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Making the workplace a better place to be
with Donna Obstfeld (Chartered FCIPD)



YOUR NEW EMPLOYEE

TRICKY QUESTIONS ANSWERED BY HR EXPERTS DOHR

A new employee told me she is pregnant on her first day at work, but didn't tell me at interview, isn't that illegal?

Unfortunately this is not illegal and is fairly common. It does however stop candidates claiming discrimination if you choose not to appoint them and they did declare their pregnancy during their interview. A bit of a double edged sword – you either face a possible discrimination claim from someone you don't appoint (you would have to prove they were not the right person for the job), or you train someone up and then give them maternity leave. In some cases maternity pay may also be required, but usually they will not have been with the employer long enough to qualify and will need to claim maternity allowance from the state.

An employee worked for 10 days before going off sick, can I fire him?

The short answer is "No". You need to treat them the same as any other employee. Get medical fit notes from their GP, ascertain the reason for their sickness and their likely recovery period. There is a risk of discrimination so as an employer you need to take all reasonable steps to support the employee's return to work. You can request medical records, seek occupational health advice and meet with the employee to aid their return to work. Ideally they will have a contract of employment with a probation period and you may be able to use 'failing the probation period' as grounds for termination, but you must be aware of the discrimination risks.

I have found out that an employee in their probation period lied on their CV, can I fire her?

Yes as long as the contract of employment states they must pass their probation period and that the employment is subject to satisfactorily passing background / reference checks. To ensure you don't end up with a claim for wrongful dismissal, it is also highly recommended that you follow a company dismissal process and dismiss the employee after a formal meeting in which you clarify the facts and your concerns.

If you have any HR questions, please email them to us and we will try to feature them in future My News articles.

For further information on this subject and for all your HR needs, call us on 01923 504100.



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