

The newsletter of the Healthcare People Management Association

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Excellence in HRM Awards 2008

Join the ranks of HR's very best and brightest, making you - and your work - a sector leader. Enter the 2008 HPMA Excellence in HRM Awards, and grasp this unique opportunity to get the recognition you deserve for you and your team.

Enter some of your best practice projects into our annual awards competition this year and see your good ideas shared with a wide audience drawn from across the profession and the NHS as a whole.

For the last seventeen years HPMA and various partners have worked to promote the good practice developed and executed by HR professionals in healthcare in our Excellence in HRM Awards. Make 2008 the year that HR colleagues across the UK celebrate your professional achievements.



This year the competition offers a broad range of entry categories, choose from:

- Supporting medical staff sponsored by BMJ Careers
- Organisation development and learning sponsored by *goodpractice.net
- HR impact on cultural change sponsored by NHS National Workforce Projects
- Diversity and equality sponsored by Beachcroft
- Developing leadership sponsored by SOLACE Enterprises
- Outstanding NHS occupational health service for staff sponsored by NHS Plus
- Innovation in HR sponsored by Capsticks
- Excellence in internal communications sponsored by The Loop
- Best management practice in tackling workplace stress sponsored by HSE
- Partnership working sponsored by Department of Health, NHS Employers and NHS Trade Unions
- HR Team of the Year sponsored by all four UK Health Departments
- Overall winner sponsored by The NHS Institute for Innovation and Improvement
- HPMA President's Award for HR Professional of the Year 2008

To enter, follow links on the HPMA website www.hpma.org.uk to download an entry form and simply complete your project details and email back to our awards team - it couldn't be easier. And if you have any further questions call our helpline on 020 8334 4530.

And if you need a little more help here are ten tops tips for making the finals written by the 2004 Overall Winner Nikki Hill:

- 1. Answer the questions** - this may sound obvious but ensure that your enthusiasm has not made you go off at a tangent when answering the specific questions on the general application form and that you have told the panel the correct information in each area.
- 2. Avoid jargon and acronyms** - the NHS is renowned for its use of jargon and acronyms but these are not always clear to even other NHS staff as often they are locally developed. Also bear in mind that not all of the panel are always NHS staff so do make sure you avoid these.
- 3. Keep to the word limits** - it is clear to the panel when entrants have used many more words than the set amount so ensure that you can convey your key points in a clear and concise way.
- 4. Think about your audience** - remember the panel do not know you or your organisation so you need to think about your audience and how you convey the initiative or work that has taken place.
- 5. Specify the business need** - it is important to ensure that you have clearly described the business need and how the initiative you are describing addressed this need. You may want to include some basic data that sets the context of the initiative e.g. 'There was a 35% vacancy factor in this area'

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Continued from p1



6. Quantify the benefit - this may be by showing financial savings of some kind or other supporting data. However it is important for the panel to know that it has really benefited the organisation. Place any benefit in context for the panel e.g. £100,000 savings sound impressive, but that £100,000 could be 5% or 95% of a budget and one sounds much more impressive than the other!

7. Focus on Patient/Client - many entrants last year failed to demonstrate how their project made a difference to patient/client care. Sometimes further thought needs to be given to this area but this is a key part of the judging criteria and showing this could make all the difference.

8. Think big - show how your initiative could be taken across to the benefit of other NHS organisations. If you are already working in a

collaborative way then tell the panel about it or if not describe how it could be transferred.

9. Show the passion - it is important to be clear in the words that you use but also make sure that it is clear to anyone reading the entry how exciting the initiative is. Being clear and concise does not mean boring!

10. Proof read your work - if your entry is difficult to read, full of spelling mistakes or just does not make sense it will be hard for the panel to judge the content. Sometimes it is helpful to get a colleague who has not been involved in the initiative to read your answers and feed back their understanding to you.

Entries must be received by
Tuesday 26 February 2008
Good luck with your entry!

London branch launch



David Amos, HPMA London Branch Chair.

The London branch launch, sponsored by The Loop and Capsticks, took place on Monday 28 January. The event was a huge success with over 100 local members attending the meeting, including director and senior team representation from almost every trust across the capital. In fact, response was so tremendous the branch team had to move the location from the Heart Hospital to St Mary's Paddington - with just days to go - to accommodate the numbers!

