

Self study unit: Human Resources





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The Executive Leadership Development programme has been developed by the Learning and Skills Improvement Service (LSIS). This self study unit is one of a series produced for the flexible Executive Leadership Development Programme. It is designed to support first and second tier managers and leaders in leading their institutions in a time of rapid and complex change for the sector and to strengthen the leadership capacity of the further education sector.

The qualifying programme has been developed using the LLUK benchmark role specifications for managers and leaders at these tiers. It will recognise formally the specific expertise required in FE leadership

This module was first published in January 2008. It was reviewed in October 2010.

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Published by the Learning and Skills Improvement Service 2011

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Introduction

Many people would say that a college is its staff. Indeed, the word ‘college’ also means ‘a body of staff, a fellowship or association’. Effective human resources management (HRM) is important because:

- the quality of the service you provide depends on how well you have recruited, developed and managed your staff;
- employment is highly regulated and full of very expensive legal ‘bear traps’ and
- your record as an employer is likely to be of interest to people outside the college (eg prospective employees, the press and the public).

However large or small your college, you will have someone who is responsible for HR. In a small college this may be one person’s job; in a large college there may be a whole HR team. This unit will help you to understand the college’s responsibilities towards its workforce. You will learn more about the work of your HR staff. Each section contains one or more tasks to help you to reflect on how your college uses the principles and processes described. Feedback on each task is provided in a separate section at the end of the unit. If you want to look into a particular topic more extensively, you will find additional operational detail in the annex. You will also find details of HRM guidance and information on various websites listed in the ‘Sources for More Information’ section.

It is important that you remember that the relationship between you and your employees is, at its heart, one described in the 19th century as being that of “master and slave”. This phraseology is, of course, rarely heard in these modern, enlightened times, but the way in which you manage your employees needs to reflect the balance of power and authority you and your Corporation wish to exercise. Managers earn the right to manage.

Inevitably you will be called upon to exercise your judgement about whether to take a particular step; which course of action to follow; and about the timing of such actions. Such decisions are rarely formulaic when it comes to dealing with people. This section is designed to help you to have a level of understanding of the risks you face - of both acting and taking no action. It is designed to help you be clear about how to get the best from your staff and your HR team. Most colleges spend about 65 per cent of their income on their employees; it is critical that you spend the money wisely and get the best return from it.

Overview

Why you need to know about HRM

The service provided by your college depends, above all, on the quality of its staff. This, in turn, depends on your ability to recruit and retain a competent, motivated and skilled workforce and for them to perform to their best at all times. You also have legal duties to ensure the wellbeing of your workforce.

You will need to develop a mechanism for keeping abreast of the key legal, regulatory and best practice issues about employment, without drowning in the detail! For example, your HRM policies, procedures and practices must comply with the large body of anti-discrimination legislation and regulation, and contribute to the broader objectives of the equality and diversity agenda as well as meeting your college's business needs. You will find a more extensive treatment of this topic in the 'Equality and Diversity' unit.

The key challenges in HRM, which will be addressed throughout this unit, are:

- understanding the language and core concepts of HRM linking;
- applying HRM practices to the college's business strategy
- meeting all the relevant legal requirements and
- dealing with matters such as redundancy and discipline issues.

Key documents

The following college documents are likely to be helpful.

- Returns on staff data to the LLUK
- The instruments and articles of government
- HRM policies and procedures
- HRM and staff development strategies and operational plans
- workforce reports (eg for the age profile).

You might also want to refer to employment law and regulations and guidance documents on HRM on the websites referenced below under the 'Sources for More Information' section.

Understanding key HR terms

Like all professional activities, HRM has its developed its own language. The following are key terms.

- **Competencies** – the composite of skills, knowledge and behaviours that an individual requires for undertaking the tasks and functions associated with a defined role.
- **Employee engagement** – Employee engagement describes employees' emotional and intellectual commitment to their organisation and its success. Engaged employees experience a compelling purpose and meaning in their work and give of their discrete effort to advance the organisation's objectives.
- **Job analysis** – the process of collecting and analysing information about the tasks and responsibilities of jobs. At recruitment it is essential to identify the range of tasks that a new employee will be expected to undertake. It can also be used at appraisals or performance reviews to check whether or not existing job profiles/ descriptions are appropriate for future needs.
- **Job evaluation** – a tool to determine the relativities between different jobs which is used in the development of pay structures.
- **Psychological contract** – the unwritten relationship between the employer and employee. This is separate from the employment contract.

Other common terms are highlighted in bold in the text and explained in the glossary at the end of the unit.

Which sections do you need?

Use the questions below to assess your current understanding of HRM. If you need help answering the question, then you need to look at the relevant section.

