

Managing the Employee Life Cycle

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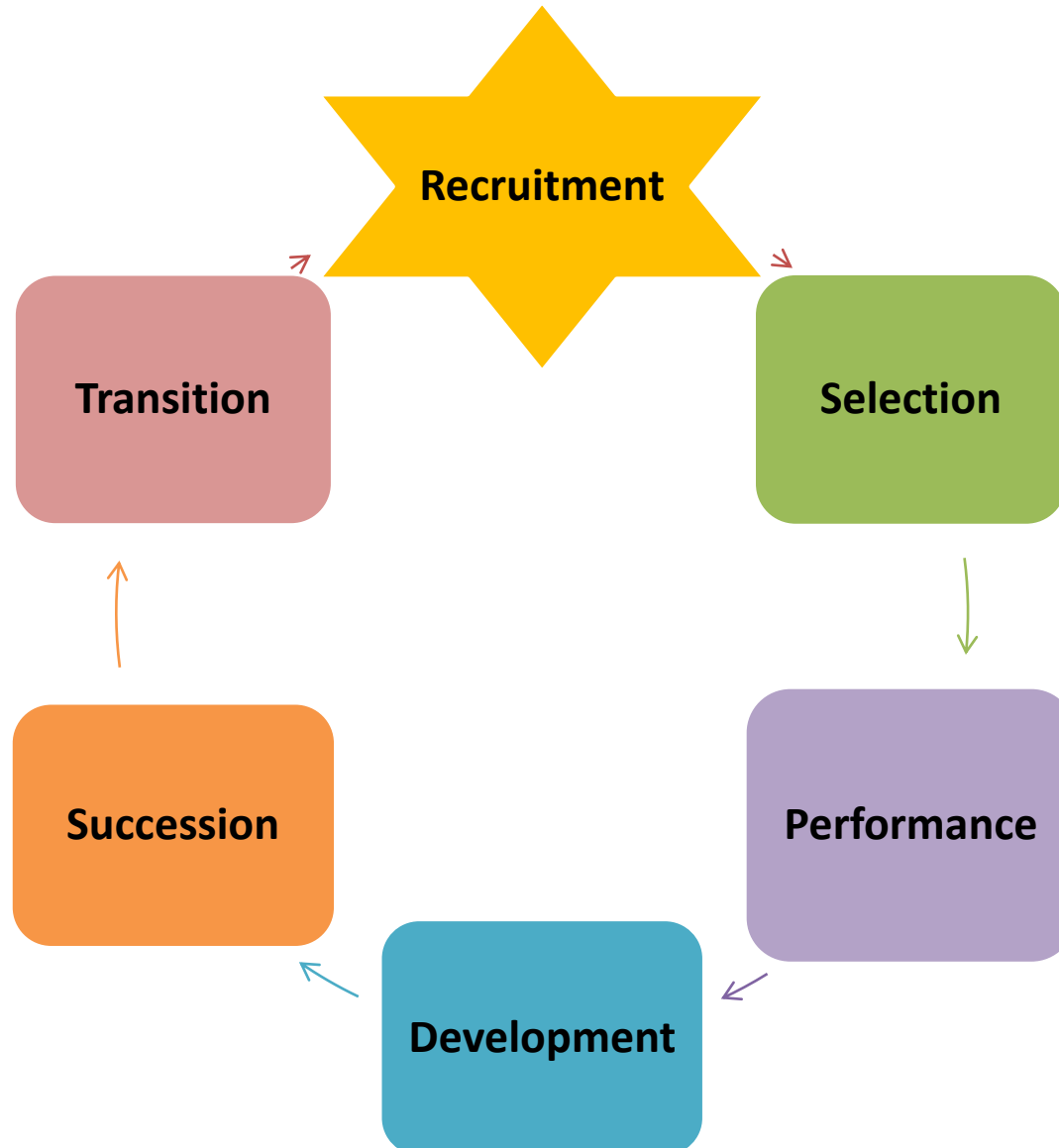
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Overview



- The employee life cycle
- **Recruitment and selection**
- Managing performance
- **Motivating, engaging and developing your people**
- Succession planning for the future
- **Managing leavers**
- HR policies, procedures and employment documents
- **Questions**

Employee Life Cycle



Recruitment planning

- **Analyse the job and its function**
- **Update the job description, if required**
- **Create a ‘person specification’ detailing the qualifications, experience and knowledge, skills and attributes that your ideal candidate would possess – categorise these into ‘essential’ and ‘desirable’**
- **Review the remuneration package for the position – is it competitive in the marketplace / industry?**

Equal Opportunities

- Ensure that you do not discriminate due a protected characteristic i.e. **age, disability**, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex, sexual orientation
- **Direct discrimination:** treating someone *less favourably* than another person because of a protected characteristic
- **Indirect discrimination:** occurs when a provision, criterion or practice is applied to all and it puts a group with a protected characteristic at a disadvantage when compared with another group; an individual is put at a disadvantage, and the employer cannot show it to be a proportionate means of achieving a legitimate aim

Equal Opportunities

- You can ask questions that are required for *monitoring* purposes to check the diversity of applicants
- An Equal Opportunities Monitoring Form should be separate from any Application Form and the information **ONLY** used for monitoring – **NOT** for any decision making during the recruitment and selection process
- People short-listing and appointing staff should not see the information before deciding who to interview or appoint