During the evening branch chair David Amos introduced his three new associate branch chairs Jacquie McCullough (St George's), Helen Cunningham (East London) and Jackie Stephen (RNOH). And guests enjoyed contributions from Dr Anne Rainsbury (NHS London), 2007 award winners Ann MacIntyre (Barts and the London) and Kelvin Cheatle (Central and West London MH) and also Council member Nikki Hill (Hounslow PCT).

The branch team has been cheered by the positive feedback and many offers of support for the upcoming programme of London events.

Local member Danny Hariram shares his experience of the evening.....

"What a fabulous evening catching up with colleagues and networking over a glass of wine! The award winners presentations were inspiring,

giving me the incentive to consider putting forward a few applications for my Trust this year. We all have areas of good practice that we should be sharing and celebrating.

We have a challenging agenda ahead of us so it is reassuring to have a network that provides the opportunity to learn from others, share ideas, develop and contribute. I look forward to attending future events and being part of a strong and professional network."

Danny Hariram, Deputy HR Director, Bromley Hospitals NHS Trust .



2007 award winners: Margaret Fordjuor and Kelvin Cheatle.

Harassment as a criminal offence

Most healthcare sector employers are well aware that they can face claims for compensation if an employee is bullied by a work colleague. Discrimination law, for example, protects workers against harassment on racial or sexual grounds or for reasons relating to someone's disability, sexual orientation, religion or beliefs, or age. Even where there is no discriminatory motive, bullying can leave an employer exposed: the victim might allege constructive unfair dismissal or claim compensation under the Protection From Harassment Act 1997.

More serious than this, however, in some circumstances harassment can lead to criminal charges.

The 1997 Act, for example, makes it a criminal offence for someone to pursue a course of conduct which they know, or should know, amounts to harassment. Although originally introduced to protect people against stalkers, the House of Lords decision in *Majrowski -v- Guy's and St Thomas' NHS Trust* [2006] demonstrates that the Act applies equally to harassment in the workplace.

More recently, the Racial and Religious Hatred Act 2006 has introduced a new offence of stirring up religious hatred. The offence, effective since 1 October 2007, criminalises the use of threatening words or behaviour intended to stir up religious

hatred against a group of people defined by reference to their religious belief or lack of belief. It also applies to inciting racial hatred, which has been a criminal offence for many years.

It is conceivable that religious or racial harassment in the workplace could constitute an offence under the 2006 Act, if sufficiently serious and overt. If an offence is committed with the consent or connivance of any of the employer's managers or officers, then both that person and the employer could also be guilty of the offence.

The government now plans to introduce similar legislation to criminalise stirring up hatred on grounds of sexual orientation. The Criminal Justice and Immigration Bill was approved by the House of Commons on 9 January and will now be considered by the House of Lords.

As with the 2006 Act, any new legislation will only apply to serious acts. Nevertheless, the risk of criminal sanctions, and attendant adverse publicity, is an additional incentive to ensure staff receive effective training so they know where the boundaries of acceptable behaviour lie.

Claire Neal, Eversheds LLP



Your papers please: Turning up the pressure on HR to act as immigration control

HR practitioners have long been concerned to meet their responsibilities not to employ illegal workers. Thankfully, assessing visa and work permit status has become more straight-forward just as tackling illegal working in the UK is set to become an even bigger issue.

Until the end of February 2008, employers can (under the Asylum and Immigration Act 1996) be subjected to a fine courtesy of the criminal justice system of up to £5,000 for illegally employing a worker not permitted to work in the UK. How will the law change thereafter and what will the impact be on all practitioners involved in recruiting staff to the NHS?

The Borders and Immigration Agency have recently published guidance for employers on the Prevention of Illegal Working (available at www.bia.homeoffice.gov.uk/sitecontent/documents/employersandsponsors/guidancefrom290208/).

Changes coming into effect in 2008 include:

- A new civil penalty for employers of up to £10,000 and a tough criminal penalty of up to two years in prison for those employers who knowingly employ illegal immigrants
- Tougher enforcement of the regulatory framework by government bodies
- More checks abroad such as the use of biometric visas and the creation of secondary off-shore

border controls

- Identity cards for foreign nationals
- The creation of an Employer Checking Service operated by the Borders and Immigration Agency to provide more detailed checking support for employers
- A new sponsorship system and changes to the current work permit system whereby employers could legally source employees with shortage skills from abroad
- A high profile national media campaign to ensure employers know and understand the new rules

Additionally, in an attempt to address any concerns about potential unlawful discriminatory practices, the Government is also introducing a code of practice for employers with guidance on how to avoid unlawful discriminatory practices in the recruitment process. A draft version (available to download at www.bia.homeoffice.gov.uk/employers/preventingillegalworking/complyingwiththelaw/avoidingdiscrimination/) advises that certain checks be built into the recruitment process for all posts.

