



# Good Working Practices

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Professional Guidance Series  
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1. INTRODUCTION	4
2. EMPLOYMENT CONTRACT	5
3. WORKING HOURS	5
4. TIME OFF	7
5. SICKNESS AND ABSENCE	9
6. EMPLOYEES WITH CHILDREN	10
7. REMUNERATION	11
<i>Pensions</i>	12
<i>Expenses</i>	12
8. HEALTH AND SAFETY	14
<i>Lone Working</i>	16
<i>Equipment</i>	16
<i>Driving</i>	18
<i>Health and Wellbeing</i>	19
<i>Accommodation</i>	20
9. TRAINING AND DEVELOPMENT	21
10. EQUALITY AND DIVERSITY	22
11. DEALING WITH DISPUTES	23
<i>Whistle Blowing</i>	24
12. EMPLOYEE RESPONSIBILITY	24





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# 1. INTRODUCTION

**1.1** The Chartered Institute of Ecology and Environmental Management (CIEEM) is the professional body for applied practitioners of the science of ecology and its application through management of the natural environment. Its objects are to:

- advance the understanding and the standards of practice of ecology and environmental management for the benefit of the natural environment and the public good; and
- further the conservation, management and enhancement of biodiversity and the maintenance of ecological processes and life support systems essential to a fully functional biosphere.

**1.2** The profession has a key role to play in the understanding, conservation and management of the natural world and promoting responsible and sustainable use of its resources; this is the guiding principle of CIEEM. Membership of CIEEM is a recognised benchmark of professionalism within the field of ecology and environmental management. CIEEM's Competency Framework sets the standards for admission and for members' claims of competence. CIEEM's professional development requirements set the standards for the maintenance and development of professional knowledge, skills and competencies for continued membership.

Traditionally measures of health, and work-related risk to health, were largely focussed on physical safety and preventing harm e.g. slips, trips and injury. Whilst this remains important it is now recognised that health should also be looked at more holistically in terms of promoting and encouraging the adoption of healthier lifestyles and addressing and managing the issues associated with ill-health with a focus on preventative rather than reactive measures, where relevant and appropriate. Employers should be committed to support their employees through health promotion, provision of wellbeing benefits, and supportive workplace practices.

**1.3** This document sets out guidance on good working practices which highlights the employer's fundamental role and responsibilities in regards of health, safety and wellbeing of their employees. This document also emphasises the importance of joint responsibility of the employer and employee to ensure the successful implementation of this guidance. Employment law sets minimum standards; good employers go beyond this absolute minimum and also consider what is ethical and how higher standards can actually enhance the performance and reputation of employers. Better outcomes can be achieved for people and wildlife by the contribution of alert, well rested, highly motivated, properly protected and well skilled employees.

## Employer and Employee Responsibilities

**1.4** Employers should recognise that the health, safety and wellbeing of their staff is like any other corporate responsibility and should be mindful of the risks of failing to comply properly with legislation. In the UK, corporate manslaughter has the potential for an unlimited fine and could be applied if for instance employees have a fatal car accident which is viewed as having been caused by the employer's requirement that they drive when too tired, their working pattern having prevented adequate rest.

Employers should ensure equality, diversity and inclusivity and the implementation of a holistic view of health and wellbeing. This would need to consider wider organisational influences in addition to specific mental, physical, financial and social factors such as job design, employee autonomy, fairness, work-life balance, opportunities to progress, and managerial and leadership competence.

**1.5** Employees must also take some personal responsibility and know and understand their limits. They should be open with employers about how they intend to complete their work so that the employer is fully aware. They should also not be afraid to speak up if they think any aspect of their working conditions is inappropriate. If every employee refused to accept poor conditions, no employer would be able to offer them.

**1.6** Managing employee health and well-being is a joint responsibility which should be done collaboratively. Knowing your own limits and not taking on too much is an important role for the employee. For their part, the employer should consider whether the volume and nature of work they have is appropriately resourced.

**1.7** Often any reduction in employer standards is down to costs. CIEEM recognise that most employers are competing for work and that minimising costs to attract clients is a common approach. However, CIEEM expects any work, including contracts, to be properly resourced, staff treated fairly and work delivered to a high standard. This is what we should all aspire to as a profession.

- 1.8 Situations vary across the ecology and environmental sector and employers may not always be able to achieve the highest standards of best practice. Under such circumstances CIEEM recommends a pragmatic approach that takes account of the spirit of best practice.

## 2. EMPLOYMENT CONTRACT

### *Legal requirements*

- 2.1 As soon as an individual accepts a formal job offer from an employer, they have a contractual relationship, however that acceptance was made. However, all employees must then be given a written contract or a written statement of terms of employment (Republic of Ireland) on day one of starting their employment. Certain core terms of employment should be received within 5 days of starting a job. The employment contract is an agreement between both parties and sets out the terms of employment covering such matters as employment conditions (including an end date if specified), rights and responsibilities <sup>1 2 3</sup>.
- 2.2 In addition to the written contract, there may be other contractual terms between an employer and an employee that are not written down but are necessary to make the contract work (e.g. having a valid driving licence if you are employed as a driver) or could reasonably be deemed to be obvious.
- 2.3 In most cases both an employer and an employee have to agree any changes to the contract, although either party can insist on a change if they have a legal right to change it.

### **Good Practice**

- 2.4 In most instances it is advisable to have agreed the written contract before the employee commences work. This ensures that there are no surprises in relation to the detail of the contract and avoids further negotiation, and possibly failing to agree a contract, once the employee is in post.
- 2.5 Where an employer seeks to vary a contract (e.g. changes to working hours), this should ideally be done by first consulting with the employee, explaining the need for change and listening to any alternative solutions put forward. Similarly, if you are an employee you should talk to your employer at the earliest opportunity, setting out the reasons for change and possibly agreeing a trial period.

## 3. WORKING HOURS

### *Legal requirements*

- 3.1 The Working Time Directive sets restrictions on the number of hours employees can work, their rights to adequate rest periods during the working day and their entitlement to paid leave. In addition, there are special regulations for young workers, for night workers and for people working with hazards <sup>4 5</sup>.
- 3.2 In the UK employees may sign an opt-out document in order to work longer hours, but they are not permitted to opt out of adequate rest breaks or the special protections for young workers, night workers and people working with hazards<sup>6</sup>. Employers must not put pressure on the employee to sign an opt-out, for example by stating that they will only be given work if they sign the document.

In the Republic of Ireland, [The Organisation of Working Time Act 1997](#) states that the maximum average working week for many employees cannot exceed 48 hours. This does not mean that a working week can never exceed 48 hours; it is the average that is important. The average may be calculated over 4 months for most employees and over for 6 months for employees working in businesses which have peak periods at certain times of the year (such as tourism and in this case field ecology).

- 3.3 In the UK all employees (not just parents and carers) who have been in employment for more than 26 weeks have the right to request flexible working. Employers must consider the request and only reject it if there are good business reasons for doing so <sup>7</sup>, from first request this should be dealt with within a three month period.
- 3.4 In the UK for every six hours worked the employee is entitled to a minimum twenty-minute break, young workers are entitled to a break every four and half hours and it is at the discretion of the employer as to whether these breaks are paid or not. In the Republic of Ireland employees are entitled to 15 minutes for

staff working for a period of more than four and a half hours and 30 minutes for those working for a period of over six hours (this 30-minute break can include the initial 15 minutes which they can take after four and a half hours).

### **Good practice**

- 3.5** The limit on working hours is to protect employees from becoming so tired that they are unable to work effectively and to protect the employer from the liability for accidents that may occur as a result of tiredness. Employers can ask employees to choose to opt out of the Working Time Directive for a temporary or permanent period, but an employee cannot be unfairly treated or dismissed for refusing to do so. Request to employees to opt out should be exceptional and should not be used by employers to cover a lack of staff resource for the work being undertaken.
- 3.6** Employers should be mindful that individuals' capacity to cope on reduced sleep varies. When employees have conducted survey work late at night or stayed late in the office to meet a deadline, they should be given adequate opportunity for sleep before they are expected to work again the next day.
- 3.7** Unsocial hours and varying working patterns can make sleep more difficult, so employers should avoid situations where employees could become sleep deprived and thereby less effective or more prone to accidents.

