This human resources manual has been developed as a useful, go-to resource for IDA members, particularly practice owners.

It covers essential employment law and human resources topics that all employers (and employees) should be aware of.

This manual should be used in conjunction with the members’ section of the IDA website, where you can download template contracts, policies and procedures from the Practice Management section.

If you need any further assistance or guidance on the matters covered in the pack, please contact me in IDA House on 01-295 0072, or if you have a particular query on a HR/staffing issue, call IDA House and I can offer expert advice and guidance.

We deal daily with queries from members regarding all aspects of HR and employment law, from contracts, to maternity leave and sick leave, to disciplinary issues.

Roisín Farrelly
Employment and Communications Officer
Recruitment is a key human resources (HR) function for your dental practice. The objective of any recruitment and selection process is to obtain the right person for the right job at the right time in a cost-effective manner.

It is important that the recruitment and selection process is carried out in an objective and impartial manner. The employer must not demonstrate bias and/or discriminate against any candidate on the basis of gender, age, marital status, family status, sexual orientation, disability, race, religion or membership of the Traveller community (for more on equality in the workplace, see Section 11). Interview questions should avoid asking about family circumstances, a candidate’s age, a particular disability that a candidate might have, and so on.

All records in relation to the recruitment process should be kept on file for at least 12 months before being discarded.

Steps in the recruitment and selection process
1. Personal specification/criteria – decide what qualifications, skills and experience are needed.
2. Advertising – decide the contents of the advert, and where and how to advertise.
3. Shortlisting – decide which candidates should be called for interview based on their merit and whether they fit the criteria set down.
4. The interview – sample interview questions can be downloaded from the IDA website.
5. Interview assessment – compare the attributes of the candidates against specific criteria laid down in the personal specification and award marks.
6. Checks – check the references of the preferred candidate and that all other requirements are in place, e.g., Garda vetting if needed, Dental Council registration, professional indemnity if required, and so on.
7. Appointment – send a written letter of offer to the successful candidate and agree a starting date. Sample letters of offer and letters of regret can be downloaded from the IDA website.
8. Present contract to new employee.

If a pre-employment medical forms part of the recruitment and selection process, best practice suggests that candidates should complete their medical prior to the job offer being made. It is important that the employer does not use a condition that can only affect females as a means of preventing them taking up a vacancy to which they would otherwise be appointed, e.g., pregnancy. Candidates who, because of pregnancy or maternity leave, cannot start work at the required starting date, should not be treated less favourably for this reason.

Similarly, if following a medical examination, it is discovered that a person has a disability, then the job offer cannot be withdrawn unless there is evidence that a person with such a disability could not do the job. For example, if it is discovered that the person offered a job has diabetes or epilepsy, a job offer cannot be withdrawn unless the medical advice demonstrates that the individual concerned could not do the job, e.g., for health and safety reasons. The Acts state that in relation to persons with disabilities, the employer must do all that is reasonable to accommodate the needs of a person with a disability so long as it does not place a disproportionate burden on the employer. Once satisfactory medical and reference checks have been completed, a written letter of offer should be given.
## Recruitment Checklist

1. Has the vacancy been agreed by the responsible manager?  
   - YES □ NO □

2. Is there an up-to-date job description for the vacant position?  
   - YES □ NO □

3. What are the conditions of employment (salary, hours, holidays, etc.) for the vacant position?  
   - YES □ NO □

4. Has a personal specification been drawn up?  
   - YES □ NO □

5. Has a notice of the vacancy been advertised internally?  
   - YES □ NO □

6. Has a job advertisement for external use been agreed and forwarded to relevant agencies, newspapers, etc.?  
   - YES □ NO □

7. Do all potential candidates (internal and external) know where to apply and in what form?  
   - YES □ NO □

8. What arrangements have been made for drawing up a shortlist of candidates?  
   - YES □ NO □

9. Have the interviewing arrangements been made and the candidates informed?  
   - YES □ NO □

10. Have potentially successful candidates been referred for medical examination?  
    - YES □ NO □

11. Have references and other requirements been checked and confirmed?  
    - YES □ NO □

12. Have offer letters been agreed and despatched to successful candidates?  
    - YES □ NO □

13. Have rejection letters been sent to unsuccessful candidates?  
    - YES □ NO □

14. Have contracts of employment been drawn up and signed by new employees?  
    - YES □ NO □

15. Have the necessary procedures for placement, induction and follow-up of new employees been put into effect?  
    - YES □ NO □
All employees are legally entitled to a written statement setting out certain terms and conditions of employment. This usually takes the form of a contract of employment.

The Employment (Miscellaneous Provisions) Act 2018 requires employers to provide a written statement to employees outlining their basic terms of employment within five days of the commencement of their employment. This statement must include information on “the number of hours which the employer reasonably expects the employee to work”, both per day and per week. Within two months of commencing employment, employees must be provided with a more detailed written statement – under the Employment (Information) Acts (1994-2014) – to include the following information:

1. Full names of the employer and the employee.
2. Address of the employer in the State.
3. Place of work or a statement that the employee is required or permitted to work at various places.
4. Job title or the nature of the work.
5. Date of commencement of the employment.
6. In the case of temporary contracts, the expected duration of the contract or, if for a fixed term, the date on which the contract expires.
7. Rate of pay or method of calculating pay, e.g., €12 per hour or a certain fee per patient seen.
8. Pay reference period, e.g., fortnightly or monthly.
9. Details of how remuneration is paid: weekly, monthly, etc., together with confirmation that an employee may request written details of his/her hourly rate of pay.
10. Terms or conditions relating to hours of work (including overtime).
11. Details of rest periods and breaks.
12. Terms or conditions relating to paid leave.
13. Terms or conditions relating to incapacity for work due to sickness or injury.
14. Terms or conditions relating to pension schemes if applicable or access to a Personal Retirement Savings Account.
15. Notice period to be given and received by the employer.

There are other terms that could be included in a standard contract of employment.

1. Probationary period.
2. Flexibility/interchangeability.
3. Lay-off/redundancy/short-time working.
4. Grievance procedure.
5. Disciplinary procedure.
7. Deductions from pay.
8. Retirement age.

The employer is obliged to keep a copy of the statement during the period of employment and for one year after the termination of the employment. Pro forma contracts of employment for dental surgery assistants, hygienists and associates are available on request from IDA House. A separate template agreement for self-employed associates, and advice on engaging self-employed associates, is also available on request. You should note that if an associate is self employed they are not subject to the employment legislation set out in this booklet.

Please note that terms and conditions as set down in the contract of employment, including working hours and remuneration, cannot be varied without the consent of the employee. If you feel it is necessary to change an existing employee’s terms and conditions you should:

- seek the employee’s agreement and maintain clear communication with him/her;
- be able to explain why the change is necessary and inform the employee of the alternative;
- provide the employee with a minimum of one month’s notice of any variation to their terms and conditions;
- consider whether the new terms can be imposed in stages or whether an incentive can be offered to assist the employee in accepting the change; and,
- contact the IDA for advice.
Under the Protection of Employees (Fixed-Term Work) Act 2003, fixed-term employees are entitled to be treated no less favourably than a comparable permanent employee.