1. What are the college's legal responsibilities, and yours as a strategic leader, in employing staff? (Section 1)
2. What are the college's legal responsibilities, and yours as a strategic leader, when recruiting staff? (Section 2)
3. Faced with the need to reorganise your college, what actions would you need to undertake to develop a structure which supports the business plans and complies with the law? (Section 3)
4. Can you deal adequately with workforce problems, including the management of poor performance? (Section 4)
5. How do your college's staff learning and development processes support business effectiveness? (Section 5)
6. How do you align your reward systems to achieve employee engagement? (Section 6)

Section 1: The Employment Regulatory Framework

Introduction

In this section you will consider the framework in which you recruit, deploy and part with your employees in order to be able to deal with these matters confidently and effectively. Inevitably you will be called upon to exercise your judgement about whether to take a particular step and which course of action to follow. It is rarely a case of formulaic management as the situations you face can vary greatly. The exact approaches you adopt and the strategies you pursue will depend on a number of different factors, including:

- the mission and values of the college;
- the characteristics of its location and any competition;
- the employee relations climate in the college and
- the ability of your managers to effect and sustain change.

Instruments and Articles of Government of FE Colleges

These are Orders which means that they are legal documents, passed and amended as necessary by Parliament. The latest substantive version was passed in 2008.

The matters that the Instruments and Articles cover include the powers that you have to employ staff and terminate their employment. They specify that the Principal and Clerk must be employed by the Corporation as Senior Postholders. Your Corporation can specify that others too can be Senior Postholders. This means that the Corporation deals with the terms and conditions of their employment, their salary and other terms of remuneration, and matters of discipline or grievance, and finally their termination of employment. This means that you and they are employees of the Corporation. The line manager of the Principal is usually the Chair of the Corporation.

It follows that there may be merit in developing separate policies and procedures (eg Disciplinary Procedure) for these employees to reflect the particular way in which their employment relationship works. For example, although the Chair is normally the Principal's line manager, in cases of formal disciplinary action it is more likely that the Chair will act as the person hearing the appeal rather than the person investigating or chairing a formal hearing.

The Principal is then the person who employs the other staff of the college. This means that the Principal will be responsible for their

recruitment, pay, deployment and any termination of employment. The framework for these matters needs approval by your Corporation, but the implementation then rests with the Principal.

Importantly the Instruments specify the matters which can be delegated. In relation to your employees, these cover:

- the level at which dismissals are made and
- the level at which appeals against dismissal and any grievances are heard.

Many colleges have opted to delegate these matters to the Principal - and then in turn to other Senior Postholders. This mirrors the practice in many industrial and commercial organisations.

Employment Legislation

There is a vast array of legislation passed in the UK and in Europe to regulate the employment of staff. You will not need to know all these laws and regulations, but you will need to have a good grasp of the critical points of the legal processes which you might face. These cover:

- employment contracts;
- commencing and terminating employment;
- handling grievances and other complaints and
- formulating the working relationship and work environment

Details of the main pieces of legislation about these matters are set out in the Annex below.

Employment Tribunals

It is important for you to be aware that your college could be subject to a legal challenge by one of your employees through the Employment Tribunal (ET). Matters which the ET can consider include:

- equal pay;
- unfair dismissal;
- redundancy pay;
- discrimination on the grounds of sex, race, disability, age, religious belief or sexual orientation;
- breach of contract;
- working hours;
- unauthorised deductions from wages;

- written statement of terms and conditions and
- failure to inform and consult in a redundancy or business transfer situation.

Employees generally have 3 months from the act of which they are complaining to apply to the ET. That means 3 months from the act of discrimination or 3 months from the date of dismissal.

A letter from the ET alerting you to a claim may just be addressed to your college; they rarely send the letter to a named person. You will have 28 days to register your reply to the claim. The 28 days starts from the date of the letter from the ET. If their letter takes time to get to your office that will use up valuable time! Once a response is registered, an ACAS official will be appointed to try to sort the matter to avoid a hearing. If that does not succeed you will be given a date for a hearing. At that point you will have to submit witness statements and an agreed bundle of your documents to the other side. It follows that it is essential that you and your colleagues keep good records of events as they happen.

Contracts of Employment

Although it might seem to you that this is the territory of HR, in fact you should understand how contracts work so that you can get them designed to meet the ways in which you want employees to work now and in the future.

Key Point - Is this an agreed contract?

There are three elements to a contract:

- offer (can be verbal as well as written)
- acceptance (again this can be verbal as well as written)
- consideration (what we non-lawyers call money).

With those elements in place so is the contract. The terms of the contract are often sent to the employee later.

Key Point - what happens if I want to change the terms of the contract?

Generally speaking, the terms of the contract are as stated in the written document. Sometimes the terms are set out in some other document (eg staff handbook).