A reasonable precaution would be to put a limit on the number of early starts or late nights required in any working week. The Bat Conservation Trust provides good guidance<sup>9</sup> in relation to bat survey in this regard.

- 3.8** A significant number of surveys, or a combination of survey types, require work in the evenings or at night or the early morning and present a particular challenge, for example, nocturnal newt surveys, dusk and dawn bat surveys or dawn bird surveys. The working hours are long, the work may be away from home, there may be little opportunity for rest breaks, locations may be remote and there is the need to drive after a long shift to return home. Employers should undertake a risk assessment and consider what measures they could put in place to ensure safety and reasonable working conditions.

This should include:

- the number of dawn to dusk surveys being undertaken per employee per week;
  - whether dawn and dusk surveys are consecutive and if so, whether a sufficient rest period has been provided between them;
  - sharing surveys between people to minimise hours and allow proper rests;
  - what other work is being expected of employees;
  - whether overnight accommodation is provided nearby (or a pre-booked taxi home); and
  - treating travel time as work time when calculating how many hours rest the employee has had before further work is scheduled.
- 3.9** Long working weeks and unsociable hours are not restricted to field based workers. The same principles should be applied by employers in relation to desk based tasks. Consideration should be given to time off in lieu (TOIL) for individuals that are working longer hours to fulfil specific tasks (refer to section 4 below for more detail) and where pressures from a particular project or activity are sustained over a long period of time, the employer should seek ways of managing this to ensure a sustainable workload and healthy work life balance is maintained. This could include restricting bookable hours per week or seeking additional temporary resource to support with the task and share the load.
- 3.10** Employers should maintain a watching brief on staff, as there will be a spectrum of responses to working unsociable hours and what works for some maybe too much for others. A Project Manager should stay aware of individual variation and manage accordingly. Access to sub-contractors is an essential tool in this process in order to relieve staff of surveys, which may be needed at short notice. It is also important to create an open culture and for the employee to feel confident to discuss any difficulties they are experiencing. Other options worthy of consideration in a long survey season are to offer staff "weeks off fieldwork" in order for them to rest and also focus on office work, which can be difficult to address in a mixed week, and can be a source of stress as deadlines approach. A rolling process of a "week off fieldwork" can also be considered.

The purpose of the minimum rest breaks during the working day is to allow the employee to switch off completely from work and have a genuine rest in order to retain good levels of concentration. Eating a sandwich at the desk whilst still answering phone calls or having a drink on a field survey whilst

still monitoring wildlife does not constitute an effective break. Wherever possible employees should be provided with the opportunity to leave their working environment for the duration of the minimum break.

#### When Things Go Wrong - case study

In July Rob was required to conduct a dusk and dawn survey in a remote location. Rob had worked from 09:00, only breaking to go and buy his sandwiches for lunch, which he had eaten whilst working. He had left direct from work to drive to the survey site, which took two hours. The survey started at 21:45 and finished at 00:45. He then tried, without much success, to sleep in his car until he needed to do the dawn survey at 03:30. After the dawn survey Rob set off on the long drive home and had a near miss when he nodded off and hit the kerb. His employer expected him to come into the office at 09:00 that morning. Rob dutifully went into work but was so tired that he spilt coffee on his computer keyboard and upset an important client by snapping at him on the phone.

**Employer impact:** Near miss, damaged computer, lost client fees, demotivated employee. It would have been safer and may have been cheaper to split the survey work into two shifts.

#### When Things Go Wrong - case study

Steve had been working on a high-profile project, which had become the subject of a court case. As the co-ordinator for the project his role was to liaise between the client and project partners; and co-ordinate the court statements for legal advisors. He assumed that the pressure was going to be short term. While the court case was short, the effects of long hours of working and dealing with conflicting interests, meant that when he eventually took leave, random and serious anxiety attacks occurred.

**Employer impact:** Steve was forced to take long term sick leave, eventually deciding to leave the company. Delivery of the project, including taking forward promises made to court, was affected while a replacement was found. Steve's experience had been lost to the company. Other employees were concerned about getting involved in the work, in case their health and well-being was also affected.

It may have been better to split the roles Steve was responsible for between two people; and monitor his working hours and well-being more closely.

## 4. TIME OFF

### Legal requirements

- 4.1 Employees have a right to a legal minimum number of paid days leave as set out in the Working Time Directive<sup>9,10,11</sup>
- 4.2 There are also entitlements to unpaid leave which are designed to help employees cope with specific situations involving caring responsibilities. This includes Dependants leave or time-off for dependants where dependants are defined as someone who depends on you for care (e.g. a child, parent or partner). In Ireland this is known as Force Majeure leave. The legislation uses the term *reasonable* to describe the length of time an employer should allow. Employers would be expected to consider the following factors when determining an appropriate amount of time off:
  - how quickly the situation can be resolved, e.g. a need to arrange urgent medical care;
  - whether the problem requires travel, e.g. illness of elderly relative at the other end of the country;
  - how distressing the situation is for the employee and whether they would be in a fit state to work anyway, e.g. bereavement; and
  - whether the employee has anyone else, friends or family, who could help, e.g. with childcare.
- 4.3 Overtime is at the discretion of the employer and is when employees work outside their core hours of employment and/or exceed their contractual hours.

An employee may reasonably be asked to vary their working hours as requested by their line manager for the needs of the business. Where an employee works their contractual hours only, they will not be entitled to overtime for hours worked outside their core hours.

- 4.4** TOIL (Time Off In Lieu) is at the discretion of the employer but must be clearly established in advance to provide a clear contractual arrangement. Employers should consider the following with regards to TOIL;
- Whether all employees are entitled to participate in the time off in lieu arrangements or whether they apply only to non-managerial/administrative and clerical grade employees.
  - Ensuring that TOIL accrued is equal to time actually worked.
  - Making it clear that employees are expected to manage the amount of additional hours worked in cooperation with their line manager.
  - Setting limits on the number of additional hours, and therefore the amount of time off in lieu accrued each week or month. This benefits the employee by protecting them from overworking. It also benefits the employer by helping to keep their employees safe and well and by preventing accumulation of large amounts of owed time off in lieu which can undermine business operations at a later date.

It is possible to offer a contract where unsocial hours or additional hours are incorporated within the standard working pattern and the payment is understood to include an allowance for this. TOIL is not the same as daily and weekly rest time between work periods. Employees are entitled to sufficient rest periods, as defined by the Working Time Directive, to make sure their own and others health, safety and wellbeing is not at risk.

#### Definitions:

**TOIL:** 'Time Off in Lieu' is when employers will give their employees time off instead of paying for overtime and the terms (e.g. when it can be accrued or when it is taken) are agreed with the employer.

**Overtime:** Overtime is time that has accrued beyond an individual's contracted hours and it is at the discretion of the employer whether this time is compensated for through enhanced pay or as TOIL, or at all.

**Rest Time:** Irrelevant of contractual hours delivered, employees have a legal right to rest time within their working day (i.e. rest breaks at work) as well as daily rest between working days and weekly rest over the course of a 7 day period, as defined by government guidance (and outlined above in Section 3). An employer also has a legal obligation to ensure that an employee has sufficient rest time to make sure that their health and safety isn't at risk (e.g. following a dawn or dusk survey that may have disrupted an individual's sleep pattern).

