



GUERNSEY HOSPITALITY
ASSOCIATION

HR TOOLKIT

For Start Ups and SMEs

Guernsey 2023

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Introduction

This booklet aims to give small business owners an overview of the different things to consider when employing staff in Guernsey. Once a business starts to grow it inevitably reaches a point when it needs to take on employees and this can be a daunting prospect. For a business to succeed, it needs to get the most out of its employees and using appropriate policies and procedures in the workplace can really help to manage staff effectively.

This guide provides a brief overview of the key legislation affecting employment and takes you through the main elements of HR and people management. Many of the topics included here can be highly complex and a guide such as this can only provide an outline of the key points involved in employing people.

Although comprehensive, this is not a substitute for the depth of knowledge and experience that a professional HR practitioner or lawyer can give you. It should, however, give you useful tips, help you to understand when you need to call in the professionals and suggest where to find additional information. It should also give you the necessary background so that you know what to ask your professional advisor and understand more fully the information and advice that you are given.

Good luck in your growth journey and remember; we are here to provide you with confidential advice and support as you increase your workforce and develop your business. Reach out or give us a call if there is anything we can do to help.

The Guernsey Hospitality Association



About the Author

HR Now were delighted when we were invited to write the HR Toolkit Handbook for small businesses in the Hospitality Sector in Guernsey. We hope it will act as both a toolkit and a helpful resource for your business.

People are your most important resource and you need effective, targeted HR planning to minimise human resource issues and to ensure your HR processes align with your business vision.

HR Now are the leading provider in interim outsourced HR services in the Channel Islands. We support business leaders and HR managers and work alongside start-ups, small and medium sized business' and corporations. We offer a suite of services to help add strategic value to your business and to help create practical, tailored HR solutions. We work collaboratively to assess your needs efficiently and effectively.

HR Now are a team of client driven, professionally qualified HR consultants. We provide a complete range of HR advisory services on a project, co-sourced or fully outsourced basis. Outsourcing to HR Now means:

- YOU focus on your business and our trusted experts match and meet your HR needs
- YOU gain the freedom to concentrate on doing what you went into business to do
- YOU are one-step towards the peace of mind that you are 'keeping it legal'

Services

For more information see www.hrnow.je

Managing People

From recruitment to retirement, we're here to advise and support you through the rough and the smooth of every stage of the employment relationship, with absolute integrity and impartial support.

Managing Change

Be it technological, environmental, social, market, welcome (or not so much), change is the new normal and most of us need help to navigate it sometimes. These are some of the areas we work in:

Managing Strategy

Your business goals and objectives may be constant but so is the need to adapt the strategies you develop to achieve them to meet and manage the rapidly changing internal and external environments we work in.

HR4HR Recruitment

An extension to our core business, it's a natural evolution given our history and experience in the HR arena.

Our team has years of hands-on industry experience in areas such as:

- Recruitment - from making sure the job description will attract the right candidates to assessing, interviewing, on boarding and probation reviews and help with licensing and immigration.
- Performance management, training needs analysis, coaching and mentoring; succession planning.
- Investigations, hearings or appeals for disciplinaries, capability, grievances, managing attendance.
- Mediation and conflict resolution and requests for flexible working.
- Employment tribunal support, including case management and representation.
- Compensation – including market reviews, benchmarking, benefit advice, annual review support.
- Payroll – hosting, delivery and reporting; digital or traditional
- Policy – and practice to support, for example Diversity and Inclusion, and agile working.
- Board support – toolkits to include manuals, governance frameworks and coaching.
- Organisation design – and re-design, including team structure, talent testing and job design.
- Restructures, redundancy, career coaching, outplacement support, mergers and acquisitions.

Business Associates for the GHA

For Guernsey Hospitality Recruitment please contact our preferred partners (note our recommendation is made without any liability on the part of GHA):

[Caterquest - www.caterquest.com](http://www.caterquest.com) + [GR8 - www.gr8jersey.com](http://www.gr8jersey.com)

Legal and Statutory Obligations

Running a small business and employing people involves compliance with a range of laws. The main ones, all as amended from time to time, are listed below and the rest of the toolkit explains key elements of these in more detail.

- The Conditions of Employment (Guernsey) Law 1985
- The Employment Protection (Guernsey) law 1998
- The Sex Discrimination (Employment) (Guernsey) Ordinance 2005
- The Minimum Wage (Guernsey) Law 2009
- The Population Management (Guernsey) Law 2016
- The Maternity leave and Adoption Leave (Guernsey) Ordinance 2016
- The Prevention of Discrimination (Guernsey) Ordinance 2023
- Health and Safety at Work (General Guernsey) Ordinance, 1987
- The Rehabilitation of Offenders (Bailiwick of Guernsey) Law 2002
- Data Protection (Bailiwick of Guernsey) Law 2017
- General Data Protection Regulation (GDPR)

Here is an outline of the key pieces of legislation:

Conditions of Employment (Guernsey) Law 1985, as amended

The law covers many of your obligations as an employer towards your employees and includes:

- Written statement of employment within four weeks of starting work
- Job title
- Date of start and expiry date of any fixed contract
- Hours of work
- Details of pay including overtime or shifts or other benefits and when you are paid (weekly/monthly and date)
- If you are going to offer holiday, holiday pay, sickness and sickpay or pension
- Maternity pay and leave
- Termination of employment and notice periods

You may also wish to state your position as the employer on areas like

- Redundancy
- Fair and unfair dismissal
- Staff handbooks, internal policies and procedures
- Equal opportunities and discrimination
- Trade unions and staff associations
- Employment Tribunal

Note there are no statutes in Guernsey to compel an employer to provide paid annual leave, paid sick leave, paid maternity leave, redundancy pay or access to a pension scheme, at this time.

Criminal Offences

Guernsey has rules to facilitate the rehabilitation of offenders under the Rehabilitation of Offenders (Bailiwick of Guernsey) Law 2002.

Once a specified period has elapsed after certain convictions they are considered 'spent' and the person is then treated in law as if they had not committed or been convicted of the offence. A spent conviction need not be disclosed when the individual or any other person is asked a question about past convictions and it is an offence for a person, in the course of their official duties, to disclose a spent conviction without the individual's consent.

