Work smarter, not harder

When you run a business, time is precious. Working smarter, not harder can often be the key to success. We know this because we’ve been running our local law firm for over 40 years. We advise our local business community on commercial property matters, employment law issues, contracts, debt recovery and succession planning. It frees up valuable time for businesses so that they can focus on what they do best, while we take care of the legal complexities.

Why not take advantage of our free 30 minute free legal health check to ensure that your business is legally compliant?

The Thomas Dunton Team

National Minimum and Living Wage

The rates below apply from 6 April 2019.

<table>
<thead>
<tr>
<th>National Living Wage</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>For all workers aged 25 and above</td>
<td>£8.21</td>
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<table>
<thead>
<tr>
<th>National Minimum Wage</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Workers aged 21-24 inclusive</td>
<td>£7.70</td>
</tr>
<tr>
<td>Workers aged 18-20 inclusive</td>
<td>£6.15</td>
</tr>
<tr>
<td>Workers aged under 18</td>
<td>£4.35</td>
</tr>
<tr>
<td>Apprentices aged under 19</td>
<td>£3.90</td>
</tr>
<tr>
<td>Apprentices aged 19 and over</td>
<td>£3.90</td>
</tr>
</tbody>
</table>

More information about rates and employee entitlements can be found in our Pocket Employment Guide. Call to request a free copy.

1: But above compulsory school leaving age. 2: But in the first year of their apprenticeship.

Employee contracts: your tick list

What should you include in an employee’s written contract? Below are some of the key considerations. Staff contracts protect you and your employees and provide clarification on the role and expectations.

1. Start with the employee’s name, the company name and the place of work.
2. Include the job title, responsibilities and the department that they will be working in, along with the commencement date of employment.
3. Stipulate the salary, whether annually or hourly, along with any benefits that they are entitled to.
4. Outline your sickness, holiday, maternity and paternal pay.
5. Define the terms of employment and confirm whether the role is permanent or contract. Also outline the number of hours the employee is expected to work.
6. Explain the termination, grievance and disciplinary procedures.
Managing stress in the workplace

The demands on your staff to help run your business can often lead to them working longer hours and potentially feeling stressed. Recent research by the TUC showed that more than five million UK workers put in a total of two billion unpaid hours in 2018. As a responsible employer it is good to be aware of this.

What is stress?
The Health & Safety Executive (HSE) describe stress as “an adverse reaction people have to excessive pressures or other types of demand placed on them”. Stress means something different to each of us, but some of the symptoms of stress at work include depression, anxiety and insomnia. They can show themselves in the workplace by:

- Taking time off
- Being irritable or nervous
- Arriving late
- Reduction in performance
- Lack of motivation and commitment
- Feeling unable to cope

What can you do to help?
Under the Health & Safety at Work Act 1974, employers have a duty to protect the safety and welfare of their employees, and this includes conducting risk assessments for work related stress. Mental health issues need to be addressed in a similar manner as physical disabilities. Some suggestions to help combat stress in employees include having an ‘open door’ policy to allow employees to voice their concerns, operating flexible work/life balance employment models and providing positive feedback and communication on tasks achieved, as well as rendering a counselling service.

Listening to your staff, documenting your meetings and being proactive in helping them may all help to maintain your staff’s mental health and avoid expensive litigation.

Planning for the future: the importance of a Business Lasting Power of Attorney

WHAT would happen to your business, if you, or other decision-making personnel, lost mental capacity? The impact on the day to day running of your business could be severe. Your bank accounts may be frozen, and deadlines could be delayed until a deputyship order is granted.

A Lasting Power of Attorney (LPA) can help avoid this disruption. An LPA is a convenient and powerful legal document which gives legal authority to another person (an attorney), to make decisions in your best interests. Most LPAs relate to your financial affairs and/or future care but a Business LPA relates to a specific business and can sit alongside personal LPAs. Provision for a person to be removed from office due to incapacity is now seen to be discriminatory and potentially unlawful under the Mental Health (Discrimination) Act 2013.

What will a solicitor do for you?
At Thomas Dunton, we are specialists in this field. We can advise on:

- Choosing a suitable attorney with the skills, knowledge and qualifications to help to run the business.
- Drafting documents, with appropriate clauses, to ensure that the LPA covers relevant areas.
- The interaction of the LPA with the articles/partnership agreement.
- Drafting a separate letter of wishes to direct the attorney and the ongoing relationship between the attorney and the business.

Selling your services or goods online in the UK – what you should know?

- Provide a full description of the goods and services that you are providing.
- Highlight the customer’s right to cancel – this normally starts from when the order is placed, to 14 days after the customer receives your goods. Also provide a standard cancellation form to make cancelling easy.
- Always give your email address, your geographical address and contact details, along with your VAT number.
- Provide your terms and conditions in a printable version.
- Confirm the contract as soon as possible and no later than when goods are delivered. Send an email confirmation of the contract, or a paper copy so that the customer can save this for future reference.
- Deliver the goods within 30 days, unless you’ve agreed otherwise with the customer.