#### Good practice

- 4.5** It is only fair to compensate employees for additional hours they have worked. Adopting a TOIL policy is now widely recognised in the industry as an appropriate solution during busy times as it is then possible to prevent excessive hours being worked. Overtime pay is often not available and can be counterproductive in leading to excessive hours. Working many hours of overtime with no opportunity to take TOIL could result in a breach of the Working Time Directive; and tired, ineffective employees. In order for employees to gain the greatest health and wellbeing benefit from a TOIL system, they should be taking the time off as close to the time that the overtime was incurred as possible instead of saving it all up to take later in the year.
- 4.6** Employers can also embrace a flexible working culture that includes varying working arrangements in terms of time, location and pattern of working. Successful flexible working approaches have shown multiple benefits for both the employee and the employer including:
- improving recruitment success and attracting talent,
  - increasing productivity,
  - improving job satisfaction and retention,
  - reducing absenteeism and,
  - improving employee health and wellbeing.

A flexible working culture can be managed in a number of ways for example, home-working using a system with limits on the number of hours an employee can work in a certain period combined with the



ability to bank extra hours, to be taken as leave at quieter times in the year, or a combination of TOIL and overtime payments. However flexible working is managed, the culture should be open and based on trust and mutual respect.

- 4.7 The best way of avoiding excessive hours is realistic assessment of the number of people needed and staffing accordingly. Extra resource at the busiest times can deliver benefits in terms of employee motivation, productivity and safety, but there is a need to ensure that quality of work is not compromised.
- 4.8 Good employers will also offer paid time off on compassionate grounds, e.g. to attend a family funeral or deal with an ill relative, and for study leave where the qualification is relevant to the current job.
- 4.9 Blanket bans on employees taking annual leave during certain 'peak periods' during the year are discouraged. Instead, employees should be encouraged to book in leave with as much notice as possible in order that employers can plan resources and workload around these absences and each request dealt with on a case by case basis.

#### Good practice – case study

Anna's normal working day was 09:00 – 17:00, but one Tuesday she needed to start at 05:00 to take part in a bird survey. Her employer ended her normal working day by 13:00 and allowed her to go home. She was also given the option of staying on longer to complete some urgent work and taking the extra hours in lieu the next morning. Her employer had a policy that prevented her from working any later than 17:00, having set 12 hours per day as an absolute maximum.

**Employer impact:** alert and motivated employee, high quality work, flexibility to meet deadlines.

## 5. SICKNESS AND ABSENCE

### Legal requirements

- 5.1 UK employees are entitled to statutory sick pay once they have been too unwell to work for 4 days in a row and if they meet the minimum payment threshold. Statutory sick pay can continue for a maximum of 28 weeks<sup>12</sup>. After seven days of sick leave the employee must obtain a certificate (a Fit Note) from their doctor.
- 5.2 In Ireland there is no automatic entitlement to paid sick leave for employees<sup>13</sup>. If you cannot work because you are sick or injured, and you have enough PRSI contributions, you can apply to the Department of Employment Affairs and Social Protection (DEASP) for a payment called [Illness Benefit](#).

### Good practice

- 5.3 Many employers offer contractual sick pay at a higher rate than statutory, which is quite low. Most also pay from the first day of sickness absence to avoid staff coming into work when ill and infecting their colleagues as well as not performing at their best.
- 5.4 Employers should have a sickness policy which sets out what they will pay and what procedures employees should follow. This would include the method and timing of an employee reporting sick. The employer will want to know as soon as possible that the employee is not coming into work and will prefer a telephone call to the line manager with full details of the illness and expected recovery time rather than a vague text to a colleague. The procedure should also state what action a manager will take if an employee does not make any contact, e.g. trying to call them at home, going round to the house if there is no response to phone calls. Employers should regularly ensure that employee personal contact details are up to date to facilitate this.
- 5.5 The policy should also state what steps the employer will take if the employee's sick leave is frequent, long-term or suspected not to be genuine. A commonly used good practice approach is the return-to-work interview. Whenever an employee returns from a period of sickness leave they should have a meeting with their manager to discuss it. One aim is to understand the employee's current state of health and well-being, check they are well enough to be back at work and establish whether any reasonable and/or temporary adjustments to working conditions are required. A second aim is to discuss levels of

absence and trends, e.g. emerging patterns such as Mondays, with the employee, identify any underlying health problems and alert them to forthcoming management measures. A side benefit is that the employee is aware that their sickness is being monitored and the thought of having to fabricate more detail to support a fictitious illness can be an effective deterrent.

- 5.6 In cases of mental ill health, it is important that a back to work interview establishes any work-related triggers that may have been the cause of or contributed to the employees period of ill health. A strategy can then be implemented, through discussions with the employee, in order to ensure that work-related triggers are managed and wherever possible to avoid a future reoccurrence. Early intervention is beneficial and can mitigate longer-term/future absences.
- 5.7 In order to support the return to work process, an Occupational Health report can be provided by a suitably qualified third party.
- 5.8 Employers should consider how they can enable a healthy lifestyle. Health conditions should be managed on a preventative basis, in order that the workplace does not adversely affect an individual who has a chronic condition.

#### When Things Go Wrong – case study

Ryan didn't come into work for four days. He then returned on the fifth day and said he had been suffering from stress and anxiety. His employer was cross that he hadn't phoned in and hadn't answered the calls made to his phone, but had no policy which set out what a sick employee was supposed to do or guidance for managers. The employer was unable to find time to sit down with Ryan and understand his situation as the workload was very high. Ryan worked half the next week, then stopped coming to work and was signed off by this Doctor for two weeks with exhaustion, then another 2 weeks. Ryan then decided he couldn't continue to work, given his poor health, the working environment, and absence of support and gave his notice. He then sued the company successfully for constructive dismissal as the company had not been following the Working Times Directive, enabling enough rest time between jobs which had contributed significantly to his illness.

**Employer impact:** : loss of a good and trusted employee at a busy period and anxiety over his poor health. Additional impacts on rest of team to manage. Stress, upset and significant time in preparing for an employee tribunal and associated solicitor fees. Extra workload on other staff and need to pay for a year's income to support Ryan in his recovery. Leading to company making a significant annual loss.

## 6. EMPLOYEES WITH CHILDREN

### Legal requirements

- 6.1 Employment legislation<sup>14,15</sup> provides the following rights in relation to employees with children:

- statutory maternity leave;
- statutory maternity pay;
- other maternity entitlements (e.g. time off to attend ante-natal appointments);
- maternity risk assessment (e.g. driving, lifting);
- access to a place to lie down and rest for pregnant and breast feeding employees;
- protection of employment for employees on and returning from maternity leave;
- statutory paternity leave;
- shared parental leave;
- parental leave (unpaid);
- adoption leave;
- neo natal leave and
- parental bereavement leave.

- 6.2 These following websites provides further guidance, for the UK [www.workingfamilies.org.uk](http://www.workingfamilies.org.uk) [www.workplacerelations.ie](http://www.workplacerelations.ie) or [www.citizeninformation.ie](http://www.citizeninformation.ie) for Ireland.

**Good practice**

- 6.3** Many employers offer additional support for new parents through contractual maternity, paternity leave or shared parental leave and, where affordable, pay which is greater than the statutory minimum. For example, partners have the legal right to unpaid leave to attend antenatal appointments. Best practice employers offer paid time off for partners to attend antenatal appointments. It is helpful to have a policy which sets out what the employer can offer.
- 6.4** Where there is no financial support other than statutory payments, the employer could still have a policy stating how they will accommodate new mothers returning to field work. Their legal right is to return to the same or similar job on the same or similar terms and conditions, but this may not be feasible depending on the type of work. The employer could consider temporary arrangements regarding, for example, requirements for overnight stays or allocation of early starts and night surveys whilst the baby is still young. The new parents are likely to have had disrupted sleep and so it would not be sensible for them to be driving long distances or lone working. It is good to seek agreement from colleagues for cover arrangements, but ultimately it is for the employer to assess the needs of the staff and give reasonable instructions.