In addition, a spent conviction or its non-disclosure is not a reasonable ground for turning someone down for employment, dismissing them during employment, or excluding the person from any office or profession, subject to certain exceptions. There are however exceptions to the law where certain categories of individuals or businesses can apply an exception. For example, people working with children and vulnerable people must not have a criminal record that would put these people at risk. Further details can be found online at [Criminal Convictions & Public Interest Policy - States of Guernsey \(gov.gg\)](#)

The Employment Relations Service (Guernsey) is evolving into the Employment and Equal Opportunities Service (EEOS) in preparation for the Prevention of Discrimination Ordinance which went live on 1st October 2023

This service exists to promote the improvement of employment relations and to assist in the resolution of employment disputes and give guidance on best practice.

The EEOS website is [Employment and Equal Opportunities Service | EEOS](#) and offers further information.

Data Protection

The Data Protection (Guernsey) Law 2017 provides a framework for collecting and processing personal information about living people who are referred to as data subjects. The Law gives individuals specific rights in relation to their personal information and places obligations on the organisations responsible for controlling and processing it.

Employers naturally hold personal information about their employees. This information is classed as sensitive personal and/or special category data and includes both facts and opinions about an individual. As a result you must have appropriate processes and policies in place to collect and hold this information securely.

You must notify the Data Protection Authority (Guernsey) as soon as you start to hold sensitive data and registration can be completed online at [Registration · ODP](#). You will be charged an annual fee for registering with the Data Commissioner.

For more information go to:

[The Data Protection Authority Guernsey website: Home · ODP](#)

Pre-Employment

Before starting to recruit employees, it is important to get the basic administration in place.

Applying for business licence

The Digital Greenhouse offers a free and inclusive support for new business and entrepreneurs. Comprising of online services, face to face support and accelerator programmes, all designed to provide entrepreneurs with a one-stop-shop for starting a business. More information can be found here:

digitalgreenhouse.gg

If you are thinking of setting up a business in Guernsey, Locate Guernsey provides information on what to consider when planning to relocate to the island:

[Locate Guernsey | Locate Guernsey](#)

Requirements for registration of a Guernsey company:

A Companies (Guernsey) Law was introduced in 2008 and revisions are regularly made to ensure it remains appropriate for the current business world.

The Guernsey Registry offers a choice of Limited Companies, Limited Partnerships, Limited Liability Partnership or Foundations. When considering which type of legal entity is most suited to your proposed new business, the Registry always recommends that you seek independent legal advice.

More information on the suite of legal entities can be found here.

[Guernsey Registry Information](#)

Same-day registration of a company can be undertaken by the Guernsey Registry, the option for either 2 hours or 15-minute incorporation services available for an extra cost. This needs to be done by a Corporate Service Provider (CSP).

[List of CSPs](#)

Guernsey companies need to have:

- A registered office address in Guernsey, (if you are not yet resident in Guernsey or you don't wish to use your residential address, CSPs may use their registered office address as part of their service)

- At least one director, who need not be Guernsey resident.
- A resident agent who is either a Guernsey resident director of the company or a CSP.

Companies also require a memorandum of incorporation and articles of incorporation. There are standard templates of these documents which can be used if you wish or a CSP will be able to assist with this. Prior to incorporating a company, a company name may be reserved for three months on your behalf by a CSP to prevent anyone else from using it. [Guernsey Registry](#)

Migrating your business to Guernsey:

If you have an existing business and are thinking about relocating to Guernsey, you are able to migrate an existing company to Guernsey providing that the law in the jurisdiction in which your company is currently registered allows you to migrate. This is known in Guernsey as 'registration of an overseas company as a Guernsey company'. In order to do this you will need to consult a Guernsey Corporate Services Provider (CSP) who will be able to provide you with step-by-step guidance.

[List of CSPs](#)

The UK Companies legislation does not allow UK registered companies to migrate to Guernsey. In this case, a Guernsey based CSP will be able to talk you through your options, which might include an asset transfer to a newly incorporated Guernsey company.

If you are considering setting up or migrating your financial services business to Guernsey, you will need to apply for a license or registration from the regulating body, the Guernsey Financial Services Commission (GFSC).

[Guernsey Registry Home Page - Guernsey Registry](#)

Staffing

Your business licence will indicate the number and status of people you can employ. Locate Guernsey can help with information about bringing staff to work in Guernsey. Every person working in Guernsey for themselves or for an employer, must hold a RESIDENT CERTIFICATE or PERMIT or an EMPLOYMENT PERMIT (right to work document). You will need to show your permit to your new employer and they can take a copy of it.

For further information on the right to work in Guernsey see:

[Getting a job - States of Guernsey \(gov.gg\)](#)

Brexit

As a result of Brexit, the status of EU citizens living in the UK and Channel Islands has changed with the . As a result of Brexit and the end of 40 years of free movement between the UK/Islands and the EU/EEA/Switzerland, anyone who is not a British or Irish national needs to hold a valid immigration status. This means that any new EU/EEA/Swiss nationals now need to apply for a visa to live and work in Guernsey.

[Click here \[134kb\] for the application guide for British/Irish nationals and people who do not require a work visa.](#)

[Click here \[204kb\] for the application guide for EU/EEA/Swiss nationals who require a work visa.](#)

[Click here \[206kb\] for the application guide for 'Rest of the World' nationals who require a work visa.](#)

[Click here \[188kb\] for the application guide for EU/EEA/Swiss/non-visa nationals for the 6-month visa exemption.](#)

- Employment Permits can only be applied for by an Employer on behalf of an Employee. (so a job needs to be in place before the VISA application)
- <https://populationportal.gov.gg/policies>. This details a list of recognised roles.
- Employment Permits are conditional on the holder doing a specific full-time job - MINIMUM 35 HOURS
- An application for an Employment Permit must be made **before** an application for the relevant visa is made, due to visa application data requirements.

If you have further questions you can speak to the Guernsey Border Agency on 01481 741417 or email passport@gba.gov.gg

Pre-employment Checks

You should carry out pre-employment checks before taking on employees. Every person working in Guernsey, whether for themselves or for an employer, must hold a Resident Certificate or Permit or an Employment Permit (Right to Work Document). Every person working in Guernsey has to [inform Social Security](#) and register with the [Revenue Service](#). At the time of registration you will be given a tax number and coding notice to maintain for your own records, along with a copy to be handed in to your employer.

