing?

A: Yes, it will be calculated on a pro rata basis, depending on the proportion of the year he or she has completed, or they can take the holiday while working their notice period.

Q: What if someone resigns and claims that they have been forced to by changes in their conditions (constructive dismissal)?

A: Please see Section 3.2 on dismissal.

Q: Do I have to treat all employees the same in relation to letting them work beyond 65?

A: This is simply not an issue, as 65 is no longer a significant age in employment terms. All employees now have the right to work without constraint as to their age and there is no set retirement age. Employees do not have to ask to remain, and employers do not have the right to determine when a person retires except in certain special circumstances. Failure to comply, and even raising the matter with an individual of retirement on age grounds, can open you to claims of unfair dismissal and age discrimination. Please contact PAS for further advice.

(The situation until April 2011 was different in that employers were able to retire staff at 65 if they gave six months' notice etc, but this is no longer the case as the default retirement age was abolished altogether on 1 October 2011.)

USEFUL LINKS AND INFORMATION

Business Link on when an employee resigns or retires: www.businesslink.gov.uk

ACAS on age discrimination legislation: www.acas.org.uk

Age Positive on retirement: www.dwp.gov.uk/age-positive

IPSA: www.parliamentarystandards.org.uk

3.2

WHAT TO DO WHEN AN EMPLOYEE HAS TO BE DISMISSED

The five recognised reasons for dismissal:

- Fixed term contracts
- Some reasons for dismissal that are automatically unfair
- Following the processes
- Redundancy
- Special arrangements at a General Election

AIM ➔ If dismissal seems unavoidable, to handle it fairly and, if possible, with mutual understanding and respect.

The five main recognised reasons for dismissal

To dismiss an employee fairly, you must have fair reasons. The main ones are:

- **CONDUCT** – usually repeated misconduct, or gross misconduct
- **CAPABILITY** – including competence, lack of skill, continuing poor performance, not having the right qualifications for the job and persistent absence and/or ill health (but please see Section 2.4. on how to handle ill health fairly)
- **RETIREMENT** – please see Section 3.1
- **REDUNDANCY** – please see separate section below
- **OTHER SUBSTANTIAL REASONS** – such as an employee’s refusal to accept a confidentiality agreement; or reasonable relocation (relocation from Westminster to a distant constituency or vice versa would not necessarily be considered reasonable), or reasonable changes to his or her contract.

Fixed-Term contracts

The expiry of a fixed-term contract is not automatically considered a fair reason for dismissal. You need to end such contracts by using a fair process as outlined below. It should be straightforward because the reasons for the fixed-term work – usually to carry out a specific project or to cover for someone on maternity or sickness absence – will have come to an end.

Write to the employee informing them of the reasons that their employment is due to cease, and when.

Arrange a meeting to discuss this with the employee (allow five working days’ notice of the meeting) and allow them to be accompanied by a trade union representative or work colleague. Following the meeting, confirm your decision to end the appointment (or not) to them in writing, and offer the right to appeal.

Some reasons for dismissal that are automatically unfair

It is worth being aware of some of the common mistakes made by employers. Employment Tribunals will automatically judge the following reasons to be unfair:

- Pregnancy, or taking of maternity/paternity or adoptive parent leave or time off for a dependant
- Joining a trade union or declining to do so
- Seeking or exercising employees’ rights – such as exercising the right to be accompanied or to be a

companion at a disciplinary or grievance hearing, taking part in lawful industrial action, enforcing a right under the working time regulations, asking for part-time work, and so on.

- Taking action under health and safety law.

Following the processes

Sections 2.4 and 2.5 of this guide set out what to do when there are problems in your office. They deal with the processes involved in trying to improve matters:

- Section 2.4 covers sickness and ill health (which could lead to dismissal on grounds of capability)
- Section 2.5 covers disciplinary measures (which could lead to dismissal on grounds of conduct)
- Section 2.5 covers poor performance (which could lead to dismissal on grounds of capability).

You must go through these processes before moving to the stage of dismissal.

