



SmartHR provides a range of professional and cost effective HR management and training outsourcing solutions for businesses, including...

- **Strategic HR audits & planning**
- HR health checks
- **Recruitment assistance**
- **Contracts of employment**
- **Employee handbooks**
- **Induction processes**
- **Reviewing, updating and / or creating HR policies & procedures (IOM and UK)**
- **Employment documents e.g. letters, forms, checklists**
- **Training and development via 'Skills Workshops'**
- **Coaching e.g. managing absence, managing discipline and grievances**
- **Performance management / appraisal systems**
- **Adhoc / interim HR projects**
- **Succession planning**
- **Change management initiatives**
- **Redundancy management & outplacement services**

We can provide HR retained service packages for a fixed monthly fee, assist with projects on a fixed fee basis, or you can use our services on a 'pay as you go' basis.

You can also purchase template HR documents from our online 'E-HR Shop' at www.SmartHR.co.im

Welcome to SmartHR's June 2011 E-Newsletter

Our newsletter will be distributed on a monthly basis, providing articles of business interest, HR news / updates and information regarding SmartHR's business solutions. *We hope that you find this newsletter of interest and share it with your colleagues.*

Gail Yeowell Chartered FCIPD, FInstAM(Dip), FCMI
Managing Director, Smart HR Solutions Limited

UK Bribery Act comes into force from 1 July 2011

The Act incorporates 4 possible offences: **1) bribing another person** – to offer, promise or give a financial or other advantage to another person to perform a relevant function or activity improperly; **2) being bribed** – accepting, agreeing to accept or requesting a reward in return for performing a relevant function or activity improperly; **3) bribing a foreign official** – where a person offers, promises or gives a financial or other advantage to a foreign public official in the performance of his / her duties or official functions in a situation where the public official was not permitted or required by law to be influenced; **4) failure of commercial organisations to prevent bribery** – a commercial organisation will be liable to prosecution if a person associated with it bribes another person intending to obtain or retain business or an advantage in the conduct of business for that organisation. *The commercial organisation will have a full defence if it can show that despite a particular case of bribery it nevertheless had adequate procedures in place to prevent persons associated with it from bribing.*

UK Government reviewing Employment Law

Three areas of employment law have been identified to be investigated for potential reform: **1) compensation for unlawful discrimination** – it has been suggested making a cap on payouts mirroring unfair dismissal i.e. £68,400, or twice the claimant's annual salary, whichever is greater (rather than it being unlimited); **2) legislation requiring consultation over collective redundancies** i.e. the 90 day minimum consultation period; **3) removing 'gold-plated' elements of Tupe** e.g. around service provision change. **Also, consultation opens on shared parental leave - parents could share paternity and maternity leave from 2015; as well as plans to extend the right to request flexible working to all people employed for 26 weeks.**

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The CIPD tool also has 'career capability checklists' that are designed to make organisations think about the different aspects of their career activities:

- strategy and climate
- processes
- people to talk to, and
- training in career support

By completing these checklists you can review items such as:

- If your organisation has an appropriate and positive career strategy of encouraging employees to develop their careers and potential
- If the senior leaders role model the strategy and help others with their careers
- Whether employee surveys ask if employees have had useful career discussions in the last 12 months
- If personal development plans address development for the future as well as current job roles
- If there is someone 'off line' that people can talk to about their career e.g. HR or a mentor
- Whether managers receive training in how to support the career development of others

SPECIAL FEATURE:

EFFECTIVE CAREER DISCUSSIONS

There are a number of purposes and business benefits of holding effective career discussions - they can...

- Help to grow and deploy the skills and experience that the business needs
- Help improve performance
- Help employees focus on self-development and reaching their potential
- Help to attract and retain staff

Career discussions can be held formally or more informally, and can be planned or unplanned. They can be held with a variety of people, including: the person's manager, senior manager, HR department, colleagues, a coach or mentor. More often than not they will usually take time and can benefit from being planned and prepared for.

The Chartered Institute of Personnel and Development (CIPD) has a useful tool 'Career discussions at work – practical tips for HR, Managers and Employees' which can be found at: http://www.cipd.co.uk/binaries/tool_10.pdf.

It provides a '4 Stage Model of an Effective Career Discussion' as follows:

1. **Setting up the discussion** – getting a discussion to happen and preparing for it by gathering information, reflection and planning the agenda
2. **Establishing trust** – helping to set a positive atmosphere for the discussion
3. **Sharing information** – listening and questioning, exploring career options
4. **Agreeing action** – concluding the discussion and getting practical follow-up action

Providing information and advice on career opportunities and the kinds of jobs that it may be possible to work towards can make the 'path of progress' clearer in a person's mind. This, coupled with giving constructive feedback on the individual's skills and future potential; being positive and enthusiastic, and showing a real interest in the person are central to *effective career development discussions*.

Employees can gain a lot of benefit from discussing their career aspirations and being provided with advice, guidance, encouragement and support; and conducted well they can be very motivational. In addition, discussing career aspirations can assist organisations with their talent management and succession planning activities.

Unfair Dismissal case Overturned

Asda Stores Ltd v Coughlan
(Case Ref: UKEAT/0453/10/DM)

The UK Employment Appeal Tribunal overturned an original decision that Asda unfairly dismissed (for gross misconduct) an employee for passing cannabis on to a colleague because this went against the Company's Alcohol and Drugs Policy which provided for treatment and support in dealing with such problems.

