

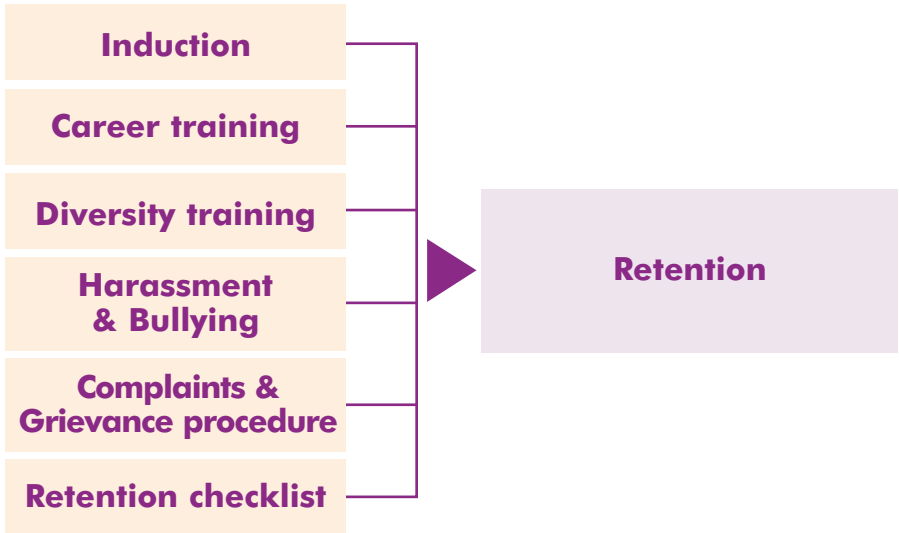
Retention



The Diversity Means Business project is co-financed by the South East England Development Agency and the European Social Fund.

Retention

Once you have recruited new staff, you need to keep them. Again, this section suggests actions that will help you comply with the law and implement good practice that creates a contented and loyal workforce.



Further help and advice is available **FREE** to eligible businesses from the Diversity Means Business project team.

Tel **023 9284 1610**

email **info@diversitymeansbusiness.org.uk**

or visit **www.diversitymeansbusiness.org.uk**

for more information.

Induction

Induction is particularly important for under-represented groups of the workforce. Have a standard checklist of points that need to be covered in the induction and prioritise the information and knowledge that they require. Health and Safety information, work place geography and introductions to immediate colleagues should be undertaken as soon as possible, while other information may best be transmitted over several days or even weeks to avoid swamping new workers. Where adjustments have been identified for a new recruit, it is important that they are put into place promptly.

Note: A recent Court of Appeal decision established that an employee who is off sick and waiting for the employer to make reasonable adjustments to the workplace should not have their sick pay reduced. Doing so may lay you open to claims for both disability discrimination and constructive dismissal.



Understand Your Employees

It is important to understand the needs of both new recruits and existing employees. For example, many minority faiths require adherents to observe specific habits or rituals that may require adjustments in the workplace.

Examples:

- *The Muslim requirement to pray five times a day.*
- *Dietary requirements incompatible with canteen menus.*
- *Dress codes (e.g. Sikh turbans) etc.*

Some workers may simply require flexible working hours to manage family care responsibilities or medical appointments. Some disabled workers may need adjustments to the style of work to accommodate a specific impairment.

Discussion with the individual employees can be the most constructive way forward in finding solutions that are reasonable. The vast majority of adjustments will be little or no cost. Access to Work funding from Jobcentre Plus can assist with adjustments for disabled employees. The needs of employees and the adjustments should then be reviewed regularly, perhaps during an annual appraisal. This may ensure that recently gained disabilities are not missed. A little thought and a relatively small amount of effort can result in much higher retention rates and could make you an 'employer of choice'.

Networks – encouraging employees to set up mutual support networks in the workplace can help you to identify problems early and generate potential solutions. Such networks can also provide advice on the your overall diversity strategy and its application to customers.

Career Training

You should ensure that career development training is open to everyone – check that dates, venues, timing, refreshments, presentation style etc. do not exclude participation. In addition, trainers should be briefed so that they can accommodate all participants. It may be appropriate, for employees to sign a contract confirming that they will remain with you for a specified length of time or pay a proportion of their training costs back if they leave earlier.

Promotion

People with disabilities in work often complain that they always seem to get overlooked for promotion and end up de-motivated and stuck in the same job when everyone else moves on. This is often because managers incorrectly assume that people with disabilities will not be able to manage a more responsible or more pressurised job. Likewise, older people can be overlooked for promotion because of assumptions as to length of service – age should not be used when considering a person's future employability.

You should use the same process as for recruitment, namely the careful use of job descriptions and person specifications to identify job requirements and the best candidates – thus avoiding making a selection before the post is defined. A good job description will help manage aspiration and expectation. You may also advertise internally and consider an application and interview process. Subsequently, it will encourage employees if feedback is provided to non-successful applicants.