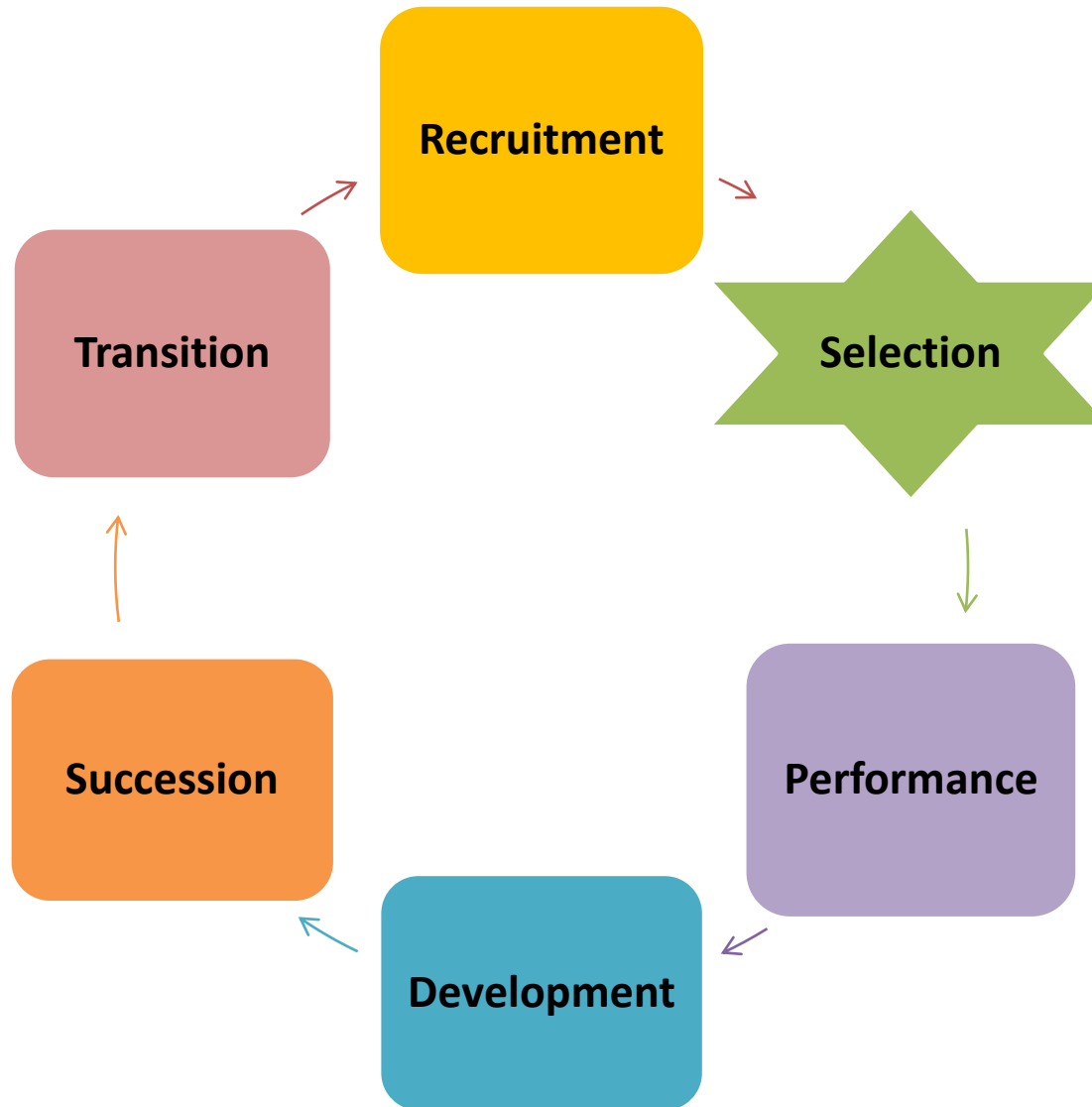
Advertising methods

- **Internal: email to staff, display on Company notice board, Company intranet**
- **External: job centre, newspaper, professional journal, online job vacancy boards, recruitment agency**
- **Consider the methods that are most appropriate to your vacancy, to give it visibility in the right places where potential candidates will see it**
- **Create an eye catching advert, non-discriminatory, include your selection criteria, application process and deadline for responses**

Advertising

- Respond to candidates promptly – if it takes you weeks to respond you could lose your ideal candidate through your own inefficiency
- Correspondence should be professional in content
- Provide the candidate with as much information as possible about the job role – an application pack including: job description, application form, website details etc.
- ***Remember...you are providing a first impression of working for the Company***

Employee Life Cycle



Selection methods

- **Choose your selection method(s) e.g. structured interview, competency based interview, assessment centre, work sampling, presentation, psychometric testing**
- **Consider the costs and time that will be involved e.g. is a lengthy and costly assessment appropriate for a junior role?**
- **Records should be kept of all selection activities – these should document the performance of the various candidates and *why* selection decisions were made**

Screening applications

- **Applications should be screened against the ‘essential’ and ‘desirable’ criteria identified in the person specification**
- Decline candidates who do not meet the criteria required
- **Draw up a short-list of candidates you want to interview**
- You may want to keep some candidates ‘on hold’ at this stage until the first interviews have been completed

Interview planning

- **Agree who will conduct the interviews – usually the Line Manager and HR**
- **Agree suitable venue, dates and times for interviews**
- **Book the interview room and ensure it has suitable facilities**
- **Send out invite letters / emails to short-listed candidates**
- **Provide all the details required to attend the interview:**
 - location, date and time
 - who to report to
 - who will be conducting the interviews and their job titles
 - any preparation required e.g. advise if they are to make a presentation and what the subject will be

Interviewing

- Ask for confirmation of attendance
- Prepare your 'interview assessment form' e.g. questions regarding the skills and competencies identified for the role
- Agree how you will rate each question and what demonstrates a 'strong' or 'weak' answer
- Complete the interview - provide an overview of the Company and the job vacancy
- Use the 'interview assessment form' – be fair and equitable and ask all candidates the same questions
- **No discriminatory questions!**

Interviewing

- Ensure that there is equity in any ratings across all the candidates
- If you are unsure re immigration status – clarify
- Advise that original documentation will need to be seen as proof of immigration status e.g. passport, birth certificate
- Advise the candidates what the next stage of the process is
- Review the interview notes and select the best candidate
- **Remember...this form could be viewed if a candidate complains that the process was discriminatory or they felt they were unfairly treated – only include on it what you would be happy for someone to see in those circumstances**

