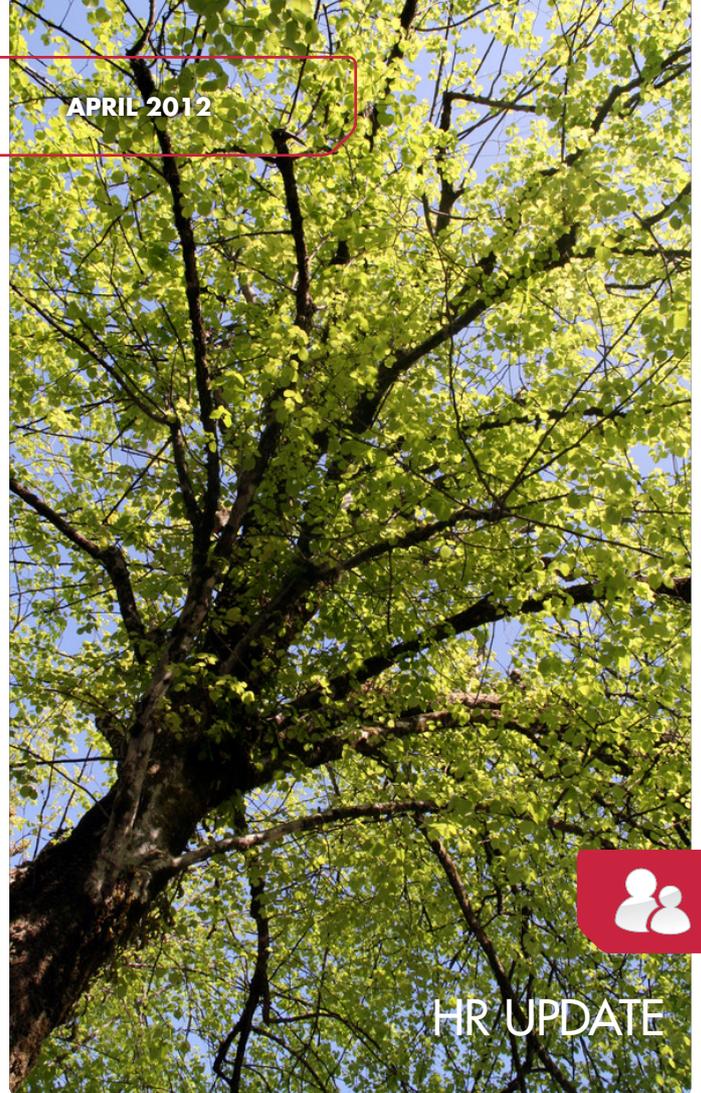




HR Update - Spring 2012

This Spring HR update talks you through best practice for appraisals, preparations for the Diamond Jubilee, and our Case Law feature looks at holding a disciplinary hearing in an employee's absence.



HR UPDATE

Preparing to conduct an appraisal

Most organisations now recognise the importance and benefits of staff appraisals. For appraisals to be effective there is however a need for proper preparation. We consider some tips for preparing to conduct an appraisal.

1. In advance of the appraisal

The responsibilities outlined in a job description are an ideal starting point for assessing performances. Also read what was agreed at the previous appraisal. Consider the evidence. What activities is the appraisee most proud of? What areas did they find most difficult and why? How helpful are they to their colleagues as a member of the team? When appraising someone who may later take on more senior roles in the

organisation it is helpful to prepare to discuss such skills as leadership potential, interpersonal skills and problem solving. The appraisee should be advised in advance what areas will be discussed.

2. Your staff need to prepare too

Give your appraisee plenty of time to prepare. Be sure that they have easy access to any documents that need to be completed. Provide copies of previous documents, such as the result of their last appraisal.

3. Provide a good environment for the meeting

Choose the environment in which the meeting will take place carefully. Your time should not appear to be hurried or indicate that you really do not have the time to focus on your staff, and their performance and needs. It is wise to block out the diary for at least an hour and make arrangements to have no interruptions during your discussions.

4. Where do you think your employee is heading?

Think about their development. Could their performance be improved, and if so, how? What new skills will they need for the future? What will they need to do to adapt to a new situation that is on the horizon? Do they need training, personal coaching from a colleague or mentoring? Are there any relevant, cost effective training courses available that will add value and not disrupt their work?