A Certificate or Permit confirms a person's right to live and work in Guernsey and will show any conditions that apply. Everyone who lives in Guernsey and is aged 16 and over needs to hold a Certificate or Permit. If a person who is under 16 years old wishes to work, they will need to apply for a Certificate or Permit.

Under the previous Housing Control Law people held Housing Licences or Declarations of Lawful Residence which were often referred to as 'Right to Work' documents.

Employment Permits can only be applied for by an Employer.

[Click here to find out more about Employment Permits.](#)

It is advisable you obtain references, copies of certificates, qualifications, driving licences and any other documents relevant to the role. You might also require further industry specific requirements, such as GFSC (Guernsey Financial Services Commission) approval and or police checks.

Job Descriptions

Job descriptions allow the business to set out the main purpose of the position, key tasks, objectives, responsibilities and reporting lines for the role as well as allowing people to understand the expectations of the business. It is important to be familiar with the job description when interviewing or considering candidates for the role, carrying out appraisals, or managing poor performance.

Job descriptions should be updated periodically to ensure that the current business requirements are reflected. The important point is that your employees know what is expected of them before and during employment and the Job Description enables this.

Contracts of Employment

Otherwise known as a Written Statement of Main Terms and Conditions of Employment ("Statement") this is a statutory document that needs to include specific information and must be issued this within four weeks of commencement of work.

Be mindful that once an offer of employment has been made and accepted, a contract of employment exists, regardless of whether the offer or acceptance are made in writing or verbally.

Types of contract

There are various types of contract and it is important to consider which is most appropriate for the role.

- Permanent: when the work is consistent and regular for a certain number of hours, for example, full-time Monday to Friday 9am-5pm, or part-time such as a 25hour week.
- PART TIME CAVEAT: for an Employment Permit to be granted a person needs to be working at least 35 hours a week (there are some exceptions), so they are unable to be granted a Permit for part-time employment.
- Fixed term: for a set period, for example, six months to cover maternity leave or three months for a busy business period.
- Variable: where there is a mutual commitment to be offered work and accept work, such as 4 days on 3 days off or term time only employees, but there is acknowledgement that the hours may vary.
- Zero hours: when there is no mutual requirement to offer work or accept it. This person has a right to decline hours.

Core terms

Some of the particulars that should be included in the Statement are terms and conditions relating to:

- Name and address of the employer and employee
- Date employment started
- Hours of work
- Holiday entitlement
- Pay / salary and frequency
- Sick pay provision
- Termination notice
- Whether a pension is offered
- If there are any collective agreements affecting employment
- And many more.

All employees have employment rights in relation to hours of work, pay and pay frequency, notice periods, disciplinary and grievance processes, maternity and paternity leave amongst others. There is more information about these rights in the next section of this toolkit and more detailed information is available through the Guernsey Employment Relations Service.

[Contact Us - Employment Relations - States of Guernsey \(gov.gg\)](#)

As your employment contract regulates your relationship with your employees it is really important to clearly state what the terms are and make sure these are understood and accepted by both parties. Getting proper HR advice when developing an employment contract will help you get this right from the start.

Zero Hours

A zero hours contract is an agreement between a business and a worker where the business is not obliged to provide work and the worker is not obliged to accept any work offered. Workers on zero hour arrangements can support your business for example with temporary cover or additional seasonal business needs or a flexible project.

You cannot stop a zero hours worker from working elsewhere. If you wish to offer paid leave (which is not compulsory in law) you may include this in their pay, as a percentage added on top of their hourly salary.

It is important that you monitor your zero hour workers. If a zero hours worker starts to regularly work the same hours, same days etc. they effectively become entitled to be considered an employee and you may have to convert the zero hours arrangement to a contract of employment.

Employers Liability Insurance

The Employers' Liability (Compulsory Insurance) (Guernsey) Law 1993 requires an employer to have Employers' Liability Insurance with an authorised Insurance provider as soon as anyone is employed in the business. The Certificate of Insurance must be displayed in the office. The insurance provider will advise you in terms of minimum cover limits to cover any claims arising. A guide to liability insurance from Guernsey can be found here:

[CHttpHandler.ashx \(gov.gg\)](#)

Any independent contractors or suppliers that you engage to provide services are not necessarily included under this cover as they are not employed by you. However, it is wise to either check your insurance terms or ask to obtain a copy of the individual's own insurance for your reference.

You should also consider Directors and Officers Insurance to protect your business in the event that claims are made against you as a Director and Professional Indemnity Insurance if you provide professional advice.

During Employment

The employment policies and benefits that you offer can make a difference to whether people want to work for your company or not.

Benefits

Do consider providing benefits to your staff as these can be used to differentiate you from other employers. Benefits can be monetary or non-monetary so consider what fits with your type of business and company culture. As your business grows, evaluate any benefits you offer to ensure you remain competitive in the market.

There are certain benefits in kind you may provide to employees that are tax deductible and for details of allowances or deductions on these benefits please see the Guernsey Revenue Service:

[CHttpHandler.ashx \(gov.gg\)](http://CHttpHandler.ashx (gov.gg))

Communication and Engagement

Building a culture of open, honest and clear communication is important in the workplace to ensure the smooth running of any business.

Positive, open communication and feedback promotes strong teams, improves productivity and mitigates the risk against tribunal claims or lawsuits.

Changes to Your Business

Changes you make will have an impact on your people. In law you must advise your employees of the legal entity they are employed by. If the business name is changed without any further changes to the terms of employment you can simply provide a letter or a new Statement of Terms with the updated new name.

Changing any terms of employment or changing contractual terms will likely involve:

- Issuing a new Statement of Terms and new Handbook detailing the changes;
- Consultation with the employees, giving them reasonable opportunity to consider and comment on the proposed changes.

Discrimination

Under the new Prevention of Discrimination (Guernsey) Ordinance, it will be unlawful to discriminate or treat someone less favourably than you would another because of a

protected characteristic which include disability, race, carer status, sexual orientation or religion. Note: discrimination on the grounds of sex, maternity or pregnancy, marital status or gender reassignment are already covered in law. Discrimination can be direct or indirect and includes harassment and victimisation.

