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HR Update: Autumn 2013

In this HR update, we look at zero hours contracts, some dos and don'ts when hiring new staff and a racial discrimination case.

Zero hours contracts: best practice

Zero hours contracts have been in the news recently, with figures suggesting that they are used to employ between 250,000 and one million workers.

Zero hours contracts are contracts for casual work, under which the employer does not guarantee to provide the worker with any work and pays the worker only for work actually done. Workers are usually contacted at the start of each week or at the end of the previous week and told how many hours they will be expected to work that week. Employees usually agree to be available for work when they are required.

These contracts have traditionally been popular in sectors where demand fluctuates - such as in the leisure sector, for example - and it is difficult to plan staffing levels. However, in recent years they have been used more widely.

Student workers and the semi-retired may find zero hours contracts beneficial as they offer more flexibility to fit work around other activities, such as studying or travel. Others may find it difficult to manage their finances

if they do not know how much they will be earning and it can be difficult for them to take out a mortgage or loan. In addition, it is hard to claim benefits or tax credits with a lack of clarity around earnings. It may also impact on childcare arrangements. Some contracts are also 'exclusive', meaning that employees cannot work for any other employer.

Individuals on zero hours contracts:

- do not receive paid holidays
- do not receive sick leave or a statutory minimum period of notice
- cannot claim unfair dismissal or a redundancy payment
- have no right to paid family leave.

The recent growth in the use of zero hours contracts suggests that employers find them effective. A recent Chartered Institute of Personnel and Development survey found that one fifth of employers employed at least one person on a zero hours contract. Although one in seven workers reported that their employer often fails to provide them with sufficient hours to have a basic standard of living, the average number of hours worked under a zero hours contract was 19.5 per week.

However, with pressure mounting for a change in the law, there are a number of alternative arrangements that an employer could consider if it wanted to achieve flexibility without using zero hours contracts. These include:

- part-time contracts
- short fixed-term contracts
- agency workers.

Getting new workers started: checklist

As we move towards the end of the year and with the economy showing signs of recovery, you may be planning to take on new workers in some capacity. Here are a few dos and don'ts when taking on new people:

Do:

- make the recruit feel welcome
- prioritise training that will make the worker useful
- involve the recruit in productive activities as soon as possible



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- give the recruit opportunities to succeed
- check their understanding of new information
- discuss progress and problems, and modify plans accordingly.

Case study:

Employee awarded £27,000 for racial abuse directed at a colleague

In the case of *Morgan v Halls of Gloucester*, a black delivery driver for a fruit and vegetable business brought a case against his employer for constructive dismissal and racial harassment after listening to his colleague being subjected to racist abuse.

Although the delivery driver, Mr Morgan, was not the subject of the racist abuse, he felt he could not continue to work in such a racist environment and so resigned and claimed constructive dismissal.

Mr Morgan's colleague, Brian Ennis was subjected to a series of racial jibes and racist nicknames. The tribunal found that Mr Morgan's own dignity had been violated even though Mr Ennis had not complained about the treatment.

Amanda Miles, the owner of the fruit and vegetable business sought to justify the language used by stating that it helped to distinguish Brian Ennis, who was black, from the other Brian, who was white. Miles claimed that Ennis did not have any issues and would have let her know if he did.

The tribunal did not accept this explanation, stating that Morgan had 'tolerated a culture of racism'. The £27,000 awarded combined loss of earnings of £14,286 and £13,427 compensation for racial harassment.

The key point to take away from this case is that an employee can bring a successful claim for harassment even if the harassment was aimed at one of their colleagues. In order to satisfy the legal definition of harassment under the Equality Act 2010 the harasser must engage in unwanted conduct related to a protected characteristic that has the purpose or effect of violating the victim's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the victim. It is not a requirement that the harassment is directed at the victim.

Don't:

- make assumptions about the recruit's knowledge, skills and attitude
- overload the recruit with too much at once
- rely on large quantities of written information
- expect the recruit to perform without adequate induction.

Latest News

Apprenticeships given high success score

According to recent Department for Business, Innovation and Skills surveys, the majority of apprenticeships provide benefits to apprentices and business.

Eight out of ten (83 per cent) apprentices said their apprenticeship improved their ability to do their job and boosted career prospects. In a separate survey, 72 per cent of employers said apprenticeships improved their product or service quality and 68 per cent said apprentices improved productivity.

Matthew Hancock, Minister for Skills, said: "We want it to become the new norm that young people go either to university or into an apprenticeship."

The study combined the results of surveys of 4,000 employers, 5,000 apprentices and 4,000 workers who had recently completed an apprenticeship. It found an overall satisfaction rate of 84 per cent for the apprenticeship programme. It also found that the majority (64 per cent) of apprentices work in small companies.

Tax-free childcare will replace employer-supported childcare

In autumn 2015, employer-supported childcare will be replaced by a tax-free childcare scheme. However, employees may choose to remain in those schemes or switch to tax-free childcare.

The new scheme is designed to help families, with the Government providing 20 per cent of working families' childcare costs (subject to an annual limit of £1,200 per child). Children up to the age of five and disabled children under the age of 17 will be eligible.

Please get in touch to discuss any HR concerns.