If you judge that matters have not improved sufficiently and you have to take the final step of dismissal, you should proceed as outlined below. You should in all cases consult PAS before embarking on this procedure.

STEP ONE: The first thing to do in all cases is to hold another meeting with the employee. Here you must outline the seriousness of the matter, and your judgement, based on evidence, that the shortcomings, whether of conduct, performance or sickness absence, have not improved sufficiently for the employment to continue. (For a fixed-term employee, you can just show how the short-term business need has come to an end.) The employee should be given every opportunity to put forward reasons why they should not be dismissed. The employee has the right to be accompanied by a work colleague or union representative at this stage and all subsequent stages.

STEP TWO: If, taking all factors into account, you decide to dismiss, the next step is to write to your employee, setting out the grounds for your decision and stating the last day of service and arrangements for appeal.

STEP THREE: If asked, provide a means of appeal, preferably with some independent input. Again, the employee has the right to be accompanied to the appeal by a trade union official or another member of your staff. Make your final decision as soon as possible and write to the employee.

PAS may be available to attend meetings in order to give procedural advice and take notes. The tone of the meetings is important. You will obviously want to be sympathetic in handling an employee who is ill, or lacks the necessary skills for the job through no fault of his or her own.

Redundancy

Sometimes a post is no longer needed and you have to make the post holder redundant. There are then a number of steps to take:

STEP ONE: Decide if it is a redundancy situation. There are only three grounds: if you are no longer operating as an employer; if you are closing a place of employment; or if you no longer need a particular type of job, either at all or in one location.

STEP TWO: Consider the alternatives to redundancy. Could you reorganise the hours of work, set up a job share, or re-allocate responsibilities? Could you move an employee into a position held by an agency worker?

STEP THREE: If you conclude you have no alternative, you must consult the employee. Write explaining your business case for the change, say that their job may be at risk of redundancy, and give them an estimate of the redundancy payment that would be due. There are IPSA rules on redundancy pay and you should consult PAS.

STEP FOUR: Hold a meeting, and discuss any possible alternatives to redundancy. There may be ideas you haven't considered, including a change of location or a post at a lower pay level. The employee has the right to be accompanied to this meeting by a trade union official or a work colleague. Then allow at least a week for the employee to come back to you with comments, in writing or in a further discussion. Consider these comments, make your final decision and write to the employee; if you decide to proceed with the redundancy, you must give the employee formal written notice. Please obtain a template from PAS.

STEP FIVE: If you have confirmed the redundancy, the employee has a right to appeal. To exercise this right, they must write to you within 5 working days of the receipt of your letter. You should then arrange another meeting, preferably with some independent input, to hear the case and consider the arguments. Then make a decision and write to the employee, giving reasons. Standard letters are in the Template Pack (Templates 11a & 11b). Again, the employee has the right to be accompanied to the appeal by a trade union official or another member of staff.

STEP SIX: Handle the process of leaving with sensitivity. If an employee has worked for you for two years, you must give time off to look for other work or to re-train. Give notice according to the contract, or if an employee has worked for more than four years, at the statutory rate of one week for every year worked up to twelve (whichever is longer). This notice period will either be worked, or paid unworked, depending on the contract and your wishes. Talk to PAS about the notice period and statutory redundancy pay due.

Please note: if you have a number of similar posts, only one of which is no longer necessary, you must use a fair process for choosing which incumbent is to be made redundant. You will want to set criteria which are as objective as possible – these might include one or more of the following and must be transparent to those affected:

- Matching to current job
- Qualifications/skills/training records
- Performance records, based on feedback already known to the employee
- Attendance/disciplinary records
- Invitation of interest and selection interview.

It would of course be unfair to select people for redundancy on grounds of the protected characteristics of age, sex, disability, religion/belief, sexual orientation, race, pregnancy/maternity, marriage and civil partnership or gender reassignment. It would also be unlawful to select a part timer simply because he or she works part time. People on fixed-term contracts who have worked for you for two years or more must be treated the same as permanent employees.