Diversity Training

The Law

Legally a firm can be held responsible for the actions of its employees if they discriminate against a fellow employee, unless they can demonstrate they have taken reasonable steps to combat discrimination which would include:

- Diversity training for all employees involved in recruitment, managing other staff and dealing with customers so that they understand their roles and responsibilities under the law.
- Diversity training for all other employees so that they avoid discrimination and harassment.
- Diversity training should cover issues of gender, sexual orientation, nationality, colour, race or ethnic origin, religion or belief and disability.

Example:

A hearing impaired woman was employed by a NHS Trust as a secretary. She was subject to less favourable treatment in that she was subject to ridicule and humiliation and told to wash her ears out or turn up her hearing aid. She was also reprimanded for talking too loudly even though this was because of her Tinnitus. She complained but no action was taken. Soon after she was dismissed after 11 months work and claimed disability discrimination. Case settled for £4000.

Fear and Ignorance

Many employers and work colleagues can be fearful of causing or suffering embarrassment, due to their own lack of understanding and knowledge about others. For example, many people with epilepsy find it difficult to get work because the employer is fearful of what to do if someone has a seizure, or they assume that the person will have lots of seizures whilst at

work. The fact is they may have seizures very rarely or never whilst at work. You do not need to be experts in every impairment but should ask the person in question how they wish to be treated. It is sensible to enquire about the effects of the impairment and what adjustments are needed in the workplace. It is also important to understand how someone's impairments may be affected by the work they do. Comments like "just because my impairment is not obvious they think I am putting it on when I get tired" are the result of poor understanding and may be avoided altogether by careful consideration of how the job could be organised differently.

The employee, who had diabetes and worked as a driller on an open cast mine, had three hypoglycaemic episodes over a period of six months in 2000. Two of these were not serious, the third was more serious though did not require any major treatment. After the third episode, the employee returned to work the following day to be told that he should take time off to recover from the episode. He returned to work two days after that to find that his position had been filled and that there was no work for him. He was then dismissed. Alternative work was not discussed. Case settled for £3000.

For disabled people, the most important issue is to see others wanting to get it right and having a commitment to treating them the same as everyone else. When these things are put right, the correct terminology becomes less important.

Diversity Awareness

People with disabilities who gain employment often list the attitudes of other employees towards them as major factors. "They don't talk to me", "They patronise me", "They talk and laugh behind my back" and "They never give me anything complicated to do" are comments often reported.

A recent CIPD [Chartered Institute of Personnel & Development] survey revealed that attitudes of fellow workers are amongst the biggest barriers to employing Disabled People.

Etiquette

Terms which disabled people find offensive include:

- Spastic
- Invalid
- Wheel-chair bound
- Epileptic
- Cripple
- Retarded
- Victim of...
- Suffering from...

Preferable alternatives are:

- Person with Cerebral Palsy / Epilepsy
- Disabled Person
- Person with Learning Difficulties
- Person who has...
- Wheel-chair user

Harassment and Bullying

Harassment

Staff must understand that harassment can be discrimination under the Sex Discrimination, Race Relations and Disability Discrimination Acts. Under these Acts, and in some circumstances, harassment can lead to criminal convictions and, more frequently, will result in civil law suits.

Harassment is:

"unwanted conduct affecting the dignity of men and women in the workplace"

It may be related to age, sex, sexual orientation, race, disability, religion, nationality or any personal characteristic of the individual, and may be persistent or an isolated incident. The key is that the actions or comments are viewed as demeaning and unacceptable to the recipient. You can be legally liable for harassment by employees.

Bullying

Bullying may be characterised as:

"offensive, intimidating, malicious or insulting behaviour, an abuse or misuse of power through means intended to undermine, humiliate, denigrate or injure the recipient"

Some examples of bullying behaviour might include shouting at staff either in public or private, persistently criticising, ignoring or excluding, threatening or inspiring fear, removing areas of responsibility or office space for no apparent reason, or constantly changing work targets so the employee is bound to fail.

Dealing with bullying and harassment

in order to help staff understand their liabilities and responsibilities, you should:

- Publish your policy and discuss it at staff meetings;
- Deal with any bullying or harassment, utilise a complaints system and discipline procedure;
- Check on the effectiveness of your actions, monitor levels of complaints and disciplinary action.

Complaints/Grievance Procedure

Since October 2004 businesses are required by law to have a grievance procedure. You should ensure that all your staff are aware of and understand the procedure for setting out their grievance.

Such a procedure should be fair and effective. The Employment Act 2002 lays down minimum standards which set down three stages to a procedure:

- 1. Statement of Grievance** – employee sets out their grievance in writing and copies it to you.
- 2. Meeting** – you must invite the employee to discuss the grievance and after the meeting you must tell the employee of your response to the grievance and of their right to appeal.
- 3. Appeal** – if the employee wants to appeal they must inform you and you should invite them to a further meeting. After the appeal you must inform the employee of your final decision. You need to investigate the complaint thoroughly and, where appropriate, take action to prevent such future behaviour and take disciplinary action.

