



Acas & Plunkett Foundation

Employment law FAQs for community co-ops

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Who are Acas?

Acas (Advisory, Conciliation and Arbitration Service) provides free and impartial information and advice to employers and employees on all aspects of workplace relations and employment law. We support good relationships between employers and employees which underpin business success. But when things go wrong we help by providing conciliation to resolve workplace problems.

Our focus is on employment law and best practice, so the majority of the FAQs focus on employees and workers rather than volunteers, who are not covered by employment law. This doesn't stop you from following the same processes for a volunteer as you would with an employee, but there's nothing in law to require you to do so.

Who are Plunkett Foundation?

Plunkett Foundation helps communities to take control of their challenges and overcome them through co-operation. They support people, predominantly in rural areas, to set up and run life-changing community co-operatives; enterprises that are owned and run democratically by large numbers of people in their community. This can include shops, cafes, pubs, land-based initiatives, and anything in between.

What is this document?

Together, Acas and the Plunkett Foundation recognise that when people start and run businesses through community co-operatives, the often complex ins-and-outs of employment law can understandably be fairly far down the list of priorities. We want to ensure that help is available for those co-operatives that want to stay on the right side of employment law, and support them to be reasonable employers through simple and easy-to-understand advice and guidance, signposting to more detailed information for anyone who might need it.

As such, Acas has put together this FAQ document, aimed at those running or managing community co-operatives, with questions (in bold) that we frequently receive from community-owned enterprises, and Acas's advice in response. We have also included links to further information about each of the topics if the answer doesn't give all of the information that you need.

Q: Are our staff entitled to annual leave/holiday?

A: Yes. Most workers are entitled to a statutory minimum of 5.6 weeks paid holiday per year. This includes part time workers, who are entitled to the same amount of holiday (pro rata according to the hours they work) as full time colleagues. Employers can set the times when employees take leave - for example Christmas shut downs - but need to give a certain amount of notice in order to do so. If employment ends, workers have the right to be paid for any leave due but not yet taken. It may be worth putting an annual leave policy in place so workers know what to expect - this could include entitlements, how holiday pay will be calculated, how much notice employees need to give to book leave, etc.

For more info: www.acas.org.uk/checking-holiday-entitlement

Q: Are our staff entitled to contracts?

A: Yes and no – there is no requirement in law to provide a full written contract, but there is a requirement to provide them with what's called a Written Statement of Employment Particulars, which must be provided on or before the first day of employment. This is an overview of the main terms and conditions of employment, and certain things must be included by law – including the names of both parties, hours and place of work, and notice requirements.

For more info: www.acas.org.uk/employment-contracts

Q: Are there any contract and policy templates we can use?

A: Yes – Acas has a number of template/draft documents that are free for you to download, adapt to suit your business, and use. This includes a draft Written Statement, an example Discipline and Grievance policy, a template Absence Record, and plenty more.

For more info: www.acas.org.uk/templates-for-employers

Q: What role descriptions should we include in the contract?

A: Among other details, the Written Statement needs to include a job title or brief description of the type of work someone will be carrying out. This does not need to be comprehensive, and doesn't need to outline every small task someone might be required to do – it's fairly common to include such as 'you may be required to undertake additional or other reasonable duties as necessary to meet the needs of our business'.

It is up to the employer to define the roles, and what should be included in the description. If you think it would be useful, you can have separate documents that give more

detailed descriptions of roles, including the main purpose of the job, the key tasks, etc.

You may also want to consider putting together role descriptions for volunteers, and for members of the management committee outlining their key duties and responsibilities.

For more info: www.acas.org.uk/job-description-templates

Q: What do we need to pay our staff?

A: There are different levels of national minimum wage (and national living wage), and how much someone is entitled to receive will depend on their age. These figures usually increase once per year. You will also need to be aware of other statutory payments that employees may be entitled to – such as statutory sick pay when someone is off sick, or statutory maternity pay when they're on maternity leave. Whether someone is entitled to these will depend on how much they earn.