**Good practice – case study**

A small ecology practice made supportive arrangements for Lisa when she returned from maternity leave. With the agreement of Lisa and her colleagues they excluded her from survey work which took place before 07:00 or after 19:00 for a period of six months. They also completed a risk assessment to see what work it was safe for her to do – excluding long distance driving and lone working for that period on the grounds that frequent waking during the night to attend to her baby meant her sleep was impaired. Instead they allocated her more desk-based work so that she typed up reports for colleagues and balanced workload in that way.

**Employer impact:** reduced health and safety risk, appreciative employee, other employees feel included in decision making (not being put upon), consistent standard of reports, no administration back-log. This also benefited the reputation of the employer.

## 7. REMUNERATION

**Legal requirements**

- 7.1** Employees are entitled to be paid the National Minimum Wage (\*rates are slightly lower for those aged under 20 in Republic of Ireland<sup>16</sup>), or, in the UK if 25 or over, the National Living Wage, which is reviewed annually<sup>17,18</sup>. Part-time workers must get the same rates as full-time workers.
- 7.2** The employment contract must set out clearly what the arrangements are for working hours and pay. In addition to this, all employees are entitled to an individual written pay statement which must be given on or before the pay date. The document must show fixed pay deductions with detailed amounts and reasons for the deductions – for example tax and national insurance<sup>19,20</sup>.
- 7.3** Salary is subject to tax and national insurance and it is the responsibility of the employer to deduct this at source.
- 7.4** There is no legal right to overtime pay. Employers are only required to pay the minimum wage even if the employee has worked more than the hours set out in the employment contract.
- 7.5** There is a lower minimum pay rate for apprentices. Volunteers should have their expenses recompensed (but if paid anything other than expenses, they become workers). Internships (i.e. someone undertaking a period of work placement experience) can only be unpaid if the individuals are undertaking the work placement as part of a higher education course, otherwise they are volunteers. If interns are not undertaking the work placement as part of a higher education programme they must be paid the National Minimum Wage (or the Sub-minimum Wage in Ireland). Paid internships confer worker or employee rights on the individual.

**Good practice**

- 7.6** In the ecology and environmental sector many newcomers find that they initially have to work unpaid in order to gain the relevant experience necessary to secure a paid job. Although there may be a fair balance to be found between an organisation providing work experience and development opportunities in return for free labour, employers should be careful to avoid exploiting these volunteers. If the work which they are carrying out generates income for the organisation, they should be entitled to some recompense which, as a minimum, should be the National Living Wage or its equivalent.
- 7.7** Salaries for all staff should be fair. A good employer will recognise the impact on staff of low or no pay rises and try to offer some protection against inflation. Employees need to realise that there is often a difference in the level of pay between different-sized employers as a result of benchmarking, taking into consideration operational responsibilities. In addition, premium salaries may be paid for working in undesirable locations or for undertaking certain types of work.
- 7.8** It is best practice to recognise unsocial hours through an additional payment. If this is not practical for cost reasons, contracts should at least limit the number of hours which will be worked at unsocial times or the number of working days in a month which will involve unsocial hours. This will enable job applicants to make an assessment of whether the pay offered is reasonable for the working pattern. Employers should point out at interview or in contracts that the nature of the ecological/environmental management profession for a large number of the employees will require unusual working patterns, particularly for work governed by weather and seasons. Prospective employees should not be surprised that unsocial hours and long days will be required.

**When Things Go Wrong : case study**

Sophie was a young graduate who had volunteered to work unpaid in order to build on her specialism of freshwater invertebrates. Recognising her existing expertise, the employer sent her out to accompany more senior staff on field surveys and billed her to the client at normal staff rates but did not pay her anything. The client found out and was outraged at what they regarded as exploitation.

**Employer impact:** damaged reputation, lost client.

**Pensions****Legal requirements**

- 7.9** In the UK employers are required to automatically enrol workers or employees over the age of 22 who earn more than £10,000 per annum into a suitable pension scheme and to make a contribution (a minimum 3% of salary from April 2019)<sup>21</sup>. This is part of the government's plan to help more people save for their retirement. There is no requirement for employers to offer an occupational pension scheme in Ireland as yet, but proposals are to introduce these from 2022.

**Good practice**

- 7.10** Planning for the future, even at earlier stages of a career, is very important. Employers can help employees by making them aware of advice on pensions and, if in the UK, by contributing over and above the minimum required by law. The provision of a good pension scheme can be a useful tool to attract and retain employees.

**Expenses****Legal requirements**

- 7.11** Even if there is no specific mention of payment of expenses in the contract, there may be an implied duty to reimburse reasonable expenses incurred by an employee in carrying out their work, in that failure to do so may amount to a breach of the implied contractual term of trust and confidence.
- 7.12** The statement of terms and conditions should state the normal place of work. This is important for claiming mileage as HMRC will only accept mileage from home if home is specified as a required place of

work and not an option. Citizens Advice and Citizens Information provide handy lists of all the points to include in the statement of terms and conditions on their websites<sup>22,23</sup>.

- 7.13** Travel expenses will be subject to tax if they exceed HMRC's maximum which is reviewed and published annually<sup>24</sup>.

#### **Good practice**

- 7.14** To avoid misunderstandings and to clarify the position, employers should set out clearly in the employment contract the position regarding expenses.
- 7.15** Interns and volunteers should also be reimbursed for any expenses they incur in carrying out their duties. This could include travel, subsistence and telephone calls. It is good practice for acceptable expenses to be agreed in advance and for the employer to require receipts as evidence of expenditure.
- 7.16** Travel expenses are normally limited to second class rail fare or the HMRC mileage rate.
- 7.17** Where expenses are likely to be considerable, e.g. several nights' accommodation, food and travel, the employer should either provide a company credit card or other such payment method or offer the employee with an allowance in advance.
- 7.18** Staff should not be expected to use their personal mobile phone contract free-minutes allowance for work phone calls. If they use their own phone they should be reimbursed at an appropriate agreed rate. If regular use of a mobile phone is required for business purposes, or a risk assessment identifies the need for staff out in the field to have a mobile phone, a work phone should be provided.
- 7.19** Subsistence expenses should take into account whether an employee will be out-of-pocket by having to purchase food when they otherwise would have eaten at home or taken a packed lunch. Breakfast, lunch and evening meals should be reimbursed when the employee is staying away from home.
- 7.20** Employers should enable prompt payment of expenses, especially for more junior members of staff and those on a lower income.
- 7.21** Where overnight accommodation is provided it should be of an appropriate standard. Staff should not be expected to share a room.

#### **When Things Go Wrong : case study**

Mike's employer had no published policy on payment of expenses, but he assumed they would reimburse him for travel, accommodation and subsistence when he was sent away by his employer to work. He was upset when he returned to be told that, because he had used a local B&B rather than the hotel chain with which the company had an account he would not be reimbursed. He found himself significantly out of pocket.

**Employer impact:** angry and demotivated employee, reputational damage.

#### **Good Practice : case study**

Amira was returning home from a work trip away when severe weather forced the cancellation of all public transport. Amira was aware of her employer's expenses policy, including financial limits, and was able to book herself into a local hotel and remain safe and comfortable until she was able to resume her journey. She was confident she was following the company's policy for such situations. On her return to the office she submitted her expenses claim, with receipts, and received payment into her bank account within 48 hours.

**Employer impact:** Confident, committed employee, positive reputation



## 8. HEALTH AND SAFETY

This section includes physical and mental health.

