



MIND THE GAP

Special Edition

HR Services



MASSIVE MISTAKES

OF SMALL BUSINESS EMPLOYERS

So. You're a small business with just a few employees, and managing them is one job you have to do yourself. And do it well.

Learn from the costly traps that other employers have fallen into, with this free guide on the pitfalls you simply must avoid. Remember these are the seven biggest mistakes that employers make which lead straight to a tribunal and cost them their personal cash - so beware!

I hope these stories of other employers' massive mistakes help you to avoid falling into the same trap. If you're concerned that a mistake might cost your business thousands, GAP HR is here to help! Give us a call for more information.

Carolyne Wahlen | Owner
Keeping you 100% tribunal free

TREATING EVEN POTENTIAL EMPLOYEES UNFAIRLY

SOME EMPLOYERS THINK THAT WHAT YOU SEE IS MORE IMPORTANT THAT WHAT YOU GET

1

You may not be aware how tricky discrimination laws can be.

All employees are protected from discrimination. Even someone who applies for a job is covered. You can't sack or even reject someone based on race, religion, sexual preference, disability, gender, pregnancy and maternity, gender reassignment, age or marital status. When you deal with candidates and employees you're just asking 'can they do the job'. Anything else might be called discrimination.

You must have sound business reasons to sack someone. The same is true for hiring them.



RESULT:

MAX FINE: UNLIMITED

2

UNWITTINGLY EMPLOYING ILLEGAL IMMIGRANTS

A MISTAKE MADE EVEN BY THOSE WHO SHOULD KNOW BETTER

You may have heard of Lady Scotland's "technical infringement" of the rules on employing illegal workers. It was very awkward, as she was the Attorney General at the time.

The law states you must take reasonable steps to check your employees are eligible to work in the UK. She just failed to keep copies of the relevant documents.

The Baroness was shown a passport, a P45, NI details, references, and a letter which seemed to be from the Home Office. She then asked for the cleaner's marriage certificate, which showed that her husband was a British national. But, because she didn't keep copies, she couldn't prove it.



The fine was £5000. Expensive photocopy.



NO ID? RESULT:

POTENTIAL FINE: £10,000

CHANGING CONTRACT TERMS WITHOUT AGREEMENT

THIS SURPRISES MANY EMPLOYERS

3

Some small employers think you can change an employee's contract of employment without talking to the employee. No, you can't. Consulting may take the form of a letter or email. This should say that, from a certain date in the future (and it does have to be in the future), certain conditions will be changed. You have to give the employees at least four weeks' written notice so that they can think about it.

They then have to have the right to object to it in writing. If they do this, you need to then sit down with them and come to a compromise. Four weeks may be too long - for example, a downturn in sales requires an immediate four-day week. In this case you must explain this to the employees and ask them to agree to the change in writing.

The important thing to remember is that, for any change, you must get the agreement of the employees. Otherwise it could be considered constructive dismissal.

HINT:

THEIR BUY-IN IS MUCH MORE EASILY GAINED BY EXPLAINING THE REASONS FOR ANY CHANGES TO THEM.



RESULT:

MAX FINE: ONE YEAR'S PAY

TREATING YOUR EMPLOYEES AS FAMILY

THE MOST COMMON MISTAKE FOR NEW EMPLOYERS

Your employees, however well you get on with them, are there to earn money. Never forget this. So many small business employers make the mistake of treating the employees like family or buddies, spending time out of work with them.

You come unstuck when a downturn in business means you have to make someone redundant. I've seen it, and they react especially badly. They clock in to work and pay the bills. When that has gone they may not still be your friend or even acquaintance. They may instead feel moved to sue, and the business could fold. It happens.

So, beware of getting too matey, and make sure that you have proper contracts in place for everyone – especially actual family members.



RESULT:

MAX FINE: £74,200

GIVING NOTICE FOR POOR PERFORMANCE TOO LATE

YOU MUSTN'T ASSUME A NEW EMPLOYEE IS UP TO THE TASK

Many managers assume that after the basic induction a new employee is informed and motivated enough to get on with their job.

Suddenly, however, they may realise that it's getting close to two years since they started and they're still not performing.

This two year point is important. Under Employment Law, after two years (it changed in 2012) the employee has protection from unfair dismissal.

An employer is strongly advised by ACAS and the courts to follow a proper structured procedure before dismissing anyone after this date. If they don't, they have a lot of explaining to do, and there could be a 50% uplift in any award against them.

Before the two years are up, it's much easier to dismiss an employee, although we would recommend using the ACAS guidelines once they are over a year's service.

Keep an eye on the performance of recruits at those crucial early stages.

HINT:

YOU WILL NEED TO GIVE THEM NOTICE OF DISMISSAL WELL WITHIN THEIR TWO YEARS.



RESULT:

AVERAGE COST £25,000

TOLERATING INAPPROPRIATE HUMOUR

THE OFFICE WIT IS THE COMPANY'S LIABILITY

With email, it is easy for employees to send round jokes without thinking. You get a joke, you hit 'forward'. But what some people might consider a joke, others might find offensive, and you as an employer are liable.

You should discourage employees from using work email for circulating funnies, and advise them to be careful about who they direct jokes at face-to-face in the workplace. If you allow it to continue you are liable for their actions, and you will pay the fine, not them. Some employees might have the attitude of "Can't you take a joke?". The reality is that jokes about the protected characteristics could be found offensive, and could easily backfire on you, the employer.

And shouldn't your staff be working, not forwarding email jokes?!



RESULT:

POTENTIAL FINE: UNLIMITED

HANDLING REDUNDANCY BADLY

7

THE MOST COMMON REASON FOR EMPLOYERS BEING SUED DURING LEAN ECONOMIC TIMES

Making someone redundant is hard. It can also, sadly, be necessary. The challenge is that there is quite a complex procedure to follow. If you don't follow it, the employee can claim unfair dismissal. You have to give them notice of their redundancy, with certain letters at certain times.

The consultation period can't be less than three weeks, ideally longer. You also need to ensure that you are paying out the right amount of redundancy pay, adjusting for age and length of service.

Failing to follow the proper process is where many employers fall down. The reason why this is a particular problem during lean times, is that former employees are unable to find new jobs, so are forced to go back to their ex-employer and try to get as much money as possible out of them.

I have seen this have such a severe impact on a business that it has folded. Also, make sure you have enough money to pay both the redundancy pay and their normal salary during the notice period.



RESULT:

MAX FINE: £66,200