A fixed-term employee is employed on a contract of employment where there is a condition determining the end of the contract such as arriving at a specific date, completing a specific task or the occurrence of a specific event. This condition should be set out clearly in the employee’s contract of employment or statement of terms and conditions.

If an employer renews a fixed-term contract, they are required to put in writing the ‘objective grounds’ justifying the renewal of the fixed-term contract and explaining why a permanent contract or contract of indefinite duration is not being offered. This needs to be done, at the latest, by the date of the renewal. In general, it is prudent for employers to assess, at the initial stage of an appointment of an employee to a fixed-term contract, the rationale justifying the decision to enter into a fixed-term contract and not to engage an employee on a permanent basis.

Successive fixed-term contracts
The Fixed-Term Work Act also regulates the use of successive fixed-term contracts: employees should not be employed on a series of fixed-term contracts indefinitely.

If an employee has been employed on two or more fixed-term contracts for a period of four years, any further renewal of the fixed-term contract must be on the basis of a permanent contract or a contract of indefinite duration (equivalent to a permanent contract).

Unfair Dismissals Act
Fixed-term workers are excluded from the protection of the Unfair Dismissals Acts by virtue of the fact that the contract has come to an end (either by expiry of the term or the arrival of the specific event) but only provided three conditions are met:

- the contract was in writing;
- the contract states that the Unfair Dismissals Act will not apply to a dismissal that occurs only as a result of the end of the contract arriving; and,
- the contract was signed by both employee and employer.

However, this applies to the first fixed-term contract only. It is important to note that in a situation where an employee has two or more successive fixed-term contracts and has over 12 months’ continuous service, the provisions of the unfair dismissals legislation will apply and the employer will be required to justify the dismissal in the normal manner.
Probationary periods allow an employer to assess an employee’s suitability for a role and, in certain circumstances, can facilitate the fair and reasonable termination of employment where there is a performance and/or conduct issue. As an employer, you should ensure that all contracts given to new employees contain a well-drafted probationary clause.

The clause should clearly state the duration of the probationary period. Usually, this is three to six months but can be up to a maximum of nine months. The clause should give you a discretionary right to extend the probationary period.

The clause should make reference to the contractual period of notice applicable to both the employer and the employee during the probationary period. This cannot be shorter than that provided by statute (i.e., one week where an employee has 13 weeks’ service). The clause should specifically refer to what codes/policies do and do not apply during the probationary period, e.g., the disciplinary code does not apply. The clause should state that you, as the employer, retain the right of immediate dismissal for instances of gross misconduct but this must be subject to an investigation/disciplinary process.

You should schedule a performance review in your diary and complete monthly probation reviews during the duration of the probationary period to discuss the employee’s progress in the role and to propose any improvements necessary. Following such a meeting, you should be in a position to consider whether the probationary period is to be extended, the employment is to be confirmed or the employment relationship is to be terminated.
Pay rates should be set down in the contract of employment.

Pay slips
All employees are entitled to receive a written statement/pay slip with every payment of wages that shows:
- gross wages (wage before deductions); and,
- the nature and amount of any deduction from the gross.

If a wage payment is made by credit transfer, the statement must be given as soon as possible after the transfer. If the payment is made by any other mode of payment, e.g., cash, cheque, or postal or money order, the statement must be given at the time of payment. Failure to give a wage statement, or failure to give one at the required time, is an offence and the employer is liable on summary conviction to a fine not exceeding €2,500.

Deductions
An employer is allowed to make the following deductions from an employee’s wage:
- any deduction required or authorised by law (e.g., PAYE, PRSI, USC);
- any deduction authorised by the terms of an employee’s contract (e.g., pension contributions); and,
- any deduction agreed to in writing in advance by the employee (e.g., overpayment for any miscalculation of wages, health insurance subscription, sports and social club membership subscription).

An employer may not make any other deductions from an employee’s wages.

National minimum wage
The national minimum hourly rate of pay for an experienced adult worker is €9.80 (from January 1, 2019). This is a legally binding minimum pay rate.
The Organisation of Working Time Act 1997 sets out statutory minimum rest periods and maximum working time as follows:

- a maximum average net weekly working time of 48 hours;
- a daily rest break of 11 consecutive hours;
- a weekly rest break of 24 consecutive hours;
- a minimum 15-minute rest break after working four and a half hours or a 30-minute rest break when working six hours or more;
- maximum average night working of eight hours; and,
- maximum hours of work for night workers engaged in work involving special hazards or a heavy physical or mental strain – an absolute limit of eight hours in a 24-hour period.

It is important that practice owners ensure that they comply with the maximum working time limits set down in the Act and that all employees are receiving their minimum break periods. If an employer is found to be in breach of the working time and rest break provisions set down in the Act, they may be required to pay compensation to an employee of up to two years’ salary.

Rest breaks at work

In general, an employee is entitled to a 15-minute break after the completion of four and a half hours of work. If the employee is working for six hours or more then he or she is entitled to a 30-minute break (the first break of 15 minutes can be included in this 30-minute break allocation). The employer is not obliged to pay employees for these break periods as they are not considered ‘working time’, i.e., not included when counting the total amount of time that the employee has worked.

For example, if an employee starts work at 8.00am they are entitled to take a 15-minute break at 12.30pm. At 2.15pm, when they have worked six hours (excluding the 15-minute break) they are entitled to take a break of 30 minutes. As they have already taken a break, the second break can be limited to 15 minutes. Alternatively, the employer can provide a consolidated break of 30 minutes starting no later than 2.00pm.

Daily rest

Under the legislation an employee is entitled to 11 hours of consecutive rest in each 24-hour period. This effectively means that having completed a day’s work, an employee cannot report back to work until 11 consecutive hours have elapsed. Time spent by an employee on ‘standby’ or ‘on call’ is not considered working time.

Weekly rest period

An employee is entitled to a period of 24 hours’ consecutive rest in each seven-day period. This period can be averaged over 14 days. Unless provided for in a contract of employment, an employee will be entitled to have Sunday off as his/her weekly rest period. Employees who are contracted to work on a Sunday have to be compensated in some way. The premium can be in the form of added payment, time off in lieu, a portion of shift premium or an unsocial hours premium.

Zero hours and banded hours

The Employment (Miscellaneous Provisions) Act 2018 prohibits zero-hour contracts, except in situations of genuine casual employment and where they are essential to allow employers to provide cover in emergency situations or to cover short-term absence.

In relation to employees on ‘banded hours’, where the employee’s contract of employment does not reflect the reality of the hours they habitually work, they will be entitled to be placed in a band of hours that better reflects the hours they have worked over a 12-month reference period.

Records

In order to show compliance with the provisions of the legislation, employers should keep records that detail the days and total hours worked in each week by each employee, as well as the rest breaks that were taken. The employer must retain records for a period of at least three years. Records should be kept at the premises or place where the employee works. An employer who fails to keep records may be liable for a fine.

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1 These can vary for some categories of workers (such as retail workers, non-consultant hospital doctors and members of the Defence Forces and the Garda Síochána) or where a collective agreement or sectoral employment order is in place.
The Organisation of Working Time Act 1997 sets out employees’ statutory entitlements in respect of annual leave and public holidays.

