

Key Employment Law for New Employers



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What do you need?

Three key employment statuses:

- Employee
- S.230 Employment Rights Act 1996
 - ‘individual who has entered into, or works under, a contract of employment’
- Worker
 - No single definition in law. Normal a personal service but ad hoc.
- Self-employed
 - No definition but someone who is effectively running their own business. This can be an individual sole trader.

What do you need?

Employment Tribunal Tests to work out status?

- No one set rule
- Key Tests:
 - Personal Service
 - Mutuality of Obligations
 - Control
 - Integration
 - Other factors (tax, financial risk, exclusivity, benefits)
- Documentation matters but is not determinative – what actually happens is more relevant than what is signed

What do you need?

Employment:

- Permanent
- Temporary (maternity-cover / sickness cover)
- Fixed term (projects)
- **Full Employment Rights**

Worker:

- Ad Hoc
- **Less Employment Rights (such as no right to claim Unfair Dismissal)**

Self-employed

- Service Agreement (B2B)
- **No employment rights**

Basics of Hiring

- 1) Are you going to advertise or get someone else to do it for you (recruitment agents)?
 - recruitment agents can be expensive but finding good quality vetted candidates can be time consuming and costly

- 2) Where?
 - 1) Online
 - 2) Newspapers
 - 3) Internally

Basics of Hiring – The Advert

1) Wording Tips

2) Content will depend on forum of use. Considerations:

- Short paragraph on the Company
- Position
- Pay (clarity or ambiguity) / Hours
- Attach a Job Description / Person Specification
- Reporting to?
- Sell the job
- Non discriminatory (bad examples – “school leaver” / “excellent written and spoken English” [when not needed] / “strong and healthy”
- How to apply

Basics of Hiring – The Advert

indeed

Home

Office Worker

Dublin Oil Company - Malahide, County Dublin

Temporary

Person Required

For Office work

Persons with young Children need not [apply](#)

Someone needed for answering Phones and computer skills

Must have a good Knowledge of the Dublin area

Job Types: Full-time, Temporary

Location:

- Malahide, County Dublin (Preferred)

1 day ago - [report job](#)

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Basics of Hiring – The Interview

- The process?
 - Initial sifting of applications
 - One or more interviews?
 - 1/2 people or a panel interview
 - Invite – any reasonable adjustments required for interview
- Most used interview technique
 - What does the employee know about the Company and role
 - Fill in any gaps about the job in more detail
 - Why do they want it and what do they offer
 - Competency based questions
 - Tell me a time when...
 - Employee to then ask any questions

Basics of Hiring – The Interview

- What not to ask
 - Health questions pre-offer at the interview
 - Section 60 allows pre-employment health enquiries for certain specified reasons such as where the questions are necessary to establish whether the applicant can carry out a core function that is intrinsic to the work concerned. The Explanatory Notes to the Act give the example of an applicant who applies for a job in a warehouse, which requires heavy lifting.
 - Avoid questions around family generally speaking such as ‘are you married’ and ‘do you have children or plan to’.

Basics of Hiring – The Interview

Keep a record of decision making/scoring

One way of doing this is a scoring system. You can:

Turn each point in the job description, person specification, each competency based question, knowledge of company into a checklist of, for example, 15 points.

- Assess the information in each application form against the checklist.
- Score each application form against the checklist. For example, if the applicant meets 12 of the 15 points, you can score the application as 12 out of 15.

Basics of Hiring – The Offer

- In Writing
- Subject to Satisfactory References (normally last 2 jobs)
- Subject to DBS check?
- Contract included or to follow in due course and set out just the basics of start date, pay, hours, probation period and holidays
- How to accept? Who to contact if they have any questions?
- What to bring on their first day?
 - Bank Details
 - Passport / Any other right to work documents

Good Initial Employment Management

- Contract and Handbook
- Induction and Training
 - Welcome
 - Organisation Chart
 - General Expectations
 - Tour of premises and introductions to team and colleagues
 - IT induction
 - Pay and expenses
 - Finding your way around (facilities, meeting room, stationery, travel and parking facilities, shopping and eating in and out)
 - H and S
 - Employee Handbook

Good Initial Employment Management

- New Employee information form:
 - Full name
 - Address
 - Telephone number(s)
 - Email
 - DOB
 - NI
 - Ethnic origin

Good Initial Employment Management

- P45/p46 received
- Bank details
- Emergency contacts x 2
- Reference details
- Sign and date to confirm information is true and accurate reflection as far as they know.
- Health questionnaire
- Covid19 contact questions

- Pension auto-enrolment?

Good Initial Employment Management

- 4 week meeting to identify any gaps in induction
- Probation Reviews

Key Employment Rights/ Legislation

- Right to Claim Unfair Dismissal (2 years' service but not always)
- Discrimination (from day 1 and even before)
 - Age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion and belief and sex.
 - Disability - duty to consider reasonable adjustments
- Right to a Redundancy Payment
- Part-Time and Fixed Term Regulations
- Public Interest Disclosure Act (also known as whistleblowing)
- Right to be Accompanied
- ACAS Code

SAS Protect Service

- Fixed-fee annual Employment Law and HR package

What is covered?

- Contracts
- Handbook
- Unlimited Employment Law Advice
- Maintained Online HR system

Please contact me for further information on:

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Thank You Warren Moores Employment Solicitor



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