### *Legal requirements*

- 8.1** The Health and Safety at Work Act 1974: Section 2 (in Ireland the Safety, Health and Welfare at Work Act 2005 (as amended)) sets out a duty of care on employers to ensure the health, safety and welfare of their employees whilst they are at work<sup>25,26</sup>.
- 8.2** The Management of Health and Safety at Work Regulations 1999: Regulation 3 (or in Ireland the Safety, Health and Welfare at Work (General Application) Regulations 2007-2012) states that every employer shall make a suitable and sufficient assessment of:
- the risks to the health and safety of his employees to which they are exposed whilst they are at work; and
  - the risks to the health and safety of persons not in his employment arising out of or in connection with the conduct by him or his undertaking.
- 8.3** Some situations require a specific risk assessment under law:
- pregnant employees;
  - employees under 18;
  - employees with a disability.
- 8.4** Breach of the following specific requirements for employers can have serious consequences – fines, imprisonment and disqualification:
- assess risks to employees, customers, partners and any other people who could be affected by the employer's activities;
  - arrange for the effective planning, organisation, control, monitoring and review of preventive and protective measures;
  - have a written health and safety policy if there are five or more employees;
  - ensure access to competent health and safety advice;
  - consult employees about their risks at work and current protective and preventative measures.
- 8.5** In addition, in the UK the Corporate Manslaughter and Corporate Homicide Act 2007<sup>27</sup> sets out that employers can be prosecuted, and an unlimited fine imposed, if a serious failing by senior management results in a fatality. In Ireland the HSA (Health & Safety Authority) may prosecute company Directors under the Safety, Health and Welfare at Work Act 2005 for failing to manage safety and health in their undertaking.
- 8.6** The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations 2013, known as RIDDOR, puts duties on employers, the self-employed and people in control of work premises (the Responsible Person) to report certain serious workplace accidents, occupational diseases and specified dangerous occurrences (near misses) to the Health and Safety executive (HSE). Incidents that happen in Northern Ireland should be reported to [HSE.NI](http://HSE.NI). In the Republic of Ireland, all employers and self-employed persons are legally obliged to report to the Health & Safety Authority ([www.HSA.ie](http://www.HSA.ie)) the injury of an employee as a result of an accident at work if they cannot work for more than three consecutive days<sup>28</sup>.
- 8.7** The Equality Act 2010 sets out when someone is considered to be disabled and protected from discrimination. The definition is quite wide and is set out in section 6 of the Equality Act 2010. It says you're disabled if:
- you have a physical or mental impairment
  - that impairment has a substantial and long-term adverse effect on your ability to carry out normal day-to-day activities

Some impairments are automatically treated as a disability. You'll be covered if you have:

- cancer, including skin growths that need removing before they become cancerous
- a visual impairment - this means you're certified as blind, severely sight impaired, sight impaired or partially sighted
- multiple sclerosis

- an HIV infection - even if you don't have any symptoms
- a severe, long-term disfigurement - for example severe facial scarring or a skin disease

These are covered in Schedule 1, Part 1 of the Equality Act 2010 and in Regulation 7 of the Equality Act 2010 (Disability) Regulations 2010.

## 8.8 In the Republic of Ireland the Employment Equality Acts 1998–2015 outlaws employment discrimination.

There are 9 grounds of discrimination<sup>29</sup>:

- Gender: this means man, woman or transsexual
- Civil status: includes single, married, separated, divorced, widowed people, civil partners and former civil partners
- Family status: this refers to the parent of a person under 18 years or the resident primary carer or parent of a person with a disability
- Sexual orientation: includes gay, lesbian, bisexual and heterosexual
- Religion: means religious belief, background, outlook or none
- Age: this does not apply to a person aged under 16
- Disability: includes people with physical, intellectual, learning, cognitive or emotional disabilities and a range of medical conditions
- Race: includes race, skin colour, nationality or ethnic origin
- Membership of the Traveller community.

## 8.9 You have an 'impairment' if your physical or mental abilities are reduced in some way compared to most people. It could be the result of a medical condition - like arthritis in your hands that means you can't grip or carry things as well as other people.

An impairment doesn't have to be a diagnosed medical condition. If you're suffering from stress, you might have mental impairments - like difficulty concentrating - as well as physical impairments such as extreme tiredness and difficulty sleeping. It still has to have a substantial and long-term adverse effect on your ability to carry out day-to-day activities.

Your impairment doesn't have to stop you doing anything, as long as it makes it harder. It might cause you pain, make things take much longer than they should or mean that you're unable to do an activity more than once.

Employers should be clear what their insurance covers, and where there are gaps e.g. public liability insurance does not cover injuries to staff at work.

## 8.10 Employees have a duty under health and safety law to:

- follow training they have received when using any work items the employer has provided;
- take reasonable care of their own and other people's health and safety;
- co-operate with the employer on health and safety;
- tell someone (the employer, supervisor, or health and safety representative) if they think the work or inadequate precautions are putting anyone's health and safety at serious risk.
- ensure they do not discriminate against others with disabilities including mental disabilities
- undertake reasonable adjustments to enable people to work.

Further details about employee responsibility can be found in section 12 of this document.

### When Things Go Wrong : case study

In 2011 a small company employing only eight people, Cotswold Geotechnical, was prosecuted under the Corporate Manslaughter and Corporate Homicide Act. The company was fined £385,000 for breaches of health and safety which had led to the death of a geologist lone working in a trial pit which was not properly supported. The company was deemed to have failed to take all reasonable practical steps to protect their employee from an unsafe system of work.

The judge noted that the fine imposed was likely to cause the company to go into liquidation and there was wide adverse publicity

**Employer impact:** Financial instability, reputational damage, stress and distress to colleagues and Directors.

**Good Practice : case study**

Beth was sent out to lone work in an isolated location. She had her mobile phone, a personal attack alarm and a first aid kit with her and was required to phone in at certain times to her established work "buddy" to confirm all was well. The whole team had had been on an emergency first aid training course a couple of months previously. Whilst on the assignment Beth caught her foot in a rabbit hole and fell, twisting her ankle badly. She was able to elevate her foot and use an emergency blanket to keep warm but phone reception was poor and she couldn't contact her buddy. Given her failure to call in, buddy contacted local emergency services who attended to Beth

**Employer impact:** : In spite of unforeseen issues, the work systems in place enabled Beth to get support

**Lone working****Legal requirements**

- 8.11** Although there is no general legal prohibition on working alone, the broad duties of the Health and Safety at Work Act still apply. These require identifying hazards of the work, assessing the risks involved and putting measures in place to avoid or control the risks. This covers working alone in any location, including out on site; and inside an office environment.

**Good practices**

- 8.12** Guidance on conducting a risk assessment for lone workers can be found in the Members' section of the CIEEM website, *PGS7 Risk Assessments for Lone Workers*. Best practice is not to undertake lone working. However, subject to appropriate risk assessment there may be occasions when lone working can be undertaken safely. On these occasions the risk assessment should give consideration to providing the employee with:

- a way of calling for help, e.g. mobile phone, satellite phone, or GPS alarm;
- first aid training and provisions;
- training on the particular hazards of the site, including travelling to the site;
- Consideration of survey-specific guidance on lone-working e.g. eDNA might be most appropriately conducted in pairs,
- a system of checking in, e.g. calls at intervals to a manager or office (or a travel security service) to confirm they are safe and well, together with agreed contingency measures should a call not be made.
- exploring the use of automated options that are now available on the market via mobile phone apps.

Employers are encouraged to have a lone-working policy, so all staff know their responsibilities and relevant procedures.

**Equipment****Legal requirements**

- 8.13** The relevant regulations are the Personal Protective Equipment at Work Regulations 1992<sup>30</sup> Regulation four states: *'Every employer shall ensure that suitable personal protective equipment is provided to his employees who may be exposed to a risk to their health or safety while at work except where and to the extent that such risk has been adequately controlled by other means which are equally or more effective'*.
- 8.14** The accompanying guidance states: *'Employers should, therefore, provide appropriate personal protective equipment (PPE) and training in its usage to their employees wherever there is a risk to health and safety that cannot be adequately controlled by other means'*.
- 8.15** In Ireland the relevant legislation is the Safety, Health and Welfare at Work (General Application) Regulations 2007. Part 2 Chapter 3<sup>31</sup>.
- 8.16** In order to provide PPE for their employees, employers must do more than simply have the equipment on

the premises. The employees must have the equipment readily available, or at the very least have clear instructions on where they can obtain it.

