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GUIDANCE, DOCUMENT

Legal rights respected - resource pack

Resource pack

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How to respect your workers' legal rights



All employers are bound by employment and health and safety laws and must, at the very least, adhere to statutory minimum requirements. Not complying with these laws is not only a clear indicator of unfair work, but is unlawful and in some cases, such as modern slavery and wage theft, could constitute a criminal offence.

As an employer you must not seek to circumvent statutory employment standards and you should ensure your workers have access to information about their rights. To be a true Fair Work employer, you must go beyond legal minimum duties and standards for your employees and also consider what steps you can put in place to eradicate unlawful and unethical practices within your supply chains.

This can benefit your business performance in a variety of ways:

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- By engaging constructively with your staff to reach voluntary agreement on any contractual or legislative changes that affect them, you can show yourself to be an open, transparent employer, who places your people at the heart of the organisation.
- Respecting your staff's legal rights reduces the risk of employment-related litigation and the significant
  damages costs this can bring - not to mention the time, resource and potential disruption that comes with any legal proceedings.
- Treating your employees with respect in this way helps to build a more engaged workforce, allowing you to retain key skills, motivated workers and to protect positive relationships with staff and unions, and saving on replacement costs.
- Demonstrating a commitment to respecting your workers' legal rights can also help to build confidence in your organisation's governance and ethics, creating a positive reputation for your business and leading to increased sales and customer loyalty, as consumers seek out businesses with higher ethical standards.
- There are also wider societal benefits. Interventions such as adequate, paid sick leave is not only an important aspect of fair work but could also support public health measures to protect our population, for example supporting those workers with infectious diseases to isolate at home.

What can I do as an employer to ensure my staff's legal rights are respected?

So, you understand how this particular Fair Work principle can benefit your business as well as your employees, but what steps can you take to make this a reality in your organisation?

Here are some practical things to consider:

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Strengthen your understanding of workers rights, employer responsibilities and enforcement

The most common issues relating to employees' legal rights are associated with their pay and entitlements, especially levels of remuneration, annual leave, holiday pay, sick pay and unlawful deductions, as well as their terms and conditions of employment, grievances, redundancy and dismissal.

The best way to avoid this type of issue is to ensure you are compliant with all legal obligations to your staff at all times and never try to introduce shortcuts. The **ACAS codes of practice** gives guidance on the minimum standards of fairness that all employers should adhere to.

Abide by all statutory obligations to your workers and do not seek to circumvent them

Unfortunately, despite efforts to stamp them out, unethical employment practices designed to avoid complying with employees' statutory rights and benefits are still prevalent throughout Wales and the UK.

The most frequent examples are firstly, falsely classifying individuals as self-employed or workers rather than employees to avoid having to meet their employment rights, and secondly, dismissing workers, then re-employing after a gap to prevent them from being able to access the statutory protections they should be entitled to. Neither of these practices align with the Fair Work principles and should be avoided.

Take proactive steps to make your employees' legal rights meaningful in practice

To be a true Fair Work employer, consider the importance of how your employees' legal rights can be applied within the workplace, rather than relying on external enforcement. For example, instead of simply 'not discriminating against' individuals

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with protected characteristics, develop and implement a comprehensive plan to promote equality and diversity, involving workers through their representatives, paying attention to how everyone can interact, and monitoring implementation and outcomes. And rather than waiting for an individual to exercise the statutory right to request flexibility, a true Fair Work employer will facilitate and offer flexible arrangements in all jobs.

Consider paying all workers at least the Real Living Wag (RLW)

People all over Wales are facing real challenges with the cost of living, especially the 223,000 Welsh workers who are still earning below the Real Living Wage.

We understand that businesses are facing huge financial pressures too, so committing to extra spend on staff salaries may not seem feasible. But uplifting pay to the Real Living Wage is a great example of going above and beyond statutory minimum requirements and will not only make a big difference to your employees' lives, it can also help with attracting and retaining talented staff, saving your business money in the long run.

Whereas the government-set 'National Living Wage' applies to people aged 23 years and over, and is set as a percentage of median earnings, the Real Living Wage applies to everyone over 18 and is set by an independent calculation according to the cost of living, based on a basket of goods and services.

Commit to tackling modern slavery

Modern slavery is still extremely common in the UK, with 5,144 offences recorded by the police in England and Wales in the year ending March 2019. Of the 2,251 potential victims supported by The Salvation Army in England and Wales in the year ending June 2019, 48% had experienced labour exploitation and 39% had experienced sexual exploitation.

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All commercial organisations with an annual turnover of over £36m which supply goods or services in the UK are required to publish a modern slavery statement. Even if these criteria don't apply to your organisation, you can take proactive steps to eradicate unlawful and unethical employment practices in your supply chain and accept joint responsibility for tackling any infringement.

Learning how to spot the signs of labour exploitation and how to report it will help to tackle this ongoing problem.

Ensure your employees are clear on their employment rights and the terms of their contract

Provide all workers with an easy-to-understand statement of their contractual status, terms and conditions of appointment and employment rights on their first day, and review this annually. Make sure it includes information on how to seek advice and redress if necessary, including how to contact a trade union.

Oppose the use of fire and rehire practice

'Fire and rehire' is the terminology used to describe the practice of 'dismissal and re-engagement' that employers sometimes use when seeking to effect changes to employees' contractual terms.

It involves dismissing employees and immediately reengaging them on a new contract with new terms. While this may not in all circumstances be contrary to employment legislation, it does not align with the principles and expected practice of Fair Work so should not be considered as a viable option when looking to change contract terms.

Toolkit - Legal rights respected

We've prepared these handy resource packs – one for each Fair Work principle – to help you on the path to becoming a Fair Work employer.

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So now you know why it's so important to respect your workers' legal rights, how do you get started? There's a wealth of online tools and resources to help you implement this principle across your organisation but we know that navigating your way through all the information can be a challenge, so we've compiled some of the most useful ones here:

Ethical employment in supply chains: code of practice, guidance and training | GOV.WALES

This Welsh Government online resource contains a **code of practice outlining the 12 commitments to good employment** practices that are expected of anyone supplying goods or services to the Welsh public sector, as well as guidance and training to help organisations eradicate unethical employment practices within their supply chains.

The national minimum wage and living wage: Overview - GOV.UK

This guidance gives an overview of both the **Minimum and Living Wage**, explains who gets it, how to calculate it and how to handle any disputes over Minimum and Living Wage.

Find out more here.

BS 25700:2022 Organisational responses to modern slavery – guidance | BSI

BSI has published this national standard to give organisations advice and guidance on how to **manage modern slavery risks** in their operations, supply chains and wider operating environment. It includes guidance on prevention, identification, response, remediation, mitigation and reporting.

Training – Subscription – Acas

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