You may also have volunteers and wish to give them gifts to show appreciation – this is understandable but you may need to be careful what the gifts are – for example if you gift them with amounts of money, this could be interpreted as pay for their work, and may mean they could argue that they're entitled to receive national minimum wage. It's worth exercising caution around gifts to volunteers, and perhaps check HMRC guidance before giving gifts if you're uncertain.

For more info: www.acas.org.uk/national-minimum-wage-entitlement

Q: What are typical pay rates for management roles?

A: Typical pay rates largely depend on the sector, geographical location and seniority of the role in question. Plunkett may be able to provide you with common pay bandings, and may be able to put you in touch with other

businesses in a similar position who can discuss their pay rates with you.

For more info: contact Plunkett Foundation on 01993 630022 or info@plunkett.co.uk

Q: What should our management structure look like?

A: To a large extent, it is up to each company to determine what their management structure looks like. For community-run organisations, this is commonly that there is a management committee of members who have a democratic say over the running of the business. There will ordinarily be specific roles within the committee, including chair, treasurer and secretary. In terms of paid employees, if it's feasible for the business, there will usually be at least one paid manager, along with a team of staff members.

For more info: contact Plunkett Foundation on 01993 630022 or info@plunkett.co.uk

Q: What do we do if a member of staff steals something?

A: If you have concerns that someone may have been stealing, the first step is to carry out an investigation – gathering evidence, witness statements, finding out who has been on shift when things have gone missing, etc. – then, depending on the outcome of the investigation, potentially going through a disciplinary process. This would involve inviting the employee to a disciplinary hearing, allowing them to be accompanied by a trade union representative or fellow colleague, discussing the issue with them and listening to their side of things, making a decision about what action (if any) will be taken, and communicating the decision to them. You may wish to put a disciplinary policy in place, and if you don't have one you may wish to follow the Acas Code of Practice – this is what

tribunals would look at to decide if the employer followed a fair and reasonable process.

Depending on the severity of the issue, you may also wish to involve the police – be aware that criminal proceedings are seen as separate to disciplinary proceedings and have different standards of proof, so if you decide to issue a sanction/dismiss, you can do so even if criminal proceedings are ongoing.

For more info: www.acas.org.uk/disciplinary-procedure-step-by-step

Q: How much notice needs to be given to end the employment?

A: There are statutory minimum amounts of notice in legislation. For the employer to dismiss, amounts of notice depend on someone's length of service – if they've been there between one month and two years, they're entitled to at least one week's notice, if they've been there two years and over they're entitled to a week per year of service up to a cap of twelve. For an employee who has been there at least one month to resign, the minimum is one week's notice regardless of length of service. Notice requirements would be one of the things required in a Written Statement (described above), so that can extend the notice periods if the employer wishes, but not reduce them.

For more info: www.acas.org.uk/notice-periods

Q: How do we manage our staff/volunteers?

A: Elements of management will be the same for both paid staff and volunteers – ensuring clear and regular communication, offering training and development, motivating and engaging them.

Don't forget that, for the most part, volunteers are there because they want to be and they're passionate, so engagement, communication and showing appreciation are

especially important. You may also want to think about ensuring the roles, along with differing boundaries and expectations, are clear. For example, it may be ok for a volunteer to leave 15 minutes early because there's no work left for them to do, but you may expect paid staff to stay until the end of the shift regardless. Make sure you're clear and open with staff about what is different and why.
For more info: www.acas.org.uk/advice

Q: How do we manage disputes between staff?

A: It may depend on the dispute. If it is serious and has resulted in an argument or fight, you may want to look at going down the route of a disciplinary investigation and hearings – as described in the above query about theft. If it hasn't yet escalated that far, you might want to consider dealing with it informally – relationship issues between staff are usually best dealt with informally rather than formally. Have a conversation with both parties, see if you can get to the route of the issue, and see if you can bring both parties together to discuss how to resolve it and move on from it.
For more info: www.acas.org.uk/dealing-with-workplace-problems

Q: How can we manage staff performance?

A: It's common for employers to have a performance management process, which describes the arrangements that employers use to maintain, and improve the performance of their workforce so that the organisation achieves its goals.

Most performance management arrangements involve employees being set performance measurements, meetings between a manager and each member of staff to discuss their performance, assessing employees against their performance measures, and a record of performance being kept.