Sharon Gregory

For Consult Gee NHS HR/ www.sqtd.co.uk



Ask the experts

Question: Many employers are keen to engage staff on fixed-term contracts and via employment agencies. These type of “atypical” working arrangements have long been perceived to enable employers to make swift decisions when it comes to work force planning. However, rather than achieving such flexibility can these arrangements may actually be causing more problems than they resolve.

beachcroft

Welcome to our Ask the Experts feature intended to give our membership the opportunity to pose any HR and legal questions to health sector employment specialists at Beachcroft LLP and our panel of HR professionals.



Rachael Heenan.



Katy Horner.

Rachael Heenan, Partner and Katy Horner, Health employment specialists from Beachcroft answer:

Take a moment to think about the working patterns of the employees who work in your organisation. Ask yourself how many of them fit the “traditional” description of what constitutes an employee, that is to say an individual who has a full-time contract of employment with one employer.

It is likely that a significant proportion of the employees you are thinking of will be so called “atypical workers”. A significant pool of individuals are likely to be engaged on agency, fixed-term and part-time contracts. This is because the NHS, in common with other public sector employers, has embraced the notion of atypical or flexible working.

Some atypical working patterns follow requests by employees. The ability to grant such requests is now an important tool for employers to use to improve retention rates and to ensure that valuable skills are not lost to the employing organisation if the employee decides to leave for pastures new should a request to work flexibly be turned down.

However, a significant proportion of atypical working arrangements are also put in place at the instigation of employers, hoping to achieve flexibility to enable them to react quickly to changing market conditions. Indeed, a flexible workforce is more important than ever before for NHS employers who are now operating in a constantly changing and increasingly uncertain environment.

But, do two ways of working which are commonly used to achieve flexibility in the NHS, agency staff and fixed-term staff, actually cause more problems for employers?

Agency Workers

The attraction for employers of engaging an agency worker immediately diminishes if they inadvertently find that it is they, rather than the agency, who directly employs the agency worker. This question has been keeping Employment Tribunals occupied in recent months and years.

Cases such as *Dacas v Brook Street Bureau* [2004] and *Cable & Wireless plc v Muscat* [2006] raised the possibility that agency workers could become the employees of the end user by implication over time.

Last year, the case of *James v Greenwich*

Borough Council [2007] came as a welcome relief for employers. The Employment Appeal Tribunal (EAT) found that an agency worker who had been supplied to the Council for five years, who had effectively been treated as a permanent employee by the Council, was not in fact employed by the Council.

This case seemed to provide clarity at last for employers. However, the *James* case was appealed and the President of the Employment Tribunals ordered that all Tribunal cases relating to the status of agency workers should be put on hold, pending the outcome of the eagerly anticipated *James* appeal. The Court of Appeal has now confirmed its decision in *James* and the good news for employers is that they agree with the EAT.

There will rarely be cases where an agency worker with a contract will be able to demonstrate that it should be disregarded and another arrangement implied. The passage of time, of itself, does not alter the contractual position. This is unlikely to be the end of the saga but meanwhile employers have some certainty and cases which have been stayed in the ET can now be dealt with.

Notwithstanding the *James* decision, using agency staff is likely to look even less attractive in the future. The Temporary Agency Workers Directive was first proposed in 2002 and still has not made it onto the statute books. The Directive proposes equal treatment for agency workers and could require them to be engaged on the same terms and conditions of employment as permanent workers. Recent efforts by member states to agree the Directive have again ended without agreement but surely it is only a matter of time before the Directive becomes a reality for employers.

Fixed-Term Contracts

Ever since the introduction of the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations in 2002, this type of contractual arrangement contains a number of elephant traps for the unwary.

Employers should consider whether the advantages of using a fixed-term outweigh the disadvantages. Fixed-term employees are no different to other employees in that they may pursue discrimination claims against their employer and are eligible to claim unfair dismissal and redundancy payments provided they have the requisite periods of service.