Discrimination can occur prior to employment, for example, during advertising, interviewing, selection and recruitment. It can also occur in pay, benefits and via career opportunities such as promotion and training.

Employers are also liable for the actions of their employees if they discriminate against anyone. It is advisable therefore to provide discrimination training to ensure your people are aware of what is and isn't acceptable.

Advice for employers including training provided by Guernsey government can be found at:

[Employment Guidance - summary | EEOS](#)

Employer Returns

The Government of Guernsey will provide two references to employers: one for tax and the other for contribution deductions.

They should both be used when contacting and using the RETURNS CREATOR as an online submission.

[States of Guernsey - Returns Creator \(gov.gg\)](#)

Information can be found at

[Information for Employers - States of Guernsey \(gov.gg\)](#)

Equal Opportunities

Equal opportunities within the workplace are important for fairness as well as justice. Everyone deserves to be treated equally with a fair approach across recruitment, selection, promotion and general working conditions.

Simply put, you need to treat everyone equally and ensure employees know what is expected of them and what is not acceptable.

Diversity and equality has many benefits. Statistics show that diversity supports your

business's products and services and enhances customer support. Employee turnover reduces if employees are comfortable, valued and happy in a workplace with an ethical culture.

Flexible Working

There is no statutory right to request Flexible Working in Guernsey but as many staff will have worked in other jurisdictions it is expected that employers will be asked to consider requests and therefore a reasonable and fair process is recommended to allow you to deal with this in a way that shows you are meeting your discrimination and employment responsibilities. All employees are likely to consider asking for a change in their working arrangements, including a change in their hours, times or location of work.

Flexible working arrangements would typically include:

- Part time working
- Job sharing
- Working from home
- Term time working
- Shift working
- Flexi-time
- Staggered hours (start and finishing times)
- Shifts
- Compressed working hours (e.g. a five day week in four days)

You should arrange a meeting to discuss an employee's application and make a decision within 28 days of the request. Any agreement to the request is at the sole discretion of the business, provided it has given due consideration to the request.

In considering the request you are entitled to consider the needs of the business and decline the request. Any change is deemed permanent, unless you expressly confirm it is not. See the flexible working flow chart in the Appendix as a GUIDE ONLY.

Pandemic

The Covid-19 pandemic has resulted in businesses implementing new policies and procedures to ensure safety in the workplace, some of these areas may still be in place for some business areas where cross infection or high risk means they remain relevant. Typical procedures include;

- Regular Employee testing – Lateral flow tests ordered to the employer or employees individually, regular logging of results as part of a Health and Safety risk management approach.
- Hand sanitizer stations, ensuring adequate physical distancing allowance within the office
- Lone working, this is defined by the Health & Safety Executive (HSE) as people who work by themselves without close or direct supervision. This doesn't necessarily mean that the worker is physically alone; it means they are in a separate location to the rest of their team or manager. For example, a retail worker putting stock away by themselves is classed as a lone worker the same as a meter reader entering someone's home. If an employee cannot be seen or heard by a colleague, they are a lone worker – whether that be for all or part of their working day. This also includes staff who work from home.

Home working has resulted in companies carrying out regular health & safety checks and risk assessments for an employee's home working environment. Businesses have had to build a new found trust with employees, they have had to ensure they are in regular communication, and that they are aware of loneliness, mental health and stress. HR departments have found themselves regularly checking annual leave entitlement and sickness to ensure employees are taking leave and winding down from work.

Handbook, Policies, Procedures and Rules

Staff Handbooks set out the employer's policies, procedures and rules according to statutory, contractual and non-contractual terms. They are required to ensure transparency, fairness and compliance and are your opportunity to explain 'how it works around here'.

Contractual terms are legally enforceable involving obligations on the part of both parties.

Non-contractual policies and procedures are not legally enforceable but should be clear and understood so that employees know what is expected of them.

As legislation and best practice change your Handbook should be reviewed and updated to reflect the changes.

It is important to follow the policies and procedures and to give staff and managers training so they are able to implement them properly.

Health and Wellbeing

Your responsibilities include a duty of care to employees. Consider how sickness or absence is managed, the working practices and systems, hours of work and volumes of work for people. Determine how you will know if you are looking after your employee's health and wellbeing.

You will have many responsibilities under the Health and Safety at Work (General (Guernsey) Ordinance 1987 and other health and safety Approved Codes of Practice.

For further information see

[Guernsey's Health and Safety Legislation - States of Guernsey \(gov.gg\)](http://www.gov.gg/Guernsey%20Health%20and%20Safety%20Legislation)

Consider your policies for things like fire, first aid, food hygiene, manual handling for example and tailor your policies to suit the nature of your business.

When workplace accidents, near-misses, injuries and illnesses occur, you need to know how these will be reported, to whom and how they are investigated. You should have a process for promptly reporting incidents, suggesting ways of reducing or eliminating risks and ways in which the business follows this up.

As soon as you have five or more employees you will need to prepare a health and safety policy statement and make this accessible to your staff.

Holidays

There is no statutory entitlement to paid leave or paid bank holidays for example Christmas Day, Boxing Day and Good Friday and on Public and Bank Holidays, or Time Off in Lieu (TOIL) if they are required to work on any of those days.

The annual leave year can begin on any date specified in the Statement, for example, 1 January through to 31 December or 1 April through to 31 March. If an employee commences or leaves employment part way through the annual leave year their annual leave is prorated, for example, if the annual leave year is 1 January to 31 December and an employee starts or ends employment on 1 July with an annual entitlement of 20 days, they would be entitled to 6/12's of the annual leave entitlement which is 10 days. When pro-rating annual leave you should round up to the nearest full day.

You can specify periods when employees are unable to take annual leave, for example, during December due to the demands of Christmas on the business, or alternatively

you can require employees to retain some annual leave for a period when the business will close, for example, between Christmas and New Year. You can also specify that, for example, half of the entitlement must be taken by the mid point of the holiday year, to prevent build up near year end. Just be clear about these in the Statement.

Induction

A planned and structured induction process positively helps a new employee feel welcomed and builds a positive attitude toward the organisation. Consistency and planning to ensure all new employees are treated equally and fairly will also increase long-term employee retention.