Making the job offer

- Remember...a contract doesn't have to be in writing to be binding – it can be verbal
- Ensure that no verbal or written offer is made until you are sure that the chosen candidate is the best person from the selection process



Making the job offer

- **Make a ‘conditional job offer’**
 - **Conditional upon receipt of references that are *satisfactory to the Company***
 - **Conditional upon the person having the right to take up employment or the Company obtaining permission e.g. by successfully obtaining a work permit or visa**
 - **Conditional upon any other pre-employment checks being successfully completed e.g. criminal records check**

Making the job offer

- **Employers have a duty to give all employees engaged on employment contracts for more than 4 weeks a written statement of the main terms and conditions of their employment**
 - IOM: within 4 weeks of commencing employment
 - UK: within 8 weeks of commencing employment
- **Best practice – provide at the time of making the employment offer e.g. an ‘offer pack’ including: Offer Letter, Contract of Employment or Written Statement of Main Terms of Employment, and Employee Handbook**

Main terms of employment

- ✓ **Name of employer**
- ✓ **Name of employee**
- ✓ **Date employment began**
- ✓ **Date on which the period of continuous employment began**
- ✓ **Job title or brief job description**
- ✓ **Scale, rate of method of calculating remuneration pay intervals e.g. Monthly**
- ✓ **Hours of work**
- ✓ **Holiday entitlement, inc public holidays & holiday pay**
- ✓ **Provision for sick pay and any terms and conditions relating to incapacity for work due to sickness or injury**
- ✓ **Pension scheme details**
- ✓ **Normal retirement date (not for UK contracts wef 1 Oct 11)**
- ✓ **Notice periods – employer and employee**

Main terms of employment

- ✓ How long the employment will last
- ✓ If it is for a fixed term, the period which employment is expected to continue
- ✓ Place of work and address of employer
- ✓ Details of any collective agreements which apply
- ✓ If the employee is to work outside the country for more than a month – how long for, currency which will be paid, any extra pay for working outside the country, and conditions relating to return
- ✓ Disciplinary rules and procedure
- ✓ Who employee can refer to with a grievance and how a grievance should be raised
- ✓ If a contracting out certificate is in force

Pre-Employment Checks

References

- Ideally from a current and former employer – *must be satisfactory to the Company*
- They can also be from an educational institution e.g. University or College
- Likely to receive the ‘bare minimum’ as a response
- Where an unsatisfactory reference is received, consider its content and whether you want to try and obtain other references before you make a final decision
- An employer does not have to provide a reference – if it does so then it is under a duty to provide a reference which is in substance true, accurate and fair – *it must not give an unfair or misleading overall impression*

Immigration

- **Identify during the selection process whether a candidate requires permission to work in the country e.g. work permit or visa**
- **View original documents e.g. birth certificate, passport and take photocopies**
- **Where a person requires a work permit or visa, the employer has to demonstrate the steps it has taken in advertising the position e.g. job centre, newspaper etc. and why people who applied and did not require a work permit or visa were unsuitable or deselected**