You want to have as much flexibility in the working relationship with the individual as possible. This means that you will need to have your contracts carefully designed to build in as much working flexibility as possible. So, words or phrases such as 'normally', 'consistent with duties of your post as assigned from time to time' are very useful ones to deploy in contracts.

Sometimes contracts also include variation clauses - eg 'the Grievance Procedure may be varied by the Corporation'. This is designed so that you do not have to negotiate with the employee whenever the procedure is changed.

Without such contractual flexibility, you are left with three choices if you want to change the contract:

- reach an agreement to the change. For minor matters - eg change of job title - or ones which benefit the employee - eg increase in salary - there will rarely be any difficulty with that. For detrimental changes or major ones, it may be necessary to negotiate the change. This may involve some sweetener
- go ahead and make the change. The same points arise as for the first option. There is always a risk that you will get a challenge to your actions and this may amount to a claim for wrongful dismissal or breach of contract, both of which areas normally go to the civil courts rather than the tribunal

- consult on the change and the reasons for it, then dismiss the employee with the contractual notice due. At that point offer another contract on the desired terms. This should be seen as a stage of last resort since there are risks of a tribunal claim - as well as bad industrial or employee relations - if it goes wrong. However, in some instances, eg in the past the movement of academic staff from Silver Book contracts to new ones, that was seen as a worthwhile risk. Some colleges succeeded in that strategy.

Terminating Employment

All contracts of employment specify how contracts will end or be terminated. The ending of a contract is an arbitrary act. Once done it cannot be undone, unless with the agreement of the other side.

So, if an employee resigns, they have brought the contractual relationship to an end - at the ending of the notice period. You do not need to accept it; it is legally, and normally, futile to reject the resignation.

Contracts can end in the following ways:

- resignation - watch out for requests by the employee to change their mind and stay. At that point it is in your gift whether you allow them to stay or not;
- dismissal - with notice or summarily (ie without notice, this is reserved for gross misconduct or gross negligence);
- ending of a fixed term contract (ie. one with a stipulated start and end date) - on its due end date;
- constructive dismissal - this is when the employee states that they consider that your behaviour, eg halving their pay, or that of others behaviour, eg harassment, is so serious that it is like terminating the contract. They normally leave on the spot, without working notice or allowing procedures to be worked out.

Key Point - Fair reasons for Dismissal

If you defend a claim for unfair dismissal, you will need to be clear of the reason for the employee's dismissal. The tribunal will put the termination into one of the following 5 boxes:

- conduct (normally dealt with through your Disciplinary Procedure)
- capability (normally dealt with through your Capability Procedure) This covers work performance and ill health)
- redundancy
- contravention of statute - eg failure to hold the necessary qualifications for the post (eg as a lecturer)
- some other substantial reason (this includes dismissals for business reorganisations where the individual is replaced).

It is important that the process and procedure you follow prior to the dismissal fits with the category above.

Explanations of the redundancy and disciplinary processes are given below.

Task 1

Look at the contract of employment for lecturers at your college and identify the current points of flexibility and those areas you might like to see more flexibility.

Feedback

For feedback see end of unit.

Key points - Summary

- The legal framework for employment is complex. Further education has its own sub-set of statutory regulations.
- Employees have the right to complain at Employment Tribunals. The process for handling such claims is time critical. Poor management can lead to adverse outcomes at tribunals as well as having an impact on employee relations in the college and its public reputation externally.
- Employment contracts are important documents that frame the way in which the working relationship works. It is the harbour of any inherent flexibility you wish to have in that relationship.

Section 2: Recruitment and selection

Introduction

In this section you will consider how your college's recruitment and selection processes contribute to making sure that you appoint and promote the best people.

Staff recruitment and selection involves some fine judgements. These issues confront you and your college strategically – in your approach to recruitment – and tactically – for each appointment you make. You will want to ensure that the college is recruiting the best people and that the best people are promoted. You also want to get value for money in your recruitment methods: for example you want to avoid having to re-advertise for a post because of a poor initial response. You will also want to further your equality and diversity objectives and comply with the law. The recruitment/selection process is about increasing the chances of all this happening – but in a manageable and cost-effective way. Whenever you appoint someone new you make a decision. Your decision making processes and abilities must be well developed.

These are mission critical processes and are also about effective spend, as your staffing budget will be about 65 per cent of your college budget. When you appoint a new lecturer, ask your self how much they will cost you. This will be their salary plus about 20 per cent oncosts, as well as, costs of training, getting up to speed etc. Calculate this over five years and then ask yourself how you would approach a capital acquisition to the same value. After that, ask yourself what maintenance schedule you would put in place for that capital item so that it always works at its best. Your appointment, promotion and training strategies for your staff should be at least as good.