Entitlement to annual leave
All employees, whether full-time or part-time, are entitled to paid annual leave. In addition, there is no qualifying period of service to qualify for paid holidays. All time spent working qualifies for paid annual leave.

How to calculate the amount of paid annual leave due
There are three methods of calculating annual leave entitlement and the employee is entitled to whichever method gives them the greatest entitlement.

1. Where an employee works at least 1,365 hours in the leave year – he/she is entitled to four working weeks.
2. Where an employee works at least 117 hours per calendar month – he/she is entitled to one-third of a working week per calendar month.
3. Where an employee works fewer hours than the above, he/she is entitled to 8% of the hours actually worked during the year (subject to a maximum of four working weeks).

Examples
METHOD 1 Employee works five days per week at 40 hours per week, i.e., more than 1,365 per annum. Entitled to four working weeks = 20 days’ paid annual leave.
METHOD 2 Employee works four days per week at 40 hours per week, i.e., more than 117 hours per month. Entitled to one-third of four days = 1.34 days. 12 months x 1.34 = 16 days’ paid annual leave.
METHOD 3 Employee works 480 hours in a leave year (40 hours per month). Entitled to 8% of 480 hours = 38.4 hours’ paid annual leave.

Calculating how much to pay an employee on annual leave

**Employee paid on time basis or on salary**
If the employee’s pay is calculated wholly by reference to a fixed rate or salary, the amount paid to the employee for one week of paid annual leave is equal to the employee’s normal weekly pay before the annual leave commences. This payment includes any regular bonus or allowance but excludes any pay for overtime.

**Employee paid on productivity or commission basis**
If the employee’s earnings are based in part or entirely on a productivity or commission basis (e.g., based on the number of patients treated), the amount paid for one week of annual leave is calculated based on the average weekly pay of the employee (excluding any pay for overtime) over the 13 weeks immediately preceding the annual leave. If no time was worked by the employee during that period, the average weekly pay is calculated over the 13 weeks last worked by the employee before the annual leave commences.

Timing of annual leave
The employer can determine when holidays are to be taken but must give one month’s notice and have regard to the need for the employee to reconcile work and any family responsibilities, and the opportunities for rest and recreation available to the employee.

The holidays must be taken within the leave year or, with the employee’s consent, within six months of the following leave year. It is the responsibility of the employer to ensure that the employee takes his/her full statutory leave allocation within the appropriate period. Employees may, with the consent of the employer, carry over holidays in excess of statutory minimum leave to a following year.

What else you should know
- An employee’s contract of employment may provide for greater entitlements than the statutory minimum, so the contract is the first place where you should check your employee’s entitlement to annual leave.
- The Act does not allow an employer to pay an employee in lieu of annual leave, except in circumstances where the employment has terminated.
Where an employee ceases employment and annual leave remains to be taken, the employee should receive payment in lieu of the remaining annual leave, calculated at their normal/average weekly pay rate.

The annual leave of an employee who has worked for at least eight consecutive months in the leave year should include an unbroken period of two weeks.

Temporary employees build up entitlement to annual leave on the same basis as permanent employees.

Employees accrue entitlement to annual leave while on maternity leave, parental leave, carer’s leave and force majeure leave. Time spent on these types of leave is treated as time worked for the purposes of accrual of annual leave.

Employees accrue annual leave while on certified sick leave. Therefore, where an employee is on certified sick leave for part of an annual leave year, the employee will accrue annual leave entitlement in respect of that part of the annual leave year in addition to accruing annual leave entitlement for the days the employee was at the workplace.

An employer is required to retain annual leave records for at least three years but it is advisable to retain records for a longer period, up to 10 years.

Public holidays
There are nine public holidays in Ireland as follows:

1. New Year’s Day.
2. St Patrick’s Day.
3. Easter Monday.
4. First Monday in May.
5. First Monday in June.
6. First Monday in August.
7. Last Monday in October.

Conditions for qualifying for public holiday benefits:
- full-time employees have an immediate entitlement to public holiday benefits; and,
- part-time employees must have worked at least 40 hours in the five weeks ending on the day before the public holiday in order to qualify for public holiday benefits.

Entitlements of employees in respect of a public holiday
The employee is entitled to whichever of the following the employer determines:
- a paid day off on the day of the public holiday;
- a paid day off within a month of the public holiday, on a day decided by the employer;
- an additional day of annual leave; or,
- an additional day’s pay.

The employer should choose which one option they would like to grant and inform the employee of this one month before the public holiday is due to fall.

In the case of a part-time employee, it must first be established which days the employee would normally work. Where the employee would normally work on the day on which the public holiday is due to fall, they are entitled to the full benefit for the day. Where the public holiday falls on a day when the employee is not normally rostered to work, they are entitled to one-fifth of their normal working week. This benefit can be given in the form of payment or time off in lieu.

Where a public holiday falls on a weekend, or on a day not usually worked, there is no legal entitlement that the next working day be given to staff as a holiday. However, all full-time employees and part-time employees who have worked at least 40 hours in the five weeks prior to the public holiday are entitled to a paid day off within a month of the public holiday, an additional day of annual leave or an additional day’s pay.
There is no legal right to be paid while absent on sick leave. Consequently, it is at the discretion of the employer to decide their own policy on sick pay and sick leave.

However, if an employee’s contract of employment sets out sick pay entitlements as part of their terms of employment, a contractual right to sick pay then exists. Furthermore, in circumstances where no formal sick pay scheme exists in a dental practice, but it is the norm for employees to be paid when absent through illness, a right to sick pay entitlements may have been established through custom and practice. An employee who has no entitlement to pay while on sick leave may apply for illness benefit, subject to having sufficient social insurance contributions (PRSI). They need to apply for illness benefit within seven days of becoming ill. No payment is made for the first six days of illness, which are known as waiting days.

If an employee is entitled to sick pay, the employer will probably require the employee to sign over the illness benefit payment from the Department of Social Protection to the employer for the duration of the sick pay.

Sick leave and absence policy
All dental practices should have a policy on sick leave and absence. This should state:
- whether sick leave is paid or unpaid and in what circumstances, at what level and duration, e.g., a maximum of one month’s full sick pay in any 12-month period;
- notification/reporting procedures for absences on sick leave, e.g., contact a specific person by a specific time;
- return to work procedures;
- information on time keeping and absence management; and,
- certification requirements for absence on sick leave. Sickness of longer than three consecutive days will usually require a medical certificate from a doctor, which should state the nature of the illness and the expected return to work date. Longer absences may require weekly medical certificates.

Managing absence
Employers should maintain records of employee absences – including the duration, timing and reason for the absence – in order to identify any issues. Absence from work should be taken very seriously and if necessary, should be dealt with through the practice’s disciplinary procedure.