Offering a fixed-term contract to an employee

brings with it further obligations which would not apply if the same worker was on an indefinite term contract. For instance, fixed-term employees have the right not to be treated less favourably (without justification) than a comparable permanent employee as regards the terms of their contract. They also have the right not to be discriminated against by being subjected to any other detriment by any act, or deliberate failure to act, of their employer.

Fixed-term employees must be informed of any permanent vacancies in the establishment at which

they work and, if they have been continuously employed for four years or more since 10 July 2002 on a series of successive fixed-term contracts, they are automatically deemed to be permanent employees unless there is objective justification for not doing so.

There may be cogent reasons to offer fixed-term contracts for engagements which are genuinely short-term in nature, say project work with finite funding or maternity cover, but as a rule of thumb fixed-term contracts should not be entered into lightly.

Handy Hints

Look closely at any staff engaged via agencies and review the contractual documentation governing the relationship.

Clarify precisely who employs the agency staff and assess if the documentation governing the relationship between staff and agency reflects this. Is the documentation adequate to protect your organisation?

Look at the procedures used to engage agency staff, do they minimise risk or are they helping to create an employment relationship?

Would an actively managed and carefully monitored indefinite term contract rather than a fixed-term actually create more flexibility?

Do not neglect fixed-term contracts, monitor their length and don't forget to adopt an appropriate termination process which complies with the statutory procedures.

Be alive to the risks created by those individuals on fixed-term contracts which have been renewed time and time again - are these individuals already permanent employees?

Creating an equal and diverse workforce

Is the NHS paying more than lip service to equality issues at last? Following a raft of new legislation last year and the creation of the Commission for Equality and Human Rights, it's the hottest of hot topics. Even the organisers of the NHS Employers' third annual conference on equality and diversity last November were a little surprised that it was a sell out.

At last the message has penetrated that equality and diversity is absolutely critical to the delivery of improved patients care.

In the latest issue of *Employing Healthcare Professionals* we report from the conference and focus on the impact of the new legislation. We also cover the work of NHS Employers in developing single equality schemes and equality impact assessments.

The report *Equality and Diversity* is available on www.health-workforce.com for £19.95.

To sign up for regular free news updates and for subscription details of all our healthcare employment reports go to www.health-workforce.com.

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Are your HPMA colleagues getting eNetwork?

If you or any of your colleagues have experienced problems downloading, viewing or receiving the latest issues of the electronic newsletter please email

Lauren@chamberdunn.co.uk
at Chamberlain Dunn Associates.

BRANCH MEETINGS

Meetings at branch level take place usually on a bi-monthly or quarterly basis. They typically include speakers, presentations, social gatherings, workshops or educational activity and many branches run regular employment law updates.

Contact HPMA administrator Lauren Crawford on 020 8334 4530 or admin@hpm.org.uk for details on your local branch.

HPMA webwatch

Once again HPMA's webwatch brings you useful websites & online resources. Don't forget we would really like to see members sharing their own sites and resources.

With temporary staff hitting the news this week here are 9 key best practice actions (from National Agency Staffing Project) that trusts can take to reduce spend on agency staff:

1. Maximising trust workforce

Trusts who maximise the use of their own staff by being more flexible about their deployment could see a reduction in spend.

2. Policy

By adopting a policy not to re-employ own staff through an agency can yield benefits for Trusts.

3. Audit trails of expenditure

Know what is spent on agencies and have effective management controls in place - booking authorisation/audit trails for expenditure.

4. Monitoring bank/agency ratios

Either use NHS Professionals or check that your own bank is effective by monitoring bank/agency ratios.

5. Improve the quality of staff

Improve the quality of bank staff by using NHS Professionals or ensure high standards of NHS employment practice is rigorously adhered to for all bank staff recruitment.

6. Use Agency Framework Agreements

Use the Purchasing and Supply Agency (PaSA) - Agency Framework Agreements (AFAs) for agency staff employed to ensure that proper governance checks are carried out - do not use non-AFA Agencies.

7. Negotiate volume discounts

Negotiate volume discounts through working with PaSA or NHS Professionals. Additional gains can be achieved by sector/regional collaborative procurement.

8. Working together

Work collaboratively with other Trusts - share bank staff.

9. Workforce data

Capture and analyse workforce data to enable better planning and management of demand.

The Project's website, www.agencybestpractice.nhs.uk, provides a Good Practice Guide to many aspects of reducing agency spend and ensuring quality including explanations and recommendations. The website has several good practice case studies which demonstrate how these benefits can be achieved.