This section will help you to:

- participate in the recruitment and selection processes in your college
- ensure that you are appointing the best individuals for the particular posts in your college
- ensure that these processes support the development and maintenance of a diverse workforce
- understand the importance of complying with relevant employment legislation (see the annex for a summary)
- ensure the evaluation of these processes.

Who has responsibility for the recruitment and selection process?

The responsibility for recruiting and appointing employees is a strategically and operationally important decision. Your recruitment process should always be supported by HR specialists and undertaken by people trained to do it, but there are different ways of going about it.

A traditional approach is still adopted by some colleges; there the recruitment of staff is a centralised service provided by the HR person or team. The line manager is kept at arms length and receives the appointed person. This is the 'low risk, high control' approach which minimises exposure to blunders by line managers who are not experts in recruitment

or employment legislation, but tends to be slow, cumbersome and expensive. Just as critically it also disempowers line managers from the recruitment and engagement of new employees into their area.

A modern approach to HRM devolves the management of the employment processes - including recruitment and selection - to line managers. This means that the recruitment and appointment of employees becomes the responsibility of the line managers, with advice and guidance from HR. The role of HR is then that of advising and guiding on the processes, taking the responsibility for certain operational aspects - eg placing adverts - as well as taking the lead on the monitoring and evaluation of the recruitment process. This means that line managers have ownership of the outcome (ie the successful appointment), as well as becoming more aware of the time taken to recruit and the costs involved. Remember, though, that the appointment procedure for senior postholders is prescribed in law and in your Articles of Government.

Recruitment

Preparing to recruit

Figure 1 shows the stages in the recruitment and selection process. In an ideal world you'd go through all of them. However, in practice limitations of resources and time may mean that you start with drawing up a job description and person specification, particularly if you are replacing an existing member of staff rather than creating a new post. These documents are vital in helping you identify accurately what the post will entail and the qualities and expertise you are seeking. They form an integral part of the advertising, shortlisting, selection and subsequent induction and training processes.

Stages in the Recruitment Process

Preparation

- Job evaluation
- Job analysis

Recruitment and selection

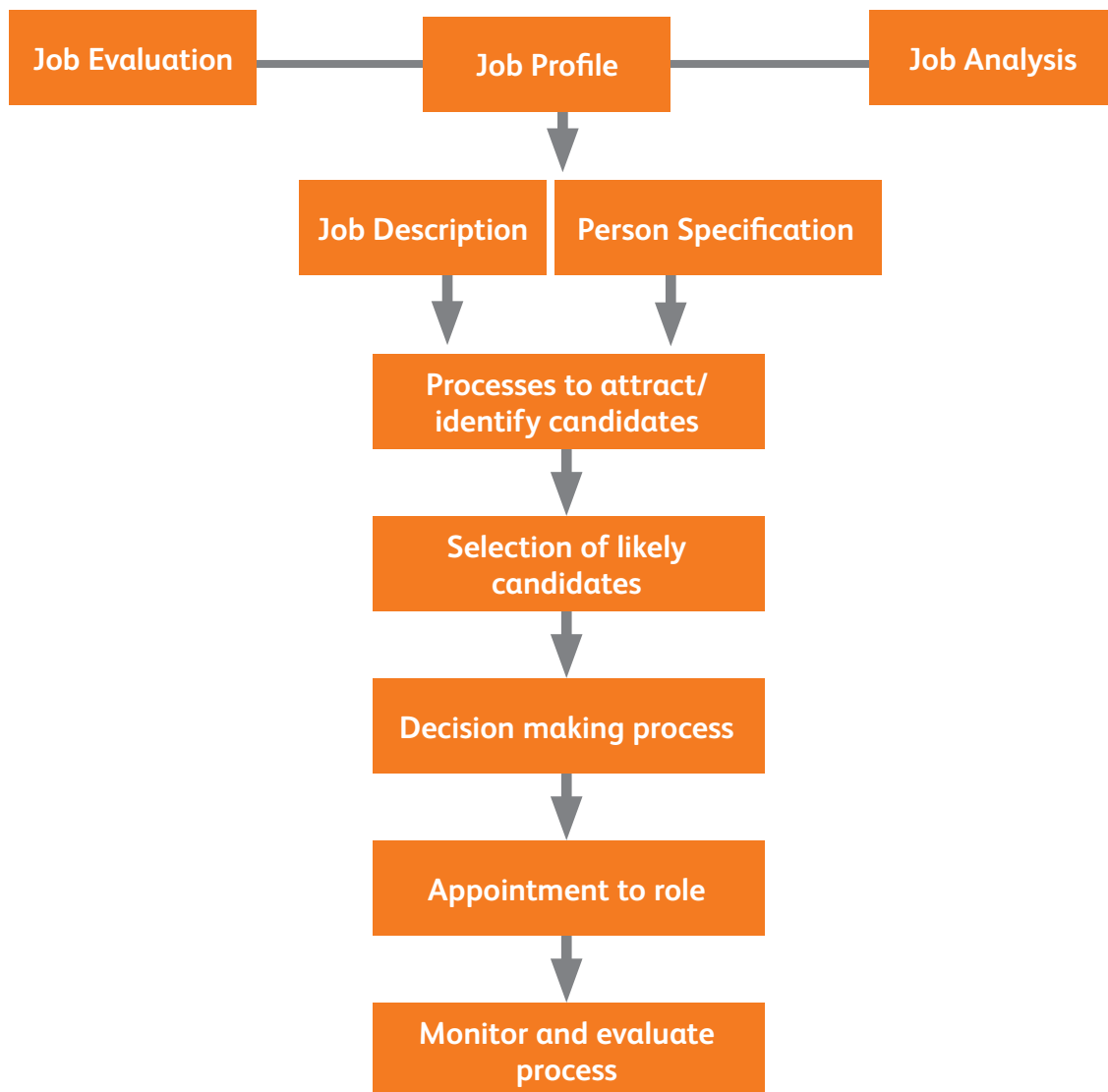
- Process to attract applicants
- Selection of short-listed candidates

