

# Employment Law Essentials

A practical, jargon-free, non-legalistic approach to outlining Employment Law for new and experienced managers.

**A one or two day course** covering all the essentials that managers need to know, understand and implement to meet their Employment Law obligations, including how you can avoid ending up in the Employment Tribunal.

## **OUTLINE** (*see below for detail*)

- Overview
- The Employment Contract vs The Goodwill Contract
- Employee Entitlements
- Grievance Process and Procedure
- Holding challenging conversations – informal process
- Investigating a Complaint and Convening Formal Hearings (Discipline, Grievance etc)
- Right to be accompanied
- Right of Appeal
- Discipline, Discrimination and Dismissal
- Discipline Process and Procedure
- Managing Absence
- Managing Performance
- Conducting a Formal Interview or Hearing
- Redundancy
- The Employment Tribunal: attending, settling and avoiding

## Employment Law Essentials

**Discipline and Grievance issues** at work can be costly and stressful for all involved if not handled well, even more so if they end up in the Employment Tribunal. **Policies and procedures** are designed to safeguard and support both the employee and the employer, providing clarity, fairness and consistency of action.

**This course provides** delegates with the knowledge and confidence to deal effectively with Discipline and Grievance issues in the workplace, from 'nipping it in the bud' and resolving low level concerns informally, right through to running formal Discipline and Grievance Hearings fairly and in line with complex legislation as well as ACAS Codes of Practice.

This course will also cover how to avoid the issue – and the way you handled it – ending up in the Employment Tribunal, which can be very costly and stressful for all concerned.

**This course is for** non-lawyers and will focus less on legal process and provisions, instead focusing more on the practical 'How to' of **Discipline and Grievance**, including an understanding of required workplace procedures.

*NB If you do not currently have your own Policies and Procedures, drafts can be provided for your consideration as well as advice on how to introduce them to your workplace, including advice on appropriate consultation.*

### Duration

This course can be delivered in as much or as little detail as is required, as an introduction for novices or in more detail for those more experienced with these issues and procedures.

The duration of this course is therefore flexible, over 1-3 days, to meet your needs. The longer the programme the more detail and interactive it can be.

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**A one or two day course** covering all the essentials that managers need to know, understand and implement to meet their Employment Law obligations, including how you can avoid ending up in the Employment Tribunal.

The **one day** course will focus on summarising the legal and procedural aspects, giving a solid foundation in Employment Law. The **two day** course allows more time to go into a little more detail and discussion; it will also include more time understanding how to conduct the challenging conversations, interviews and hearings.

### Overview

- Rights and responsibilities of employers and employees
- Legal framework – without too much legalese!
- Role of ACAS
- Rules and procedures
- Employment Tribunals
- Harmonious workplace – healthy and unhealthy conflict

### The Employment Contract vs The Goodwill Contract

- Different kinds of Contracts and employment relationships – part-time, full-time, casual, seasonal, flexible, variable, fixed term, temporary, probationary
- It's not a Contract it's a 'Statement of Particulars of Employment' – so what?
- Minimum requirements and helpful additions
- Introducing a new Contract – current employees and new recruits
- Consultation and objections
- Amending existing contracts
- Recruitment and termination – legal right to work in UK
- Introduction to Grievance, Discipline and Performance
- The Goodwill Contract

### Employee Entitlements

- Confidentiality
- Clarity and fairness
- Health and safety at work
- Dignity, discrimination and Equal Opportunities
- Holidays and holiday pay and the Working Time Regulations
- Family friendly policies – maternity, paternity, parental, adoption, shared leave, caring for dependents and flexible working
- Whistleblowing protection

## **Grievance Process and Procedure**

- Grievance policy and procedure
- What is a Grievance
- Informal Grievance – resolving a Grievance informally, including 'nipping it in the bud'
- Formal Grievance – how to carry out the Grievance interview/hearing
- Making decisions – the options, including potential commencement of Disciplinary
- Mediation as an option – when to and when no to