Short-term/sporadic absence
In dealing with this form of absence an employer should:
- identify a tolerable level of absence for all employees;
- where an employee’s level of absence is above the acceptable level, their attendance should be reviewed and the employee should be notified of this;
- the required improvement in attendance should be outlined to the employee and an opportunity for improvement be provided within a reasonable timeframe;
- if improvement is not forthcoming, disciplinary action may need to be taken under the practice disciplinary policy, including agreeing a reasonable timeframe for improvements to be made – if this is not met, the next stage of the disciplinary procedure should be invoked and so on until improvement is seen or the absence reaches levels to justify termination of contract; and, 
- please note that in order to discipline an employee for short-term absences, the employer must be able to prove that the employee had a pattern of short-term absences over a prolonged period of time. As such, accurate records of all employees’ working time must be kept.

Long-term absence
In cases of absence due to long-term illness, the employer should maintain and record contact with the employee throughout the period of the absence. The employer may request an accurate prognosis of
the employee’s fitness to return to work by requesting a medical certificate. The employee cannot return to work before the end date of the medical certificate. In some cases the employer may be expected to make ‘reasonable’ accommodations for the employee on his/her return to work or to consider whether alternative work is available for the employee.

In some cases, where an employee is absent for a prolonged period and where a medical specialist is of the opinion that there is no reasonable prospect of an early return to work, an employer may be justified in terminating the contract of employment. However, this is not a course of action that should be taken lightly and without seeking HR or legal advice.

Sample sick leave policies are available on the members’ section of the IDA website.

**Time off to attend a hospital appointment**

Employees are entitled to time off work to attend hospital appointments. However, except in the case of antenatal appointments (see Section 9 on maternity leave), they are not automatically entitled to pay for this time off. Though some employers will pay their employees while they attend hospital, they are not required to do so by law. An employer cannot force an employee to take annual leave to attend hospital appointments.
All female employees who are pregnant, who have recently given birth, or who are breastfeeding up to the 26th week after the birth are covered by the Maternity Protection Acts 1994 and 2004.

No minimum length of service is required. Under the Acts a pregnant employee is entitled to:

- 26 consecutive weeks’ maternity leave for women who commenced maternity leave on or after March 1, 2007, to include at least two weeks before the expected date of birth and at least four weeks after the birth;
- 16 weeks’ additional maternity leave to be taken immediately following the 26-week period (optional); and,
- social welfare payment (maternity benefit), if applicable, during the initial 26-week maternity leave period only.

Pay during maternity leave
In the absence of any contractual obligation, there is no requirement for an employer to pay employees while on maternity leave or the additional leave. However, an employer may be obliged to pay such leave where such a practice or policy is in operation in the workplace.

Notice
An employee must give at least four weeks’ written notice before the maternity leave is due to start. As the maternity leave must start no later than two weeks before the due date, written notice of intention to take maternity leave should be given to the employer six weeks before the due date. An employee must provide a medical certificate confirming the pregnancy and specifying the expected due date. If an employee wishes to take the additional 16 weeks they must give four weeks’ written notice before the additional leave is due to commence.

Paid time off for medical appointments
Employees are entitled to take paid time off to attend antenatal medical appointments. They are also entitled to paid time off for medical visits related to the pregnancy for 14 weeks after the birth, if they have returned to work within this period. There is no maximum or minimum amount of time off specified for these visits. They are entitled to as much time off as is necessary to attend each visit. This includes the time required to travel to and from the appointment and the time taken for the appointment itself. In order to apply for the leave, the employee must notify her employer in writing of the date and time of the appointment as soon as practicable and not later than two weeks before the appointment. An employer can ask the employee to produce an appointment card or another appropriate document showing the date and time of the appointment.

Antenatal classes
An employee is entitled to attend one set of antenatal classes (other than the last three) without loss of pay. The employee must give her employer two weeks’ written notice before each absence. The employee is entitled to as much time as is necessary to attend the classes, including travel time.

Health and safety leave
Pregnant employees, employees who have recently given birth and employees who are breastfeeding may be entitled to health and safety leave where there is any risk to their health and safety at the place of work. Employers are obliged to assess any risk to their safety or health and any possible effect on the pregnancy or breastfeeding from exposure to a hazard. There are a number of hazards specified, which broadly break down into physical, biological and chemical agents, to which exposure would be deemed hazardous. Employers must take preventive and protective measures to ensure the safety and health of the employee but if they are not able to do so and the employment results in a hazard to the employee, they must provide her with alternative work. If this is not possible the employee may be entitled to health and safety leave. An employer must pay the usual wage to an employee on health and safety leave for the first 21 days of such leave. Any leave that extends beyond that may attract a social welfare payment.
Return to work
An employee is entitled to return from maternity leave to the same job, under the same contract and under terms and conditions that are not less favourable than those that would have applied had she not been absent. The terms and conditions should incorporate any improvement to which the employee would have been entitled if she had not been on maternity leave.
If a return to the exact job is not reasonably practicable, the employer is under an obligation to provide suitable alternative work. The terms and conditions of any new role must not be substantially less favourable than the employee's terms and conditions prior to maternity leave.
Employees must give employers at least four weeks' written notice of the date on which they will return to work.

Other entitlements
Under the legislation qualifying employees also have the right to:
- accrual of annual leave while on maternity leave and additional maternity leave;
- protection against unfair dismissal on grounds of pregnancy or matters connected therewith;
- either breaks of one hour in the workplace, where facilities are provided for breastfeeding, or to a reduction in working hours (only applicable for the first 26 weeks after birth); and,
- subject to the employer's agreement, a right to terminate additional maternity leave in the event of the child becoming ill and to postpone maternity or additional maternity leave if the child is hospitalised. Maternity leave may only be postponed if the employee has taken at least 14 weeks' maternity leave, four of which have been taken after the due date. The maximum period of postponement is six months.

Paternity leave
Under the Paternity Leave and Benefit Act 2016, fathers or a “relevant parent” can apply for two weeks' paternity leave in respect of births and adoptions. Those entitled to paternity leave will receive a social welfare payment (Paternity Benefit), if applicable, for these two weeks.
Paternity leave has to be taken within 26 weeks of the birth of the child, and employers should be given four weeks’ notice in writing. Employees should provide proof of the expected date of birth of the child; this should generally be a doctor’s certificate confirming the due date, or confirmation of the actual date of birth if applying for leave after the birth.
There is also a provision within the legislation for leave at short notice, such as in the case of premature births.
In the absence of any contractual obligation, there is no requirement for an employer to pay employees while on paternity leave. However, an employer may be obliged to pay where such a practice or policy is in operation in the workplace. While an employee is on paternity leave, the employee shall be treated as if they had not been absent. This means, for example, that time spent on paternity leave is used to accumulate annual leave, service and so on.

What other rights does an expectant father have?
An expectant father is entitled to time off from work without loss of pay to attend the last two antenatal classes in a set before the birth.
A father is also entitled to the balance of the maternity leave or additional maternity leave where the mother dies on maternity leave or additional maternity leave.

