

5 Unique Guides

Human Resources Services to assist employers and employees

1. Managing Sickness Absence
2. Pre-Employment Checks
3. Contracts of Employment
4. Trouble Free Redundancy
5. Choosing the Right HR Support

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Managing Sickness Absence

Managing Sickness Absence

Managing sickness absence can be both time consuming and sensitive. Each case will present its own challenges and any mistake in managing the process may be expensive and result in an employment tribunal claim.



Although there can never be a one-size-fits-all process to managing sickness absence, you can make the process easier and less risky by following these

Five Practical Tips:

1. Have clear terms and conditions and implement a full sickness policy

Given that sickness absence is so common, it is important to set out what will happen in the event of an employee being off work sick. You should ensure that your terms and conditions cover whether or not your employee will be paid during any sickness absence, and if so, how much and for how long.



You will want your policy to set out everything relating to sickness absence from how and when an employee should report their absence to how you will manage that absence. Setting out a clear pathway through the process will allow all those involved to know exactly what is required of them and what will happen next.

2. Train your managers

A proactive and sensitive approach to sickness absence will usually give better results so proper training will manage sickness absence. You should ensure that your managers are aware of your sickness absence policy and what is expected of them. It is also a good idea to train your managers on some of the wider issues regarding sickness absence management such as its interplay with disability discrimination and an employer's duty to make reasonable adjustments. And remember, legislation and best practice can change over time so regular refresher courses are a must.



3. Record sickness absence accurately

If you are going to manage sickness absence effectively then you need to know how long an employee has been off for and why they are off. This information will allow you to make informed decisions about an employee and what you are going to do next. It may also highlight patterns in someone's absence,

for example do they often have sickness absence on Mondays? It may also allow you to see the bigger picture and identify an underlying problem or a disability. Remember, you will probably need to take a different approach to an employee who has a disability and consider making reasonable adjustments to help them out.



4. Don't try to do it alone – call in expert help

Most cases of sickness absence will be straightforward. However, there will be those that are more difficult and have wider issues. Employers aren't expected to know everything about medical conditions, what's best for an employee and how they can help them. But, they are expected to do all they reasonably can when managing an employee's sickness absence.



In most cases this will mean getting an opinion from the employee's GP, who will know the employee best. Sometimes, however, that will not be enough and you will need to consider getting an occupational health report

and or even a report from a consultant. In addition, you should think about getting proper HR and legal advice and support to help steer you through the minefield.

5. Prevention is better than cure!

Introducing and investing in measures to create a healthy workplace may help reduce your sickness absence. These can include allowing 'duvet days', having access to wellbeing advisers and counsellors and arranging discounted membership to a local gym.

For more information please visit www.kerseys.co.uk

Managing Sickness Absence



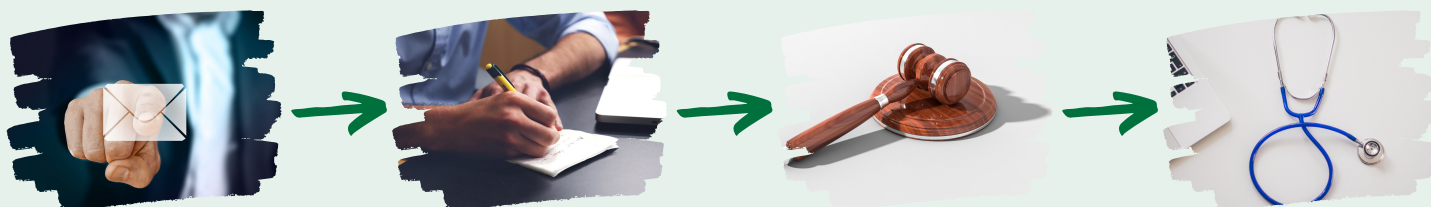
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Pre-Employment Checks

Pre-employment checks – a quick guide

Recruiting the right employee for your business can be an uncertain and lengthy process – but one worth doing right. Once you think you have someone who is a good fit for you, here's what you should do to try to ensure that they are the 'right' person for the job.