In an analysis of 20 years of studies by Penn State, researchers found telecommuting or home working has a "clear upside" and a positive impact on performance, turnover and stress. Here are five tips on making staff working from home, work for you - from www.WFCResources.com ...

1. Help each virtual office worker visualise the remote work experience. Hold a 1:1 coaching session on transitioning, home office set-up and logistics, work style and communication changes, team interaction and contribution, and any other areas you believe will be useful.

2. Integrate virtual office work into current work processes by making a list of current processes that will need to be changed as workers go virtual, and reassign them if necessary.

3. Help non-virtual office workers play a role in the program's success. Poll the workgroup to identify issues, negativity and concerns among non-virtual office workers; then gather the group to discuss. Regularly monitor concerns and take corrective action.

4. Assess your current informal communication process and determine how it will be affected by virtual office activity. Then develop a plan to assure uninterrupted communication and make sure everyone is well-trained on its usage.

5. Set expectations about regular performance feedback by regularly discussing the status and progress of projects, programs and other deliverables with all employees.

If you have a suggestion or nomination to share, please contact lauren@chamberdunn.co.uk

DATES FOR YOUR DIARY

- **South East Coast Launch event 27 February 2008** Russ Hill Hotel, Charlwood, nr Gatwick Airport
- **Northern Ireland Branch Conference 13-14 March 2008** Belfast venue
- **Spring Welsh HPMA Conference in conjunction with the Welsh Partnership Forum 1½ day event on Partnership Working May 2008**
- **South West HPMA branch annual conference mid May 2008**
- **HPMA Excellence in HRM Awards 2008**
Entry deadline 26 February 2008
Judging panels 24 April 2008 London
Awards ceremony 12 June 2008 London
- **NHS Employers More than a number: building a workforce for the future**
 10 April 2008 Business Design Centre, London

Headlines from Personnel Today

Employers will need to tighten up discrimination and flexible working policies following a landmark disability decision, which is almost certain to give rise to new rights for millions of workers, legal experts have warned.

An advocate-general at the European Court of Justice (ECJ) confirmed last week that employee Sharon Coleman suffered 'discrimination by association' as a carer.

Coleman is suing her employer, Attridge Law, claiming she was forced to quit her job after she requested time off to look after her four-year-old disabled son.

The opinion, likely to be approved by the ECJ later this year, could mean that the millions of workers who care for disabled people will be able to claim unlimited discrimination damages if their employer treats them worse than non-carers.

It could pave the way for discrimination claims on the grounds of association with people of different ages, religions, or sexual orientation.

The HR chief at Tower Hamlets Council has hit out at the lack of quality candidates working in the profession across the public sector.

The local authority has been searching for a joint assistant director of HR for several months.

Candidates for the £85,000-a-year role would work across both the council and primary care trust.

Deb Clarke, joint director of HR, said the fact she could not find anyone good enough for the job had been a huge disappointment.

"I think there is a dearth of talent in public sector HR," she said. "Having just tried to recruit to this role, the [existing] bright sparks are few and far between, with the up and coming bright sparks even scarcer. That should be a cause for anxiety for the profession."

More than 300 NHS staff in Yorkshire are using personal media players to access mandatory training.

Personnel from the medical director to cleaners at the Mid Yorkshire NHS Trust are using the players to acquire training in topics such as health and infection control.

Each player has internet access so staff can log on to the training wherever and whenever is most convenient. The training can also be accessed via laptops or home PCs.

"The portable media player is such a great idea and is so easy to use," said Pontefract based midwife Yasmin Mamujee. "I work part-time, so I find it difficult to get to training sessions. With the media player I can do the training when it's convenient.

"I've really enjoyed using it and it's helped me easily get up to date with my compulsory training."

The system - called My Mandatory Training - and content was developed by Leeds company Mezzo Films which also provides updates as and when required. It features a learning management system which tracks users' progress and usage.

Personnel
today

Letters and contributions

Network is your membership newsletter so we always welcome comments, articles and news from any of our members.

You can send contributions directly through to the production team (lauren@chamberdunn.co.uk) or call 020 8334 4530 for an informal chat first.

The newsletter is published every month and circulated to all HPMA members so it's a great way to share success, ask for help or get colleagues thinking.

Contributions for the December issue should be sent to lauren@chamberdunn.co.uk by 4pm, 6 December 2007.

All newsletter content is subject to editorial approval by the executive director Alex O'Grady.