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HR for Small Business

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- **Pay the right rates for jobs and reward employees fairly**
- **Manage employee performance by setting clear expectations**
- **Implement key HR legislation to avoid pitfalls**

**Marc Bishop
Sharon Crooks**



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DUMMIES[®]
A Wiley Brand

by Marc Bishop and Sharon Crooks

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HR for Small Business For Dummies®

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Introduction

Welcome to the world of Human Resources, or HR for short. From the peaks of strategy to the foothills of statistics, you will travel through the law of the land, with a peek at European regulation, and some diversions into amateur psychology along the way, but don't be daunted! Armed with this basic guide and a good dose of common sense, you can avoid most of the pitfalls and may even enjoy the ride.

About This Book

We wrote this book for people running small businesses who have ambitious plans and don't want to spend all their time sorting out people problems. Whether you are dealing with a tricky employee issue right now, or you can see opportunity or trouble coming down the road, grab this book and you will find some practical tips about how to handle it.

In its broadest sense, *HR* covers every aspect of people at work, so we offer advice about how to attract the right people to work for your business, and how to manage them so that they add value. We show you some of the ways you can create a positive relationship with your employees, using the employment contract, the working environment, pay and benefits, and creative career development. We also share some ideas about how your leadership and management can make a big difference to people's performance.

To make it easier for you to find what you need, *HR for Small Business For Dummies* follows certain rules. When we introduce an important new term, we put it in *italics*, and if one item on a list is really important, we write it in **bold**. You will find some content in shaded grey boxes, and this is material that we think you might find interesting, but it's not critical to your knowledge of HR. There are lots of inter-related topics in HR so throughout the book as you read about one area, we will point you to other relevant chapters. Sometimes you will want to go straight there, but you can also save it for later.

Foolish Assumptions

Whilst we like to think we're experts, and we give you lots of golden rules to follow, it would be foolhardy to think we know everything, so treat these pages as a guidebook rather than a Bible.

We're not lawyers, but we've based our advice on the laws of England and Wales, assuming we are still in the EU, so if you are using this book somewhere else, bear that in mind.

Lord Denning is quoted as saying 'the law is an ass' and it may well be, but who wants to be kicked by an ass? We've provided lots of signposts to online legal and government advice, so if in doubt, follow these signs rather than taking a shortcut.

We've tried to anticipate many of the people issues you might face, but as the Yorkshire saying goes, 'there's nowt as queer as folk' so there are bound to be situations we haven't covered. If you're not sure what to do, our advice is to establish the facts, assess the risk and then make a decision in good faith that's right for the business and fair to the person.

Icons Used In This Book



To help you pinpoint vital information, we place icons throughout the text to highlight nuggets of knowledge.

This icon tells you we're using a real example to illustrate a point - of course all the characters are suitably disguised!



This icon offers you practical advice about how to apply some of the principles of good HR.



The Remember icon prompts you to pause and take note of something that could backfire if you don't pay attention.



Proceed with caution when you see this icon - usually we're letting you know that if you take a wrong step, you'll face a fine, or something worse!



This icon points you to other places online where you can find information and guidance. It is particularly useful for recent legal and government updates, because lots of HR and legal stuff changes at least twice a year.



This icon tells you that the paragraph goes into technical detail you may not need, so you could skip it, but reading it could give you more credibility and confidence.

Beyond The Book

As you scale the heights of HR knowledge, you can pick up extra tips and tools online. Check out the Cheat Sheet at www.dummies.com/cheatsheet/hrforsmallbusiness and some short bonus articles at www.dummies.com/extras/hrforsmallbusiness.

Where To Go From Here

This is a reference book, so you can read it from cover to cover, to improve your general understanding of HR, or you can just dive straight into the page that deals with your challenge. The best place to start is Chapter 1, which gives you the highlights of the whole book, and tells you where to find more detail on each topic.

We've been reasonably logical by organising the material to reflect your journey with employees, from finding them to working with them through rewarding and managing them to sometimes losing them.

HR is full of highs and lows so we hope that you use this book to climb to some of the heights of great HR as well as to plumb the depths of people problems!

Part I

Getting Started with HR

getting started
with

HR



For Dummies can help you get started with lots of subjects. Visit www.dummies.com to learn more and do more with *For Dummies*.