4 Simple Steps



1. Get references

An employer (or former employer) does not have to give a reference for someone who has worked for them. However, it is common practice for them to do so and most will unless there is a good reason for them not to. Either way, you should always ask for a reference from at least one previous employer. If you get the references back, then all well and good. If not then you can read into that what you will.

If you are going to seek employer references you should ensure that your offer is conditional upon receipt of satisfactory references. This is even more important if your new employee is due to start before you have the references in your hands.



In that case you should make it clear that you reserve the right to dismiss the individual if you do not receive satisfactory references.

Finally on this point, if you ask for a detailed reference but only get back a basic reference that just covers the dates of employment of your new recruit and their job title, then you might want to investigate this a little further. It could be that the former employer only gives these standard objective references, or it could be that there is some other more concerning reason behind it.

2. Do criminal records checks

If you want to know whether or not your latest recruit has a criminal record, you should seek a certificate from the Disclosure and Barring Service (DBS). You may do this so as to understand more about the character of your new recruit or because you are required to do so for regulatory purposes. In each case you should consider whether you are justified in seeking such information and make it clear to your candidates that you will be asking for this information about them.

And remember, don't jump in too early with your request. You should only seek information about someone who you are looking to appoint, not any and all candidates who apply for a position with you.



3. Make sure they have the right to work in the UK

Before employing someone it is essential for you to check whether that person has the right to work in the UK. If you do not carry out the required checks and the person does not have the right to work in the UK, you may be fined.



If you knowingly recruit illegal workers then you are committing a criminal offence and may be subject to an unlimited fine and/or imprisoned. However, if you inadvertently take on someone who does not have the right to work in the UK,

then you can be fined but you will likely be able to take advantage of the statutory defence and avoid a fine if you have carried out the right checks.

To carry out the checks correctly you will need to examine one or more of the documents set out in the lists in the **Immigration and Asylum Act**. You should satisfy yourself that it is genuine and then take a copy of it. You need to keep a note of when you saw the document and took a copy of it – the easiest way to do this is to write the date on the copy you have taken.

Finally, you need to keep your copy for two years.

Do this properly and you will be able to avoid a fine even if turns out that the person was not entitled to work in the UK.



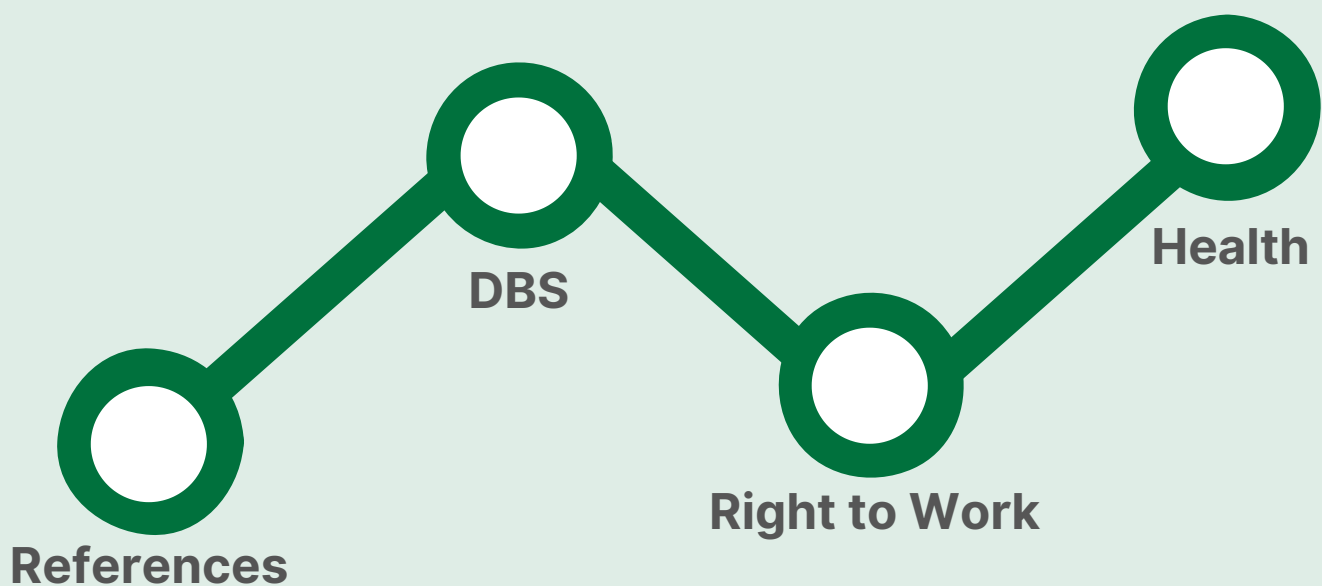
4. Ask health questions

As an employer you are not allowed to ask health questions before you make a job offer.