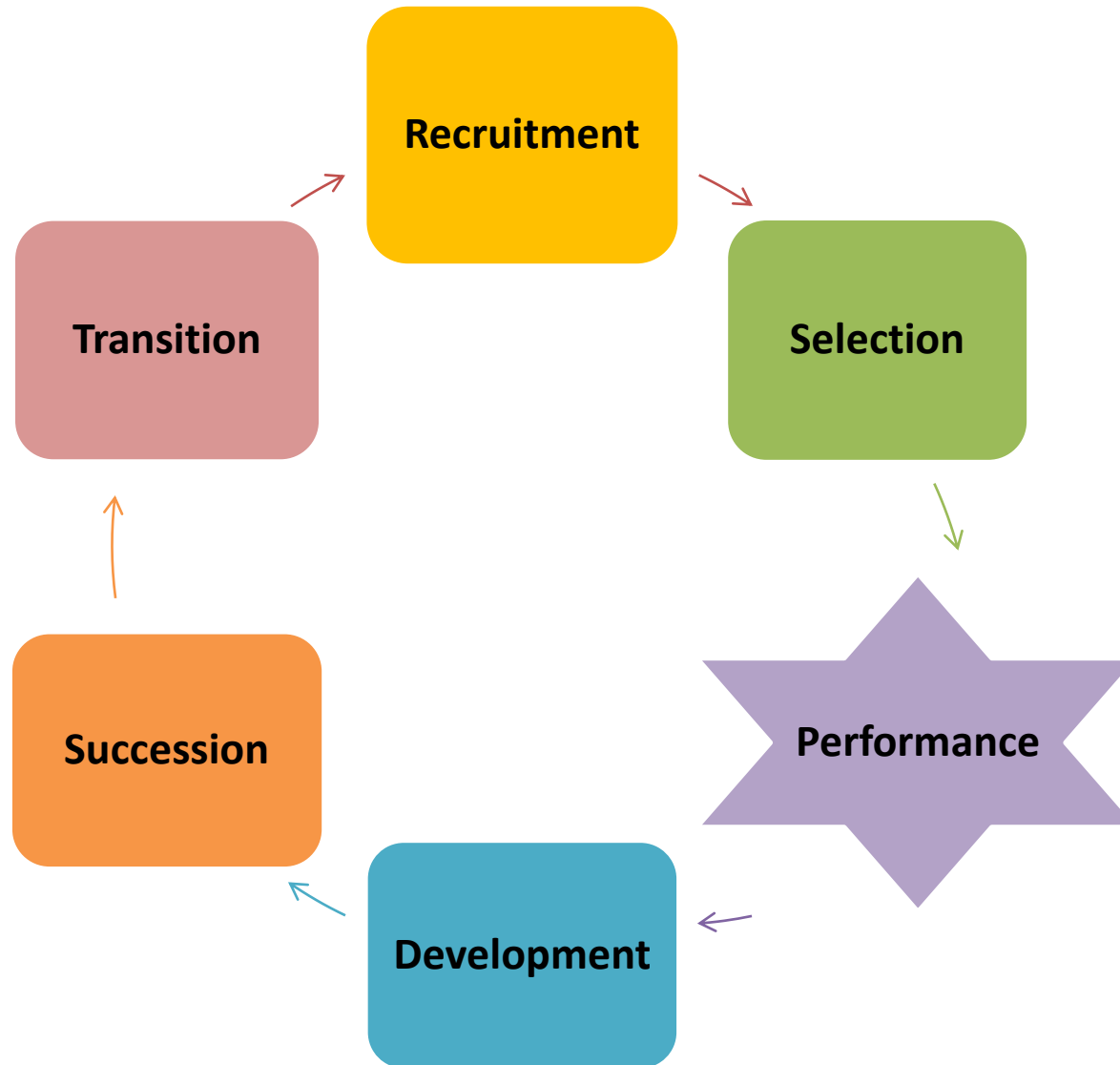
Criminal convictions

- **During the selection process ask candidates if they have any convictions not considered as ‘spent’**
- **Certain convictions become ‘spent’ after a certain period of time and do not have to be disclosed**
- **It is unlawful to question a prospective employee about a ‘spent’ conviction**
- **If a person does have a criminal conviction that is not ‘spent’, consider the nature of the offence / conviction and its relevance to the job role in question**

Criminal records checks

- **Certain job roles such as those working with children and vulnerable adults, convictions are never counted as ‘spent’ and must be declared**
- **Anyone working with children and vulnerable adults must have a Criminal Records Bureau check – this would highlight any previous convictions**
- **Make it clear in job advertisements if criminal records checks are required – this allows applicants to consider whether they want to be put in the situation**

Employee Life Cycle



Induction Preparation

- Set up workstation, email account etc.
- Order any equipment required e.g. laptop, mobile phone, personal protective equipment
- Arrange for new employee to attend a formal induction – provide details of the Company’s background, vision, corporate objectives, and company policies e.g. equal opportunities, dignity at work, absence etc.
- **Identify performance standards and objectives – set clear performance expectations at the outset**
- Identify and arrange any training required
- Consider appointing a ‘buddy’ or ‘mentor’

Probationary Period

- **Include within employment offer documents any period of probation that the employee will be subject to**
- **During the probationary period monitor and assess: work performance / quality, ability and conduct**
- **Confirm the successful completion of a probationary period before the date of its expiry**
- **If the probationary period is unsuccessful or there are concerns you may want to extend the probationary period or terminate the contract with notice**

Performance Management

- **Corporate strategic goals provide the starting point for business and departmental goals**
- **This should be followed by agreement on performance and development**
- **Leading to the drawing up of plans between individuals and managers, with continuous monitoring and feedback supported by formal performance reviews / appraisals**



SMART Objectives



- **S**pecific: *what specifically do I want to be achieved?*
- **M**easurable: *how will I measure that it has been achieved?*
- **A**chievable: *is it realistically achievable?*
- **R**esults-orientated: *what results do I want to see?*
- **T**ime-bound: *when do I want to see the results by?*

Appraisals & objective setting



- **Identify goals of the Company and Department**
- Establish and agree performance objectives based on the individual's job role
- Establish and agree developmental objectives
- Use the appraisal / performance review form to write the agreed objectives – ensure the employee receives a copy
- Provide informal, regular feedback on performance and periodic coaching
- Conduct a mid year review
- Review the employee's Personal Development Plan

Performance Management

Managers should set an example, be a role model, provide leadership and inspiration and ensure their people:

- ✓ Know and understand what is expected of them
- ✓ Have the skills and ability to deliver on these expectations
- ✓ Are supported by the Company to develop the capacity to meet these expectations
- ✓ Are given constructive feedback on their performance
- ✓ Have the opportunity to discuss and contribute to individual and team aims and objectives
- ✓ Continuously develop for existing and future roles

Other areas to manage...

- **Annual leave**
- **Absence – short-term & long-term**
- **Maternity / paternity / parental / adoption leave**
- **Flexible working requests**
- **Overtime**
- **Recruitment & selection**
- **Probationary periods**
- **Training & development**
- **Succession planning**
- **Discipline & dismissal**
- **Grievances**

UK EAT finding re absence

Zulhayir v JJ Food Service Ltd:

- Zulhayir had been on sick leave for 6 months
- **Employer tried contacting him several times**
- Letter sent asking if he still wished to work for Company, saying if he didn't respond by a certain date the Company would consider him to have terminated his employment
- **Letter subsequently returned to Company as he had moved**
- Zulhayir claimed unfair dismissal – original ET struck out the claim
- **Zulhayir appealed – EAT upheld his appeal confirming there was no legal basis of 'self-dismissal' and that this would not prevent a person (who would otherwise qualify for unfair dismissal) from making a claim**

Managing Performance Problems

Actions you could take...

- **Ensure your staff know what is expected of them and the standards to be achieved**
- **Create SMART objectives and measures of success**
- **Provide regular coaching and constructive feedback**
- **Conduct appraisals / performance reviews**
- **Provide appropriate training, as required, or a ‘buddy’**
- **Discuss the person’s job description**
- **Try to deal with underperformance informally if you can**
- **Follow up on any actions you agree to take e.g. coaching**
- **Regularly monitor the situation**
- **Commence formal action if no improvement**

Performance problems

- **Address underperformance issues as they arise – DO NOT wait until the next performance review to address the situation**
- **Continue to monitor performance - if no improvement, begin a performance improvement process**
- **Ensure you understand and follow the Company's Disciplinary Policy and Procedure – *ask HR for guidance***
- **Document performance discussions during the improvement process and set regular review meetings to monitor progress**
- **If a grievance is raised, take steps to deal with the matter quickly so that any discontent or disruption can be minimised**

Managing Discipline & Grievances

Disc – Policy & Procedure

- ✓ Be in writing and non-discriminatory
- ✓ Provide for matters to be dealt with speedily
- ✓ Allow for information to be kept confidential
- ✓ Give examples of misconduct and gross misconduct
- ✓ Tell employees what disciplinary action might be taken
- ✓ Say what levels of management have the authority to take the various forms of disciplinary action
- ✓ Require employees to be informed of the complaints against them and given any supporting evidence before a disciplinary meeting

