

## lawyers for your business (LFYB)

Lawyers For Your Business (LFYB) represents around 1200 firms of solicitors in England and Wales, which have come together to help ensure that all businesses, and especially the smaller owner-managed ones, get access to sound legal advice whenever they need it.

LFYB is managed and promoted by The Law Society and has been welcomed as a positive initiative by the Department of Trade and Industry, Chamber of Commerce, the Federation of Small Businesses and many other agencies and trade associations that are active in the small and medium sized business market.

LFYB recognises that, for fear of running up large legal bills, a business will often not consult a solicitor until they have a serious problem. By then, of course, any remedy may be at its most expensive, if indeed one is still available.

In most cases businesses can save themselves money by seeing a solicitor for advice early on, especially where there is legislation to be complied with, or important legal documents such as contracts to be prepared. To remove the risk of incurring unexpectedly high legal costs, LFYB members offer a free consultation, lasting at least half an hour, to diagnose the problem and any need for action, with full information, in advance, on the likely costs of proceeding.

## how to gain your free half hour consultation

If you would like to use the service, contact LFYB by post or phone on the details listed below. A list of participating solicitors in your area will be sent to you. Simply choose one of the firms on the list and arrange an appointment. You should mention the LFYB scheme when making contact.

## further information

For further information write to:

Lawyers For Your Business  
The Law Society  
FREEPOST WC 2576  
LONDON WC2A 1BR

or phone

 **020 7405 9075**

or visit the website [www.lfyb.lawsociety.org.uk](http://www.lfyb.lawsociety.org.uk)

## lawyers for your business employing staff



The Law Society



The Law Society

**LAWYERS  
FOR YOUR  
BUSINESS**

SUCCEED IN BUSINESS: THE LEGAL ANGLE

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# employing staff ②

## employing staff

Any owner of a business quickly discovers that there are more laws – and more potential legal pitfalls – concerning employment than almost any other aspect of commercial life.

It is important to understand your legal obligations as an employer, and be up to date, as these are constantly changing.

You have a right and duty to take reasonable steps to protect your business from the actions of employees, for example, should they leave to go to a competitor. You will certainly want to prevent your trade secrets being handed on. A poorly drafted contract of employment is fatal and trying to set down complex or lengthy terms and conditions is likely to be as useless in law, as having none at all.

Every business needs good staff performance. If you encounter an employee who persistently under-performs or behaves in a way that can damage your business or its reputation, then you should remove him or her quickly and without risking a claim for unfair dismissal.

Many of the legal problems – and associated costs – that trouble employers are easily avoided if the right actions are taken at the outset. Effective contracts of employment are vital, with full recognition given to the implications of different categories of employees, from full-time directors through to part-time or contract staff.

This leaflet highlights some of the key issues surrounding the employment and dismissal of staff. Effective contracts of employment are vital and it is important that the implications for different types of employees are fully considered.

## problems

### Discrimination in the workplace?

If yes...  
You may be liable for actions of your staff.

### Breach of contract?

If yes...  
Must have fair disciplinary procedures.

### Accident at work?

If yes...  
You may be liable (see Health & Safety Legal Brief).

### Dismissal?

If yes...  
If gross misconduct as defined in contract, you may be able to dismiss immediately.  
If no...  
You must show evidence, have given several warnings and have appeal procedures.

### Because of pregnancy?

If yes...  
Difficult, unless you can show job can't be done. Offer other employment.

### Redundancy?

If yes...  
Employed over 2 years?  
If yes...  
Possibility of compensation and must be genuine.

## hiring

### Advertising position?

If yes...  
Need to comply with anti-discrimination laws, sex, race and disability.

### Contracts of employment

#### Have you protected your business properly?

If no...  
Use contract to protect trade secrets, but must avoid unfair restraint of trade.

### Recorded employee's duties?

If no...  
Must have clear rules and expectations in contract.

### Key member of staff e.g. a director?

If yes...  
Look at restrictive clauses in employment contract or Key Man insurance in case asset dies prematurely.

### Planning to offer share options?

If yes...  
Care! Serious tax and ownership implications for your company.

### Part-time staff?

If yes...  
New rules affecting part-timers: definition of 'part-time', benefits, pensions.

### Temporary or contract worker?

If yes...  
Need to watch out for tax status of worker, employers liability insurance.

### Female staff?

If yes...  
New maternity rights might apply.  
No minimum length of employment.

### Staff acquired with purchase of business?

If yes...  
TUPE rules might apply - could limit changes to employment contracts.

## checklist

- Do you have a contract of employment drafted by a solicitor?
- Do you have clear written procedures in the event of having to dismiss a member of staff?
- Have you taken into account the risk of your trade secrets being taken to a competitor if the employee leaves?
- Do you know the latest rules on maternity rights, and benefits for part-time workers?
- Have you made sure that you are not contravening anti-discrimination legislation on sex, race and disability?
- Is your tax treatment of contract or temporary staff water-tight?
- Does your staff share option scheme put your control of the business at risk?
- Are you familiar with TUPE (Transfer of Undertakings Protection of Employment) rules which can affect the way you treat staff of acquired businesses?
- Do you have an up-to-date, effective e-mail/internet use policy?
- Are you aware of the restrictions imposed by employee privacy laws and the Human Rights Act?

As always, and in most situations, sound advice in the early planning stages pays dividends. Just ask your local LFYB member solicitor what can be done to help you make your business succeed.