However, once you have done that, you can go ahead and get the information you need. You can do this by sending out a medical questionnaire, obtaining a medical report or just asking for an opinion from the employee's GP.



If the health of an employee is of concern to you then it is well worthwhile asking the questions. But, be careful not to discriminate a prospective employee because they may have a disability as that would be discriminatory. It's usually worth taking good advice at this stage to reduce the risk of exposing yourself to an expensive Employment Tribunal case.



For more information please visit www.kerseys.co.uk

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Contracts of Employment

Contracts of Employment

Your Questions Answered

All businesses should make sure that they have good employment contracts - and here is why:

1. They define the working relationship

Employment contracts are vital for defining the legal relationship between an employer and an employee. Having clearly set out terms will let each party know exactly where they stand. They can be used to set out all of the important terms of the working relationship such as:

- how much and when the employee will get paid
- what benefits they are entitled to
- how much holiday the employee gets
- how much notice each party must give to end the contract
- arrangements around sickness and sick pay



They can also include clauses to protect your business, but more of that later.

2. Because it's the law – well sort of!

Although there isn't a legal requirement for employers to give their employees contracts of employment; they do have to give them a written statement of particulars of employment, which is pretty much the same thing.

The statement must set out the main terms of employment including:

- the names of the employer and employee
- the employee's start date
- details of the employee's pay and benefits
- their entitlement to holiday pay, sick pay and pension
- the length of notice the parties have to give to end the contract
- the employee's place of work amongst other things

If you don't supply your employees with written statements of the particulars of employment then they are entitled to apply to an employment tribunal for it to determine what the employee's terms and conditions are. An employee may also get an addition 2-4 weeks' pay if they succeed in a claim in an employment tribunal.

3. To protect your confidential information

If your employees handle sensitive and confidential information then it makes real sense for you to protect that information by including appropriate clauses in your contracts of employment. You can make it clear that employees must not share information about your business on social media and that they must not disclose any commercial secrets during or after they leave you.



4. To protect your business!

Given that you may have spent years building up your business with all its contacts and goodwill, you will probably want to protect it.

The only way that you can stop an employee coming in to your business and then taking your customers, suppliers and employees with them when they leave is to have properly drafted post-termination clauses (often known as restrictive covenants).

These post-termination clauses can prevent ex-employees: trading in competition with you, soliciting and dealing with your customers and suppliers and employing your other employees in their business.



They are essential to protect your but they must be very carefully drafted to be of any use. If you don't have them properly tailored to your needs, then they will probably not be enforceable.



I cannot stress this enough, if you really want to ensure that you still have a business, make sure you get carefully drafted restrictive covenants in your employment contracts!

For more information please visit www.kerseys.co.uk

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Trouble Free Redundancy

5 Tips For Making Redundancy Trouble-Free

Handling redundancies in your business can be hard. But, you can do a few things to make it easier for you and your employees.

Here are my five top tips to making a redundancy process as smooth and painless as possible.



Five Practical Tips:

1. Think about where you are and what you want

Every redundancy situation is unique and so there can never be a one-size-fits-all process for completing it. What form your process takes will, to a great extent, be determined by your business's circumstances.

So, before you start doing anything you should try to understand:

- (a) what you have now and
- (b) what you want or need to have at the end of the process.

I know it sounds simple, but so many businesses miss out this point. As a result they lose their way during the process because they either didn't really know what they had at the start or they didn't know what they actually wanted at the end.

2. Have a plan!

Once you understand where you are and where you want to be, you can then work out how you are going to get from one to the other.

You can restructure your business in so many ways to cut costs or reduce the number of staff you have. Which route is right for you is going to depend on your circumstances.