Decision making process

- Appointment to post
- Monitoring and evaluation of process

Whether you or one of your managers initiates the process, your HR staff will need details of the job description and person specification. Most colleges have a standardised process(es) in place. This might include job analysis and/or job evaluation to ensure that the documentation for the post is current and everyone is clear about the duties, expectations and requirements of the role.

Figure 1 Stages in the recruitment and selection process



Ensuring against illegal discrimination

Your HR person or team will be particularly concerned to ensure that you discharge your legal obligations, especially in respect of anti-discrimination legislation. For example, you will need to ensure that:

- the person specification does not directly or indirectly disadvantage any one group (eg. by specifying 'UK only' qualifications or defining experience in terms of years worked) and
- the working pattern and hours are genuinely required to undertake the role – there is legislation supporting flexible working arrangements for people with young children and those with caring responsibilities.

Time and timing

With even modest levels of turnover, most colleges are recruiting somebody most weeks of the year. Some vacancies are predictable; for instance, you will know the exact retirement date for particular individuals. You will also know any agreed new posts agreed in your business planning cycle. Some groups of staff (eg.. lecturers) tend to move on at specific times of the year. This means that you can do some planning which takes account of:

- the time needed to advertise, shortlist and go through the selection process (remembering that most applicants will have to give notice from their present post) and
- the need to complete your college's recruitment checks, eg Criminal Records Bureau (CRB) check, obtaining references, checking identity and legal right to work in the UK.

Large scale changes (eg restructuring, mergers, expansion) can involve several simultaneous appointments so special arrangements will be necessary to cope with the workload. Managers often find the time it takes to recruit frustrating, but the purpose of all these checks and a thorough recruitment process is to ensure the best appointment, whilst also

minimising the risk of discrimination claims; these are very expensive in terms of both time and money even if the college is ultimately successful in defending itself.

Finding your pool of applicants

In an ideal world you would have one perfect candidate for each job. In the real world you want to attract a number of applicants to improve your chance of getting strong candidates and because diversity of applicants is a necessary precondition for diversity in your workforce. For similar reasons, it is rarely a good idea to fill jobs only 'internally', although this can be a most effective means of recruiting when used as a tactical approach. An approach which is more common in the private sector is to pay employees to recommend potential applicants rather than have an advertising cost.

If you advertise externally, where is the best place to promote the job cost effectively?

This used to be a simple question of which newspaper or journal you used. Now you have the choice of any or all of:

- local papers – typically for non-specialist posts or if your college is remotely situated (eg. on the coast);
- national daily and Sunday papers – typically for senior executive posts;
- specialist education press (eg Times Educational Supplement, Times Higher Education Supplement, Guardian Education);
- professional or trade journals – probably still the best route for jobs with professional bodies, eg accountants, librarians;
- recruitment websites like <http://www.monster.co.uk> and <http://www.jobs.ac.uk> (national and regional papers all have associated job websites which may be offered to you as part of the advert price or sometimes at extra cost);
- general recruitment agencies and

- specialist recruitment agencies (eg for IT or accountants); again, these usually have on-line job advertising as well.

The choice between these routes is more art than science and will involve a judgement about price, reach and effectiveness.

Generally, you would expect to rely on your HR team for advice, but you might want to check that they review their approach to this periodically.

You can, of course, outsource any - and all - of the recruitment process to an agency. 'Headhunters' will manage the search and initial filtering stages or the entire selection process for you. There are many such organisations to choose from, including some which specialise in FE. However, the cost usually limits their use to the more senior or specialist posts.