## **Holding challenging conversations – informal process**

- Addressing Misconduct, Poor Performance, Grievances informally
- Preparing your evidence
- Preparing yourself
- Emotions in the room – yours and theirs
- Resolving issues and identifying the way forward
- Amicable agreement or management instruction?
- Rapport and Relationships

## **Investigating a Complaint and Convening Formal Hearings (Discipline, Grievance etc)**

- Informal process and more
- Gathering evidence
- Witness statements
- Note taking and documentation
- Questioning techniques re witnesses, investigations and hearings

## **Right to be accompanied**

- What is the right to be accompanied?
- Who can be a companion?
- Role and limitations of the companion
- Accommodating the companion in work time

## **Right of Appeal**

- The right of appeal in formal procedures
- How to appeal and who to appeal to
- Running an Appeal Hearing
- Decision-making on Appeal

## **Discipline, Discrimination and Dismissal**

- Dismissal - Fair, Constructive and Unfair Dismissal
- Fair reasons for dismissal – the 'range of reasonable responses'
- Conduct, misconduct and gross misconduct – your workplace rules

- Discrimination – 9 ‘Protected Characteristics’
- Injury to feelings - compensation
- Bullying and harassment
- Mobile phones, social media and the internet

### **Discipline Process and Procedure**

- Disciplinary policy and procedure
- Informal Process – resolving minor misconduct issues informally, including 'nipping it in the bud'
- Formal Process – how to carry out the Disciplinary interview/hearing
- Suspension – when is suspension from work appropriate?
- Terms of Suspension
- Levels of Formal Disciplinary Warning
- Content and duration of a formal warning
- Range of reasonable responses

### **Managing Absence**

- Authorised and unauthorised absence
- Paid and unpaid leave
- Sick pay
- Managing short-term sickness absence
- Managing long-term sickness absence
- Disability discrimination and reasonable adjustments
- Capability and dismissal

### **Managing Performance**

- Setting performance standards – job specification, KPIs
- Behaviours vs ‘getting the job done’
- Measuring performance – regularly, ad hoc, annually
- Encouraging good and excellent performance
- Identifying poor performance
- Informal and formal Performance Management Procedures
- Warnings and dismissal

### **Conducting a Formal Interview or Hearing**

- Planning
- Smooth-running of the interview/hearing
- Roles of various persons involved
- Recording information and evidence
- Evaluating evidence
- Decision-making

## **Redundancy**

- Definition of redundancy – and when it's a 'sham'
- Strict procedures
- Proposed reductions
- Criteria for redundancy selection
- Consultation and meaningful dialogue
- Suitable alternative employment and trial periods
- Decision-making, notification and notice periods

## **The Employment Tribunal**

- The 'industrial jury'
- Compensation – limited or unlimited
- An informal court – but only just
- Strict procedures and flexible timescales
- Evidence, paperwork and witnesses
- It's expensive, even if you win – financially and emotionally
- Avoiding Employment Tribunal hearings through negotiation and settlement
- Strengthening your negotiating position

## **By completing this course, participants will understand how to:**

- Proactively manage misconduct and grievances by 'nipping it in the bud' if appropriate
- Resolve issues informally if appropriate
- Understand the concept of evidence and use good questioning techniques to gather reliable evidence
- Carry out timely, appropriate evidence-gathering investigations
- Manage formal Discipline and Grievance procedures and hearings effectively and with confidence
- Reduce the occurrence of Discipline and Grievance issues in your workplace

## **Scott Johnston LL.B. (Hons) Barrister-at-Law**

Scott qualified as a Barrister in 1990 and has litigated in various fields of 'human' law, focusing solely on Employment Law since 1999. As well as drafting policies and procedures, Scott has been advising, litigating or negotiating workplace disputes on a daily basis. He has also been training in workplace conflict, management and 'people' skills for over 10 years.