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3HR Legal Weekly

HR

Appraisals

We are thinking of updating our appraisal system. What should we be aware of?

Appraisals are important for both employees and organisations. They can raise standards of performance and efficiency, improve relationships and communication, identify training and development needs and assist in human resource planning. They can also add to an employer's brand image, helping to retain staff and becoming a more attractive place to work.

Goal setting and monitoring are two fundamental parts of appraisals. People are usually motivated when the goals they have set are relevant, interesting and at the right level of challenge for them as an individual. The organisation's top level goals should be made available and understandable to all staff at all levels. Most organisations only carry out appraisals and revise goals once a year, but finding ways to monitor progress towards goals more frequently leads to better results. Having regular catch-up meetings with employees is important because there should be no surprises for an employee when they receive their appraisal.

Appraisals should be conducted by managers who have received training on the process, its benefits and in communication techniques including questioning (open and probing questions) counselling, active listening and giving feedback. The focus should be on finding development solutions together. Individuals should be encouraged to consider how their role and performance contributes to organisational objectives.

Feedback should be specific, precise and objective, examples should be given (using a wide range of documentation) and the focus should be on facts and behaviour, not on personality. Any feedback should be given as soon after an event as possible, not left until a performance review months later.

3HR's experienced HR Consultants can provide your management team with appraisal training covering all aspects of the appraisal process including how to have difficult conversations with employees, how to rate employees fairly, and how to set SMART goals. Please contact your usual consultant for more information.



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Commercial

Agreeing payment in advance

In the recent case of *D&K Drost Consult GmbH and another v Foremost Leisure (Holdings) Ltd*, the Court of Appeal upheld a decision at first instance that the project managers and architects who carried out preliminary services on a hotel development should be paid for that work.

It was intended that the project managers and architects would secure planning consent initially and then would be given the substantive work on the project. The judge found that there was an expectation that the project managers and architects would be paid for the preliminary work that they undertook during this period.

The developer became dissatisfied with progress on the project and so engaged another architect. The existing architect's involvement ceased and the project manager continued to work on the project for a couple of months, but then stopped working.

There was no formal contract between the developer and the project managers and architects as it was intended that this would come after planning consent was secured. Instead, a 'remuneration offer' was sent to them after their involvement ceased, which would be payable once planning permission had been received. This was obtained 12 months later.

The judge found the sum in the remuneration offer to be payable, which the Court of Appeal agreed with. The Court of Appeal was reluctant to interfere with a judge's findings of fact which were supported by evidence, as it would not be possible to come to a different conclusion from that reached by the judge.

The case highlighted the need to agree remuneration or the terms of payment upfront in situations where no formal contract has been entered into, especially in construction matters where there is a risk that the project may not proceed.

If you would like advice about any commercial relationships you have entered into or if you would like to have your commercial contracts reviewed, please contact us.

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