Managing the application process

Assuming that you are managing the process in-house, your application process should be designed to capture the maximum amount of relevant information about your candidates. You will probably (but not always) start from a written application which you will compare with the job description and person specification to filter the pool of applicants down. This can be done in several stages or only one or two (usually depending on the seniority of the post) but it often includes shortlisting and one or more interviews. It is widely acknowledged in the selection business that interviews are a flawed and problematic approach to staff selection. So, where the post justifies the cost, the selection process will include one or more other forms of evidence about the candidates, some of which are outlined below.

Your college is likely to have its own standard application form in paper format and, increasingly, on your website. Some request that applicants submit a CV with a covering letter and a few still demand a handwritten application. One advantage of standard application formats, particularly

electronic ones, is that you can set out to get the information you want, including specific questions tailored to the post being advertised. This helps the shortlisting process. An electronic only submission procedure might indirectly disadvantage those without access to a computer, so you should normally accept a range of formats in order to widen the pool of applicants. It is rarely a good idea to accept just a CV as they are not usually written for your specific post and may not contain the information you want. Increasingly, the recruitment process is managed online and HR computerised systems used to track the recruitment process.

Selecting the candidates

Shortlisting

Once your closing date has passed, the first action will be to look at each of the applicants against the criteria contained in the person specification to see if you have a shortlist to go to the next stage. This stage is often neglected, but it is worth taking some trouble over it. If you have a very small field, there is no reason why you shouldn't shortlist just one applicant if he or she is a good fit with the criteria.

If you have a large field of applicants, the shortlisting process can be very tedious, but you should be aware of the risks inherent in short circuiting this stage. For example, you might make (indirectly) discriminatory decisions and you might accidentally eliminate the best candidate. You may need to:

- do the filtering over several days and
- share the job out across several people.

Whichever you choose, you will need to have a very clear recording mechanism so that you don't forget the reason for your decision, as well as having a record in the event of any later challenge.

You may find that you have too many applicants making it through to your shortlist. You can legitimately set a ceiling on the

number of people you allow through to the next phase by using some of the following:

- use a secondary set of selection criteria (desirable qualities rather than essential ones) – provided these were clearly declared and set out in the application process;
- introduce a ‘longlisting’ process (perhaps a relevant written task) to filter the field further;
- conduct telephone interviews to scale down the numbers and
- select your shortlist at random.

This last option might seem strange or risky, but it is actually fairer than introducing a new and undeclared criterion (eg. all those with a masters degree) which might be discriminatory.

Selection methods

You can, and normally should, use a combination of different selection methods, depending on the complexity of the post, to enable the candidates to be tested against the person specification.

Although Interviews remain the most commonly used method, they are not that reliable an indicator of future performance because interviewers often make subconscious decisions or judgements. The following are things to bear in mind.

- First impressions – it is claimed that interviewers will make up their mind within the first four minutes, making early information to be of disproportionate importance (the so-called ‘halo effect’).
- Stereotypes – when the interviewer views the candidate in terms of what he or she has in mind as the expected or ideal candidate (eg. age); this can lead to discrimination.
- Trait attributions – the belief that past behaviour is a good predictor of future behaviour omits mediating circumstances and influences.

- Other effects and biases – including contrast with earlier interviewees making current candidates appear ‘better’ than they are, the impact of non-verbal behaviour, the ‘halo effect’ of one outstanding characteristic, recruiting in one’s own image, etc.

There is no easy way to avoid subjectivity in the selection process, but the potential for a successful outcome can be increased by ensuring that:

- candidates are ranked and weighted against the criteria contained in the person specification;
- your decisions are supported through information obtained during the interview;
- the selectors are trained and aware of discrimination legislation and
- you interview with another person or panel of people.

Psychometric tests provide a valuable alternative insight into the candidates and, used correctly, can be a useful tool in the selection process. The results are not a comparison against other candidates but against standards developed for the tool. Amongst the more mainstream examples are verbal and numerical reasoning, critical thinking and personality inventories. When combined with expert interviewing, or used as part of an assessment centre (see below), psychometric testing has a good track record and is certainly better than interviewing on its own. Your HR staff may already be qualified to manage these tests and provide feedback to candidates. If not, there are many organisations that can provide such a service.

There are many non-psychometric tests that you can use to add to the information obtained from application forms and interviews, for example ‘in-tray’ exercises, giving a presentation on a topic related to the main responsibilities in the post, analysing and interpreting data and group exercises. Your HR staff can build up a bank of these for the

different college roles and design additional ones with elements appropriate to your college.

