

## **Employers' Responsibilities (UK)**

Spurred on by Tejasvini (who works at Windhorse:Evolution), I've prepared this short document to flag up the main areas of employer's responsibilities that you need to be aware of. I'm very grateful to Tejasvini and Dharmashura for help and advice, though any errors in it will be mine!

*Vajragupta, December 07, updated April 08*

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### **General Advice:**

- \* What is written here is only a sketch. Trustees and those responsible for businesses need to assure themselves that they are fulfilling their legal responsibilities.
- \* All people who work in an organisation such as a Buddhist centre or a Buddhist business are employees, even if they are on support.
- \* Employment law is complex, but it is important to get the main legal points right otherwise you might be storing up trouble unnecessarily. Fines for infringements, especially unfair dismissal and health & safety ones, can be really punitive.
- \* Your good intentions as an employer are best translated into open, fair and transparent policies and procedures. The process of drawing them up will be helpful to all concerned, bringing many issues to light, ensuring they are clarified, and also informing your employees of the procedures. Once things are in place, everyone knows where they stand, and you know you are complying with the law as best you can.

### **WHERE TO FIND OUT MORE:**

It will probably be best if we don't inundate Tejasvini and Windhorse:Evolution with calls for advice! Do please call me and I will usually be able to point you in the right direction.

The following are sources of general advice; there are some more specific sources of advice mentioned in some of the sections below.

**ACAS:** [www.acas.gov.uk](http://www.acas.gov.uk) gives advice on the whole range of employment matters and they also run very good value training half-days in employment matters. In addition there is a helpline: 08457 474747. In particular, on 24 April 2007 ACAS published a new guide on producing a staff handbook. It contains practical advice on how to write a handbook, checklists to help you to identify and review your existing employment policies, example sections that you can customise for your own use, and sources of further information. The guide is at: [www.acas.org.uk/index.aspx?articleid=1263](http://www.acas.org.uk/index.aspx?articleid=1263).

**Paul Bedson:** who is a mitra at the Liverpool Centre, is offering advice to centres and Right livelihood projects on employment issues. As he says: “I presently work as a legal assistant with a local charity providing advice and representation to members of the public who have employment and work based discrimination problems. I also deliver employment law training to local not-for-profit organisation aimed at helping them avoid the pitfalls and perils of employment law. All told I have more than 10 years experience in this field having previously worked in the legal department of a major trades union. I would be happy to lend this experience, gratis, to help any of the FWBO’s right livelihood business in any way I can.”

If you’d like to contact Paul, please do so via the “contact us” page on the FWBO Centre Support Website. <http://www.fwbo-centre-support.org>

**Department of Trade and Industry:** see their “Employment Rights Guide” at <http://www.dti.gov.uk/employment/employment-legislation/employment-guidance/>

### **A) Contract of Employment:**

You must provide a written statement of particulars within 2 months. It must include:

- \* Name of employer and employee
- \* Date employment and continuous employment began
- \* Job description/job title (It only needs to be a brief job description, although it is good practice to give someone a comprehensive job description too. But you may decide not to include that in the contract – as it might make it harder to change.)
- \* Job location
- \* Pay (How much, at what intervals it is paid, and how/when/by whom it will be reviewed.)
- \* Working hours
- \* Holiday entitlements. (Note that even casual workers are entitled to holiday pay. Be clear whether bank and public holidays are included or extra and be aware there are laws around statutory minimums for holidays.)
- \* Details of any collective agreements that directly affect the employee's conditions of employment
- \* Absence and sickness (see more on Occupational Sick Pay below)
- \* Discipline and grievance procedures (Be aware of statutory minimums for grievance and disciplinary procedures. Local, informal arrangements may improve on these but if they exist they must be followed, and it is wise to also have something more formal so that issues don’t drag on, or in cases where an informal approach doesn’t work.)
- \* Notice period that is required.
- \* Is it a permanent contract or a fixed-term contract? (There are rules about the application of fixed-term contracts and after a certain time they must be on the same terms as permanent contracts.)