The EAT stated the Tribunal made the mistake of substituting its own view of how Asda should have dealt with the matter.

Key points to consider from this are:

Ensure that your Company's internal procedures are followed

Take into consideration any mitigating factors when dealing with alcohol or drug related issues

Welfare policies can be effective but there should be a distinction between an employee's need for help and support, and the Company's ability to deal with conduct which is more appropriate to be dealt with as a disciplinary issue

Interesting Employment Tribunal / Employment Appeal Tribunal Cases...

- **Kurumuth v NHS Trust North Middlesex University Hospital (Case Ref: UKEAT/0524/10/CEA) – the EAT held it was reasonable for an employer to dismiss an employee when the UK Border Agency failed to establish her right to work in the UK.** In this case Kurumuth, a Mauritian, came to the UK in 1992 with a work permit. In 1997 she was refused further leave to remain but appealed. She received a letter from the Home Office advising that she could work in the UK until her appeal was heard. She became a permanent employee of the Trust in 2003. When the new points-based system was introduced a check of her immigration status was made and the Border Agency could not give an indication of when the matter would be resolved. As there was no evidence that she had the right to work in the UK, she was dismissed for misconduct following suspension. The Tribunal found the dismissal procedurally unfair, although the employer's decision to dismiss was within the range of reasonable responses. Kurumuth appealed the decision and argued that the Tribunal should have decided her immigration status. The EAT rejected her argument and said it was not for an Employment Tribunal or appeal court to determine – it was an immigration decision. ***The EAT found the Trust had shown a fair reason for dismissal as it genuinely believed Kurumuth was not entitled to work in the UK as the Border Agency had failed to clarify her immigration status.***
- **Sakharkar v Northern Foods Grocery Group Ltd t/a Fox's Biscuits (Case Refs: UKEAT/0442/10) – Tribunals can look behind the circumstances of warnings used as grounds for dismissal, even if the employee concerned has not appealed the decision.** In this case, Northern Foods had misapplied its absence policy and given Sakharkar a warning that was unwarranted. Both the employer and employee were unaware of the mistake made, Sakharkar did not appeal against the decision, and the warning was issued. The employer subsequently moved Sakharkar on to the final stage of its absence procedure as a result of the warning, and he was dismissed. The EAT held that the Tribunal could revisit the circumstances in which the warning was given – even if the employee had not made an appeal against it. ***The EAT found the employer had not acted reasonably. It had an HR Dept responsible for recording absence levels, and ensuring fair and consistent application of the absence policy, and the employer's failure to comply with the policy was not a sufficient reason to dismiss.***
- **Garrett v Mirror Group Newspapers (Case Ref: 2011 EWCA CIV 425) – Custom and practice made signing Compromise Agreements a contractual requirement for receiving company redundancy pay. In this case, the Court of Appeal held that a well-established (although unwritten) requirement to sign a Compromise Agreement in order to receive an enhanced redundancy payment amounted to an implied term in each employee's contract.**

To find out how SmartHR can add value to your business call Gail on 619619, email gail@SmartHR.co.im or visit our website at www.SmartHR.co.im

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UK: The Agency Workers Regulations 2010 come into force on 1 October 2011

The regulations provide all agency workers with a right to equal treatment over basic employment and working conditions as if they had been recruited directly by the hirer – if and when they complete a 12 week qualifying period in the job. These include key elements of pay, duration of working time, night work, rest periods and breaks, annual leave / holidays, and paid time off for ante-natal appointments. The Regulations also include new entitlements for agency workers from day one of their assignment with regards to access to facilities at the workplace and the right to be notified of any relevant vacancies.

The Government has now published guidance to help employers and the recruitment sector prepare for the introduction of the new legislation. Separate guidance for agency workers will be published shortly.

Business Innovation & Skills guidance can be found at:

<http://www.bis.gov.uk/assets/biscore/employment-matters/docs/A/11-905-agency-workers-regulations-guidance.pdf>



Health & Safety – did you know?

The Health & Safety Executive has confirmed that the majority of statutory reporting of injuries and accidents is to move to an online-only system

From *September 2011*, only fatal and major accidents will be reported by phone – all other reportable incidents under RIDDOR (Reporting of Injuries, Diseases and Dangerous Occurrences Regulations) will be dealt with via online forms available on the HSE's website

Also, as a cost saving measure the HSE's Infoline that provides basic H&S information will close on *30 September* - people will be encouraged to use the HSE's website for guidance: <http://www.hse.gov.uk/>

SmartHR is delivering the following 'Skills Workshops' in order to enhance people management performance:

23 & 24 June – Essential HR for Line Managers (2 days) *NEW WORKSHOP*****

29 & 30 June – Train The Trainer (2 days)

7 July – Managing Performance (1 day)

14 July – Managing Performance Problems (1 day)

21 July – Effective Recruitment & Selection (1 day)

25 July – Negotiating & Influencing (1 day)

28 July – Effective Time Management (1/2 day - am)

29 July – Managing Stress (1/2 day - am)

29 July – Delegation Skills (1/2 day - pm)

Further details can be found on the Events Page at www.SmartHR.co.im

To book – contact Gail on 619619 or email: gail@SmartHR.co.im