- 8.17** By virtue of Section 9 of the Health and Safety at Work Act 1974, and Section 8 of the Safety Health and Welfare at Work Act 2005 (Republic of Ireland<sup>32</sup>) no charge can be made to the worker for the provision of PPE which is used only at work. Section 9 of the Health and Safety at Work Act 1974 states: *'No employer shall levy or permit to be levied on any employee of his any charge in respect of anything done or provided in pursuance of any specific requirement of the relevant statutory provisions'*. Section 9 applies to these Regulations because they impose a 'specific requirement' i.e. to provide PPE.
- 8.18** Employees, including seasonal or 'casual workers', must have made available to them any equipment they need to undertake their work safely, this includes more specialist equipment and items such as compass/GPS for navigation in remote situations, torch for bat surveys, phone/sat phone/radio for communication. The equipment must be in good order, regularly maintained and serviced and they must receive adequate instruction on how to use it safely.
- 8.19** There is a requirement for more than personal protective equipment (PPE) to be made available for employees engaging in field work; for example, fluorescent jackets/trousers, waders/buoyancy aids for working in or near water, suitably warm clothing for winter vantage point surveys on remote hillsides. This must be suitable for the purpose, e.g. breathable waterproof clothing.
- 8.20** In the UK, relevant staff (including seasonal staff) must have a LISS/CSCS Card which shows that the holder is considered to be competent at their job, lists any relevant qualifications and also shows that the holder has passed the ROLO Health and Safety Awareness Course and the construction skills (Cskills) Health and Safety 'Touch Screen' Test. Contractors and clients insist that all workers on site hold a LISS/CSCS card to prove competence in their stated occupation and show that they have relevant health and safety awareness. In Ireland, relevant staff should hold a current Safe Pass card.

#### **Good practice**

- 8.21** Work procedures should stipulate that certain PPE is required for certain work i.e. work should not be undertaken if the equipment is not worn/taken/available. PPE should be inspected regularly for wear and tear and replaced as necessary. It should be kept clean and fit for use.
- 8.22** There should be a procedure for reporting any faults with equipment so that they can be addressed before the equipment is used again.

#### **When Things Go Wrong : Case Study**

Rosie and Niamh were part of a local authority tree and scrub clearance project in a heathland nature reserve. Rosie was the trained chainsaw operator and had the relevant PPE for the work. Niamh, who wasn't a trained operator, acted as "landsman".

Rosie during the first day of the work, even with breaks, started to experience the symptoms of Hand Arm Vibration Syndrome (HAVS) also known as Vibration White Finger. Periods of tingling and changes of colour in the fingers started to happen. The team decided to continue as the weather was about to change.

By mid-afternoon the symptoms were continuing, and they decided to stop work. Returning to their office, Rosie was told to rest for a few days. She was off work for four days and felt her confidence in using chainsaws was negatively affected.

A review of the situation found evidence that the chainsaw had not been properly maintained or serviced; and records of what maintenance and servicing had been carried out could not be found.

#### **Employer impact:**

The work was delayed and a skilled employee temporarily lost confidence, which had to be gradually rebuilt. There is a potential of a Health and Safety breach due to the lack of maintenance and servicing of the chainsaw and supporting evidence; and a potential loss of insurance cover for future work should a breach have been found.

## Driving

### Legal requirements

- 8.23** It has been estimated that up to a third of all road traffic accidents involve somebody who is at work at the time. This may account for over 20 fatalities and 250 serious injuries every week. Some employers believe, incorrectly, that provided they comply with certain road traffic law requirements, e.g. company vehicles have a valid MOT certificate, and that drivers hold a valid licence, this is enough to ensure the safety of their employees, and others, when they are on the road. However, health and safety law applies to on-the-road work activities as to all work activities, and the risks should be effectively managed within a health and safety management system.
- 8.24** Basics include ensuring that the employee shows evidence of a valid driving licence. If they will be using their own vehicle they must keep it well maintained and road worthy and have appropriate insurance for business use. If the vehicle belongs to the company there must be regular checks to ensure that important features such as lights and brakes are working and that there is adequate tread on the tyres. The employer must conduct a risk assessment for work based driving.
- 8.25** HSE publish a useful guide to managing work-related road safety<sup>33,34</sup>

### Good practice

- 8.26** In addition to risk assessments, it is good practice for employers to have short policy statements on key health and safety issues. A policy statement on driving would require employees and volunteers to:
- have had an eye test within the last two years;
  - be wearing any prescribed glasses or contact lenses whilst driving;
  - be in a possession of a valid driving licence;
  - not use mobile phones (other than hands-free enabled) whilst driving;
  - not drive under the influence of alcohol or drugs;
  - not drive if they are tired or have not had adequate sleep.
  - set out the policy on driving overseas, including monitoring hours worked

- 8.27** Clearly it is the responsibility of the employer not to put the employee in a position where they are required to drive when tired. This may mean providing a taxi home or overnight accommodation for people who have been working through the night.

Where possible and where resources allow, significant car travel to deliver project work should be minimised by utilising resources that are located close(r) to the project (acknowledging this is not always possible).

Sufficient time should be included in the budgets for people to drive to site safely, allowing for traffic and sufficient rests/breaks.

### When Things Go Wrong : case study

Jonathan was due to do a survey on the moors. His employer had considered the risk of lone working in such a remote location and agreed to send two people. Jonathan drove himself and his colleague Paul in his Mini. On the way back they had an accident in which the Mini came off the road and smashed into a tree. Jonathan was killed and Paul was badly injured. The police investigation revealed that the brakes were faulty and that the car did not have a valid MOT certificate or insurance. Paul's partner accused his employer of being responsible, saying that they should have checked that Jonathan's car was suitable before allowing it to be used for work transport of colleagues.

**Employer impact:** negative publicity, legal costs in defending health and safety allegations, one death in service and one injured employee facing lengthy sickness absence.



## Health and wellbeing

### Legal requirements

- 8.28** All employers have legal responsibility to ensure the health, safety and welfare at work of their employees (see start of section 8 for further relevant legal requirements, including the [Equality Act](#) and [Employment Equality Acts 1998–2015 for the Republic of Ireland](#)). This includes minimising the risk of stress-related illness or injury to employees.

### Good practice

- 8.29** Around 1 in 6 people experience poor mental health at some point in their life, with women twice as likely as men to experience this. Over 12% of all sickness days in the UK can be attributed to mental health conditions <sup>(35)</sup>. A healthy, happy workforce is more productive and therefore benefits the employer financially. This applies to all grades of staff and all sizes of businesses – for example, directors must set a good example to their employees while looking out for their own wellbeing

An employee's wellbeing and ability to function effectively at work may be impacted by many things, some of which are outside the control of the employer. However, the manager can play an important role in supporting the employee and providing a regular opportunity to discuss workload and other issues. Early intervention can prevent a worry escalating into a serious issue which causes sickness absence or a drop in performance. It is the responsibility of all individuals to flag any issues at the earliest opportunity, to ensure they can be addressed. Employers should foster a culture where people feel they can have those sorts of conversations. There may be value in having debriefs or lessons learned workshops covering health and well-being issues at the end of a season/projects on how things have gone.