5. What challenges might be raised?

Imagine the issues they might raise. Can you provide practical solutions to these? Do you think that their career expectations are realistic? How will you handle this matter if their goals are not realistic? Are you likely to receive criticism yourself? If so, how will you respond?



CASE LAW

Holding a disciplinary hearing in an employee's absence

The case of *Bridgeman v Family Mosaic Housing Association* demonstrates that employers should not be too hasty in holding a disciplinary hearing in an employee's absence.

In this case an employee was found to be unfairly dismissed after the disciplinary hearing was held in her absence.

Background

Ms Bridgeman had been employed by Family Mosaic Housing Association in a role supporting vulnerable adults since September 2008. In 2008 and 2009, she had a weak manager who did not provide her with support or an objective assessment of her skills. As a consequence, it was unclear whether or not Ms Bridgeman's performance during that period was satisfactory.

In April 2010, there was a serious incident relating to one of Ms Bridgeman's clients. The association conducted an investigation, which identified shortcomings with her performance that had not come to light earlier because of the poor line management. A disciplinary hearing was arranged, but had to be postponed twice at Ms Bridgeman's request. She was eventually told that, if she did not attend, the disciplinary hearing would go ahead in her absence.

The hearing, took place in August 2010 and resulted in Ms Bridgeman being issued with a final written warning, she was also moved to a new team and placed on a work plan to allow her performance to be monitored.

Issues continued to arise with Ms Bridgeman's performance – in particular her inadequate risk assessments, which could put vulnerable adults in her care in danger. In January 2011, Ms Jones, her line manager, prepared a report stating that Ms Bridgeman had "failed to demonstrate that she is capable of carrying out the basic functions of her role" and there was "the risk of a serious incident due to lack of competency".

Disciplinary hearing

Ms Bridgeman was absent for part of January with a virus. At the end of January, while she was still off sick, the association invited Ms Bridgeman to a disciplinary hearing. In early February, Ms Bridgeman telephoned the association to say that she was trying to get another sick note for her continued absence.

On the day of the hearing, Ms Bridgeman rang to say that she was not well enough to attend. It was decided that the disciplinary hearing should still proceed in Ms Bridgeman's absence. It was considered that she was being uncooperative and they did not see a reason to postpone the hearing. The view was that the outcome would not have been any different if she had attended. Ms Bridgeman obtained a sick note on 15 February. In a letter dated 16 February, Ms Bridgeman was informed that she was being dismissed, a decision that she appealed unsuccessfully. She claimed unfair dismissal.

At the tribunal

The employment tribunal held that the association had genuine and reasonable grounds for dismissal. However, in their haste to press on with recruiting a replacement, the balance between the needs of the association and Ms Bridgeman's rights was wrong. The decision to go ahead with the hearing on the first occasion on which Ms Bridgeman did not attend was too hasty.

The ACAS Code of Practice on disciplinary and grievance says that where an employee is persistently unable or unwilling to attend a disciplinary hearing without good cause the employer should make a decision on the evidence available. The tribunal in this case stressed that a disciplinary hearing is the "bedrock of a fair dismissal process". The tribunal found that the employer did not have sufficient information to decide whether or not Ms Bridgeman was abusing the system. This was a substantial procedural failing.

Apprenticeships for small businesses

Small businesses are now being offered £1,500 to take on their first young apprentices, as part of a Government drive to boost apprenticeship numbers.

According to data released by the Department for Business, Innovation and Skills at the end of January, there was a 64 per cent increase in the number of people starting apprenticeships in 2010/11 compared with the previous year.

Employers - are you ready for the Diamond Jubilee?

Having a holiday policy in place to manage time off and leave requests will be even more important in 2012 with the Queen's Diamond Jubilee. The policy should be fair and consistent whilst maintaining employee morale during the festivities. There will be an additional bank holiday on Tuesday 5 June and the Spring Bank Holiday will be Monday 4 June so potentially with an extra three days booked employees could take a nine day holiday.

There is no statutory right to bank/public holidays, so the announcement of an extra bank holiday does not increase any entitlement to holiday under the Working Time Regulations. Whether an employee will benefit from the additional bank holiday will depend on the wording of their contract. A contract which entitles a worker to 20 days annual leave + public holidays would potentially give the worker an extra day's paid holiday, whereas a contractual clause stating 28 days including bank holidays would not entitle employees to an additional public holiday.

Employers need to consider clashing leave requests and ensure sufficient cover, so plan ahead to avoid any pitfalls.