In this part . . .

- ✓ Get off to a good start as an employer
- ✓ Find the right people for your business
- ✓ Get to grips with pay and benefits
- ✓ Find out how to fire people fairly

Chapter 1

Getting into the Business of People

In This Chapter

- ▶ Getting the basics right at the start
- ▶ Managing people to get great results
- ▶ Keeping out of trouble

A small business owner is more likely to groan than smile at the mention of HR because the term ‘Human Resources’ conjures up fear in many forms. You can’t afford the time or money it costs to get it wrong. You’re afraid to make a mistake that you’ll have to defend at an Employment Tribunal. You worry about how to keep control, get in the right people and get rid of the wrong people as your business grows.

Human Resources is all about balancing people, time and money. If you apply common sense, common decency and a basic knowledge of your employees’ rights, which you can read about in Chapter 7, you will avoid most of the pitfalls. But to turn to a sporting analogy for one moment, Formula One Racing drivers don’t focus on avoiding the potholes — they focus on winning. Their sponsors pay for the best car and the best pit stop team so they can win races and make money. If you apply the knowledge in this book to how you do HR in your business, your employees will deliver great results, and your business will win.

Becoming an Employer

As soon as you become an employer, you acquire legal, tax and moral obligations.



Just because you pay someone to work for you does not automatically make you his or her employer. Following are three fundamental factors that determine whether someone is your employee:

- ✓ **Control:** You have control over someone if you or someone in your business has a contractual right to decide when, where and how the person does his or her work for you.

- ✔ **Personal service:** Personal service is a service provided by the person themselves, precluding the option of sending a substitute to do the work for you.
- ✔ **Mutuality of obligation:** Mutuality of obligation exists between you and another person if you have promised that person a minimum amount of work, and that person is obliged to do any work that you ask him or her to do.

Where someone is providing a personal service to your business under your control and you are contractually obliged to give them work and they are obliged to undertake the work, there is probably an employment relationship, so they are an *employee*.



If you want to avoid becoming an employer, you need to avoid taking control and creating a mutual obligation. In Chapter 2 you can read about the pros and cons of employing people or using other kinds of workers.

A *worker* is any individual who undertakes to do or perform personally any work or service for another party, whether under a contract of employment, or any other contract. They are protected by some of the employment legislation.

If you use *self-employed* people in your business, your relationship depends on the contract you have with them, often called a *Contract for Service*. They are protected by contract law and some discrimination law but not employment law.



Workers is an umbrella term, and all employees are also workers.

Employment status

You need to be clear about the status of the people doing work for you, so that you know which laws and regulations to follow.

Irrespective of the person's status, you have to follow Health and Safety and Data Protection regulations to protect anyone who is doing work for you. You can read more about these regulations in Chapter 6. If you want to know how to handle Whistleblowing, you can find out in Chapter 15.

Employees have the most protection, arising from European Regulations and UK law. Within the UK there are sometimes different rules for Scotland and Northern Ireland.

The following table gives you a snapshot of which rules you need to follow, depending on the status of the person doing work for you.

<i>Employment status</i>	<i>Control</i>	<i>Personal Service</i>	<i>Mutuality of Obligation</i>	<i>Regulations you must follow</i>
<i>Employee</i>	✓	✓	✓	All employment law, based on length of service Disciplinary and Grievance rules Working Time Regulations including rests and holiday Pay, notice and pension rules Flexible working rules Paid and unpaid time off for certain reasons Transfer of Undertakings Regulations Redundancy provisions Employee Representation
<i>Self employed</i>	x	x	Only as a service provider	Some workplace discrimination laws Contract law
<i>Worker</i>	?	✓	✓	Some employment law Disciplinary and Grievance rules Working Time Regulations including rests and holiday Some pay and pension rules



Before you employ someone you must check that they have permission to work in the UK, either because they are a UK or EU citizen, or because they have a work visa. If you break the law you will be fined. Check out the rules in Chapter 14.

Employers' Liability Insurance

As soon as you take on your first employee, by law you must have Employer's Liability Insurance from an authorised insurance company to cover you for up to £5m liability, just in case your employee is injured or becomes ill because of the work they do for you. You have to display the insurance certificate where your employees can see it.



You can be fined £2,500 per day for every day that you are not properly insured.

