

SECTION 14: ON-GOING EMPLOYMENT ISSUES

This section provides information on:

- Induction
- Managing performance – appraisal
- Managing performance – conduct and capability issues/use of Disciplinary Procedure
- Complaints and grievances
- Variations to contract
- Termination of contract (including redundancy and retirement).
- Giving references
- Maternity, Paternity, Parental, Adoption leave and pay
- Requests for Flexible Working

Induction

It is good practice to prepare an induction training programme for all newly appointed staff. The induction programme should take account of what someone who is new in a post needs to know in order to carry out the duties of the job. A well-organised induction programme will reduce the risk of error and increase the rate at which the new appointee can work effectively.

It can be helpful to consider what the new post holder will find useful to learn on the first day, in the first week, first month and so on. Induction programmes can be scheduled over any period up to 3 months.

An induction programme prepared and issued in advance helps to give the new post holder a sense that thought and care has been given to their needs.

The sort of points which may be relevant are: pay details, how to book holiday, how to reclaim expenses, layout of the building, facilities and equipment available, procedure in the event of an accident or incident, key personnel and contacts, how to book study leave, security (personal and premises), health and safety issues, key dates, expectations and objectives, work procedures, the Church's policy on Safeguarding and so on. It is good practice to keep a record of the training and points covered.

A date should be set for a review before the end of three months or the end of the probationary period if different.

Managing Performance

It is important to manage performance positively and not just hope all will be well. Most people benefit from knowing what they do well and when changes should be made in order to be more effective.

It is important not to allow bad habits or practices to become confirmed before raising concerns with the post holder. In many cases informal advice and coaching will bring about an improvement.

Concerns which arise during the early weeks following the start of employment should be discussed before the end of the probationary period if possible. It is not good practice to wait until the review meeting to raise issues. Sometimes this cannot be avoided however and it becomes necessary to extend the probationary period before it is possible to confirm the person in post.

On-going or serious concerns and the extension of the probationary period should be set out in writing. The letter should specify the areas of concern and the standards required, the date for review and, if appropriate, that the probationary period is being extended. Advice should be sought from the District Lay Employment Secretary before such a letter is issued.

It is good practice to hold an appraisal meeting at least once each year. An appraisal is an opportunity to review performance together. It is not intended to provide the supervisor with an opportunity to 'sit in judgement' on the post holder. An effective appraisal will look at what is being done well, areas for improvement, training needs and so on. It is recommended that any objectives for the next period are recorded as they can then be used as a starting point at the next review.

Some employer's link pay reviews to performance reviews but this is not recommended.

Managing Performance – Conduct and Capability Issues/Using the Disciplinary Procedure

Occasionally, serious concerns arise which are not resolved through discussion. Serious concerns should be reviewed using the Disciplinary Procedure.

Employees who have one year's continuous service are able to register an application for unfair dismissal with an Employment Tribunal. The Tribunal will find a dismissal automatically unfair if the employer has not complied with minimum standards set out in the Statutory Disciplinary Procedure or followed their own procedures before they take a decision to dismiss. Please see [Appendix 8.5](#) for a model procedure.

Wherever possible the employer should try to resolve the concerns informally before using the Disciplinary Procedure. It is recommended that a record be kept of meetings when concerns were brought to the employee's attention and discussed.

Advice should be sought from the District Lay Employment Secretary when serious concerns are identified or the Disciplinary Procedure is being considered. Additional advice is available from Development and Personnel at Methodist Church House.

In the event the Disciplinary Procedure is used, the objective should be to help and encourage an improvement in employee's conduct or standard of work.

Complaints and Grievances

It is important that an employee who has a complaint is allowed the opportunity to have the complaint considered. It is good practice to provide employees with a reasonable and prompt opportunity to obtain redress of any grievance. There is a legal obligation to specify in the Written Statement of Terms and Conditions of Employment a person to whom the employee can apply if they have a grievance. Employers and employees are also required to comply with the Statutory Grievance Procedure. This includes allowing an employee to be accompanied at grievance hearings. Please see [Appendix 8.6](#) for a model grievance procedure.

