



SmartHR provides a wide range of *professional and effective outsourced HR solutions* to businesses and individuals. With almost 20 years' HR management experience, we utilise our skills and knowledge to assist clients in 3 areas: Recruitment, HR Consultancy and Training.



Recruitment:

- Executive Appointments
- **General Recruitment**
- Interim Positions



HR Consultancy:

- HR Consultancy and Advice
- **Tailored Business Support Packages for a fixed monthly fee**
- HR Healthchecks and Planning
- **Employment Contracts and Staff Handbooks (IOM and UK)**
- HR Policies and Procedures
- **Induction, Performance Review and Succession Processes**
- Ad hoc / Interim HR Projects
- **Redundancy Support and Outplacement Services**
- Online E-HR Shop to purchase template employment documents



Training:

- 'Skills Workshops' to improve people management skills
- 1-to-1 coaching e.g. managing absence, discipline & grievances

Welcome to SmartHR's Sept 2012 E-Newsletter

We hope you find this e-newsletter of interest and share it with your colleagues. Gail Yeowell Chartered FCIPD FInstAM(Dip) FCMI FIRP
Managing Director, Smart HR Solutions Limited

Read our Client Testimonials here: [Testimonials](#)

IOM EMPLOYMENT LAW UPDATE

Control of Employment Bill / Regulations

The Department of Economic Development (DED) has received many comments from consultees on proposals for a new Control of Employment Bill / Regulations. A review of comments and final details of the contents of the new Bill will be published shortly.

It is intended to progress the Bill in the forthcoming 2012/13 legislative year.

Employment (Amendment) Bill

Subject to the approval of the Council of Ministers, the DED intends to consult on a short Employment (Amendment) Bill later this year.

Further details of the proposals will be notified by the DED later this year.

Equality Bill

Following a review of the Bill in 2011 the Council of Ministers decided that the previously planned Employment (Equality) Bill should be extended to cover the provision of goods and services and not just employment.

The Bill, which is now a joint project between DED and the Chief Secretary's Office, is presently being drafted by the Attorney General's Chambers. Once a draft Bill has been prepared, there will be a communication regarding a consultation process.

Further updates will be provided in future E-Newsletters once known...

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UK: Royal Mail lose Racism Case

Abdul Musa, a former Royal Mail employee, made a whistleblowing claim and reported racist behavior at Royal Mail's Depot to Managers, which resulted in one worker being sacked and others disciplined.

Musa was victimised by colleagues following his complaint as Managers failed to support or protect him. He was subsequently sacked and claimed both race discrimination and unfair dismissal.

The Employment Tribunal found failings in Royal Mail's internal investigation, and are believed to have awarded Musa c£100k compensation.

UK: £500k fine for Tata Steel re Health and Safety breaches

Tata Steel has been fined £500k for serious H&S breaches which led to a worker's death at a blast furnace in South Wales – and ordered to pay c£57.5k in costs. An employee fell into a channel carrying slag waste heated to 1,500 degrees Celsius. The channel's covers had been removed for maintenance work and not replaced.

A subsequent HSE investigation found there had been a significant number of 'near misses' similar to what had caused the fatal incident and that additional precautions had not been put in place.

UK: New ACAS Redundancy Handling Guidance

For UK employers, ACAS has produced a Redundancy Handling Guide – which can be found at: <http://www.acas.org.uk/index.aspx?articleid+747>

COMPANY PROFITS BOOSTED BY SKILLED HR PRACTICES

A global study by The Boston Consulting Group (BCG) and the World Federation of People Management Associations (WFPMA) has revealed that companies that are highly skilled in core HR practices experience up to 3.5 times the revenue growth and as much as 2.1 times the profit margins of less capable companies.

The survey was conducted with over 4,200 HR professionals and non-HR managers in more than 100 countries, and measured companies for proficiency in 22 HR areas and compared this to the companies' economic performance.

There was a strong correlation between economic performance and HR capability, particularly in the following areas: recruiting, onboarding of new hires and employee retention, talent management, employer branding, performance management and reward, and leadership development. *Leadership development, talent management, and performance management and reward were considered pivotal.*

The joint report 'From Capability to Profitability' can be found at <http://www.bcgperspectives.com/>

FIRMS WITH FEMALE DIRECTORS PERFORM BETTER

A study by the Credit Suisse Research Institute measured the share price performance of 2,360 companies globally over the past 6 years and concluded that that "it would on average have been better to have invested in corporates with women on their management boards than in those without."

Overall, companies with at least one woman on their board produced a 16% return on equity, 4 percentage points higher than companies with no female board members. Gender diverse boards also showed a better than average growth, increasing turnover by 14% over 6 years (compared to 10% for those companies who didn't have female directors).

Various reasons were found as to why greater gender diversity correlated with stronger corporate performance. These included: greater effort across the board, a better mix of leadership skills, access to a wider pool of talent, and better reflection of the consumer.

Female board members are increasing in the UK – 16.7% (up from 12.5% a year ago). Europe has improved its gender diversity, and in recent years China has made a significant increase – from 6.5% of companies with at least 1 female board member in 2005 to 50% in 2011.