Maternity and Adoption Leave

The Maternity Leave and Adoption Leave (Guernsey) Ordinance, 2016, in force from 1st April 2016, gives the following statutory rights to pregnant employees whose due date is 7th August 2016 or later:

They include;

- Two weeks compulsory STATUTORY maternity leave (forms part of basic leave) at time of birth
- Maternity basic leave of 12 weeks
- Enhanced leave up to 26 weeks for employees with 15 months' continuous service
- Ante-natal time off for appointments during working hours;
- The right to return to the original job or a suitable alternative job
- Up to 10 days Keeping-In-Touch (KIT) days
- Partner entitled to two weeks Maternity Support Leave (subject to conditions)
- No statutory pay required and maternity benefit from Social Security may be available

It is important to include your policies in relation to these rights in your Staff Handbook or Statement of Terms.

Pay and deductions

Minimum wage

Employers have a legal requirement to pay at least the current a minimum wage which applies to everyone above compulsory educational age, normally aged 16. Different rates apply for trainees who are doing approved training in a new job.

It is possible for employers to off-set the cost of accommodation, or accommodation and meals but tips and gratuities are not allowed to be included in the calculations for minimum wage.

Effective from the 1st October 2023 (subject to change and review after this date) – minimum wage rates:

Adult (18 years and over) minimum wage rate - £10.65 per hour

Young (16 and 17 years old) person's minimum wage rate - £9.65 per hour

Current minimum wage rates are published on the Government of Guernsey's website here:

[Minimum wage - States of Guernsey \(gov.gg\)](https://www.gov.gg/minimum-wage)

Itemised pay statements

You are required by law to provide itemised pay statements either before or at the time of payment which should contain several elements, as follows:

- Gross amount of wages/salary;
- Details of variable deductions and fixed deductions;
- Details of variable payments such as overtime, commission or bonus payments and fixed payments such as shift pay;
- Net amount of wages/salary payable;
- Breakdown of payments if paid by different methods, for example, part cash and part cheque.

In addition, you need to keep a record of the actual number of hours worked by each individual. An example can be found on p12 of the gov.gg advice area:

[Employment Relations Service \(gov.gg\)](https://www.gov.gg/employment-relations-service)

Also see: Record Retention.

Making payments

Unless a specific exception applies, wages should be paid at regular intervals of no more than one month. Wage payments can be made by cash, cheque or normally direct to their bank account. You should stipulate when and how you will pay your employee in the Statement of Terms.

A deduction from salary means an itemised amount removed or subtracted from pay and can only be made if allowed and required by:

- The authority of any Law, Regulation or other Enactment containing such a requirement e.g. deduction of Social Security Contributions;
- A judgement or order of the Royal Court of Petty Debts Court; or
- With permission of the employee or by a specific clause in the contract of employment.

Income tax

Once you start employing people you will need to deduce income tax from their gross pay and pay this over to the taxes office monthly. To do this you need to register as an employer with the Taxes Office within one month of taking on your first employees as failure to do so is a criminal offence and can lead to prosecution and fines.

In order to deduct the right amount of income tax you will need the current TAX CODING Notice from your employee(s) which will detail their tax rate and tax reference number.

For more information go to:

www.gov.gg/revenue-service/tax-rates-and-allowances

Also see: Employer Returns and Record Retention

Social security

As soon as you employ someone you will have to make social security payments and complete a contribution schedule every quarter detailing who is employed and how much the person has been paid each month.

Employers are responsible for the payment of both employer and employee contributions. Employee contribution are deducted directly from the employees' gross pay up to a Standard Earnings Limit (SEL). There is also a base monthly level below which Social Security is not deducted.

Employees not liable to pay contributions:

People who are NOT to be treated as employed people are:

- A** A person working for an employer, whose earnings in any week (or month) are below the level at which contributions must be paid. This is known as the Lower Earnings Limit.
- B** A person working for their spouse. If that person assists their spouse in a trade or

business for 24 hours or more a week, that person is regarded as self-employed.

C A person who works for a near relative in a private house in which both reside and the employment is not for the purpose of any trade or business carried out there

D Students under school leaving age

Employer contributions, which are an additional cost to the business, are calculated based on the employees gross salary up to the Standard Earning Limit.

Please find a link for a guide for employers about contributions:

[CHttpHandler.ashx \(gov.gg\)](#)

The Government of Guernsey's website has further advice:

[Social Security contributions information for Class 1 employed and Class 2 self-employed persons - States of Guernsey \(gov.gg\)](#)

When someone reaches pensionable age they no longer pay social security. However, employers must continue to pay their contribution.

[States pension - States of Guernsey \(gov.gg\)](#)

Social Security schedules, tax and pension records, and itemised pay statements must be retained for 10 years.

Also see: Employer Returns and Record Retention

Performance Reviews and Appraisals

It is good practice to regularly review performance and engagement of employees at every level in the organisation and throughout their employment. You should think of this as a continuous process that integrates the individuals skills and achievements with the organisation's objectives and goals.

A wide range of review and appraisal tools of varying complexity are available to help you manage performance and appraisals, but perhaps the most effective method is to ensure managers have the skills to manage the performance within their team.

Probation

A probationary period is a period after the recruitment stage when both parties can assess the suitability of the job. A relatively short period of generally 3-6 months is set out in the employment contract and can be extended if necessary. Once the probationary period has been satisfactorily completed the employee can then be

confirmed, in writing, as a member of staff and so it is important for the business to monitor, and record progress made by employees during this time. You would expect to have a shorter notice period during probation and then this would be extended when your probation is successfully passed. It is always recommended to log these points in writing and on record.

Record Retention

As a business you will hold personal information for people, and you need to ensure that the information held within their personnel file is accurate and current and justify the reason why the business is keeping it. Care needs to be taken in relation to how long data is held and where you store the information after employment. Statutory retention periods exist for some records such as social security schedules, tax and pension records and itemised pay statements which must be retained for 10 years.

Also see: Data Protection.

Redundancy

A redundancy occurs when a business ceases trading either completely or at a specific site or when there is a reduced requirement for employees to carry out work of a particular kind.

