

How to Employ Your First 20 People

A practical guide for small
businesses and new managers



Debbie Glinnan

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Introduction



My career in Human Resources (‘HR’) started in 1997.

While the first 15 years were spent working for large London-based companies, in 2004 I began working for a local, family-owned hotel. Every decision felt personal to the owners and had a direct impact on the business. With staffing such a huge part of their running costs, they needed good HR practices on a budget.

I found it such an enjoyable challenge that in 2012 I set up my own HR Consultancy, specialising in working with smaller businesses.

Since then I have met many small business owners who were worried or confused about employing staff. While they had set out with the best intentions of being good employers, for some, things had already gone horribly wrong. Some knew they should be doing more or felt lucky they hadn’t found themselves in an Employment Tribunal. Others had concerns with an employee they thought of as a personal friend. What they all had in common was that they were crying out for straight forward help with the basics.

Employing good, well-motivated people could be just what you need to take your business forward. The trick is to have the right people, with the right skills, in the right place at the right time.

I have earned a reputation for putting good HR practice across in plain English. You won't need a dictionary to read this book. It's designed so you can read it straight through or just pick out the section that matters to you now.

Some things may strike you as common sense. Great. You are already on the way to being a good employer. Other things are explained with examples. An example can save a thousand words and I know you're busy.

I have also added in lots of tips from over 20 years of practical HR experience. I was there when HR was called Personnel.

I get a buzz every time a client says to me “thanks, that's so much clearer now”. If you read the book and feel that too, please do leave a review so I know it's all been worthwhile.

In the meantime, I wish you every success with your growing business. Happy employing!

Important Notes:

This book focuses on “how to” rather than employment law. While every effort has been made to ensure that any employment law quoted is correct at June 2015, employment law does change frequently. Before you act on any legal issues, you are strongly advised to seek additional professional advice. Either contact me directly or speak to an employment lawyer.

This book has been written under English Law. There are some small differences in the law in other parts of the UK, which are not covered in this book.

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1 Employed or self-employed?

Employing your own staff can be an exciting but daunting prospect. After all, to your customers, anyone who represents your business **IS** your business.

If your staff are happy and motivated to come to work, it shines through to your customers. Think about the last time you ate out. How your meal was cooked and served was down to the skills of the people that worked there. Did it make you want to go back again or have you been telling others to go elsewhere ever since? It probably wasn't the business owner that served you.

One of your first key employment decisions may be whether to employ at all. Should those that work for you be employed or self-employed?

1.1 Why does it matter?

An employee has rights and entitlements, many of which are discussed here. They include rights to sickness, maternity and paternity pay, holiday entitlement and protection from unfair dismissal. The employer is responsible for their tax and National Insurance.

While it is often cheaper for the company if someone is self-employed (as they will have none of the rights or entitlements mentioned above) you do run the risk that they are less likely to buy into your company values.

In any event, you can't simply choose that your workers will be self-employed. You have to truly reflect the reality. If the HMRC investigate and find your worker is really your employee, expect the HMRC to gross up any payments made

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for tax and charge you the difference. They may well fine you too.

Tip: Workers and contractors can still make a claim for discrimination or action taken following whistle-blowing. A whistle-blower is someone who reports suspected wrong doing at work.

1.2 How do I decide if they are employed or self-employed?

Neither the HMRC nor an Employment Tribunal will accept your word that someone is self-employed. They will decide for themselves by looking at the contract and how the work is undertaken.

An Employment Tribunal will consider whether there is:

- Mutual obligation.
- Control.
- A requirement for personal service.

If the answer to all of these is “yes”, the Tribunal will take this as an indication that the worker may actually be an employee. Just like the HMRC, the Tribunal will then look more carefully at a number of issues, such as:

- Can they send a replacement to do the work?
- Can they be told what work to do?
- Can they be moved from one task to another as your priorities change?
- Who decides how the work is done?
- Are they a skilled person or an expert in their field?
- Who decides what hours are to be worked, when and how?

- Who provides the tools to do the work?
- Do they pay for the costs of supplies without being reimbursed?
- What actually happens in practice?
- Is there a mutual obligation to provide/do the work?

This list is not exhaustive and they may choose to look at others areas too.

Tip: You can save yourself an awful tax bill by making sure you get this right. If you are in any doubt, don't take a chance, speak to your accountant or other suitable qualified advisor. You may even want to write to the HMRC if you are still not sure.

Whatever their employment status, you must not discriminate against anyone who works for you. The next section explains what discrimination is and how to avoid it.