### **Also Note:**

- \* Probation periods seem to be going out of fashion, but if they are used, they should be covered by the contract and somewhere the employer should spell out what exactly they entail.
- \* Also need to provide information on pension arrangements and sick leave arrangements, though this may be by reference to other documents (as may coverage of grievance and disciplinary procedures) which should be readily available to employees.

There are sample/draft contracts of employment at <http://www.fwbo-centre-support.org> (look under “legal and administrative”). See also <http://www.acas.gov.uk/index.aspx?articleid=817>, which is a self-help guide to writing contracts.

### **B) Payslips:**

By law, an employer must give each employee a written 'pay statement' - usually called a 'payslip' - when or before he/she is paid. It must include your gross pay, take-home pay and any deductions.

Deductions that change (for example, Income Tax payments) must be individually listed each time. Fixed deductions (for example, trade union subscriptions) can be shown as one combined total provided an annual statement has been given showing how that total breaks down. The annual statement must set out the amount of each fixed deduction and the intervals at which the amount is paid.

Additional information might be included on the pay slip, including National Insurance Number, tax codes and hourly rate. Also, payments like overtime, tips, bonuses etc might be shown separately. However, none of this information is required to be on the payslip.

### **C) Health & Safety:**

*'Employers must ensure the health, safety and welfare of their employees so far as is reasonably practicable.'* If you have five or more employees, you must have a Health & Safety policy statement and make sure every employee knows about it. You must appoint a competent person and make and review an assessment of the risks of your activities to employees and others affected by their activities. This includes obvious physical risks, but also less obvious things like stress. You have to provide first aid whether or not you employ five people. There is more! See <http://www.hse.gov.uk/aboutus/index.htm> and then "[health and safety system in Great Britain](#)". From p.31 onwards there is a good guide to your responsibilities.

Fire Safety: appoint a responsible person and assess the risks of fire and take steps to remove or reduce them. This includes a means of escape, means for fighting fires, staff training, and fire extinguishers, fire exit signs, etc. in place. The relevant legislation is 'Regulatory Reform (Fire Safety) Order 2005'. This link will give you the download of an online assessment form to check your compliance.

<http://www.fire.gov.uk/Workplace+safety/WhatTheLawRequires>

### **D) Recruitment & Selection:**

There is a substantial body of legislation on discrimination that covers recruitment and selection, and how people are treated at work, including their prospects and reward. For a draft/sample equal opportunities policy, see <http://www.fwbo-centre-support.org> (look under "legal and administrative")

**a) Religious Discrimination:** If, for example, you only want to recruit Buddhists, you need to have an ethos statement in place for your organisation that is the basis of the positive religious discrimination that is allowed under the law. If you advertise a job for a Buddhist, you have to quote the relevant law that allows you to discriminate. This is so, even if you place the advertisement in a Buddhist Centre, i.e. you can't say 'We're looking for a Buddhist to join our team' without the right reference. There are sample job adverts (which give you the right wording) and sample ethos statements also at <http://www.fwbo-centre-support.org>.

At interview you need to know what you are and are not allowed to ask under the discrimination laws. When questioning people at an interview, even if it is informal, you have to be very careful not to ask questions that could be construed as discriminatory, such as to do with their children, their nationality or their date of birth. See ACAS website or

<http://www.equalityhumanrights.com/en/Pages/default.aspx> then follow the link for employers for more details.

In addition, there are guidelines to legislation on religious discrimination specifically for Buddhist organisations available on the Network of Buddhist Organisations website (resources section): <http://www.nbo.org.uk/home.htm>. This also has sample ethos statements, contracts of employment etc.

**b) Health/Disability Issues:** Some employers send out a form to be filled in by applicants for jobs. It describes the duties of the job and asks if the applicant will have any health issues that make it difficult for them to do each duty. It might also ask, if they had a difficulty, is there any adjustment the employer can make which would help them? The form is then returned in a sealed envelope, stored in a safe place, and only looked at in the case of successful applicants. Other forms are destroyed. (i.e. data protection and confidentiality are important here.)

You don't have to have the above procedure, but employers are obliged to consider making reasonable adjustments to enable someone to do a job.