For example, 1) you may need to reduce the number of employees that you have across the board. Or, 2) you may just want to reduce the number of employees that you have in a particular part of your business. Alternatively, it could be that 3) you don't want to reduce the number of employees that you have at all.



Instead, you want to change how they work or how the business is structured.

These are all potentially redundancy situations but you will need to follow a different process with each one of them to achieve your goal.

Whatever you are trying to achieve, you need to choose a plan that will give you what you want at the end. Produce a time line of when you are going to carry out each step of your plan and follow it through.

3. Leave yourself enough time

As part of any redundancy process you are going to have to consult with your employees who are at risk of redundancy.

You should look to embark upon the consultation process as soon as you know that there are likely to be some redundancies. And, in some cases you will need to have a minimum consultation period of 30 or 45 days.

As part of any consultation period you will need to:

- inform all of your effected employees about the situation
- explain the process to them
- score them if necessary
- look at ways of avoiding redundancy
- discuss potential options with them

This naturally takes time and rushing it will likely cause you problems!

4. Listen

As part of any redundancy process you have a duty to consider ways that you can avoid the need to make someone redundant. You will, hopefully, have thought of most ways to avoid the redundancies when you are planning the redundancy process. But, there may be something that you have missed.



Always **ask** your employees who are facing redundancy whether they can think of any way in which they can avoid redundancy. **Listen** to what they have to say and then **follow-up** on any answers given.

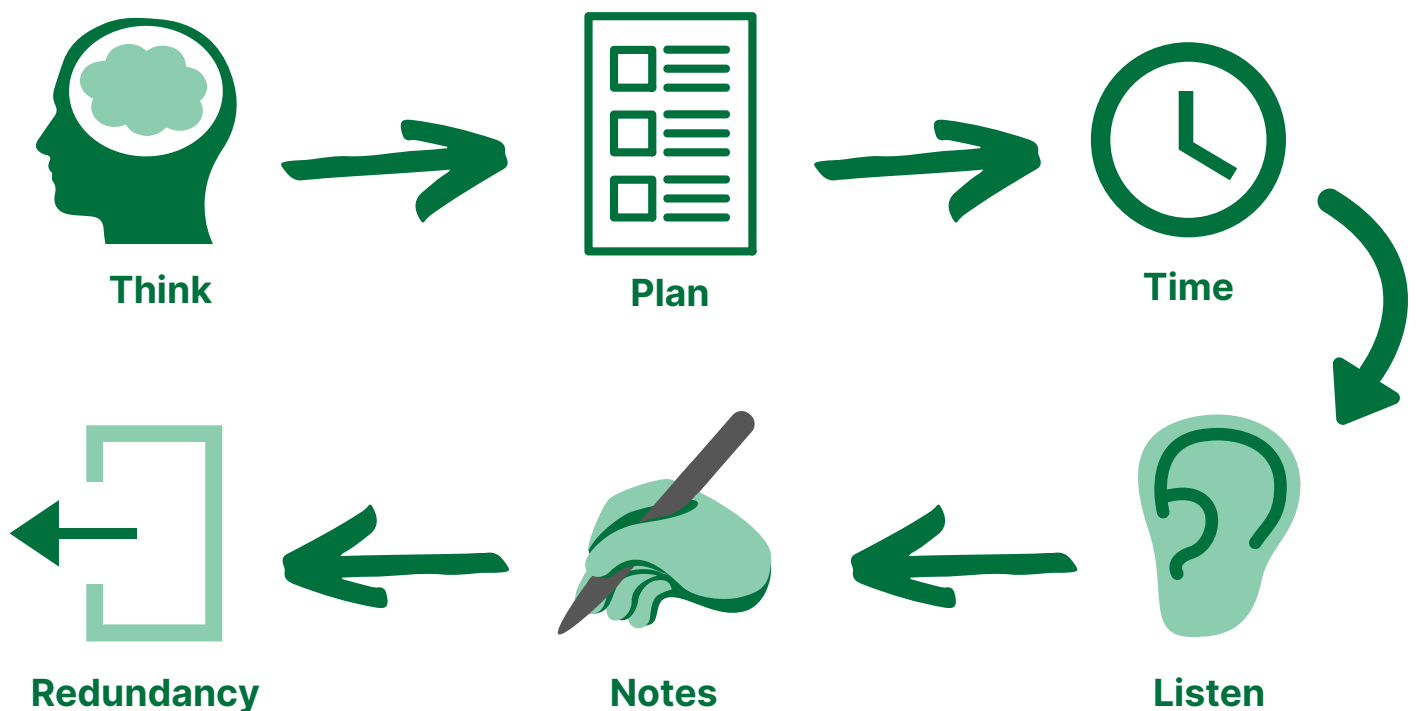
You are not obliged to implement any suggestion but you are expected to consider them and to explain why you cannot put into effect their suggestion.