Disc – Policy & Procedure

- ✓ Give employees a chance to have their say before management reaches a decision
- ✓ Provide employees with the right to be accompanied
- ✓ Provide that no employee is dismissed for a first breach of discipline, except in cases of gross misconduct
- ✓ Require management to investigate fully before any disciplinary action is taken
- ✓ Ensure that employees are given an explanation for any sanction and allow employees to appeal against a decision

Disc – Policy & Procedure

- ✓ **Apply to all employees, irrespective of their length of service or status**
- ✓ **Allow for an investigatory period of suspension with pay**
- ✓ **Suspension should be brief and not used as a sanction against an employee prior to a disciplinary meeting and decision**
- ✓ **The employee will be heard in good faith with no pre-judgement of the issue**
- ✓ **Where the facts are in dispute, no disciplinary penalty is imposed until the case has been carefully investigated and there is a reasonably held belief that the employee committed the act in question**

D & G – An Overview

- Employment tribunals are required to take into account the ACAS Code of Practice on Disciplinary & Grievance Procedures 2009 (UK) / Code of Practice on Disciplinary & Grievance Procedures in Employment (IOM)
- **Good employment relations practices – including recruitment, induction training, communications and consultation can prevent many discipline and grievance problems arising**
- You could consider using *mediation* by a third party

Handling Discipline - Overview

- **Take informal action wherever possible**
- **Where formal action is required:**
 - Investigate and establish the facts
 - Notify the employee in writing and invite to a meeting
 - Offer the right to representation (colleague or trade union official)
 - Hold a meeting
 - Allow the employee to state their case
 - Consider the facts and evidence
 - Decide on any action to be taken
 - Inform the employee of the outcome e.g. written warning, final written warning, dismissal or some other sanction
 - Advise the employee of their right of appeal and the process

Written Records

- **Written records should be kept and treated as confidential – these should include:**
 - The complaint against the employee
 - The employee's defence
 - Findings made, actions taken and the reason for actions taken
 - Whether an appeal was lodged and the outcome of the appeal
 - Any grievances raised during the disciplinary procedure
 - Subsequent developments, and
 - Notes of any formal meetings

Summary

- **By adopting an ‘open door’ approach to dealing with employee concerns, the majority of these should be able to be dealt with satisfactorily in an informal way**
- **Ensure you understand the Company’s Disciplinary and Grievance Policy and Procedures – *ask HR for guidance***
- **Deal with misconduct or performance concerns, or grievances raised, as they arise – *and document them well!***
- **Review any corrective actions taken to ensure that they are effective**

Grievance Issues

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

Grievance Policy & Procedure



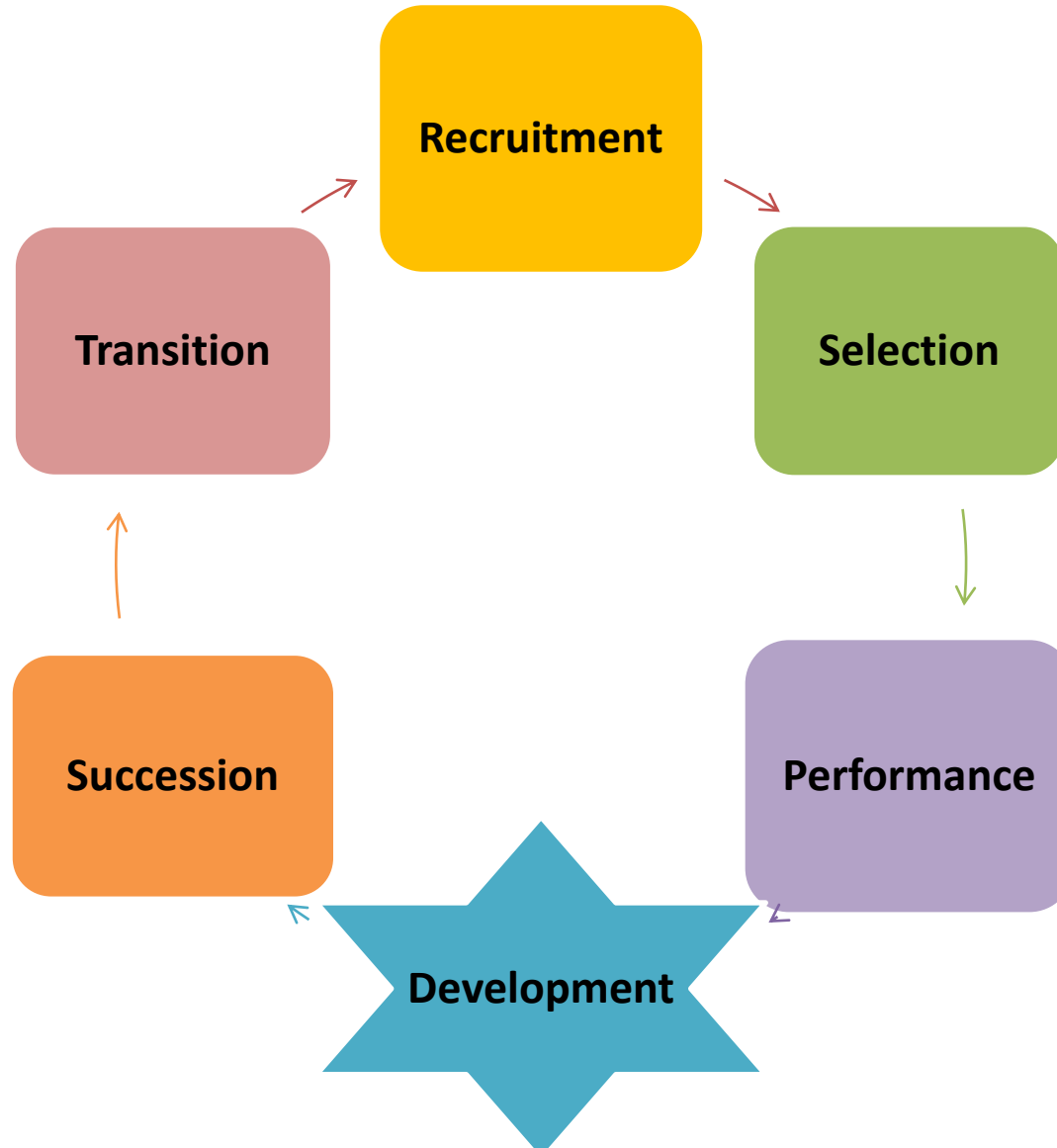
- In writing and state process to be followed: informal / formal
- **Employee to provide details of grievance in writing**
- A meeting to take place with the employee's right to be accompanied
- **The decision / outcome to be provided in writing**
- Right of appeal against the decision
- **Written records should be taken, treated as confidential, be accurate and include: the nature of the grievance, what was decided and actions taken, the reasons for the action, whether an appeal was lodged and its outcome, any subsequent developments**
- If any corrective action taken – review to ensure it is working