In the case of redundancy, there is NO statutory redundancy law in Guernsey, however under the Employment Protection (Guernsey) Law 1998, an employee may make a complaint of unfair dismissal on the grounds of redundancy. A dismissal may be unfair unless the redundancy is genuine and the procedure for handling the redundancy can be shown as fair and reasonable. There is NO statutory requirement to provide redundancy pay. The States of Guernsey has issued a Code of Conduct to guide handling a redundancy process. A failure to observe the code maybe seen as unfair dismissal.

The guide can be viewed here:

[Employment Relations Service \(gov.gg\)](#)

As a guide you should follow these principles of fairness:

- The duty to consult with the employee;
- The duty to warn of redundancy;
- The duty to establish fair criteria for selection of employees for redundancy;
- The duty to explore alternatives to redundancy.

- If your company recognises a Trade Union then you may have additional requirements and obligations agreed as part of your collective agreement terms. Expert advice should always be sought in these circumstances.

To ensure you follow a fair process we recommend you seek support to agree:

- At Risk correspondence and explanations and timeframes;
- Clarification of the pool of affected employees and why;
- Individual consultation and in certain circumstances collective consultation (with notes and records);
- Correct and full correspondence on how and why a termination due to redundancy occurs.

Retirement and Pensions

The retirement age in Guernsey is 70 years old. However, the Royal Court can extend the retirement age until 75. From 2020 the pension age has risen in gradual two month increments from 65 to the target of 70. Employees can choose to retire voluntarily, provided they give you the appropriate period of notice of terminating employment. It is important that you discuss with your employees what their intentions are as they approach retirement so that mutual expectations can be met.

Guernsey's State Pension Age is currently 65 and 8 months and this will increase by two months each year until it reaches age 70 for those born after 1979. You can encourage employees to be aware of their own pension / retirement age by using the link:

[Pension Age Calculator - States of Guernsey \(gov.gg\)](https://www.gov.gg/pension-age-calculator)

Employers are not currently obliged to offer employees access to a pension scheme but many do and it can be a valuable benefit for most employees. You should seek professional advice on the type of pension that you could offer as any scheme will have financial consequences for the business.

Sick Leave, Absence and Lateness

There are many reasons why people take time off work including short-term or long-term sickness, unauthorised absence or persistent lateness.

There is no legal requirement in Guernsey for employers to pay sick pay in addition to what the individual receives from the Social Security Department, but many employers offer an element of sick pay. Zero hours workers are not typically entitled to receive sick pay.

Your policy should include the process to explain how employees notify their absence, sick pay allowances, return to work procedure and where applicable, what might trigger dismissal. You also need to consider how to manage medical appointments such as dentist, doctors and hospital visits and the business should measure and record absence levels as part of the policy. It is strongly advised that you require employees to complete a health form on starting to make you aware of any long term or significant health issues and whether these could be considered as a disability under the law and therefore are a "protected characteristic".

Social Media

Social media sites, such as LinkedIn, X (formally known as Twitter) and Facebook are fantastic for promoting and building a company's brand, knowing customer opinion and possibly recruiting.

It is very easy for companies to fall foul of data protection and employment laws when vetting potential recruits. You need to ensure that social media is used appropriately to successfully protect your business details from being shared or stolen online.

The business also needs to consider the actions of its employees. Derogatory or inappropriate comments being posted can have a damaging effect on a business, especially if the employee have the business linked as their place of employment. The business should have rules about employee's social media content and use and ensure that they adjust their social media when they leave an employer so they are not longer connected or affiliated with them.

Training, Learning and Development

As a business you need to consider the training you require someone to undertake either prior to employment in order to be competent in the position, or during employment to bring their skills up to the required level for current and future roles. Some professions have requirements for ongoing Continual Professional Development (CPD) which some company's fund, or part fund. For some roles a licence or qualification is essential (eg a driving licence) and you may wish to stipulate that this is a contractual requirement for this role.

When putting together a learning and development strategy think about all the different ways people can gain skills. Develop a strategy that includes a budget, people and skills requirement and a method for evaluating the effectiveness of the activities and outcomes.

Working Hours and Statutory Breaks

The European Union Working Time Directive does not apply to Guernsey so there are no limits on the number of hours someone can work nor are you required to provide statutory breaks, for example, tea, smoking or meal breaks. However, asking someone to work a full-time day without a break would likely be deemed unreasonable and poor working practice and could be raised as a Health and Safety (see below). You should always clarify if a break is paid or unpaid.

Employers need to be mindful not only to be reasonable, but also to consider health and safety legislation, safe working practices and any business specific legislation applicable to your industry.

It is also recommended that you require an employee to tell you if they are working for someone else at the same time (use an “other employment” clause). If they work a full day with you and then complete a night shift for another employer this could impact on their job with you and if you are offering 35 hours per week or more you may wish to limit or restrict what else your employees do in their “rest” time.

Other Employment when on a work permit: If a person secures full-time employment under an Employment Permit they are able to, under the same Employment Permit undertake additional part-time employment (as long as they continue working in the named full-time role for the named employer and meet the other conditions listed on their Permit).

Also see: Holidays and Flexible Working.

If things go wrong

It is important to follow your procedures properly when things go wrong.

Disciplinary

The need to invoke a disciplinary procedure often arises from poor conduct or following a failing capability or attendance procedure that becomes a conduct issue.

You must always do a thorough investigation before formally invoking the disciplinary procedure.

You may consider it necessary to suspend the employee during the investigation. Suspension is normally a neutral act so whilst someone is suspended they are not required to work for the business and may be contacted for reasons of the investigation or business queries. You can suspend someone with or without pay depending your policy.

Formal disciplinary procedures require a disciplinary hearing. The employee will need to be invited with sufficient notice and be advised of their right to representation.

The penalties given, if any, must be fair and appropriate to the severity of the conduct or breach. Previous breaches, file notes or sanctions may be considered in reaching a decision.

Employees have the right to appeal against any sanction given to them and a claim can be made to the Guernsey Employment and Discrimination Tribunal.

See the appendix for a disciplinary flow chart.

Dismissal

If you get to a situation where you need to dismiss an employee you must have a fair reason to dismiss them and follow a fair process.

For a fair dismissal you must be able to demonstrate that the main reason for the dismissal was:

- The capability or qualifications of the person in relation to the role; or
- The conduct of the person; or

- They were redundant; or
- Continuing to employ the person would not be possible due to a restriction imposed by law; or
- Another substantial reason to justify the dismissal.