How this is done can vary widely, depending upon the particular needs of the organisation.

Good performance management arrangements can help an organisation motivate staff, check that all staff are making valuable contributions towards organisational goals, and spot and improve poor performance.

However, it is important to keep the arrangements as simple as possible, so that it doesn't just become a tick-box exercise.

For more info:

archive.acas.org.uk/index.aspx?articleid=6608

Q: Can we employ younger workers? If we do, do we need to carry out DBS checks?

A: Yes you can. There are extra employment protections for younger workers – usually defined in employment law as workers aged 16-17. Most of the extra protection is under the Working Time Regulations, giving younger workers the right to shorter shifts and longer breaks. Workers younger than 16 are not referred to under employment law, but are usually covered by rules and regulations set by local councils. You will also need to keep in mind other legislation around age, such as the requirement to be at least 18 in order to serve alcohol in a bar. DBS checks do not fall under Acas' remit, but you can find more information about them at www.gov.uk/government/organisations/disclosure-and-barring-service.

For more info: www.acas.org.uk/young-workers-apprentices-and-work-experience

Q: What are our obligations around lone working?

A: While there is nothing in legislation about what an employer must do/must include in a policy, the Health & Safety Executive (HSE) state that it would fall under the Health and Safety at Work etc Act 1974, which sets out a

duty of care on employers to ensure the health, safety and welfare of their employees whilst they are at work, and the Management of Health and Safety at work Regulations 1999, in which Regulation 3 states that every employer shall make a suitable and sufficient assessment of the risks to the health and safety of their employees to which they are exposed whilst they are at work.

So for lone working, it's a case of having a look at the specific risks around carrying out the role or simply being in the workplace alone, and making sure the policy/agreement with the staff addresses the arrangements for dealing with risks, what help/support is available, and what back-ups are in place.

For more info: <http://www.hse.gov.uk/pubns/indg73.pdf>

Q: What are our obligations around data protection?

A: At its most basic, data protection legislation exists to protect people's personal data, and ensure it isn't kept for too long or used for anything inappropriate. New data protection law – the General Data Protection Regulations (GDPR) – came into force on 25th May 2018, which included new requirements for anyone that 'processes' personal data. Under the legislation, 'processing' includes holding data on file, so will include most – if not all – employers. The new requirements include that employers must identify a lawful basis for collecting information (one of the lawful bases is consent), increased rights for individuals (including the right of access and the right of erasure), and different arrangements for Subject Access Requests (which are the formal requests individuals can make to request information held on file about them). The Information Commissioner's Office (ICO) are the independent authority that deal with data protection, and they have plenty of guidance about the new regulations.

For more info: ico.org.uk/for-organisations/data-protection-self-assessment

Q: Do we need to have a pension scheme?

A: Having been phased in over a number of years, by February 2018 'Automatic Enrolment' made it compulsory for employers to automatically enroll their eligible workers into a pension scheme (that the employer also pays into). In order to be eligible, staff should be between age 22 and State Pension Age, earn at least £10,000 per year, and usually work within the UK. Workers can choose to opt out of the scheme if they wish to.

For more info: www.pensionsadvisoryservice.org.uk

Q: I have a question that isn't included here, where can I go for more help?

A: If your query is about setting up or running a community co-operative, contact the **Plunkett Foundation**, who can help guide you through the process. Their website is **www.plunkett.co.uk**, and their telephone number is **01993 630022**.

If your query is about employment law, obligations, entitlements or best practice, you can contact **Acas** for free, confidential, impartial advice. Our website is **www.acas.org.uk**, and our helpline number is **0300 123 1100**. We also have an adviser who has been working with the Plunkett Foundation to get a more specific understanding of the issues that a community co-operative may face. The adviser is **Jen Loble**, her telephone number is **0330 109 3025**, and her email address is **jlobley@acas.org.uk**. If there's anything she can't help you with, she will do her best to point you in the right direction.

We have also mentioned a couple of other areas of law here – if your query is related to health and safety, including lone working, you can contact the **HSE** via their website: **www.hse.gov.uk**; and if the query is about data protection, you can contact the **ICO** via their website: **www.ico.org.uk**.