UK EAT re gross misconduct

Siddons vs The Tontine Hotel:

- Kitchen Porter & Head Chef dismissed for gross misconduct for taking drinks from the hotel bar
- ET found employer was entitled to dismiss – but the dismissal was *procedurally unfair* because a) the person who conducted the investigation was involved in the disciplinary hearing, b) the person who took the dismissal action wasn't present at the disciplinary hearing – instead they relied on second-hand information
- The employees appealed with no complaint about the employer's conduct
- Tribunal found the re-hearing of the case during the appeals process mitigated/cured the majority of the procedural problems – due to the circumstances the compensatory award was reduced by 100% and the basic award by 75%
- The employees appealed to the EAT against the deductions – the appeal was rejected and the basic award reduction increased to 100% - the complainants received no award

Employee Life Cycle



Motivate, Engage & Develop



- **Different people are motivated by different things – identify what these are e.g. money, praise, recognition, development opportunities**
- **Involve employees to engage and motivate them e.g. ask their views on process or department improvements, listen to them, value their opinions, involve them in planning etc**
- **Ensure that people feel part of the team from the beginning**
- **Establish clear expectations – dept / team and individual**
- **Share expert knowledge across the team e.g. presentations**

Motivate, Engage & Develop



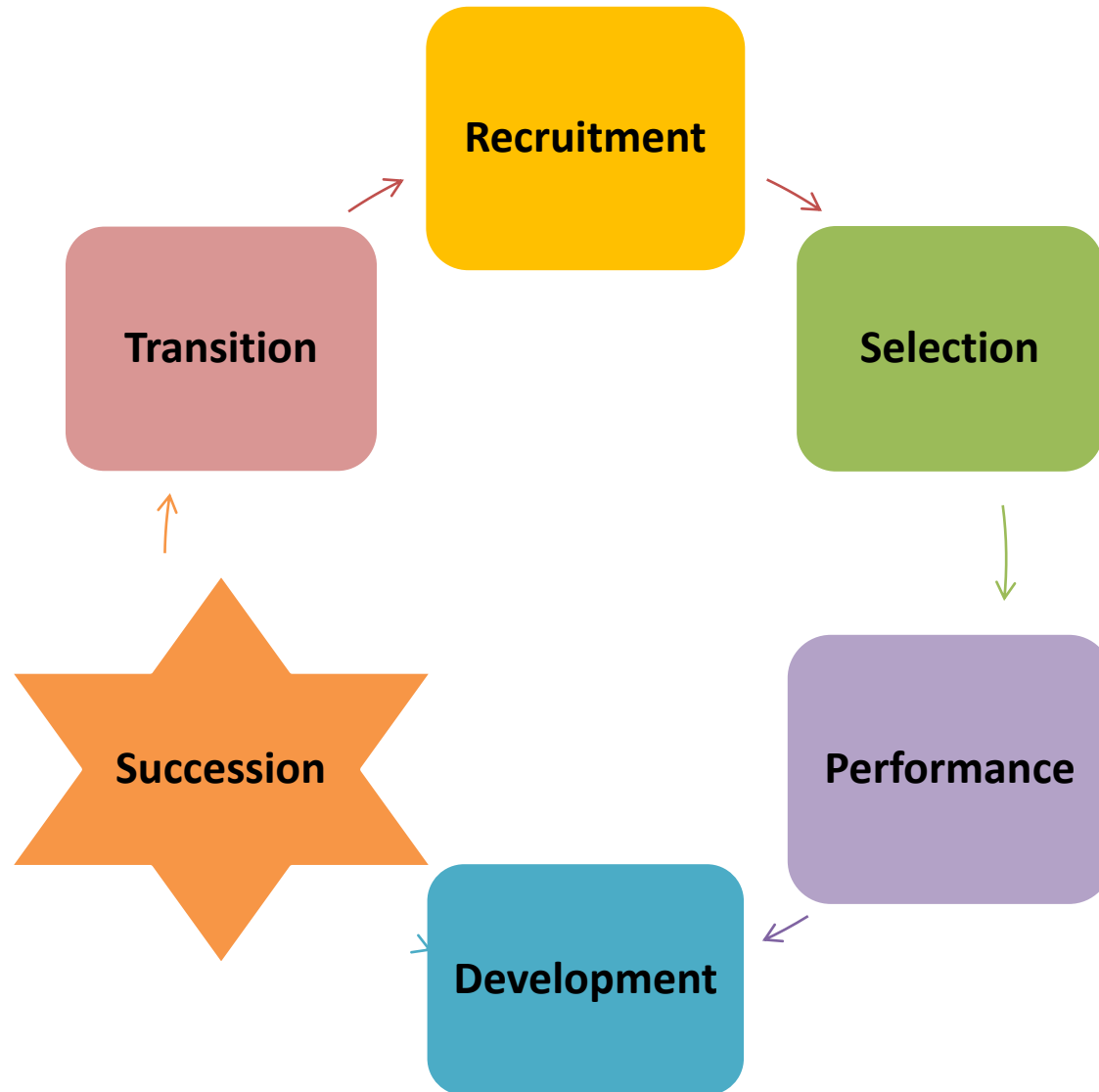
- **Provide ongoing constructive feedback; recognise achievement**
- **Make time to develop your people e.g. coaching, on-the-job training, external courses, study support, projects**
- **Look for development opportunities and provide ‘stretch’ in their job roles – delegate tasks, let people deputise, reorganise work so development occurs**
- **Manage performance, discuss ongoing development and career aspirations regularly - and plan appropriately**
- **Be an effective leader – inspire others, ‘walk the talk’ and ask for feedback on your own performance**