WORK PERMIT EMPLOYEES: if you terminate anyone on a permit you MUST inform Immigration about it immediately and also of the specific day when they leave.

Normally an employee must accrue 52 weeks of continuous service in order to qualify for the right to claim unfair dismissal, however there are some 'automatic unfair dismissal' categories in the legislation for which no specific length of service is required. Guernsey awards for claims operates a fixed tariff of 6 months' award for normal unfair dismissal and a further 3 months' of pay for acts of discrimination. It is recommended to take expert advice before dismissing an employee.

Employment and Discrimination Tribunal

The Guernsey Employment and Discrimination Tribunal ('Tribunal') deal with cases relating to the Guernsey Employment Law, The Maternity leave and Adoption Leave (Guernsey) Ordinance 2016 and the new Prevention of Discrimination (Guernsey) Ordinance 2023. They handle employment disputes and discrimination claims, both in the workplace and otherwise.

The Tribunal service is a free service to all parties and consists of a legally qualified lawyer sitting alone or on a panel with two independent lay people.

Parties are encouraged to present their cases themselves as it is not necessary to be represented by a lawyer, however you need to be mindful that many employees do use a lawyer for legal support.

Further information can be found at

[Employment & Discrimination Tribunal - States of Guernsey \(gov.gg\)](https://www.gov.gg/employment-discrimination-tribunal)

Garden Leave

There may be occasions, including during a notice period, when the business might place their employee on garden leave. The business is not obliged to provide any work to the employee during garden leave and the employee is not required to attend work. This should be provided for in your employment statement of terms if you wish to apply such a condition.

Grievance

Employees may encounter periods during their employment in which they feel they have been unfairly or unreasonably treated and wish to raise their concerns.

A grievance procedure aims to deal with these matters and should do so quickly and fairly. Grievances are ideally handled informally, however there are occasions where the matter cannot be resolved informally, and a formal procedure should be followed.

If the employee feels that the grievance has not been resolved to their satisfaction they can appeal and the company will need to have a policy and process in place which includes an appeal process. See the appendix for the grievance process flow chart.

Managing Poor Performance (Capability)

Where performance is unacceptable, an informal discussion is always positive if it can resolve matters at the earliest opportunity. Where this is not possible, a formal process needs to commence.

Any capability procedure needs to be fair and reasonable and designed to help the individual reach an acceptable level of performance, or if no improvement occurs, enable a fair dismissal.

Where an employee believes that they have been treated unfairly under the capability procedure, they can use the grievance procedure to press their case, so it is important your business has robust procedures.

Alternatively, if the capability procedure does not produce the requirement improvement, it may result in the dismissal of the employee.

It is worth remembering that a thorough recruitment procedure plays an important part in ensuring the capability of employees.

Termination of Contract and Notice Periods

A contract may be ended for various reasons including by mutual agreement, redundancy or by dismissal through misconduct or incapability.

The Conditions of Employment (Guernsey) Law 1985 and the Employment Protection (Guernsey) law 1998, detail minimum notice periods. Contractual notice may be different but can never be less than those set within the law and notice must be given in writing by either party.

Length of continuous employment	Minimum period of notice
More than one month but less than two years	Not less than one week's notice
More than two years but less than five years	Not less than two week's notice
More than five years	Not less than four week's notice

Minimum statutory notice periods do not apply to a contract for a fixed term of three months or less, or to a contract for the performance of a specific task which is not expected to last for more than three months, unless an employee has been continuously employed for more than three months.

A business may decide to apply a notice in excess of statutory for their own business and operational needs but this must be set out clearly in any contract.

The business may consider providing a Payment In Lieu of Notice (PILON), allowing termination of employment early by paying the salary and any additional contractual benefits upfront.

Trade Unions

A Trade Union represents employees, protecting the interests of its members by negotiating agreements with employers on pay and conditions of work. The Union's principle purpose is the regulation of relations between employees and employers and it may also provide legal advice, financial assistance, sickness benefits and educational facilities to its members.

All employees are free to join a Trade Union and when an employer 'recognises' a Trade Union it agrees to negotiate with that union on employment matters - a Collective Agreement. Businesses may establish a Staff Association as a means of communicating and negotiating with employees which would usually include both employee and employer representatives.

An employee has the right to have an authorised Trade Union official, or a fellow colleague, representing them at a grievance, disciplinary or capability proceeding.

Please note this briefing is intended to provide a general overview. It is not intended as legal advice and should not be relied on as such.

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 Practical training to help you manage your people from recruitment to retirement

Answers to the following questions:

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- Why do new recruits leave or fail probation?
- How I deal with poor performance or persistent absence when legislation is against me?
- What kind of contract is best - Zero hours, fixed term or permanent?
- How do I motivate my people when I can't afford big pay rises but don't want to lose them?
- How do you deal with difficult disruptive people?
- How do I increase productivity and quality?
- How can I ensure my managers have the right skills to get the best from their teams?



Recruit to retain the right attraction & assessment approach; hire/work from anywhere; onboarding & probation

Effective conversations agree expectations to enable and empower delivery; SMART goals to retain talent

Dealing with employee issues Managing performance, poor behavior & attitudes and disagreements

Recordkeeping Simplifying HR admin & absence; making it easier to record and find information; GDPR

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Delivered across six logical modules – attend all six or dip in and out

Where: In-house client team
CPD hours: 3 per module
Trainer: Karen, Rachel or Becky <https://www.hrnow.je/meet>