5. Take notes

Hopefully everything runs smoothly and you complete your restructure without any disgruntled employees bringing claims against you.

However, sometimes it doesn't matter how good you are, you just can't stop someone bringing a claim. That's when you will appreciate having taken good notes.

If you followed a fair process and can prove it because you have copies of letters, emails and notes of any discussions, then you should be able to safely defend your position. If you haven't got anything backing up what you have said, you may have a much more uncomfortable ride.



For more information please visit www.kerseys.co.uk

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Choosing the Right HR Support

5 Tips For Selecting the Right HR Support

Choosing the right HR support for you can be a challenge – especially if you are not sure what you really need.



Here are my 5 tips to selecting the right support for you.

Consider these Five Tips:

1. Knowledge

You need to make sure that your HR support understands the legal implications of what they are advising.

Employment law is complex and ever changing, so it is important to find an HR adviser who is a specialist in the field of employment law.



You need someone who truly understands the issues you are facing and can use their knowledge of the law to get the best outcome for you.

2. Experience

Look for an adviser who has a good amount of experience of helping employers with their employment and HR needs. There really is no substitute for experience. And, as part of that experience, you should look for an adviser who has acted for both employers and employees in the past.

Choosing the Right HR Support

This will give them a more balanced view of the strengths and weaknesses of your position and a better insight into what their opponent is thinking.

Feel free to question them about their experience and ask if they have worked on

a similar case in the past so that you can be confident they will be able to help you.



3. Costs and Fees

Advisers will often charge by the hour, so you only pay for the time the adviser spends helping you.

Many will also offer fixed or capped fee options, which give you the certainty of knowing how much you are going to need to pay.



Some will even offer low-cost retainer that gives you access to certain services for a fixed time, usually a year.

Choose an adviser who has a transparent fee structure so that you understand how much you will have to pay. You should also expect to be given lots of information about funding options that are open to you.

4. Professional Regulation

You should look for an adviser who is a member of a professional body which requires them to act ethically and be adequately insured for the advice that they give.

Solicitors, for example, are strictly regulated so you can be certain that they:

- have insurance
- will provide you with information around fees
- will deliver excellent client care
- will work in your best interests



You should also look to see whether your advisers meet additional quality standards in client care and management such as Lexcel. If they do, they will have the Lexcel accreditation displayed on their literature and website.

5. Own Your Problem

Good advisers care about their clients and work with them to gain the best results.

They make your problem, their problem and ensure that you get the best achievable result.



You should also talk to any prospective adviser before you engage them as you want to make sure that you can work with them. Feeling comfortable with your adviser is a key part of your relationship with them.

Choosing the Right HR Support

Finally, before you choose your adviser, have a look on the internet and see what others have to say about them. This will give you a better understanding of their level of care and commitment.

A little more about Kerseys

Kerseys Solicitors LLP is authorised and regulated by the Solicitors Regulation Authority and is accredited by the Lexcel Quality Standard.

We offer a range of fee options, including a low-cost annual retainer service.

If you would like to discuss how our expert advisers can help you, please call us on 01473 213311 or 01206 584584 or email hr@kerseys.co.uk and we will be happy to discuss our offering.



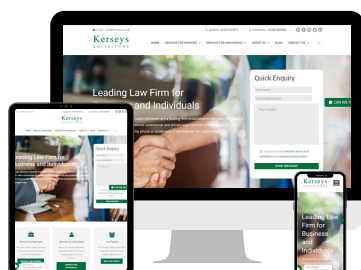
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