Adoptive leave
An employed adopting mother or sole male adopter is entitled to 24 consecutive weeks of unpaid adoptive leave and a further 16 weeks’ additional unpaid adoptive leave. In general, the leave commences on the day of placement, but, in the case of a foreign adoption, some or all of the leave may be taken immediately before the day of placement. Employees must give at least four weeks’ written notice.
An employer is also entitled to be notified of the date of placement and given a certificate of placement. The certificate must be provided as soon as reasonably practicable, but no later than four weeks after the day of placement.
The employee has a right to return to the same job or suitable alternative, subject to providing the requisite notice requirements to his/her employer. An employee absent from work on adoptive leave (including additional adoptive leave) will accrue all entitlements associated with the employment (except remuneration), such as annual leave and public holidays.
An employee is entitled to time off during work hours without loss of pay to attend preparation classes and pre-adoption meetings with social workers/health board officials required during the pre-adoption process.
Each parent is entitled to 18 weeks’ parental leave for each child born or adopted. The leave must be taken before the child reaches eight years of age, or 16 years of age in the case of a child with a disability or long-term illness. In the case of adoption, if the child is aged between six and eight years at the time of the adoption, the leave must be taken within two years of the adoption order.

The leave may be taken as one block, or in separate blocks of a minimum of six continuous weeks, or with the employer’s agreement it can be broken up into smaller periods. The leave may not be transferred between the parents unless both are employed by the same employer, who has agreed to the transfer. In this case a maximum of 14 weeks of parental leave may be transferred from one parent to the other.

Generally, an employee must have at least one year’s continuous service with the employer before being entitled to take parental leave. However, where the employee has more than three months’ but less than one year’s service, and where the child is approaching the age threshold, the employee will be entitled to one week’s leave for every month of continuous employment completed with the employer.

Written notification of the intention to take parental leave should be given to the employer at least six weeks in advance. This notice should state the starting date and how long the leave will last. The employer may decide to postpone the parental leave, if granting the leave would have a substantial adverse effect on the operation of the practice. The postponement may be for a period not exceeding six months. The employer must notify the employee, in writing, of his or her intention to postpone the leave, no later than four weeks before the proposed date that the leave is due to begin. The employer must say why the leave is being postponed and must consult the employee before giving such notice. Generally, the employer may postpone the leave only once in respect of any particular child. Parental leave cannot be postponed by the employer once a confirmation document has been signed by both parties.

The employee and employer must prepare a confirmation document, once notification of the intention to take parental leave has been made. This document must be prepared no later than four weeks before the leave is due to begin and must include the following details:

- the date on which the leave will commence;
- the duration of the leave;
- the manner in which the leave will be taken; and,
- signatures of the employer and employee.

All employment rights other than remuneration and superannuation benefits are protected during parental leave. Employees are also entitled to return to the same job or suitable alternative employment when the leave ends. Since March 8, 2013, when an employee returns to work after taking parental leave, he/she is entitled to request a change in their work pattern or working hours for a set period. An employer must consider the request but is not obliged to grant it.

Employers must keep records of all parental leave taken by their employees. These records must include the period of employment of each employee and the dates and times of the leave taken. Employers must keep these records for eight years. If an employer fails to keep records they may be liable to a fine of up to €2,000.

Force majeure leave

Force majeure leave give employees a limited right to paid leave from...
work in times of family crisis. It arises where, for urgent family reasons, the immediate presence of the employee is needed away from work, for example, where a close family member is injured or ill. Under the Parental Leave Acts an employee is entitled to a maximum of three days force majeure leave in a 12-month period, or five days in a 36-month period. Part of a day is counted as a full day in the case of force majeure leave.

Force majeure leave does not give any entitlement to leave for an employee following the death of a close family member and there is no legal right to paid leave in times of bereavement. In such circumstances the employer may ask the employee to take annual leave to attend a funeral or take the day(s) as unpaid leave. Alternatively, the practice may have a policy on ‘compassionate leave’ depending on the employee’s contract of employment, custom and practice, or at the discretion of the employer.

The employee must notify you as soon as practicably possible that they need to avail of force majeure leave. Immediately on their return to work, they must make an application in writing to the employer, which should include their name, PPS number, name and address of employer, date(s) that force majeure leave was taken and reasons why, as well as their relationship to the person who was injured or ill. As with parental leave, the employer must keep records of all force majeure leave taken by employees for eight years.
Under equality legislation, it is illegal to discriminate against an employee in a wide range of employment and employment-related areas.

These include such areas as:
- recruitment and promotion;
- equal pay;
- working conditions;
- training or experience; and,
- dismissal and harassment (including sexual harassment).

The nine grounds of discrimination
The legislation defines discrimination as treating one person in a less favourable way than another person based on any of the following nine grounds.
1. Gender: this means male, female or transgender.
2. Civil status: includes single, married, separated, divorced and widowed persons, civil partners and former civil partners.
3. 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.
4. Sexual orientation: includes gay, lesbian, bisexual and heterosexual.
5. Religion: means religious belief, background, outlook or none.
6. Age: this does not apply to a person aged under 16.
7. Disability: includes people with physical, intellectual, learning, cognitive or emotional disabilities and a range of medical conditions.
8. Race: includes race, skin colour, nationality or ethnic origin.
9. Membership of the Traveller community.

What is discrimination?
Discrimination is defined as less favourable treatment. An employee is said to be discriminated against if he/she is treated less favourably than another is, has been or would be in a comparable situation on any of the nine grounds. To establish direct discrimination, a direct comparison must be made. For example, in the case of disability discrimination the comparison must be between a person who has a disability and another who has not, or between persons with different disabilities.

Indirect discrimination occurs when practices or policies that do not appear to discriminate against one group actually have a discriminatory impact. It can also happen where a requirement that may appear non-discriminatory adversely affects a particular group or class of persons.

Specific situations covered by employment equality legislation
DISABILITY: employers are obliged to make reasonable accommodations for staff with disabilities. This includes providing access to employment, and enabling people with disabilities to participate in employment, including promotion and training.

PREGNANCY: pregnancy-related discrimination is discrimination on the ground of gender and includes recruitment, promotion and general conditions of employment. Women who are pregnant or have recently given birth are also protected under maternity protection and unfair dismissals legislation.

HARASSMENT: including sexual harassment, that is based on any of the nine discriminatory grounds, is a form of discrimination in relation to conditions of employment. Bullying at work that is linked to one of the nine discriminatory grounds comes under employment equality legislation.

VICTIMISATION: under employment equality legislation you are protected against victimisation if you bring a claim or are involved in a complaint of unlawful discrimination against your employer. This means that your employer may not penalise you by dismissal, unfair treatment or an unfavourable change in your conditions of employment.
According to the Industrial Relations Act, 1990 (Code of Practice on Grievance and Disciplinary Procedures), the essential elements of any procedure for dealing with grievance and disciplinary issues are that they be rational and fair, that the basis for disciplinary action is clear, that the range of penalties that can be imposed is well defined, and that an internal appeal mechanism is available.

It is important that employers have disciplinary, bullying/harassment and grievance procedures in place, which should be carefully adhered to. It is also becoming more common for dental practices to have an IT usage policy and practice owners should ensure that they put one in place. All employees should be given a copy of the procedures, which can be included in their contract of employment or in the staff handbook. Employees should sign all policies/procedures declaring they have read and understood each document. Sample procedures can be downloaded from the members’ section of the IDA website.

a. Disciplinary procedure

A disciplinary procedure is to be followed when an employer believes that an employee’s conduct, attendance or performance warrants disciplinary action. Examples of conduct that may lead to disciplinary action include:

- poor attendance/timekeeping;
- poor work standards;
- breach of company policies;
- negligence; and,
- refusal to obey reasonable instructions.