Assessment centres bring together a number of different selection methods including psychometric testing, interviews, role play, etc., to simulate aspects of the role. They are regarded as a more reliable method of selection, but are quite expensive to stage. Assessment centres also make considerable demands of candidates in terms of time and effort. For these reasons, assessment centres tend to be used for the more senior or specialist jobs. However, some major retailers have moved to use assessment centres for all posts. One of the reasons for this is that they have discovered that they can train employees to gain additional skills, but they struggle to change poor attitudes. They see assessment centres as a prime means of finding those with the right attitude for their work. This is clearly a subjective matter, but one which recognises that the employee's approach to work is as important as their skill levels. Assessment centres can be structured to test a variety of attributes. Use of assessment centres requires considerable planning, time and resources to ensure that the centre is constructed around the person specification and job description to optimise the results. Often external consultants are used to assist in designing and running them.

Making the appointment

When making an offer of employment, bear in mind that the candidate is selecting you, as well as, vice versa. This is one of the benefits colleges see in being seen as an employer of choice: if individuals are actively looking to join your college this helps to minimise the importance of using expensive advertising. You may also find that your chosen candidate is using your offer as a bargaining tool with his or her current employer, or wants to renegotiate several aspects of the reward and package. To safeguard against that you might want to see whether you have a reserve

candidate in the event that your first choice declines the offer.

Offers of appointment should be made in writing and fully reflect the legal requirements of employment, as well as providing all of the information the successful applicant needs in order to make an informed decision. It is common, though, to offer the successful candidate the post via the telephone. Remember that any verbal offer of employment is likely to be regarded as contractual, so managers should be very clear about what they say when making an offer of appointment.

Offers will often be made 'subject to references' and you must ensure that both the author of the reference and the candidate understand how the reference is to be used.

Notify unsuccessful candidates promptly in writing, offering feedback wherever possible. However, you might want to postpone this feedback long enough to be sure that your first choice candidate has accepted if you have a 'near miss' second choice. As an absolute minimum, you must give feedback on any psychometric test results.

Record keeping

Throughout the process you need to ensure that those involved are keeping accurate records in support of the decisions made. You might need this information to feed back to unsuccessful candidates or in situations where candidates wish to contest the decisions that you have reached.

Applicants have a right under data protection legislation to seek disclosure on information held about them, with some exceptions. Applicants seeking redress through the employment tribunal system also have a right to request disclosure.

Monitoring equal opportunities

As part of the application process, you should ask applicants to complete a separate section of the application form seeking information

on their ethnicity, gender, disability, age, etc. You need your HR team to evaluate this information to check that the recruitment and selection process is not disadvantaging or directly discriminating against any particular group. The outcomes of the evaluation can help inform your equality action plan in respect of where to target recruitment, if, for example, you find that the figures do not correlate with the diversity of the local population.

Evaluating the recruitment and selection process

Apart from monitoring the recruitment process to ensure equality of opportunity, you should ensure that the HR team is evaluating the recruitment process, collecting data on the numbers of staff being recruited and identifying difficult-to-fill posts, etc. This data can be used to shape future HR strategy and planning.

Talent management

Earlier, we warned against a policy of filling jobs only from 'closed' shortlists because of the risk of legal action as a result of creating or perpetuating an unbalanced work force where managers recruit others in the same mould as themselves. This risk needs to be set in context and viewed against any particular difficulty in recruiting good employees. For instance it can be a struggle to find good academic staff with the right mix of trade background and ability to manage the various demands of working in FE. As a result, non-standard ways of finding good employees need to be addressed. These could include developing your own college's talent pool. A 'talent management' or succession planning approach can help ensure that there are employees available to fill key roles when they become vacant. See Section 5 for more information on this topic.

Task 2

Look at a sample (three or four) of recruitment exercises conducted by your college in the last six months. Try to look at a mix of different job types – for instance, an academic, a manager and a technician or administrator. Review the information obtained (and/or tasks set) in the course of the exercise and evaluate:

- the range of different selection methods used
- the skills/aptitudes/behaviour each method was intended to reveal
- the fit between the information obtained and the person specification

Feedback

For feedback see end of unit.

Key points - summary

- The quality of your college's services is highly dependent on the performance of your staff, and the way in which you recruit them is a mission critical function of management.
- The college has to comply with a wide range of employment legislation to ensure that it does not discriminate against groups or individuals, respects people's privacy and ensures that staff are treated fairly.
- You have a number of strategic and operational choices about your approach to selection and recruitment. These include the scope to outsource the function, the precise roles of line management and your HR team, and the range of selection techniques you use.
- Mistakes made in individual recruitment exercises can be expensive and long lasting. These can be avoided by training managers and staff about their legal responsibilities and providing them with the necessary skills to recruit and select effectively.