Need help with HR / people management matters? Contact Gail on 619619, 478764 or gail@SmartHR.co.im to discuss your needs

UK: EAT RULING REGARDING BREACH OF TRUST & CONFIDENCE / CONSTRUCTIVE DISMISSAL

Assamoi v Spirit Pub Company

In this case, the EAT found that if an employer upholds an employee's grievance about treatment by his immediate manager, this can prevent the employee relying on the treatment to show a breach of the implied term of trust and confidence.

Assamoi worked as a Head Chef and raised a grievance about how he had been treated by his immediate manager – then subsequently resigned (he had been suspended pending an investigation into his failing to attend work on a scheduled day and refusing to attend an out-of-hours meeting – the investigation showed that Assamoi's manager had sanctioned the absences).

The grievance was upheld by more senior managers who took steps to rectify the matter – and offered Assamoi a transfer to another pub.

The EAT found that although Assamoi's manager had behaved badly towards him, the actions taken by the senior managers prevented the matter escalating into a situation that would have justified the employee leaving and claiming constructive dismissal.

The EAT considered that the immediate manager's actions, by itself, did not amount to a breach of the implied term of trust and confidence.

UK: COURT OF APPEAL FINDING RE UNFAIR DISMISSAL

Graham v Secretary of State for Work and Pensions (case ref: 2012 EWCA Civ 903)

In this case, Graham had worked for DWP for 30 years – more recently as a Manager in a Jobcentre. It was alleged that Graham had helped a friend of her daughter (Moss) to look for a job, which was considered a breach of DWP rules.

The investigating manager decided that:

- Moss had become Graham's acquaintance, so she should not have used her position to help him;
- Graham had breached security by taking him for a sandwich into the staff canteen; and
- Graham had left Moss unattended by her work computer for a short period of time.

Graham was subsequently summarily dismissed for gross misconduct, which she appealed.

The Employment Tribunal (ET) found that Graham had not assisted Moss after she had become his 'acquaintance', but that she had taken him into the staff canteen and left him unattended by her computer. The ET concluded that summarily dismissing Graham on these grounds was *outside the range of reasonable responses*.

The case went to an Employment Appeal Tribunal (EAT), who decided Graham had helped Moss and that the gross misconduct dismissal '*plainly and unarguably fell within the range of reasonable responses*'.

The case then progressed to the Court of Appeal (CoA), who concluded that the ET had been correct originally and that the EAT's decision was wrong.

The CoA found that there was evidence that the investigating officer was unable to define what was meant by 'acquaintance' and had not made a clear finding that Moss was Graham's acquaintance at the time that Graham helped him. Therefore, the ET had been entitled to conclude that the DWP did not have reasonable grounds for believing that Graham was guilty of the allegation made against her.

This case shows that employers should rely on clearly established findings of fact to justify a decision to dismiss and these should be documented in order to bring the dismissal decision within the required range.

To find out how SmartHR can add value to your business call Gail on 619619 / 478764, email: gail@SmartHR.co.im or visit our website at www.SmartHR.co.im

Other UK news...

 **Protection of Freedoms Act 2012:** The UK Government has published guidance regarding the changes to the VBS under the Protection of Freedoms Act 2012, which will take effect on 10 Sept 2012 for England and Wales. The CRB & Independent Safeguarding Authority will merge into a single body in Dec 2012 called the 'Disclosure & Barring Service'. Individuals will be able to register once for a CRB check (expected early 2013), and it will then be automatically updated and available for organisations / employers to check. Further information is available at: http://www.homeoffice.gov.uk/publications/crime/disclosure-and-barring/leaflet-england-wales?_view=Binary

 **UK Government backs down from Beecroft's proposal for 'compensated no-fault dismissals'.** However, other changes to UK employment legislation could take place including mandatory early conciliation by ACAS before claims are submitted to an Employment Tribunal, and the Enterprise and Regulatory Reform Bill allowing 'without prejudice' conversations with employees regarding their performance. Fees for users of Employment Tribunals have already been agreed and will be introduced in the Summer 2013



Are you complying with employment legislation?

Do you need support with HR matters on a flexible basis?

Contact Gail on 619619 / 478764, email gail@SmartHR.co.im or visit our website at: www.SmartHR.co.im

SmartHR delivers a range of 'Skills Workshops' in order to enhance people management performance, including:

- **Essential HR for Line Managers**
- Effective Recruitment & Selection
- **Effective Appraisals & Objective Setting**
- Managing Performance
- **Negotiating & Influencing**
- Coaching & Feedback Skills
- **Managing Performance Problems**
- Managing Discipline & Grievances
- **Managing Absence**
- Effective Team Meetings
- **Effective Time Management**
- Delegation Skills
- **Managing Stress**
- Customer Care, Telephone & Time Management Techniques
- **Train The Trainer**

Visit the **Training** page of our website at www.SmartHR.co.im for details of all of our training workshops. Click on the workshop name for course outline and learning objectives.

For a cost effective quote to deliver any of the courses internally, please email gail@SmartHR.co.im

We can also create bespoke courses & deliver employment law presentations

