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Employment Law Guide - For Employers ^[1]

1. I have an employee who is about to go on maternity leave and I am going to advertise for a replacement. Can I tailor my recruitment to ensure the person I take on is not pregnant?

No, this would be discriminatory and undoubtedly lead to a claim and may result in you paying a large sum of money to the employee as compensation.

2. I have only 2 employees both of whom I consider friends. Do I still have to provide them with a written statement of terms and conditions?

Any employee is entitled to such terms and they should be supplied within 2 months of their start date. Ideally a full contract of employment should be supplied to each employee upon acceptance of the role you have offered him/her.

3. My employees claim that they are entitled by law to 20 days holiday plus Bank Holidays. Some of them are part time. Is this correct?

The law provides for 4 weeks holiday thus meaning that it makes no difference how many days an employee works. If an employee works 5 days a week then 4 working weeks will be 20 days. If an employee works 3 days a week then 4 working weeks will be 12 days. With respect to Bank Holidays, these cannot be included in the minimum statutory entitlement of 20 days any longer, due to new legislation. The 20 day minimum has now increased see [Holidays](#) ^[2]

4. One of my employees has just told me that he wants to take time off next week for an event and has already booked it without my consent. We have a large order coming in next week and I cannot afford to have the employee off. What can I do?

You do not have to authorise the holiday. Whilst you must try to be flexible with holiday requests to ensure all staff have the opportunity to take their entitlement, business needs must also be considered. The general rule is that for whatever time an employee wishes to take off, twice as much notice should be given. In this case, a week is requested and as such 2 week's notice should have been given.

5. I have an employee who has been off sick for the last 2-3 years. It does not appear he will be returning. Can I dismiss him?

No. You will need to be wary that this employee is not suffering a disability that falls within the Disability Discrimination Act 1995 and/or the Equality Act 2010. In the first instance, you should write to him asking for his authority to obtain his GP and Medical Records. Thereafter, a number of steps need to be completed before dismissal. Following a correct procedure now can save a lot of time and money dealing with a legal dispute later.

6. I have just purchased a pub and want to bring my family and friends along to work with me. I have now been told, however, that I am legally obliged to keep on the current staff. Is this correct?

Yes. There is legislation called the Transfer of Undertakings (Protection of Employment) Regulations 2006 ("TUPE") that states that if you do not keep on the existing staff their dismissals will be automatically unfair. You must also honour their terms and conditions.

7. I have an employee who has been with me about 5 years. He is no longer fitting in with others and I want to know if I can make him redundant.

You can only make him redundant if there is a genuine redundancy situation in the business. If this is not the case then your best option if you are not happy with his performance, is to place him in performance management or to consider offering him a settlement agreement (previously know as a compromise agreement).

For further information on this and any other employment issue please use our [enquiry form](#) ^[3]

Links

[1] <https://www.sydney Mitchell.co.uk/business-services/employment-law/employment-law-guide>

[2] <https://www.sydney Mitchell.co.uk/business-services/employment-law/staff-holiday-entitlement>

[3] <https://www.sydney Mitchell.co.uk/contact>