### **E) Support and Minimum Wage:**

Some people will be exempt from the UK national minimum wage, others will not be. The official guidelines state:

*"A residential member of a community to which this section applies does not qualify for the national minimum wage in respect of employment by the community if:*

- a) it is a charity or is established by a charity*
- b) a purpose of the community is to practice or advance a belief of a religious or similar nature, and*
- c) some or all of its members live together for that purpose."*

The consequences of this are that we do not need to pay people employed by our charities the minimum wage if they live in a community, but if they don't live in a community we may be obliged to pay the minimum wage.

General information for employees and employers about all aspects of minimum wage is available from 0845 6000 678 or on the DTI's national minimum wage website which can be accessed via [www.dti.gov.uk/employment/pay/index.html](http://www.dti.gov.uk/employment/pay/index.html). In addition there is an interactive website, enabling workers and employers to find out how the minimum wage applies to them, at [http://www.direct.gov.uk/en/Employment/Employees/Pay/DG\\_10027201](http://www.direct.gov.uk/en/Employment/Employees/Pay/DG_10027201)

From 1 October 2007 minimum wage is increased from £5.35 to £5.52 per hour for over-21s, from £4.45 to £4.60 for 18-21 year olds, and from £3.30 to £3.40 for 16- and 17-year-olds who are above school leaving age and are not apprentices. The amount that can be taken into account for living accommodation is increased from £4.15 to £4.30 per day (£30.10 per week). The minimum wage is due to rise again in October 2008.

### **F) Tax, National Insurance, and Sick Pay:**

If you pay staff over certain thresholds, you may be liable to pay Tax and National Insurance.

When someone is unable to work through sickness it is important that you are on the case quickly. Give them the relevant advice at the right time e.g. tell them when their sick pay will run out well in advance, so that they are able to apply for incapacity benefit. This will be very

helpful to them at a time when they may be stressed, and it will avoid misunderstandings between them and you as their employer.

Many employers will have a policy of paying people sick pay for a given period which will depend on how long they have worked for them (e.g. your policy might be to give someone six weeks on full occupational sick pay after two years full-time work). After this period there is statutory sick pay (SSP – what the government requires you to pay and is based on their average earnings in the last few weeks), and, in long-term cases (over 6 months), the person can apply for incapacity benefit.

HM Revenue and Customs have “local business support teams” (BST- who can be accessed via the main website) who run free, half-day courses dealing with your responsibilities in the area of tax, NI, and sick pay. <http://www.hmrc.gov.uk/bst>

### **G) Other Areas to be Aware of:**

\* **Carers of adults, parents or adopters of children** aged under 6 (or under 18 if the child is disabled) and their partner or civil partner have a statutory right to make a written request to their employer for more flexible working arrangements. Flexible working might include, for example, compressed hours, flexitime, home working, job sharing, term-time working, shift working, staggered hours, or annualised hours.

\* **Data Protection and Confidentiality:** Buddhist Centres are probably aware of this in respect of mailing lists, but you need to bear it mind in respect of employers too. You need secure filing of recruitment/employment/payroll records, making them available only on a need-to-know basis. Also have a policy on disposal of paperwork when no longer needed (and implement it. Ensure you are not keeping information you are not entitled to keep. (For example, ordination reports should not be stored in a workplace.)

\* **Entitlement to work in the UK:** you need to check this when employing someone. The Immigration and Nationality Directorate have a helpline (0845-0106677) and website: [www.ind.homeoffice.gov.uk](http://www.ind.homeoffice.gov.uk)

\* **Pregnancy/maternity/paternity leave and rights.** ACAS will have advice on this.

\* **Pensions:** I'll be preparing a separate document on “Support: making working for the FWBO viable long-term” and this will include advice on pensions. It will be available on the centre support website.

\* **Equal opportunities and part-time employees:** take care not to discriminate against part-time employees.

\* **Time off with pay or without pay:** be aware of legal right to take time off with pay (e.g. antenatal care, job hunting if under notice of redundancy) or without pay (e.g. jury service, service as magistrate).

\* **Redundancy:** if you are in this situation, then seek advice and approach it carefully.

\* **Self-Employed:** some of the above applies equally to the self-employed (e.g. health and safety for self-employed people working on your premises), some of it does not (e.g. minimum wage for *genuinely* self-employed people).