- 8.30** Best practice is to provide a suite of supportive and preventative measures for employees. This encourages responsibility for individual wellbeing and satisfies employer responsibility. This should include at least some of the following:
- Access to an external confidential counselling telephone help-line, where practical
  - Provide training for managers on how to recognise the signs of stress and mental ill-health in their staff and how to support them. When focusing on stress, the back to work discussion and phased return is particularly important, if they have had time off work. Encourage managers to undertake team wellbeing reviews, and monitor regularly.
  - Employers should encourage the employee to maintain a sensible work-life balance, through appropriate and fair policies on TOIL/annual leave/sick leave etc (see other sections) Emphasis should be on prevention rather than treating the symptoms.
  - Having trained 'buddies' to lend a listening ear and signpost to support (within, or external to, the organisation). This is particularly useful for new starters, so they feel supported in their new roles. This could also extend to established members of staff having or providing mentors to support their work delivery.
  - Running staff surveys on wellbeing and mental health provision /support /awareness. It is important this is anonymous, as often declaration of these issues is poor or covered up by other issues e.g. taking time off work with a virus that is really stress.
  - Being specific in an employer's policies that stress and other mental-health-related conditions need to be reported as a health and safety incident where due to work. They may decide to have a specific policy on stress and mental health.
  - Encourage staff to undertake Stress Self Assessments (available online, for example, via the [HSE or HSE Ireland](#))
  - Build in regular face to face contact with managers and the wider team. Plan in team meetings regularly, even during peak summer periods.
  - Be mindful of long periods (including working overseas) away from home, as this may impact on staff mental health and wellbeing.
  - When resource planning, ensure you account for some 'down time' e.g. breaks during the day.
  - Demonstrate the employer treats mental health the same way as physical health, through funding the training of Mental Health First Aiders, who are promoted and supported by the employer.
  - Have a policy on working from home, including content on isolation, keeping in touch, and the wellbeing benefits of homeworking for people.

The extent to which an employer implements the above will depend on their size and structure. However, bear in mind that there are clear benefits to implementing actions to benefit employee mental health and wellbeing.

Healthy Ireland is a (Republic of Ireland) government-led initiative aimed at improving the health and wellbeing of everyone living in Ireland. Advice on wellbeing can be found at [www.gov.ie/together](http://www.gov.ie/together).

- 8.31** Individuals should also bear in mind that there are a number of organisations that can provide help and advice if there isn't provision through work:

- ACAS [www.acas.org.uk](http://www.acas.org.uk)
- Citizen's Advice [www.citizensadvice.org.uk](http://www.citizensadvice.org.uk)
- Health and Safety Executive (UK) [www.hse.gov.uk](http://www.hse.gov.uk)
- Health and Safety Executive (Ireland) [www.hsa.ie](http://www.hsa.ie)
- Samaritans [www.samaritans.org/how-we-can-help-you](http://www.samaritans.org/how-we-can-help-you).

Please see the Wellbeing page on the CIEEM website for helpful resources.

#### Good Practice : case study

Rebecca was finding coping with work rather a struggle. Her workload was temporarily high as a colleague was on maternity leave, her mother had fallen and broken her hip, so Rebecca was spending most of her evenings visiting the hospital, and the new computer system was frustrating her as she tried to learn the new software. Luckily her manager spotted the signs of stress, having received relevant training, and read appropriate policies, and took the opportunity to talk to her. Once he had established the issues, he was able to put measures in place to help. He reviewed Rebecca's workload and helped her to prioritise, he gave her some more instruction on the computer system and he listened and sympathised about her mother. Rebecca felt much better having shared her concerns and was able to focus on her work.

**Employer impact:** reassured and grateful employee, avoided sickness absence, improved manager-employee relationship.

#### Accommodation

##### Legal requirements

- 8.32** All employers have legal responsibility to ensure the health, safety and welfare at work of their employees. This includes when they are staying away from home on business and the usual risk assessments would apply.

##### Good practice

- 8.33** In practical terms, where the employer provides overnight accommodation it should be fit for purpose. This includes: reasonable privacy; washing facilities; toilets; appropriate temperature; and a level of noise suitable for sleeping. Employees should not be expected to sleep in their car as this is unlikely to provide adequate rest for safe and effective work or driving the following day and may not be safe.
- Consider the availability of healthy eating options or accessing gym/sports facilities when choosing appropriate accommodation for staff travelling away from home. Reduce the time spent away from home, or working on projects at significant distance, to ensure employee work/life balance is maintained. The same applies to weekend working.

**When things go wrong : case study**

Sam was provided with overnight accommodation for a three-day survey, but it was next to the generator in the hotel which was very noisy and the person staying on the other side had the television on all night. Sam knew the hotel was full and didn't want to make a fuss. By the third day of sleep deprivation, they had fallen behind with their work, was unable to finish and then lost their survey summary sheet on the way back to the car.

**Employer impact:** Sam had not taken personal responsibility for their own health and safety and as a consequence had undertaken poor work and cost the company time and money and the need to repeat the survey. The employer discussed the importance of taking responsibility for their own health and safety above inconvenience of situation. Sensitive management enabled both parties to learn from situation, and lessons learned were shared with team to ensure that problems are shared and dealt with at an early stage to prevent negative consequences for all parties.

## 9. TRAINING AND DEVELOPMENT

### *Legal requirements*

- 9.1 Employers have a legal duty to provide training in key areas: fire evacuation, health and safety, safe use of equipment and ability to carry out their job safely.
- 9.2 To demonstrate that the employer has taken reasonable steps to avoid their employees committing actions for which they, the employer, can be held liable, the employer will also need to provide training to their employees in equality and diversity, bullying and harassment and data protection.

### *Good practice*

- 9.3 Employers should provide training and development for all employees, interns and volunteers to enable them to perform their duties more effectively and to develop their skills in order to progress their careers. This should include initial induction training and continuing professional development (CPD).
- 9.4 Development need not involve attending expensive courses. Other approaches can be equally effective:
  - learning from a colleague;
  - mentoring from a more experienced professional;
  - discussion groups, either internal or external; and
  - reading professional journals, survey guidelines etc.
- 9.5 As an employer it makes sense to maximise the potential of your employees and help them to develop so that they can be more effective and productive for your organisation. Support in development will also increase employee motivation and loyalty. Employees need to understand that their betterment and CPD is also their own responsibility, for example they should read appropriate literature to increase their knowledge, of their own volition.
- 9.6 Development should not be solely individual focused but should also consider teams. A team workshop can reap huge rewards in improving how people work together.
- 9.7 Employers should make available and encourage line managers and team leads to undergo as a minimum a basic mental health awareness training. Employers should also consider sponsoring training for mental health and wellbeing champions and Mental Health First Aiders.

Uncertain career prospects, and/or lack of skills development and career progression can impact upon employee's wellbeing and their sense of being valued. Employers are encouraged to consider this and ensure policies and processes are in place to support the development of individuals. This can include provision of a varied workload where possible.

**Good practice : case study**

A consultancy ran a one-day workshop for their entire staff of eight people, to develop the team culture. This identified the different personality type of each employee and the strengths they could bring to the team. As well as improving self-awareness and personal performance, it increased their understanding of each other's approach and so improved relationships. This was followed up during individual conversations between staff and their manager discussing learning and development requirements, to identify possible team training events, further developing team culture.

**Employer impact:** highly performing team, motivated employees and increased productivity.

## 10. EQUALITY AND DIVERSITY

### *Legal requirements*

- 10.1 The main body of employment legislation covering equality and diversity is contained within the Equality Act 2010 <sup>35</sup> and, for Ireland, the Employment Equality Acts 1998-2015 <sup>36</sup>. These set out requirements for employers to treat all employees fairly and consistently and to avoid discrimination on the grounds of protected characteristics.
- 10.2 Diversity in the workplace has been shown to support organisational success in addition to being ethically the right thing to do. Key legal areas are recruitment – enabling all candidates to compete on a level playing field and appointing the best candidate for the job; and reasonable adjustments – ensuring that employees' particular needs are taken into account. Employers should commit to provide reasonable adjustments to employees with visible and invisible disabilities and protected characteristics.
- 10.3 Employees who feel they have suffered discrimination on equality grounds may bring a claim against their employer at employment tribunal and the damages which can be awarded, if discrimination is successfully proved, are uncapped.

### **Good practice**

- 10.4 Employers should have a policy on equality and diversity which sets out how they seek to apply the principles in their work. They should also consider equality aspects of their procedures to ensure that they are not discriminating. The Equality and Human Rights Commission (EHRC) publish helpful information on their website [www.equalityhumanrights.com](http://www.equalityhumanrights.com).
- 10.5 Employers should strive to empower employees to bring their whole selves to work and not hide away aspects due to perceived stigma. The employers should also encourage the use of the power of collective consciousness to enable leaders to drive an inclusive culture and enhance the employee experience through the power of diversity.
- 10.6 Employers should provide training for employees in equality and diversity including unconscious bias.
- 10.7 Employers should seek guidance and, if in the UK, aim to be Disability Confident accredited which is a nationally recognised scheme that supports business to attract, recruit and retain disabled employees.