Make a note of your selection and the reasons for it, and write to all the employees who were potentially affected.

It is important to keep a note of your thinking and decision-making as you go through the steps above. Checklists of the actions you should take in cases of dismissal or redundancy are in the Template Pack (Template 12).

Special arrangements at a General Election

In the run-up to every General Election, special guidance is issued to all members. The basic advice is that if you either stand down or lose your seat at a General Election, you need to make all your staff redundant. This needs to be done within the statutory rules.

This means:

STEP ONE: The basis for the redundancies is clear. You are no longer an employer in the House. There is no need to consider alternative posts as your office is being wound up.

STEP TWO: Meet your employees to consult them, tell them about the proposed redundancies and about how the office is to be wound up. Ask PAS for redundancy calculations, and the notice period required for each member of staff.

STEP THREE: One week after the initial meeting, meet again if there are outstanding matters to resolve. Then write to each of your employees giving them formal notice, telling

each of them of their final day in work, and giving each of them details of the payments they are due. These are likely to include holiday pay for any holiday due but not taken, redundancy pay and pay for the notice period if notice is not worked. Allow your employees time off work to look for other jobs or to re-train.

STEP FOUR: Arrange with IPSA payroll to make the payments. Up to and including the date of the General Election, salary and holiday payments will come from your Staffing Expenditure. After that date, statutory redundancy payments will be met from central contingency funds and all other payments – salary, notice pay and pro rata holiday pay – will come from your Winding-Up Expenditure.

Please note: if you are standing down, these steps need to be taken as soon as you know you are leaving. If you lose your seat, these steps need to be taken as soon as possible after the General Election.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: How can I protect myself against personal loss as a result of an Employment Tribunal?

A: IPSA will provide a facilitated purchase scheme for legal expenses insurance (Employment Practice Liability Insurance) the premium for which may be claimed from Office Costs Expenditure, subject to IPSA agreement. Members may also purchase such insurance individually, though the premium cost would probably be higher. It is worth noting that insurers are likely to expect you to have followed sound employment practices before they will meet any claim. Please contact IPSA for details of the facilitated scheme.

Q: If an employee has reached dismissal stage for poor performance, what process do I have to follow?

A: You should follow steps set out under "Following the processes" above, to ensure you dismiss fairly.

Q: Are there limits on who can go to an Employment Tribunal on grounds of unfair dismissal?

A: Yes. From 6 April 2012, employees must have worked for you for at least two years before they can bring a claim for unfair or constructive dismissal. However, people whose employment began on or before 5 April 2012 have a shorter "qualifying period" of only one year. There is no upper age limit. Please note, though, that there is no length of service requirement in discrimination cases.

Q: What is constructive dismissal?

A: It is when an employee resigns because an employer does something that makes it intolerable for him or her to continue in post. An employee could claim, for example, that his or her contract was being changed unilaterally, or his or her salary was being cut.

Q: Does statutory redundancy pay come out of central funds if redundancy is not due to a General Election?

A: Yes. Provided that the redundancies are genuine, and that full consultation has occurred, the statutory redundancy is met from contingency. Members must make a written case to IPSA

Q: Can I offer redundancy pay that exceeds the statutory entitlement?

A: Please refer to IPSA for up to date information. At the time of writing, staff who are made redundant after 1 April 2012 may receive double the statutory minimum. More preferential, specific terms may apply under a particular employee's contract where they started before July 2001. Otherwise redundancy is limited to the statutory amount. PAS will advise.

Q: What if I deploy an employee to another post rather than make him or her redundant and then find that doesn't work out?

A: The new post should begin at the end of the notice period for the original job. It will be under new terms and conditions that you will have agreed with the employee. There must then legally be a 4-week trial period for you and the employee to determine if the new role is suitable. (This trial period can be extended if extra training is needed). If either you or the employee reasonably decides that the new role is not suitable, the employee will be eligible for redundancy with rights to redundancy pay as if under the original contract.

Q: Can I come to an individual understanding with a member of staff that he or she will leave by mutual agreement, without going through any formal dismissal processes?