Cost: £185 per module or £990 for all six modules

Useful Contacts

<p>Guernsey Hospitality Association Email: president@hospitality.gg Website: www.hospitality.gg</p>	<p>Guernsey Chamber of Commerce Telephone: 01481 727483 Email: office@guernseychamber.com Website: www.guernseychamber.com</p>
<p>HR Now Telephone: 01534 747559 Email: hello@hrnow.je Website: www.hrnow.je</p>	<p>Population Office Telephone: 01481 225790 Email: population@gov.gg Website: www.gov.gg/populationmanagement</p>
<p>Guernsey Revenue Service Telephone: 01481 225700</p>	<p>Revenue Service Email: revenueservice@gov.gg Website: Revenue Service online MyGov States of Guernsey</p>
<p>Office of the Information Commissioner Telephone: 01481 742074 Email: enquiries@odpa.gg Website: www.odpa.gg</p>	<p>The Office of the Data Protection Authority ODPa Telephone: 01481 742074 Email: enquiries@odpa.gg Website: www.odpa.gg</p>
<p>Guernsey Employment and Discrimination Tribunal Telephone: 01481 220025 Email: E&DT@gov.gg Website: Employment & Discrimination Tribunal - States of Guernsey (gov.gg) First Actuary Telephone: 01534 888816 Email: mail@firstactuary.co.uk Website: www.firstactuary.co.uk</p>	<p>Social Security Office Telephone: 01481 222500 Email: socialsecurity@gov.gg Website: Contact Us - Social Security - States of Guernsey (gov.gg)</p>

Appendix

Flexible working request Flowchart

When dealing with a request for flexible working, it is key to follow a clear and proper process to ensure consistency, transparency, fairness and avoid claims of unfair discrimination. Our recommended pathway:



Initial request and agreement
Must be in writing and explain the reasons for the request. The request should be considered fairly and reasonably in line with business requirements and if agreed this should be confirmed in writing with details of any changes to terms and conditions.

If request not agreed within 28 days
A meeting should be held before Day 28 to discuss the request and to either agree, agree with a trial period or to decline. Reasons for any decision and any impact on terms and conditions should be confirmed in writing, together with confirmation of any right to appeal (*recommend advice here)

Trial Period
During and at the end of any trial period, the Employer should **review** and decide if the trial be made permanent. If so, the change and any impact on T&C should be confirmed in writing.

If the trial is not successful the employee should have this and any reasons confirmed in writing and given a right of appeal.

Appeal
The employees letter must be submitted within 14 days of the notice of outcome. Any **appeal meeting** should occur within 14 days after receipt of the **appeal request**.

The appeal should be considered by an independent and appropriately senior manager with any outcome confirmed in writing within 14 days of the hearing. No further application can be made for 12 months.

Disciplinary process Flowchart

When dealing with disciplinary matters the importance of following a clear and proper process is essential in order to ensure that objectivity, consistency and fairness is maintained. Depending on the issue and circumstances the process may be implemented at either an informal or formal stage. For full details please refer to the full Disciplinary Procedures. The stages are outlined here:

Key points

A minimum of **72 working hours' notice** will be given of a formal disciplinary meeting.

The employee has **the right to be represented** at the formal stages of the process.

They are to be **notified in writing** of any decisions made.

Verbal warnings will be held on file for **6 months**.
Written warnings will normally be held on file for **12 months**.

Dismissal may occur if there is a failure to improve or in the event of serious misconduct or repeated warnings.

They will have a **right of appeal** against any decision made.

Appeals must be made in writing to a named person within **5 working days** of receipt by the employee of the original disciplinary letter.

In cases of **Gross Misconduct** the disciplinary stages may not apply and, if after full investigation and a disciplinary hearing the case is proven summary dismissal may result.

Informal Stage (remember this is not a disciplinary hearing)

Where conduct or performance falls short of expected standards, an informal discussion will be held to raise the issue with the aim of seeking a resolution to the matter by encouraging improvement and highlighting steps that will follow if improvement is not made. An informal verbal warning as a file note may be retained or a file note of the discussion retained.

Formal Stage

Depending on the circumstances it may be necessary to invoke formal disciplinary procedures. No disciplinary action will be taken until the matter is **fully investigated**. The employee will be **advised of the nature of the complaint** and be given a **full opportunity to state their case** before any decisions are made.

Disciplinary Hearing

If required to attend a disciplinary hearing (after the investigation meeting) the employee has the right to be represented by either a work colleague or trade union official. They are to be provided with full details of the allegations of misconduct, investigation notes, reports and witness statements in order to prepare their case.

The hearing will adjourn before any decision is made. Decisions will be made **in writing**. They have a right of appeal against any decision made. Appeals will be heard by someone not directly involved in the original hearing.

Sanctions

Stage 1 - Verbal Warning
Stage 2 - Written Warning
Stage 3 - Dismissal

Gross Misconduct may result in summary dismissal.

Grievance Process Flowchart

When dealing with grievances it is essential to follow a clear and proper process to ensure that objectivity, consistency, fairness and compliance with employment law is maintained. Depending on the the issues and circumstances the process maybe implemented at either an informal or formal stage. The stages are outlined here:

Key points

Issues that may cause a grievance;

- Terms and conditions of employment
- Health and safety
- Work relations
- Bullying and harassment
- New working practices
- Working environment
- Organisational change
- Discrimination

A **written procedure** should be in place to ensure consistency, transparency, fairness and compliance with the law and any relevant Codes of Practice

It is essential that the desired outcome of any grievance is clearly stated at the outset AND is actually achievable/deliverable.

Normally every party should be strongly encouraged to resolve matters informally where possible.

Mediation should be considered at every stage where appropriate.

Employees have the right to be **accompanied/represented** at formal grievance meetings.

Copies of meeting records should be given to the employee.

Grievances and appeals should be lodged in writing to a named appropriate manager/Director.

The policy should have recommended time limits for the implantation of each step and required action (e.g. 5 working days).

Informal Stage

Where an employee makes a complaint relating to a workplace or employment issue it is normally advisable to attempt to resolve this through informal discussion with an appropriate level of management to attempt to find a workable resolution.

Where appropriate it may be useful to engage in mediation, which can be considered at **any** stage of the process.

Formal Stage

Where an informal approach is unsuccessful or an issue is so grave that an informal approach is inappropriate, the matter should be raised formally, in writing, setting out the nature of the grievance, and the desired outcome.

Employers should arrange for a formal meeting/hearing within a timeframe identified in their policy.

Grievance Hearing and Appeal

The employee has a right to be accompanied/represented by a colleague or Trade Union officer.

The hearing should be chaired by an appropriate senior manager, empowered to deliver the stated desired outcome if necessary. The hearing will adjourn before any decision is made with such decisions being in writing. The employee will have the right of appeal. Any appeal hearing should be arranged as per the original hearing but chaired by a different manager with no previous involvement **and** the authority to vary the original decision.