Personal Development Plan



- Use Personal Development Plans – these should be *self-driven*
- A PDP will help translate goals into action steps, and will help people stay on track to achieve these goals
- Review and update PDPs regularly; adjust as necessary
- Can be used as evidence of Continuous Prof Development
- Can assist with identifying future successors
- Use PDPs as a motivation tool – *recognise achievements*

Employee Life Cycle



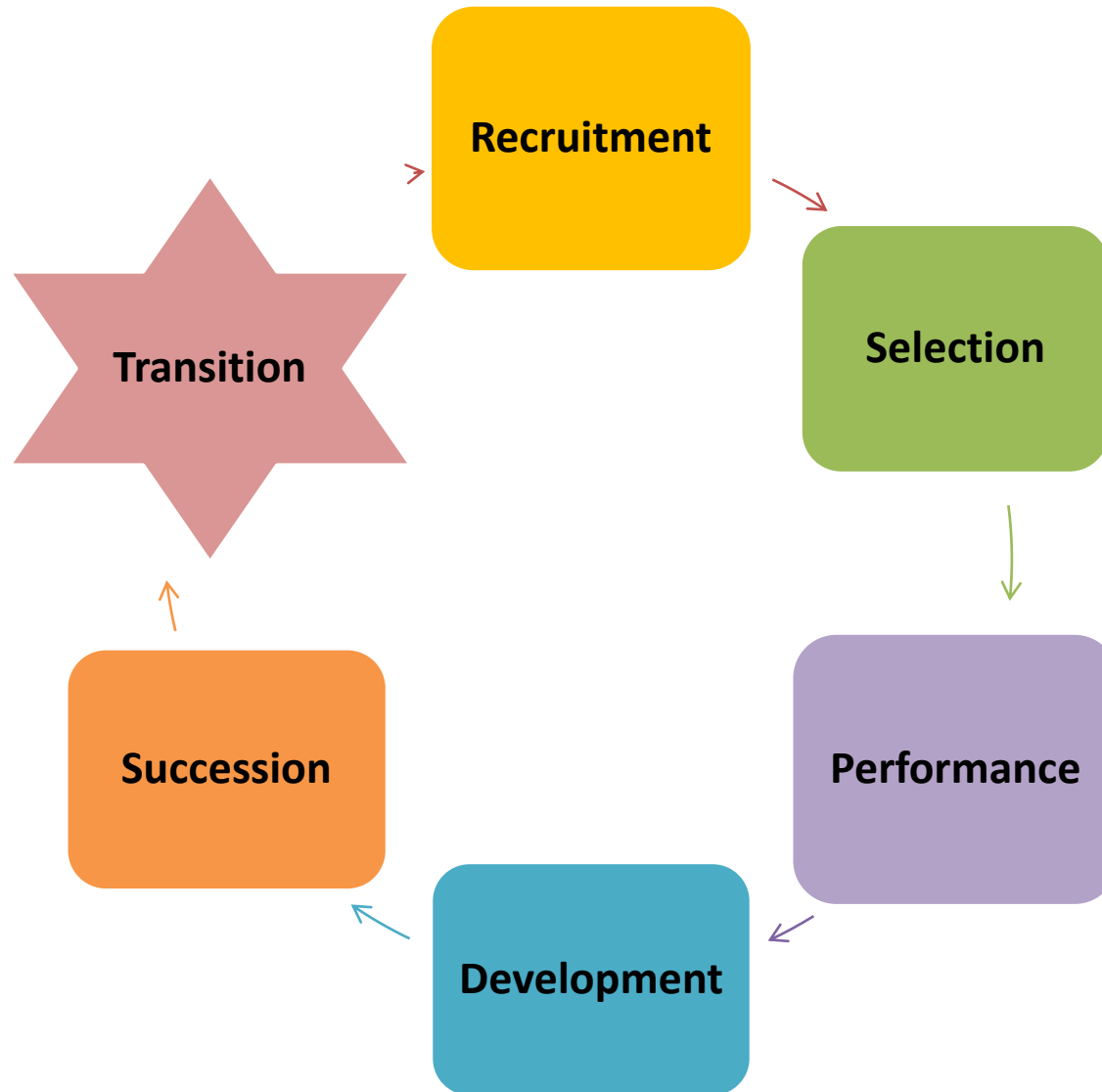
Succession Planning

- ✓ **Identify the ‘key roles’ to be included in succession planning**
- ✓ **Identify any known succession timescales e.g. retirement dates, promotions, internal transfers etc.**
- ✓ **Include mobility options if relevant e.g. UK, IOM, Europe etc.**
- ✓ **Define the skills and competencies required to undertake the roles**
- ✓ **Identify those people with the potential to assume greater responsibilities and their likely succession timescales e.g. short-term (6-12 mths), medium-term (1-2 yrs), long term (2 yrs+)**

Succession Planning

- ✓ **Assess what the current ‘skills gaps’ are**
- ✓ **Plan the development activities and experiences that are needed to bridge the identified ‘skills gaps’**
- ✓ **Validate that skills are being learnt and knowledge is being transferred**
- ✓ **Continue to manage performance and development on an ongoing basis and regularly update succession plans**
- ✓ **Use your Succession Plan when considering future business changes and/or staffing decisions**