Employers have a legal requirement and are obliged under employment legislation to provide all new employees with details of any disciplinary procedures that might result in dismissal. This can be included in the employee’s contract of employment and should be issued to the staff member within 28 days of their start date. Disciplinary procedures should be fair, clear, outline the penalties that will be imposed and include an internal appeals mechanism.

If an employee takes a case under the Unfair Dismissals Acts it is important that the employer can show that they have disciplinary procedures in place and that these were strictly followed. While lack of procedures will not automatically make a dismissal unfair, should a case be taken, the Workplace Relations Commission will scrutinise the methods used by the company and examine the fairness of the procedures followed.

An employer who wishes to introduce a disciplinary procedure should endeavour to reach agreement on the new procedure with existing employees. However, if agreement is not reached reasonable rules and procedures may still be applied.

Deductions for disciplinary matters

Disciplinary procedures should include a specific statement about any provision that could involve loss of wages, e.g., suspension without pay, transfer or demotion.

Disciplinary action may include:

- an oral/verbal warning;
- a written warning;
- a final written warning;
- suspension;
- transfer;
- demotion;
- some other appropriate disciplinary action short of dismissal; and,
- dismissal;

Dos and don’ts of handling a disciplinary matter

DO have a written policy and observe it in all cases.

DO ensure that this policy is provided to all staff upon commencement of, and made available throughout, employment.
DO ensure that those with performance management responsibility are properly trained.

DO ensure that for every stage of the process a paper trail is maintained.

DON’T issue a warning without following the full process.

DON’T rush the process; however, cause no unnecessary delay.

DON’T lose sight of the allegation.

DON’T invite the employee to any meeting without being very clear as to its nature.

DON’T be afraid to manage your staff.

DO call the IDA with any further queries.

b. Grievance procedure

A grievance is a formal expression of dissatisfaction with workplace relationships, the work environment, or a term or condition of employment. Some common causes of grievance include:

- interpretation of conditions of employment;
- changing work practices;
- workload and work allocation;
- unfair treatment;
- perceived discrimination; and,
- health and safety issues.

Grievances can occur in the normal course of interaction in any workplace and from time to time grievances may arise in your practice. However, if grievances are not dealt with, they can fester and result in bad employee relations.

Failure to resolve grievances without undue delay and in a fair and reasonable manner may result in a minor grievance escalating. Poor grievance handling can also affect staff morale, while an effective process can be an important means to release pressures and tension that build up in the workplace.

Therefore, all practices should have a grievance procedure in place and staff should be notified about the procedure. In the first instance, the grievance procedure should specify an ‘informal stage’, allowing for an informal meeting between the employee and their immediate supervisor. If the grievance is not resolved at this point, a formal stage begins and the number of formal stages will depend on the nature and size of the organisation.

c. Bullying/harassment policy

Under the Safety, Health and Welfare at Work Act, 2005, every employer is obliged to put in place a prevention policy to ensure that the health and well-being of employees within the workplace is protected. An employer who allows harassment/bullying to take place could be regarded as not doing everything possible to protect the health, safety and well-being of employees.

An employer should be able to show that proper action was taken to eliminate the cause of the bullying/harassment complaint once it was brought to their attention. The existence of a clear policy on these issues, combined with proper investigation of complaints and adherence to full and fair procedures in that process, will go some way to fulfilling this defence.

Written policy

All employers should have a clear, comprehensive and accessible policy in place for dealing with complaints of bullying and/or harassment. A copy of this policy should be circulated to all employees. The policy should be regularly reviewed and employees should be promptly and adequately informed of any amendments to it.

The policy should clearly set out the employer’s commitment to ensuring that the place of work is free from bullying and harassment. It should set out the definitions of bullying and harassment (including sexual harassment) and include a non-exhaustive list of examples of such behaviour. The policy should set out the procedure involved in making a complaint of bullying or harassment.

Definition of bullying

Workplace bullying is repeated inappropriate behaviour, direct or indirect, whether verbal, physical or otherwise, conducted by one or more persons against another or others, at the place of work and/or in the course of employment, which could reasonably be regarded as undermining the individual’s right to dignity at work.

An isolated incident of the behaviour described in this definition may be an affront to dignity at work, but as a once-off incident is not considered to be bullying.

Bullying does not include normal managerial instructions or requests made by management in the course of business.
Examples of bullying behaviour include:
- personal insults and name calling;
- persistent unjustified criticism and sarcasm;
- public or private humiliation;
- shouting at staff in public and/or in private;
- sneering;
- instantaneous rage, often over trivial issues;
- unfair delegation of duties and responsibilities;
- setting impossible deadlines;
- unnecessary work interference;
- lack of access to necessary work-related information;
- aggression;
- not giving credit for work contribution;
- continuously refusing reasonable requests without good reasons; and,
- intimidation and threats in general.

Definition of harassment
Harassment on the nine grounds covered by equality legislation – sex, marital status, family status, race, age, religious belief, sexual orientation, disability or membership of the Traveller community – can be defined as any unwanted conduct that has the purpose or effect of violating a person’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for the person. Examples of harassment include:
- sexual comments and jokes;
- displaying sexually suggestive objects, pictures, calendars or sending suggestive or pornographic correspondence, including text messages, phone images/pictures, emails or internet messages;
- unwelcome physical contact, such as pinching or unnecessary touching;
- comments of a racial nature, jokes about national origin, nicknames;
- production, display or circulation of offensive written words, pictures and material including slogans, logos, etc.; and,
- playing jokes or pranks.

d. IT policy
Employers should ensure they have an IT policy setting out what is and what is not acceptable in the use of equipment is prohibited for personal purposes, but the likelihood is that most employers will allow a limited amount of personal use. An acceptable usage policy should also notify employees of the nature, extent and purpose of any monitoring of employee internet use or emails. In the absence of a clear policy, employees may be assumed to have a reasonable expectation of privacy in the workplace.

If you are hiring new employees, the IT policy should form part of their contract of employment and they should sign it in addition to their contract. For existing employees, where there is no existing policy in place, you should give each employee notice prior to the policy coming into operation. Ideally you should get each employee to sign the policy in which they state that they agree to be bound by its terms. Some issues that will need to be addressed in the practice IT usage policy include:
- whether personal emails or private use of the internet at work is allowed in a limited way or is not tolerated at all in the workplace;
- what is and is not acceptable if personal use is permitted in a limited way;
- the disciplinary sanctions in the event of a breach of the policy;
- a policy to ensure that emails from unknown sources are not opened unless you are sure of their origin;
- procedures to prevent the downloading of obscene material from the internet, as this is a criminal offence; and,
- whether employee emails will be monitored and if so, will written consent be required to do so? The Data Protection Commissioner in Ireland has expressed a view that you need this consent to monitor employee emails.
All employees should be made aware of the standards of work, conduct and performance expected of them. This is best done at an induction meeting and at regular performance reviews. They should be informed that failure to meet performance standards may result in the disciplinary procedure being invoked.