Health and safety

By law you must display a health and safety poster or give each employee a leaflet, explaining their health and safety rights. Additionally, you can't allow employees to smoke in enclosed spaces, and you could be fined if you don't stop them.



You can download the health and safety poster for free from the Health and Safety Executive website: www.hse.gov.uk

Taxing work

Like it or not, as an employer you have tax obligations.

If you employ somebody and they earn above certain thresholds, you must

- ✓ Register with Her Majesty's Revenue and Customs (HMRC) as an employer and set up a payroll or get someone else to run one for you
- ✓ Deduct income tax, national insurance contributions and if applicable, pension or other deductions from your employees' pay before you pay them
- ✓ Send a return, called 'Real Time Information', to HMRC outlining payments and deductions you have made to employees after each pay date. Annually, send a return of taxable employee benefits you have provided
- ✓ Pay your Employer's National Insurance contributions to HMRC either monthly or quarterly depending on your size



You must provide a written or electronic pay slip for employees, giving them details of their pay and deductions.



For more information on your responsibilities as an employer when it comes to tax, plus plenty of helpful advice, check out: <https://www.gov.uk/register-employer>

Navigating the moral maze

There is a legal concept called *mutual trust and confidence*, which underlies the employment relationship. It is the assumption that neither party, the employer nor the employee, will do anything deliberately detrimental to the other party. This means that you could reasonably assume that your

employees will not deliberately bring your company into disrepute through their actions, steal from the company or reveal confidential information to outsiders. Similarly, the employees should reasonably assume that you will not defame them, subject them to harassment or undue stress or expect them to break the law on your behalf.

Although none of these assumptions are explicit in the employment contract, each party is obliged to fulfil them. Many cases that are heard at Employment Tribunals arise because of a 'breakdown of mutual trust and confidence', which amounts to a breach of contract.

Whilst you can never presume to know what your employees are thinking, if you respect your employees' rights, stick to the rules and behave reasonably, you will minimise the risk of causing such a breach.

Getting the right people into your business

Chapter 2 provides some ideas for attracting and selecting the right people to work for you, and in Chapter 14 there's advice on how to avoid the common recruitment pitfalls and make a legally compliant job offer.

HR: Balancing people, time and money

You wake up one morning and decide to recruit an Apprentice. You've only got a tiny budget so you think that's all you can afford. Think again.

Q: Will the Apprentice fill a skill or knowledge gap in your business?

A: Not immediately, of course. But they probably will in time.

Q: Are you prepared to invest your time, or someone else's time, to teach the Apprentice what he or she needs to know, and supervise the Apprentice until he or she learns the ropes?

A1: If you are, calculate the actual cost of that time to the business and count it as part of the cost of employing the Apprentice.

A2: If you're not, don't recruit an Apprentice. It's not fair to them, and it will ultimately cost you time and stress to manage a failing apprenticeship

Q: What are your personal beliefs about apprentices? Cheap labour or potential stars?

A: If you commit time and energy to developing an Apprentice, your short-term investment will probably pay off in the medium to long term.

Q: Does this fit with your strategic plan for the business?

A1: Your Apprentice is unlikely to stay with the business after his or her training, unless you can offer some new opportunities and more money. If you are planning for growth, those opportunities may arise.

A2: If you can't offer progression, expect a successful Apprentice to move on. Start again with a new one. It's an equally valid strategy, and you give another Apprentice an opportunity to learn.

Before you start looking, be clear about what you're trying to find. Consider the following:

- ✓ Your medium and long term plans for the business
- ✓ The skills and knowledge you've already got in the business - your own or other people's
- ✓ The gaps in skills and knowledge that you want to fill in the short and medium term
- ✓ Your values and how you do business
- ✓ How much money you've got to spend

Then write a *job description*, which is what you want the person in the job to do, and a *person specification*, which is a description of the kind of person you are looking for. Read more about these in Chapter 2.

Managing People, Pay and Rations

With just one employee you can limit your HR knowledge to the basics of employment contracts and employment rights, which are covered in Chapter 7. Once you grow beyond the first two or three employees, you need to broaden your understanding to include equal pay, which you can read about in Chapter 4, and HR policies, which are introduced in Chapter 6.

