Seasonal Employees and the Employment Law Implications

As the busy Christmas trading period approaches, many businesses are preparing for one of the busiest times of the year. For Organisations in retail, hospitality, tourism, logistics and other customer-facing sectors, taking on additional staff can be essential to managing increased demand, maintaining service standards and maximising seasonal trading opportunities.

A common misconception is that Employees engaged for just a few weeks or months have fewer employment rights than permanent staff. Seasonal Employees are entitled to important statutory protections from the outset of their employment, and failing to get the basics right can expose Organisations to avoidable employment law complaints and costs.

With that in mind, here are some key considerations for Organisations planning their Christmas recruitment.

1. **Put an employment contract in place**

In many cases, individuals recruited to meet seasonal demand will be employed on fixed-term contracts, with employment intended to end on a specified date or following the completion of a particular purpose.

It is important to document these arrangements clearly. Organisations should not rely on informal agreements or assumptions that an Employee will understand that their role is only temporary.
Under the Terms of Employment (Information) Acts, Employees must receive written details of their core terms of employment within five days of starting work, followed by a fuller written statement of terms within one month.

A well-drafted contract provides clarity for both parties and helps reduce the risk of misunderstandings later.

2. **Remember that seasonal Employees have employment rights too**

The short duration of an employment contract does not remove an Employee's statutory rights.
Under the Protection of Employees (Fixed-Term Work) Act 2003, fixed-term Employees must not be treated less favourably than comparable permanent Employees in respect of their conditions of employment simply because they are on a fixed-term contract, unless there are objective grounds justifying the difference.

For example, where permanent Employees receive a particular overtime rate or employment-related benefit, Organisations should examine whether the same entitlement applies to their seasonal colleagues.

Seasonal Employees may also qualify for statutory annual leave, public holiday entitlements, rest breaks and other protections under employment legislation, depending on their circumstances.
Organisations should therefore ensure that temporary staff are included in their normal payroll, time-recording and HR processes, rather than treating them as an informal or separate category of worker.

3. **Be clear about how and when the employment will end**

One of the most important aspects of seasonal recruitment is ensuring that the end of the employment relationship is properly managed.

A fixed-term contract should clearly identify when employment is expected to end. Where an Organisation may need to bring the arrangement to an end earlier than anticipated, appropriate early termination and notice provisions should also be considered.

Employers should be particularly careful not to assume that simply reaching the end of a busy trading period automatically resolves every employment law issue.

Where an Organisations intends to rely on the expiry of a fixed-term contract as the reason for the employment ending, the contract should contain the appropriate written provision, agreed and signed by both parties, to address the non-application of the Unfair Dismissals Acts in those circumstances.

This is an important technical area where getting the wording right at the outset can help avoid unnecessary disputes.

It is also good practice to communicate the expected end date to Employees in advance and ensure that final pay, outstanding annual leave and any other entitlements are dealt with correctly.

4. **Take care when extending or renewing seasonal contracts**

Business requirements can change quickly during the Christmas period. A temporary Employee recruited for December may be needed into January, or an Organisation may find that additional staffing is required for longer than originally anticipated.

Where a fixed-term contract is renewed, Organisations must be mindful of their obligations under the Protection of Employees (Fixed-Term Work) Act 2003. In particular, where an Employee is offered a further fixed-term contract rather than a contract of indefinite duration, the Organisation must provide written objective grounds justifying the renewal and the decision not to offer a contract of indefinite duration.

Organisations should also monitor the cumulative duration of successive fixed-term contracts. The legislation places restrictions on the use of repeated fixed-term contracts, with the potential for an Employee to become entitled to a contract of indefinite duration in certain circumstances.
While these provisions may not present an issue for a once-off Christmas recruitment exercise, they are particularly relevant to businesses that regularly re-engage the same temporary Employees for successive busy periods.
Keeping accurate records of contract dates, renewals and the reasons for extending employment is therefore essential.

5. **Do not overlook induction, training and workplace safety**

When business is brisk, it can be tempting to get additional Employees on the floor or into the workplace as quickly as possible.

However, seasonal staff should receive appropriate induction and training, just like other Employees. They need to understand their responsibilities, workplace procedures, reporting arrangements and relevant health and safety requirements.

This is particularly important where Employees are unfamiliar with the business, are working with equipment, handling stock, serving customers or operating in a fast-paced environment.

Organisations should ensure that appropriate supervision is in place and that new Employees understand the procedures they need to follow to carry out their work safely.

A rushed induction can create unnecessary operational and legal risks at precisely the time when businesses can least afford disruption.

6. **Keep accurate employment records**

Good record-keeping is a straightforward but important part of managing seasonal Employees.
These records help demonstrate compliance with employment legislation and provide a useful reference point if an issue or query arises.

Make seasonal recruitment work for your business

Bringing in additional Employees over Christmas can be a valuable way to meet high demand. Having the right people in place can help you meet customer orders, protect service standards and make the most of an important trading period.

However, seasonal recruitment should be approached with the same care and attention as any other employment arrangement. Temporary Employees are still Employees, and the fact that someone may only be working for a few weeks does not remove the Employer's legal obligations.
Taking time to prepare appropriate contracts, communicate expectations, manage working time and pay, and keep accurate records can significantly reduce the risk of employment-related disputes.

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- Contracts of Employment, Policies & Procedures, Managing Compliance
- HR Best Practice
- Advice on day-to-day matters
- Dedicated Client Manager
- Mitigation of Risk & Financial Liability
- Help desk support
- Commercial HR advice tailored for your Organisation

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