Throughout this process you must ensure that both the complainant and witnesses are not subject to victimisation. It may be appropriate to record information about harassment incidents for monitoring. You need to take prompt action having learned, directly or indirectly, of an employee's complaint about discrimination, harassment, bullying or victimisation.

Example:

The staff member had a learning difficulty and worked in a food packaging factory. She alleged that she was sexually assaulted by several male colleagues and so complained to management about the incident. Having identified the alleged culprits, the employee and her colleagues were suspended from work on full pay.

Following investigation, it was decided by the firm that no action could be taken against her colleagues because her version of events contained too many inconsistencies. When she decided to commence sex and disability discrimination proceedings in the employment tribunal, her employer sought a settlement, which she rejected. She was subsequently dismissed, apparently on the basis that she posed a health and safety risk to her fellow employees who were in danger of being exposed to false allegations in the future. Case settled for £11,000 and an acceptable reference.

Action by the Employer

in order to help employees understand their responsibilities and prevent problems, you should:

- Publish your policy and discuss it at staff meetings.
- Deal with any bullying or harassment e.g. complaints system, discipline procedure.
- Check on the effectiveness of your actions, monitor levels of complaints and disciplinary action.

Disciplinary Procedure

You are also required to have disciplinary procedures from October 2004. As above you should ensure that all your employees understand the procedures in the event of misconduct and breach of terms of employment. The procedure should be fair and effective and should consist of three stages, as above, except that in stage 1 you must set out the grounds for taking disciplinary action (or indeed dismissal) in writing. It may be appropriate to record information about disciplinary incidents for monitoring.

Example 1:

The employee worked as an Egg Packer for eleven months. During her employment no concerns were expressed about her work performance, she had a good training record and received a pay rise after three months. However, without any warning, she was dismissed because she allegedly required too much training. She was informed of the decision alone and no allowances were made for her learning difficulty. Case settled for a confidential sum.

Example 2:

The employee was diagnosed with Bipolar Affective Disorder. Her condition was adequately stabilised with medication. In April 2000 the client was dismissed from her employment for what her employer described as 'gross misconduct' after she had a mental breakdown at work and was admitted to hospital. Damages awarded of £23,069.80 including an award of £8,000 (plus interest) for injury to feelings.

Absence Management

Poor attendance causes disruption and incurs costs. It is estimated that the cost equals £438 per employee per year costing the UK £10.5 bn per year. Personnel and line managers should identify the causes and distinguish between genuine absence and those which are fraudulent. Regular, short, absences may be an indication of a problem at work so it is important to monitor absence. You should have internal procedures to manage sickness absence (fraudulent absence would be covered under disciplinary procedures).

Suggested actions for the employer

- Meet with the employee on return to work to consider reasons for absence.
 - Monitor future attendance.
 - If absences reach an unacceptable level or absence is
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long term consider reasons for absence and either implement discipline procedure or;

- Gain consent for the preparation of a medical report which should provide advice on effect on ability to carry out job and any suggested adjustments.
- Consider and implement reasonable adjustments to enable return to work.
- Consider redeploying individual to a suitable vacant position.
- Hold follow-up meetings.

Example 1:

A recent House of Lords decision established that the DDA "trumps" the employer's own redeployment policies. If an employee is no longer able to do their job because of a disability, you must transfer them to a suitable vacant position, even if that job is at a higher grade, without requiring them to take part in a competitive interview.

Example 2:

The employee was employed as a cleaner within a company contracted to provide cleaning services at a Football Club. He was paid £41 per month. In September 2001 a new company took over the contract, resulting in the client and 13 other individuals, who all had learning difficulties, being made redundant. Damages awarded of £4,000 loss of earnings plus £13,000 for injury to feelings.

Monitoring

You should capture and analyse simple statistics on:

- Recruitment – applications, interviews, job offers, job acceptances, reasons for rejecting candidates;
- Career training;
- Promotion;
- Diversity training;
- Complaints and grievances;
- Disciplinary action;
- Sickness absence.

The data should show activity by gender, ethnic background, religion/faith, disability and age. It may also be helpful to collect information on adjustments made in the workplace with any costs borne by you or others. Attitude surveys of employees, including those leaving your employment, will also assist in analysing the effectiveness of diversity policies plus identifying any remedial action needed. Monitoring data can also be valuable evidence in the event of a dispute.



How to Retain Employees – Action Checklist

Understand your legal responsibilities for employees

Conduct regular discussions with individuals to identify their needs and then take reasonable action to meet them e.g. combined with performance appraisal procedures

Consider reasonable adjustments in the workplace for all employees

Investigate Jobcentre Plus Access to Work support for disabled employees

Provide diversity training for managers and employee

Ensure that job training and promotion is open to all

Create and promote your policies and actions to prevent bullying and harassment

Review and update the following to ensure that they are fair, effective and non-discriminatory:

- Grievance (complaints) procedures
- Disciplinary procedures
- Sickness absence management procedures

Collect and analyse data about employees: training, promotions, grievances, disciplinary action, sickness absence by gender, race/nationality, religion/faith, disability and age etc.



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email **info@diversitymeansbusiness.org.uk**

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