There are additional obligations if you sell digital services or provide download or streaming services. Refer to the government website for guidance: www.gov.uk

The information in this newsletter is of a general nature and may not reflect your individual circumstances. Please also note that details may change.
Starting a new business

WHEN starting a new business, there are certain considerations to take into account. These include:

DEciding on the legal status of your company – The two main formats are Sole Trader or Limited Company. Other options include a Partnership, a Limited Liability Partnership (LLP) or a Community Interest Company (CIC).

Register your company name – If your business is a limited company, this needs to be registered at Companies House. It also means that no one else can register the same company name.

Health and safety – All businesses need to carry out risk assessments. If you employ more than five members of staff, you need to keep a record of this. You are also responsible for fire and gas safety and safety of electrical equipment. You must also provide a reasonable working environment of temperature, space, ventilation and lighting, along with toilet and washing facilities, drinking water and safe equipment. More information about your obligations can be found on the Health and Safety Executive website: www.hse.gov.uk

Insurance – All businesses that employ staff need to have employer’s liability insurance, with a minimum cover of £5m. If you deal with the public, you will also need public liability insurance.

Employees – You will need to ensure that you have contracts in place for your staff and be mindful of parental leave, minimum wage, sickness and holiday entitlements. Our Pocket Employment Guide lists all relevant rates.

Premises – Ensure that you understand the terms of your lease. Will you require planning permission for structural alterations or change of use? If you run your business from home, are there any restrictions?

Business rates – These are charged on most non-domestic dwellings and are set by your local council.

Intellectual property – Ensure that your work and company name are protected. Register these with the Intellectual Property Office.

Licences – Do you need a licence to trade? This can cover playing music, selling food and drink or trading outside. The government’s licence finder can help you decide if, and which, licence is relevant to you: www.gov.uk/licence-finder

What to consider when leasing a commercial property

- Make sure the space is big enough. When your business grows, you want to have large enough premises too.
- Ensure that the space is able to support the infrastructure you will need. You will need to have enough room for cabling as well as being able to accommodate the speed and adaptability for broadband.
- Check the ‘User Clause’ so that it fits with the type of business you wish to run.
- The average lease is now 5 years (although longer or shorter leases can be negotiated). Consider a break clause to get out of a lease if need be: you may need to pay more rent but it could help.
- Know what your service charges will be and make sure you can pay them.

We can help with these legal matters and we would always advise that a solicitor carefully review your lease agreements before you sign on the dotted line.

Employment Law in 2019

Second gender pay gap reporting
From January 2019 companies with over 250 employees will have to disclose the pay gap between their chief executive and their average UK worker.

National minimum & living wage increase
Workers over 25 will legally be paid £8.21 an hour, and those aged between 21-24 will be paid £7.70. Sickness pay will rise to £94.25 and statutory maternity, paternity, adoption and shared parental payments will also increase to £148.68 per week with effect from April 2019.

Pay slips
All staff, including temporary, casual, zero hour and agency staff will be entitled to a fully itemised pay slip.

Pensions auto-enrolment scheme
From 6 April 2019, the minimum level of employer contribution into a pensions auto-enrolment scheme will increase. Contributions will increase to 3% for employers and 5% for employees.
Redundancy

Unfortunately, from time to time you may find yourself in the position of having to make staff redundant. Although this can be upsetting, here is some general guidance on the initial stages.

Who should you make redundant?
Acting objectively, you need to assess employees against criteria which could include: qualifications, experience, skills, attendance and disciplinary records. Each employee should be scored against these factors.

Next steps
A letter should be sent outlining the prospect of redundancy and, briefly, the reasons why. Employees should be invited to a consultation meeting where you can explain:

- The need for redundancies.
- Alternatives to redundancies.
- The selection criteria.
- The scoring system and how it is applied.
- Other opportunities, if relevant, for them in other areas of the business.

Confirming the decision
Once the employee has been given the opportunity for a meeting, consultation and consideration, a written notification should be sent to the employee, once redundancy has been confirmed. This letter should include the rights of appeal, notice pay, contractual benefits, pay for untaken holiday and the full entitlement to contractual or statutory redundancy pay.

Settlement Agreements
A Settlement Agreement can be offered; this helps avoid the risk of an Employment Tribunal claim. In this, you need to include the redundancy entitlement and possibly an additional payment if the employee waives their legal rights.

Mediation and Business

The power of mediation in resolving business disputes cannot be underestimated. Senior partner at Thomas Dunton, Vernon Hadida, with over 20 years' experience as a mediator and a contributor to LBC Radio, lists the merits of employing a skilled mediator in helping both parties resolve their business issues. These include:

- COSTS – Mediation will almost always be less expensive than pursuing a claim through the courts.
- DICTATING THE OUTCOME – Courts are restricted in the kind of outcomes they can order; however, mediation allows both parties to agree on a suitable outcome, beneficial to both.
- TIME – Sitting down, face to face, and discussing issues usually takes less time than pursuing the matter through the courts.
- PRESERVING RELATIONSHIPS – The solutions offered by mediation, attained through both parties openly and respectfully expressing their views and opinions, can often lead to a restoration of the relationship.
- CONFIDENTIALITY – Details disclosed during the mediation process, often including sensitive business information, will remain within the meeting and will not enter the public domain.