Working together: The psychological contract

You might think that the employment contract embodies your entire relationship with your employees, but in addition to the written words, and the implicit assumptions of mutual trust and confidence outlined earlier in this chapter, there is another dimension to the relationship, called the *psychological contract*.

The psychological contract is a combination of unwritten mutual obligations and expectations between the employee and employer, which can be specific to individual employees, and can change over time. You can read more about it in Chapter 15, and it can sometimes explain why employees behave in an apparently irrational way and take you by surprise.

Whilst you can't hope to control the intangible constituents of the psychological contract, you can build trust, which is a key component, by treating people fairly and consistently, being open, dealing with issues when they arise, keeping your promises and recognising people's hard work.

Paying fairly

Following are some fundamental facts about pay you need to know:

- ✔ **You must pay all employees and workers at least the National Minimum Wage.** This is set each year based on the age of the person doing the work. You can read more about this in Chapter 4.
- ✔ **From 2016 at the latest, depending on your size, you must provide a pension scheme and automatically enroll all your employees and workers in it.** You can find all the details in Chapter 16.
- ✔ **You must pay at least Statutory Sick Pay to qualifying employees who are off sick.** There are rules about how people qualify and how much you must pay. The rates are updated every year in April. You can be more generous by paying company sick pay. Find out more in Chapter 4.
- ✔ **You must pay at least the statutory pay to qualifying employees while they are on maternity, adoption or shared parental leave.** There are lots of rules about dates and payments. You can read more in Chapter 7.

You can reclaim 92% of the costs of paying statutory maternity, adoption or shared parental pay to your employees. You may even be refunded with 103% if you qualify for Small Employers' Relief.
- ✔ **You must pay men and women equal pay for work of equal value.** Read about the basics in Chapter 4, and learn how to do an equal pay audit in Chapter 16.
- ✔ **You must pay people their contractual salary or wages, and any contractual commission or bonus payments if the employee has fulfilled the criteria for payment.** Otherwise you will be in breach of contract.
- ✔ **You can't deduct money from an employee's wages without permission, even if you're trying to recoup an accidental overpayment.** The employee could make a claim to an Employment Tribunal for unfair deduction of wages.
- ✔ **If an employee leaves without taking all his or her holiday entitlement, you must pay the employee for the outstanding balance.** Find out how to calculate holiday entitlement in Chapter 6.
- ✔ **If you dismiss someone and give notice, you must pay the employee for the statutory notice, which is 1 week for every year of service up to a maximum of 12 weeks, or the employee's contractual notice, whichever is longer.**
- ✔ **If you make someone redundant and he or she has worked for you for more than two years, you have to pay at least the statutory redundancy amount, based on the employee's age and length of service.** Read more about this in Chapter 17.



Setting the rules for your business

Having said you can't control every aspect of your relationship with employees, this wouldn't be an HR book without a bunch of juicy rules to control the important things at work. In Chapter 6 you can discover the signs that your business needs some rules and policies, and once you see the signs, it's worth taking action to put some in place.

There are some minimum legal requirements, and if you don't create your own policies, you have to follow the statutory rules. These are

- ✓ Disciplinary policy and procedure to manage misconduct or poor performance
- ✓ Grievance procedure to allow employees to raise grievances
- ✓ Health and Safety policy and procedure
- ✓ Equal Opportunities policy
- ✓ Sickness absence policy
- ✓ Flexible working
- ✓ Time off work for certain activities or reasons
- ✓ Maternity, paternity, shared parental leave

Your business may have particular requirements and obligations. Find out more about setting the ground rules for your business in Chapter 6.

Handling people who don't follow the rules

HR is often perceived as a policing function in a business because of the focus on enforcing the rule book. At its heart, good HR practice provides the same foundation to your business as the police provide to society. The rules are for the protection of law-abiding citizens as much as for the punishment of the rule breakers.

Most of the time, the rule book is not required, but for the good of the business, and the good opinion and continued motivation of the majority of employees, when someone breaks the rules, you must be prepared to use the disciplinary policy and procedure. Using it consistently and correctly will protect you from claims of unfair treatment, discrimination or unfair dismissal.

Find out how to write a disciplinary policy in Chapter 6 and how to follow the procedure properly, especially if you might end up dismissing an employee (covered in Chapter 5).