A: It is not permitted to use Staffing Expenditure or any other public funding to pay for a settlement or Compromise Agreement. Members seeking to make such arrangements would need to fund them from personal resources.

Q: What if I get the dismissal process wrong?

A: Then you may face an Employment Tribunal, you would be liable for legal costs that could be considerable, and for either the reinstatement of, or a compensation payment to, the employee. There is no financial limit on the compensation that can be awarded in relation to unlawful discrimination. Otherwise, the level of compensation could go up to £68,400 depending on the circumstances of the case. These costs will not be met from your Staffing Expenditure or from any other public source. If you were also in breach of contract conditions, you might face a parallel common law action for wrongful dismissal, which could be decided by the Employment Tribunal up to a limit of £25,000; again, it is not permitted to draw this from Staffing Expenditure or public funds.

USEFUL LINKS AND INFORMATION

Business Link guides on dismissal and redundancy:
www.businesslink.gov.uk

ACAS on selection for redundancy and consultation with employees:
www.acas.org.uk

IPSA: www.parliamentarystandards.org.uk

3.3

HOW YOU CAN SUPPORT EMPLOYEES WHO ARE LEAVING

- Training and counselling
- Finding new work
- Managing the transition to retirement

AIM ➔ To strengthen your office morale by helping employees who have to leave because a job ends or they retire.

Training and counselling

For those leaving because of redundancy, you must by law allow reasonable time off on full pay in the notice period for them to arrange training or for job hunting. You may have some very long-standing employees for whom you feel it is right to do more. In such cases, you can if you wish also pay from your allowances for training in such skills as interview technique or CV writing. PAS will be able to advise.

When a number of people are leaving because of a General Election, if there is enough demand, the House might offer a free in-house course on interview technique and CV writing.

For those retiring, there are pre-retirement courses that can help them make the transition. These typically provide advice on financial matters and counselling on the effects of retirement on lifestyle. You may pay for this from your allowances.

Finding new work

If you are making someone redundant as part of the process (see Section 3.2), you will already have considered whether there is alternative work in your office, and concluded that there is not. You should encourage your employee to contact the local Jobcentre Plus to find out about suitable vacancies.

If you have space in your budget, you might wish to pay for outplacement counselling and services to help employees find another post. This may be paid for from your allowances. PAS can advise.

Managing the transition to retirement

When an employee has given notice that they are retiring, the transition to retirement can be helped by allowing more flexibility in his or her working hours in the months leading up to the retirement date. This will allow the person to start developing his or her post-retirement plans and interests. Whether you wish to do this will depend on the needs of your office.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: Do I have to offer any support to those leaving?

A: The main legal requirement for support is for you to provide paid time off for finding training and for job-hunting to anyone being made redundant. As a good employer you may of course want to do more.

USEFUL LINKS AND INFORMATION

Business Link has useful sections on retirement and redundancy that includes advice on support: www.businesslink.gov.uk

ACAS covers age discrimination legislation: www.acas.org.uk

Age Positive on retirement: www.dwp.gov.uk/age-positive

3.4 REVIEWING YOUR STAFFING STRUCTURE AND PROCESSES

- Ensuring your office is fit for purpose: review
- Ensuring you are following the processes: review.

AIM ➔ To reconfigure your office to better meet your business needs and to ensure your processes are robust.

Ensuring your office is fit for purpose: review

From time to time it is important to stand back and review the effectiveness of your office. You might plan to do this on a regular basis, for example:

- At the beginning of each Parliament
- Two years later at about mid-term, and also
- Whenever your circumstances change, for example if you are selected for a committee or the makeup of your constituency changes
- Six months or so after being elected or re-elected to ensure your staffing arrangements meet your needs.

These reviews might lead you to readdress the type and number of your staff, or the recruitment of an Office Manager to manage the office on your behalf. You may conclude that you need either to contract or expand your office.