**When Things Go Wrong : case study**

A small company needed to make staff reductions and wrote to Jessica who was on maternity leave to tell her that she was being made redundant. They had selected Jessica on the grounds that with a new baby she would be unable to do early morning and late-night survey work and so would be less useful than the other employees. As they had not consulted with Jessica, had made negative assumptions about her situation and hadn't recognised the legal protection afforded to employees on maternity leave, they had breached employment legislation. An employment lawyer advised Jessica to bring a claim of discrimination through an employment tribunal.

**Employer impact:** costs of defending a legal case, adverse publicity (cases are in the public arena), poor staff morale and loss of staff confidence in how the company was treating them.

## 11. DEALING WITH DISPUTES

### *Legal requirements*

- 11.1** In the UK the written particulars of terms and conditions of employment that every employee should receive under the provisions of the Employment Rights Act 1996 must contain a statement relating to grievance procedures. There is no exemption for small employers.
- In the Republic of Ireland, The Workplace Relations Committee's Code of Practice on Grievance and Disciplinary Procedures<sup>37</sup> also requires written grievance and disciplinary procedure. This must be made available to employees within 28 days of starting a contract of employment. They should be clear and transparent structures to be followed if the need arises. In the Republic of Ireland you can avail of this advice for free if a member of eg. ISME or SFA, or via training from your Local Enterprise Office.
- 11.2** In Great Britain the grievance procedure, which explains how the employer will resolve complaints raised by an employee, must comply with the revised version of the ACAS Code of Practice on Disciplinary and Grievance Procedures. It must also make provision for the issue to be considered at an appropriate level, with an appeal process to a higher level should the person bringing the grievance feel that the decision was unfair. In Northern Ireland detailed advice is provided at [NIDirect.gov.uk](http://NIDirect.gov.uk) or via the Labour Relations Agency. In Ireland advice can be found at [citizensinformation.ie](http://citizensinformation.ie).
- 11.3** If an employment contract contains a grievance procedure that is contractual, then an employer who does not comply with that procedure may be in breach of contract. Such a breach could lead to resignation and a claim for constructive dismissal.
- 11.4** In addition, every contract of employment contains an implied term that both parties will not act in such a way as to breach mutual trust and confidence. It has been argued that because of this there is an implied term that employers should take grievances seriously and should, therefore, provide a reasonable opportunity to their employees to obtain redress for any grievance they may have. This means that a failure to take any grievance seriously may amount to a fundamental breach of contract or an act of discrimination by the employer.
- 11.5** Sometimes the dispute is to do with the behaviour or performance of the employee, in which case the employer may wish to bring disciplinary proceedings. They must have a disciplinary policy which states how they will deal with such matters and any disciplinary hearing must be preceded by an investigation to gather the evidence.

### *Good practice*

- 11.6** ACAS publish a useful Code of Practice on managing grievance and disciplinary processes<sup>38</sup> and similar advice is provided at [NIDirect](http://NIDirect.gov.uk)<sup>39</sup>. Employers should ensure that all line managers receive training in handling grievances and disciplinary matters to ensure that they are dealt with fairly or line managers are advised to contact HR to get external advice to support.

Where it is likely that employees will be exposed to challenging clients/contractors/members of the public, employers must consider offering conflict resolution training. This is also useful for internal disagreements within the organisation.



**Good practice : case study**

Connor complained to his line manager about his workload, which he felt was unreasonable. His manager sympathised but said there was nothing he could do. Connor said he wanted to raise a formal grievance as the work level was unacceptable. Connor's employer had a grievance policy which explained that the Chief Executive would consider the grievance and that any appeal would be to a committee. Once the Chief Executive had heard how high the work volume had become and the impact it was having on the staff, he agreed to make some changes. He arranged for an additional casual worker to be recruited to share the work load and reviewed the way he was costing projects to clients to reflect this.

**Employer impact:** improved staff morale, fairer workload, increased productivity as work was not rushed or completed when tired, avoidance of sickness absence and possible tribunal claim.

**Whistle Blowing****Legal requirements**

- 11.7** In rare cases an employee may feel justified in reporting the employer for wrong-doing without first raising it either informally or as a formal grievance. They would be making a disclosure in the public interest by highlighting such things as damage to the environment, health and safety failures, omissions of legal requirement or criminal activity.
- 11.8** In the Republic of Ireland, the [Protected Disclosures Act 2014](#) aims to protect people who raise concerns about possible wrongdoing in the workplace. There is no legal requirement for an employer to have a whistle blowing policy in the UK, nor for a private sector employer to have a whistle blowing policy in Ireland.

**Good practice**

- 11.9** If the employer has a whistle blowing policy the employee would be expected to follow that first rather than reporting straight to a prescribed body, unless they reasonably felt their employer would cover it up or treat them unfairly. It is therefore sensible to have a whistle blowing policy to set out the procedure and try to avoid direct complaints to formal agencies.<sup>40,41</sup>

**When Things Go Wrong : case study**

Megan had concerns about a survey where her employer claimed to have sent three people to complete a survey. In reality it had only sent one to cut costs. This meant that the full area wasn't surveyed and the environmental report had significant weaknesses. This meant that the decisions taken based on the report were therefore also invalid, meaning that third parties could be in breach of environmental protection legislation.

Megan's employers didn't have a whistle blowing policy, and when Megan tried to talk to her employers they ignored her and took no action. Megan went to the relevant authorities with her concerns, who then opened an investigation.

**Employer impact:** Unplanned resources to respond to an investigation, adverse publicity and loss of reputation, possible fine and poor employee morale.

## 12. EMPLOYEE RESPONSIBILITY

**Legal requirements**

- 12.1** Although there are many requirements for employers, employees also have a duty under health and safety law to take personal responsibility (see Section 8.8 in particular) and:

- follow training they have received when using any work items the employer has provided;
- take reasonable care of their own and other people's health and safety;
- co-operate with the employer on health and safety; and
- tell someone (the employer, supervisor, or health and safety representative) if they think the work or inadequate precautions are putting anyone's health and safety at serious risk.

### **Good practice**

**12.2** Employers should remind their workers of their responsibilities through a short policy or statement, sometimes known as a code of conduct, which can be provided as part of the induction process and referred to again later as needed. It is particularly useful in disciplinary situations where the employer needs to show that the employee had been made aware of certain requirements.

**12.3** Individuals should be reminded of their responsibility to:

- say no when appropriate and not take too much on;
- raise issues promptly with their employer;
- be open and honest with their employer about their personal working practices;
- avoid being a risk to others;
- comply with policies and procedures;
- disclose relevant health information which could impact on their safety, e.g. if lone working;
- protect their own health and safety through taking reasonable care; including when driving;
- not work under the influence of alcohol or non-prescribed drugs; and
- protect the reputation of their employer, e.g. not post derogatory comments on social networks.

### **Good practice : case study**

Lucy had recently been diagnosed with adult-onset diabetes and had to inject insulin daily. She was quite self-conscious about this and had only told her immediate family. However, when she started her new job she read the policy on taking personal responsibility and realised she would have to tell her manager. This enabled her employer to put extra precautions in place regarding lone working, night surveys and driving to protect her health and safety. One particularly busy day Lucy worked through her normal lunch break and went too long without having something to eat. Her blood sugar levels dropped and she became drowsy, confused and appeared drunk. Because her manager was aware of her condition he knew what to do to help her and she was quickly stabilised.

**Employer impact:** serious illness and employee absence avoided, potential accidents avoided, supportive colleague relationships.

## END NOTES

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