A good performance management system of review should motivate, direct and retain your employees, by giving them the opportunity to be listened to, by setting clear and achievable goals, and by showing them what the future holds for them as a valued member of your team. Equally it is a great opportunity to set goals and steer the employee in the right direction by reviewing their performance and discussing skills/development areas. Following a performance review, an employee must be allowed reasonable time to address the problem raised by the employer and must be offered all necessary support and training from the employer to make the necessary improvements.

Dealing with underperformance

Poor staff performance is one of employers’ most common complaints. If there is an issue of poor performance here are some things you can do to address this.

1. ASSESS CAPABILITY
   If the quality of a member of staff’s work is a cause of concern, you need to assess their capability to do the job. This means monitoring and assessing their skills, ability, aptitude and knowledge in relation to their role. Poor performance is one of the potentially fair reasons for dismissal, provided that a fair performance improvement plan/procedure, or disciplinary procedure, has been correctly followed.

2. SET CLEAR STANDARDS
   Ensure that employees know your practice’s minimum standards for performance at work. Put in place clear rules and guidelines. Be precise. If you can’t explain exactly what you expect your employees to deliver you’ll have a problem explaining to an adjudicator why you have reasonable belief that a dismissed employee was incompetent.

3. PROVIDE FEEDBACK
   Regular objective feedback is key to addressing performance problems. Be friendly, but keep a degree of separation from your employees. In addition to the exchanges that take place during the working day, meet with employees regularly (every two or three months) to discuss performance and to give and receive informal feedback. Such meetings are useful for reiterating standards, providing relevant information and establishing agreements and expectations on both sides.

4. DON’T DELAY
   Act as soon as you notice an employee is not performing work to the required standard. Delaying or doing nothing may make the performance problem worse.

5. FOCUS ON THE FACTS
   Investigating will help you to collate an accurate picture of the employee’s performance. The first steps will be informal. Discuss the matter with the employee, giving specific examples. Create a performance improvement plan (PIP) together and ensure that they are fully supported.

6. GIVE TIME TO IMPROVE
   Allow the employee reasonable time to improve. Two or three months is appropriate in most cases. If there’s insufficient improvement, move to a formal disciplinary process and ensure that all procedural elements are observed. The PIP should continue alongside the formal process.

Key points:
- communicate clear and measurable standards;
- monitor performance;
- give feedback for early correction;
- investigate fully and create a PIP; and,
- provide sufficient time to improve and escalate to a formal process if standards are still not met.
If you are considering dismissing an employee, you should contact the IDA or a legal professional for advice. Once it is proved/accepted that an employee has been dismissed, then the onus is on the employer to prove that the dismissal was not unfair.

Employers can justify dismissal on the grounds of:
- capability, competence or qualification;
- conduct;
- redundancy (provided selection criteria and procedures are fair);
- the expiry of a fixed-term or fixed-purpose contract; and,
- other substantial/legitimate reason.

As well as the grounds/reason for the dismissal, employers must also show that the procedures used were fair, reasonable and clear. Failure to use or comply with procedures, of itself, may render the dismissal unfair. (See Section 12 for information on designing your disciplinary and grievance procedures.)

A claim under the Unfair Dismissals Acts may be brought to the Workplace Relations Commission within six months of the date of dismissal (12 months in “exceptional circumstances”). If the employer is found to have unfairly dismissed the employee, the adjudicator can decide that the employee should be reinstated, re-engaged or receive compensation to a maximum ceiling of two years’ remuneration. Awards of compensation are usually based on the actual financial loss suffered by the employee as a result of the dismissal.

The Unfair Dismissals Act protects employees from unfair dismissal when they have at least one year’s continuous service with their employer, except where the dismissal is related to trade union membership, pregnancy or pregnancy-related matters or for exercising employment rights under certain employment legislation (e.g., health and safety, and protected disclosure) in which there is no service requirement.
Employees are entitled to a minimum notice period except where they have been working for an employer for less than 13 weeks, or are dismissed for gross misconduct.

The statutory minimum notice period is dependent on length of the employee’s service.

<table>
<thead>
<tr>
<th>Service</th>
<th>Notice required</th>
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<tbody>
<tr>
<td>13 weeks-two years</td>
<td>One week</td>
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<tr>
<td>Two-five years</td>
<td>Two weeks</td>
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<tr>
<td>Five-10 years</td>
<td>Four weeks</td>
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<td>10-15 years</td>
<td>Six weeks</td>
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<tr>
<td>Over 15 years</td>
<td>Eight weeks</td>
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</tbody>
</table>

Employers and employees may agree longer periods of notice and this should be set down in the contract of employment. An employee is obliged to give one week’s notice of resignation. This period can be longer if set down in the contract of employment.

Employers may also give payment in lieu of notice where this is accepted by the employee, or where there is provision for payment in lieu of notice in the employee’s contract of employment. In such a case the date of termination of the contract of employment is generally the date upon which the employee physically leaves the employment.

The legal minimum notice set out above does not affect the right of an employer to terminate a contract of employment without notice due to an employee’s misconduct. However, prior to terminating a contract in this manner you should contact the IDA for advice.
Redundancy occurs where an employee’s role/position ceases to exist and the employee is not replaced.

Redundancy generally arises where:
- a dental practice closes;
- a role ceases to exist (for example, a dental nurse’s job is gone because the dentist they work with has left the practice and is not being replaced);
- work of a particular nature has ceased (perhaps due to IT enhancements); and,
- there is a permanent reduction in staff due to reorganisation/downsizing.

An employee should only be made redundant where a genuine redundancy situation exists. Once a genuine redundancy situation has been established, there is a further issue as to the fairness of selection of the employees to be made redundant. Selection for redundancy only arises where there are a number of employees in the same role. Where selection issues do arise, the employer is obliged to use objective criteria for differentiating between one employee and another. The criteria should be clearly documented and, insofar as possible, be capable of objective justification. Selection criteria could, for example, include length of service, technical competency, qualifications, training and relevant experience. All things being equal, and with no objective criteria to select one employee over another, an employer may resort to the LIFO rule (last in, first out).

An employee aged over 16, with two years’ (104 weeks’) continuous service with an employer is entitled to a statutory redundancy payment if they are made redundant. The statutory redundancy payment is two weeks’ pay (up to a maximum of €600 per week) per year of service, plus an additional one week’s pay (up to a maximum of €600 per week). Please note this cap is adjusted from time to time.

Employers must give at least two weeks’ written notice of redundancy, or more if a greater notice period is contained in the employee’s contract. The redundancy lump sum should be paid on the date of termination of employment.

An online redundancy calculator is available at www.welfare.ie to assist employers in these calculations. The employer rebate scheme was discontinued by the Irish Government for redundancies that occurred after January 1, 2013.
Employers need to be aware that they have an obligation to keep certain documents and records under employment legislation.

As well as having a statutory obligation to keep employment records, record keeping allows employers to monitor issues such as absence levels, lateness, accidents and discipline, and can assist them in taking corrective action.

Keeping up-to-date employment records can ensure that employees receive the correct pay, holidays, benefits and other entitlements. Proper record keeping will also assist an employer in defending any claims brought by employees or others.

Employers need to be able to produce records to show compliance with employment rights legislation in the event of an inspection from the Workplace Relations Commission (WRC).