Employee Life Cycle



Managing the Transition



- **Voluntary leavers – promotions, internal transfers, resignations**
- **Involuntary leavers – dismissals, redundancy, retirements**
- **All need to be managed appropriately**
- **Review your Succession Plans**
- **Commence replacement activities, where appropriate**
- **A planned hand over of work to progress, where possible**

Unfair Dismissal

To succeed in an unfair dismissal case, the *employee* must show:

- that there has been a dismissal
- they qualify for the right to claim, namely if he or she:
 - was an employee
 - was employed for at least one year (except where the employee has been dismissed for an automatically unfair reason that does not require a qualifying period)
 - commenced the claim within three calendar months of dismissal
- the employer *does not* have a fair reason for the dismissal

Justifying the Reason

- The *employer* has to show: the reason for the dismissal, and that the reason was a *potentially fair reason*
- The employer must be able to justify the dismissal for one of six reasons, otherwise the dismissal will be *unfair*:
 - Capability (qualifications, incompetence, illness)
 - Conduct (misconduct, gross misconduct)
 - Redundancy (job ceases/diminishes, workplace closes)
 - Statutory illegality (e.g. unable to renew work permit)
 - Some other substantial reason (SOSR)
 - Retirement

Unfair Reasons

- There are various ***automatically unfair*** reasons for dismissal that employees can claim without any qualifying period of service with their employer e.g. asserting a statutory right, making a protected disclosure
- **Where there is unlawful discrimination e.g. sex, sexual orientation, marital status, race, religion or belief, age (UK), and disability (UK) – compensation is unlimited in the UK; IOM maximum compensation is £50,000**
- An award for injury to feelings may be issued – up to £5,000 in the IOM

Unfair Dismissal Remedies

- **Compensation (*basic award* and a *compensatory award*)**
 - UK maximum basic award is £12,000
 - IOM is one week's pay for each year of service (there is no limit on the number of years, although the maximum weekly pay cap is £480)
 - In addition a *compensatory award* could be made
 - Tribunal must make a *compensatory award* that is 'just and equitable' in the circumstances – UK: compensatory award maximum limit is £68,400; IOM: £50,000
- Reinstatement (to same / old job), or
- Re-engagement (if old job no longer exists, another job)

Wrongful Dismissal

- **Wrongful dismissal** – a breach of an express or implied term of the contract e.g. inadequate notice to terminate or inadequate payment in lieu of notice
- **Compensation is a damages payment for breach of contract - *a UK Employment Tribunal could award up to £25,000; IOM compensation is limited to the person's notice period (an employee who has been wrongfully dismissed may claim damages in proceedings in the High Court – no qualifying period)***
- **If an employer implements a summary dismissal for misconduct which is not *gross*, they could be liable for damages for wrongful dismissal**

Other Costs...

- Management time
- Potential Employment Tribunal claims
- Associated representation costs
- Damage to the Company's reputation
- Loss of clients and revenue
- Poor morale and productivity of existing staff
- May experience difficulties in attracting and retaining staff

UK EAT re ex-gratia payments

Publicis Consultants UK Ltd vs O'Farrell:

- O'Farrell's notice period was 3 months
- She was made redundant on 4 days' notice and received a letter stating she would receive various sums including an "ex-gratia payment equivalent to three months' gross salary"
- O'Farrell claimed unfair dismissal and breach of contract for failing to pay her notice pay – she claimed the 'ex-gratia' payment was not payment of her notice period
- The Tribunal and EAT agreed and concluded that there was nothing in the letter she received to confirm that the ex-gratia payment related to her notice period
- *In this case the employee received a double pay out – using the words 'ex-gratia' should only be used for payment in excess of a person's contractual entitlement and intended as a gift to the employee*

HR Policies, Procedures & Employment Documents

UK ET decision re social media



Preece vs J D Wetherspoons Plc:

- Preece had been threatened by customers in the pub where she worked and vented her frustrations by making abusive and inappropriate comments on Facebook – believing that only some work colleagues and friends could view the comments
- **The customer's daughter saw the comments and complained**
- **The Company's Disciplinary Policy stated that gross misconduct included a failure to comply with its email, internet and intranet policy, which provided that disciplinary action could be taken in relation to blogs or comments on MySpace or Facebook that "lowered the reputation of the organisation, staff or customers" or an employee committed an act which affected "employee or customer relations or which brings the Company's name into disrepute"**
- **Preece had previously signed to agree to follow Co. procedures**
- ***Facebook comment about a workplace incident justified gross misconduct dismissal***

HR Policies & Procedures

- **Absence & Attendance Management**
- **Adoption Leave**
- **Alcohol & Drugs**
- **Annual Leave**
- **Anti-Bribery**
- **Anti-Harassment & Bullying**
- **Discipline & Dismissal**
- **Discretionary Performance Bonus**
- **Employee of the Month**
- **Equal Opportunities**
- **Flexible Working**
- **Grievances**
- **Health & Safety**
- **Hours of Work**
- **Induction**
- **IT & Data Security**
- **Learning & Development**
- **Maternity Leave**
- **Overtime**
- **Parental Leave**

HR Policies & Procedures

- **Paternity Leave**
- **Performance Management & Appraisal**
- Probationary Period
- **Public Holidays**
- Recruitment & Selection
- **Recruitment Reward**
- Redundancy
- **References**
- Relocation
- **Remuneration**
- **Resignation**
- **Secondary Employment**
- **Special Leave**
- Stress Management
- **Study Support**
- Suggestion Scheme
- **Talent Management & Succession**
- Whistleblowing
- **Working Environment**

HR Policies & Procedures

- If your policies, procedures and employment documents are not compliant with current employment legislation you could be breaking the law
- This could result in employment claims, costly damage to your business financially as well as being detrimental to your business reputation
- ***An 'HR Healthcheck' can identify areas where you are not compliant and suggest areas for improvement***



Any questions?