Failure to follow the ACAS procedure and/or to respond appropriately to a complaint or grievance from an employee could result in the employee resigning and making a claim to an Employment Tribunal for constructive dismissal, that is, he or she believed they had been forced to resign because of a failure by the employer which amounted to a breach of contract and should lead to any award made to an employee in Tribunal proceedings being increased.

Advice should be sought from the Lay Employment Secretary if a grievance is brought to the employer's attention. Additional advice is available from Development and Personnel at Methodist Church House.

Variations to Contract

The contract of employment binds the two parties to the terms and conditions of that contract. An employer can be found to be in breach of contract if changes are made without the agreement of the employee.

Advice should always be sought from the District Lay Employment Secretary if there is a need to vary the terms of a contract.

Termination of Contract

In law there are five reasons for terminating a contract:

- Conduct
- Capability
- Redundancy
- Statutory Bar
- Some other substantial reason.

Non-renewal of a fixed term contract is considered to be a dismissal.

The employer must give the correct notice period as per the Terms and Conditions of employment.

From 01 October 2006 special provisions apply for retirement dismissals. Further information is provided below and in [Appendices 14.2 – 14.4](#).

Employees who have one year's continuous service have a right to take a complaint of unfair dismissal to an Employment Tribunal irrespective of their age. The Tribunal will consider both the procedure followed and the reasons for the dismissal. A re-instatement order and/or a financial penalty can be imposed if the dismissal is found to be unfair.

In any circumstances which could result in dismissal, advice should be sought from the District Lay Employment Secretary.

Redundancy

Redundancy will occur when a dismissal takes place mainly or wholly for one of the following reasons:

- The employer has ceased (or intends to cease) carrying on the work in which the employee was employed; or ceases (or intends to cease) carrying out the work at the place where the employee was employed.

Or

- The requirements for employees to carry out work, of the particular kind in which the person concerned was employed, have ceased or diminished (or are expected to cease or diminish) either in the work as a whole or in the place where the person was employed.

For many employing bodies within the Methodist Church continuity of employment may depend on the availability of funding through grants awarded by external bodies. If funding is no longer available to support a particular post or piece of work due to the end of a specific grant, and alternative funds cannot be found, a redundancy situation will arise.

Employers should consult with employees at the earliest opportunity.

In certain circumstances the whole workforce will be included in considerations about future employment and not just the group or individual directly affected. For example: A Circuit may employ three youth workers but due to changes in grant funding may only have funds to employ two youth workers in the future. In this case all three youth workers should be included in the discussions and considered for the remaining posts.

Where a number of similar jobs are to be reduced the following criteria can be used for selection for redundancy.

- Experience (not just with this employer but experience in similar work in previous employment can be considered)
- Qualifications & Skills – formal appropriate qualifications / advanced skills
- Attendance Records though disability related absence should not be included

- Disciplinary Records (current offences only)

A procedure should be agreed whereby individuals are invited to apply for the remaining jobs and then interviewed against the requirements outlined in the job description and person specification. Employers should advise employees of the criteria to be used and record the reasons for specific decisions.

An employer must not select individuals for redundancy because of:

- their gender, marital status, race, religious orientation, sexual orientation, ethnic origin or age
- Trade Union membership (or non-membership) or position as a Trade Union or elected employee representative

The employer must give the correct notice period as per the Terms and Conditions of employment. A full consultation process must also be followed and a fair selection made to avoid findings of unfair dismissal. The District Lay Employment Secretary or Development and Personnel at Methodist Church House should be consulted.

Redeployment

In a redundancy situation employers and employees have a duty to explore the possibility of redeployment into another post within the employing body to avoid redundancy wherever possible. This is normally considered as suitable when the job is essentially the same in status, salary, skills and capability, weekly hours and where redeployment does not involve any unreasonable additional inconvenience. In these instances the employee should meet the essential criteria of the post as set out in the person specification or be able to show that they could meet it, in a reasonable period of time, with some training and support.

If more than one redeployee meets the criteria, then more formal interviews should be arranged to consider which redeployee is most suitable for being redeployed into the post.

Redeployment - Trial Periods

Employees who are redeployed into a different post are entitled to a trial period of four weeks. This may be extended to allow for further training or experience identified as part of the redeployment process with the employee's agreement.