The WRC sets out the following as the main employment records required:

- employer registration number with the Office of the Revenue Commissioners;
- full name, address and PPS number for each employee (full-time and part-time);
- terms of employment for each employee;
- payroll details – gross to net, rate per hour, overtime, deductions, shift and other premiums and allowances, commissions and bonuses, service charges, etc.;
- copies of pay slips;
- employees’ job classifications;
- dates of commencement and, where relevant, termination of employment;
- register of employees under 18 years of age;
- whether board and/or lodgings are provided and relevant details;
- holiday and public holiday entitlements received by each employee;
- any documentation necessary to demonstrate compliance with employment rights legislation; and,
- hours of work for each employee (including starting and finishing times, meal breaks and rest periods). These may be in the form of Form OWT1 or in a form substantially to like effect.

**Timeframe**

There are various requirements in terms of timeframes for the retention of records. Employers must retain a copy of the employee’s contract and statement of terms and conditions throughout the employee’s employment and for at least one year after termination.

Information relating to wages, hours worked, annual leave and public holiday records must be kept for three years. Parental leave, force majeure leave and carer’s leave records must be kept for eight years.

While there is no set period for the maintenance of maternity or adoptive leave records, employers should ensure that they hold on to these details for a period of not less than 12 months in the event that a dispute arises leading to a case.

**Accidents**

Records of accidents and dangerous occurrences in the workplace should also be retained. These should be held for ten years from the date of the accident.
The EU General Data Protection Regulation (GDPR) was introduced from May 25, 2018.

GDPR has implications for employee consent regarding processing of their data. The Regulation also places a number of obligations on employers and widens the scope of mandatory information that must be provided to employees to ensure that the processing of their data is fair and transparent.

In addition, the time period for an employer to respond to a request from an employee regarding their personal data has been reduced from 40 days to one calendar month. This can be extended by a further two months where requests are complex or numerous. However, the employee must be informed of any proposed extension within one month of the employer’s receipt of the data subject access request (DSAR).

Employers can no longer charge a fee for supplying employees with a first copy of their personal data. However, an employer may charge a reasonable fee for any further copies requested or where access requests are clearly unfounded or excessive.

GDPR increases employer obligations to protect the security and integrity of personal data. In particular, the employer should consider the risks presented by accidental or unlawful destruction, loss, alteration, unauthorised disclosure of, or access to personal data transmitted, stored or otherwise processed.

For further information on GDPR, go to the GDPR Resource Centre on the IDA website.

Use of employee images on website
The employer should get written consent from each employee to use photos/images of them on the practice website or in marketing material. A consent form should be signed by the employee, which includes the purpose of the photo(s) and exactly how and where their photo(s) will be used. The consent form can also serve to inform employees that: a) they will not be compensated for the use of their photos; b) using their photos in no way indicates permanent employment status; and, c) photos of them may continue to be used after they leave the practice.
Under the Protection of Employees on Transfer of Undertakings Regulations 2003 the rights and terms and conditions of all employees are protected in the event of a transfer of a dental practice (or part of a dental practice) from one employer/practice owner to another.

The Regulations also provide for the protection of employment in a transfer and prohibit the dismissal of an employee by reason of a transfer of undertakings. Dismissals for “economic, technical or organisational reasons entailing changes in the workforce” are, however, not prohibited.

The original employer and the new employer must inform employees in writing not later than 30 days before the transfer occurs and, in any event, in good time before the transfer, as follows:

- the date of the proposed transfer;
- the reasons for the transfer;
- the implications of the transfer for the employees; and,
- the measures envisaged in relation to the employees.

The Regulations do not apply in a transfer situation where the outgoing employer is insolvent.
Under the Safety, Health and Welfare at Work Act 2005 employers have a duty to ensure their employees’ safety, health and welfare at work as far as is reasonably practicable.

Employers are required to:
- provide and maintain a safe workplace and equipment;
- prevent risks from use of any article or substance, and from exposure to physical agents, noise and vibration;
- prevent any improper conduct or behaviour likely to put the safety, health and welfare of employees at risk (harassment and bullying are included in this);
- provide instruction and training to employees on health and safety;
- provide protective clothing and equipment to employees (at no cost to the employee); and,
- appoint a competent person as the organisation’s safety officer.

Safety statement
Every workplace is required to have a safety statement. This statement is written up having conducted a risk assessment of the premises. The safety statement is a summary of the risks in the workplace and the measures necessary to reduce/eliminate that risk.

The Health and Safety Authority’s online tool, BeSMART, will help you to identify the hazards in your workplace and will aid you in making your workplace safer. This guided step-by-step process will assist you in generating your own risk assessment and safety statement, in consultation with your employees, as required under health and safety law.

Sharps injury
Dentists should also be aware of their duty of care to employees under the European Union (Prevention of Sharps Injuries in the Healthcare Sector) Regulations 2014. Many of the requirements set out in the Regulations mirror the obligations set down in the Dental Council’s Code of Practice Relating to Infection Control in Dentistry.

The Regulations place certain duties upon employers:
- They must carry out a risk assessment of sharps injuries.
- They must select appropriate procedures and implement these, including:
  - eliminating the unnecessary use of sharps;
  - providing medical devices with sharps protection mechanisms where appropriate;
  - banning the recapping of needles except where those needles have safety and protection mechanisms and do not pose a risk of injury; and,
  - ensuring suitable sharps disposal containers are available and written procedures for the safe disposal of sharps are placed as close as possible to the work area where the sharps are used.
- Where a risk of exposure is revealed, employers must offer appropriate vaccines and re-vaccinations free of charge and ensure that workers are informed of the benefits and drawbacks of vaccination and the failure to vaccinate.
- They should provide information and training to employees (especially when inducting new team members) regarding the risk of exposure, precautions to be taken and steps to be taken in the case of a sharps injury, and other relevant practice policies and procedures.
- There should be formalised procedures for accident reporting, follow-up and the care of injured employees.
- When a sharps injury occurs employers must, while maintaining confidentiality, take immediate steps for the care of the injured worker. This includes the provision of post-exposure prophylaxis, necessary medical tests, and appropriate health surveillance and counselling, if needed. The employer must investigate and record the cause and circumstances of the incident or accident and, where appropriate, take necessary action to prevent a recurrence.

Draft infection prevention and control policies and procedures, including procedures for sharps injuries, can be downloaded from the IDA website. The HSE Guidelines for the Emergency Management of Injuries can also be downloaded from the IDA website.
During an inspection from the Workplace Relations Commission (WRC), an employer will be requested to produce certain records for each employee to demonstrate compliance with employment legislation.

Under legislation, WRC inspectors have the power to:
- enter any premises at a reasonable time;
- demand sight of records;
- inspect records;
- take copies of records; and,
- interview and require information from any relevant person.

During an inspection from the WRC, an employer will be requested to produce certain records for each employee to demonstrate compliance with employment legislation. An inspector will generally seek to review the records listed in Section 11 of this document.

Where an inspector determines that a contravention has taken place, the inspector may issue a compliance notice setting out the steps the employer must take to effect compliance. In respect of a specified range of acts of non-compliance on the part of employers, an inspector may serve a fixed charge notice.