If you wish to review your office, you should:

- Consider the service you wish to provide to your constituents
- Consider whether your current structure and processes support this objective
- (If not) Consider what structures and processes you need: for example you may wish to transfer staff from your Westminster office to the constituency, or vice versa, to deal with particular pressures
- Consult PAS before you embark on any changes to your office
- Consult your staff about any changes you are intending to make that affect their pay and conditions.

Please see Sections 1.1, 1.3, and 2.1 to help you with restructuring.

It may be that you will need to delete posts and make staff redundant as part of this process. If so, there are certain procedures you must follow. Please see Section 3.2 to help you with redundancy. PAS can help with detailed practical advice.

Ensuring you are following the processes: review

You personally bear full responsibility and accountability for the way you run your offices and for your draw-down of Parliamentary Expenditure. You must make sure your actions fall within the principles of the MP's Expenses Scheme published by IPSA.

In order to be confident that your office and employment practices are maintaining a high standard it makes sense:

- To review your employment processes at least once a year
- To be able to demonstrate your approach to value for money i.e. by employing staff on the correct grades and appropriate salaries according to the nature of the tasks undertaken
- To keep all the records you need to show that your office is well run and tightly staffed.

MEMBERS' FREQUENTLY ASKED QUESTIONS

Q: How do I begin the process of restructuring?

A: In all cases, consult the Personnel Advice Service.

Q: What should I do if I decide to make staff redundant?

A: See Section 3.2 for advice and consult the Personnel Advice Service before taking any action.

Q: What records should I keep?

A: Examples are: absences (all kinds - sick leave, caring leave or holiday etc); overtime; time keeping; copies of contracts; contractual changes; job descriptions and changes to them; discipline and poor performance and the action you have taken; payments to staff; training; records regarding reasonable adjustments for employees with a disability.

Failure to keep such records up to date could prevent you from obtaining relevant expenditure and cause difficulties if you are challenged about your employment practices. You also will not be able to prove you have followed correct procedures if you have to attend an Employment Tribunal. There is also a requirement to keep records up to date under the Data Protection Act 1998.

Q: What are my responsibilities in relation to data protection?

A: The Data Protection Act 1998 governs the manner in which personal data (i.e. information about identifiable living individuals) must be handled. Under the Data Protection Act, you must register the fact that you process personal data with the Information Commissioner's Office, and this 'notification' must be updated annually.

All personal data must be processed in line with the data protection principles. These eight rules govern the manner in which personal data is processed (i.e. held, obtained, recorded, used and destroyed):

- Personal data must be processed fairly and lawfully
- Personal data must only be processed for specified purposes
- Personal data must be adequate, relevant and not excessive for the purposes for which it is being processed
- Personal data must be accurate and (where necessary) kept up to date

- Personal data must not be kept for longer than is necessary
- Personal data must be processed in accordance with the rights of the data subject
- Appropriate technical and organisational measures must be taken against unauthorised or unlawful processing of personal data and against accidental loss or destruction of, or damage to, personal data
- Personal data shall not be transferred to a country or territory outside the European Economic Area without adequate protection.

Q: How long should I keep such records?

A: The Data Protection Act requires that personal data is not kept for any longer than is necessary. The length of time that is considered 'necessary' may be determined by legislation. As a guide you may use The Authorised Records Disposal Practice (ARDP) which is produced by the Parliamentary Archives outlines the retention periods that the House of Commons and the House of Lords apply to their records. You may also contact the Head of Information Rights and Information Security.

USEFUL LINKS AND INFORMATION

Guidance on how to comply with the data protection principles can be found in the 'Advice for Members' Offices: Data Protection Act 1998' booklet which can be found on www.parliament.uk

The Authorised Records Disposal Practice (ARDP) produced by the Parliamentary Archives

Further information can be found on the Information Commissioner's website: www.ico.gov.uk

Business Link has a useful checklist for employers against which you can check your key practices: www.businesslink.gov.uk (But note that some of the functions listed (for example, payroll, tax, pensions) are provided by IPSA or by the Department of HR & Change on behalf of Members.)

IPSA: www.parliamentarystandards.org.uk

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