At the end of the trial period, if either the employer or employee finds the redeployment to be unsuitable, the employee will return to being a redeployee and should be considered for any vacancies available at that time. If no further vacancies exist the employee will be redundant. The dismissal procedure should be followed and, providing the employee has the required two years service, they will be entitled to receive a redundancy payment.

Statutory Redundancy Payment

Employees with **two years service** at the date of the dismissal or date of the proposed dismissal will be entitled to receive a redundancy payment.

The statutory redundancy payment is calculated on the basis of the employee's age, years of service and weekly pay up to a maximum of £380 [as at 01 October, 2009], which is set on an annual basis by the government. An example is given in Appendix 14.2

A Ready Reckoner for the calculation of the payments can be found on the www.direct.gov.uk/redundancy and on the Business Link website at www.businesslink.gov.uk under the section on [Employing people](#) > [Dismissals, redundancies and other exits](#) > Calculate the statutory redundancy pay due to your employee.

The entitlement is:-	
Up to age 21	0.5 week's pay for each completed year of service
22- 40 years of age	1 week's pay for each completed year of service
41+ years of age	1.5 weeks' pay for each completed year of service

If an employee works irregular hours the weekly pay should be calculated by taking an average over a 12-week reference period.

Statutory redundancy payments up to **£30,000 are not subject to deductions** for tax or National Insurance contributions.

Notice Period and Other Entitlements

Employees whose employment is terminated due to redundancy must be given the greater of their contractual notice period or statutory notice period. Payment in lieu of notice can be

given in certain circumstances. Payment in lieu of annual leave entitlement should also be included in the final salary payment. These payments are subject to the normal deductions for tax and National Insurance contributions.

Retirement

The Employment Equality (Age) Regulations 2006 established a default retirement age of 65 and a statutory requirement for employers to follow a procedure for the notification of retirements and the consideration of requests from employees to work beyond the age of 65.

If the employer's normal retirement age is below 65, this must now be objectively justified otherwise the retirement could be considered as unfair.

For a retirement to be considered as 'fair' the employer needs to ensure that at least six months but not more than twelve months before the intended date of retirement they have:-

- informed the employee in writing of the intended retirement date and the employee's right to request to work beyond retirement
- considered any request received from the employee by arranging to meet for a discussion
- confirmed the outcome of the meeting in writing including any new working arrangements and a revised retirement date
- (in cases where an employee's request is not agreed) advised the employee of their right to appeal and made arrangements for an appeal meeting
- confirmed the outcome of the appeal meeting in writing including any new working arrangements and a revised retirement date.

Details of the statutory retirement procedure, examples of letters for employees and a retirement pro-forma are provided in [Appendices 13.2 – 13.4](#).

Giving References

Referees have a duty of care in law to the person about whom a reference is written and also to the party who has requested a reference.

References should be accurate and factual. Opinions should be offered only if the referee is able to provide evidence to support the opinion if challenged. Employment references should relate only to the requirements of the job.

A referee is not required to provide a copy of a reference to the person about whom the reference is written. The subject does however have a right to ask to see the reference once it is in the hands of a third party.

Maternity, Paternity, Parental, Adoption Leave and Pay

Employees have a statutory right to maternity, paternity, parental and adoption leave and pay. Further information and sample letters are provided with the lay pack.

Requests from Parents for Flexible Working

Employees have a statutory right to request changes to their working arrangements in order to care for children.

From 06 April 2007 the right to request flexible working was extended to employees who have caring responsibilities for adults.

From 01 October 2007 the right to request flexible working was extended to employees who are foster carers.

Advice on these matters should be referred to the District Lay Employment Secretary or Development and Personnel at Methodist Church House.

Lone Working

It is recognised that a number of lay employees may work alone and so the Lay Workers Advisory Committee [now referred to as the Lay Employees Stakeholders Group] has produced some guidance to assist employers and lay employees in how best to assess the risks; manage

lone working arrangements and fulfil their responsibilities to work safely. See Appendix 14.6 – Guidance: Risk Assessment for Lone Workers

These guidelines should be discussed locally so that appropriate arrangements are put in place and then reviewed on a regular basis.