Section 3: Staff retention, organisation and reorganisation

Introduction

In this section you will consider the college's employment, organisation and reorganisation processes and how they contribute to making sure that you retain the right people within the college. You will look at how you can manage large-scale change within the college with the least possible damage to staff morale and without falling foul of the relevant legislation.

This section will help you to:

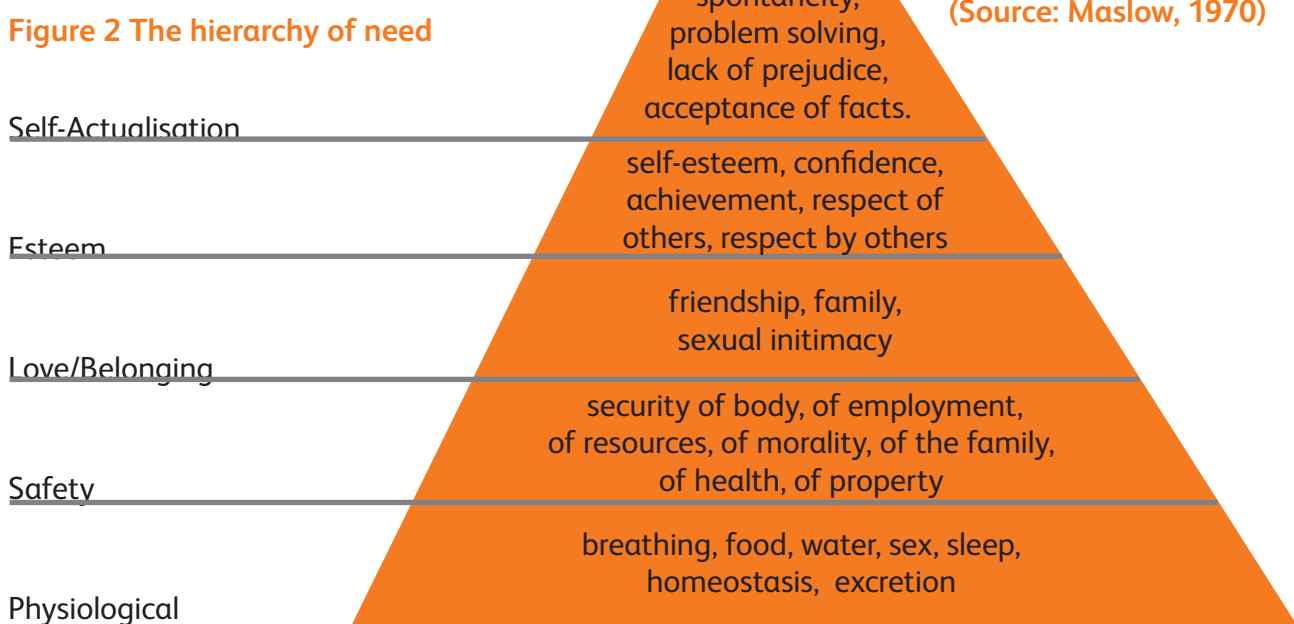
- retain and maintain the talents of your staff
- understand the need to offer staff more than just material benefits
- evaluate the management processes in your college and ensure that they support the development and maintenance of a diverse workforce
- comply with the legislation on consultation, redundancy and business transfer.

Retaining staff

There is a mountain of material on staff motivation and very few 'eternal truths'. The longest standing argument has been between those who believe that employees are motivated entirely by concrete rewards (ie money) and those who hold that employees enjoy or suffer benefits and costs of an emotional or psychological kind. A well known attempt to de-polarise this argument is Abraham Maslow's hierarchy of need (Figure 2) which represents these factors as a pyramid with basic physical needs at the bottom and 'self-actualisation' at the top.

- Physical needs, breathing, food, water, sex, sleep, homeostasis, excretion
- Safety needs, security of body, of employment, of resources, of morality, of the family, of health, of property
- Love/Belonging needs, friendship, family, sexual intimacy
- Esteem needs, self-esteem, confidence, achievement, respect of others, respect by others
- Self-actualisation, morality, creativity, spontaneity, problem solving, lack of prejudice, acceptance of facts.

Figure 2 The hierarchy of need



Most employers recognise that pay and other concrete awards are significant, but that they are not the only factors influencing staff retention. As those who have become embroiled in inter-group comparisons will know, relative pay levels between staff groups can be a more contentious issue (as a symbol of esteem) than the actual pay rates themselves. Studies of stress at work show that a major stress factor is feeling a lack of control (see <http://www.hse.gov.uk/stress/> for more details). In terms of Maslow's hierarchy, this is not surprising as lack of control is the opposite of self-actualisation. The various factors comprising the psychological contract between staff and their employer can be distilled into the concept of employee engagement.

Employee engagement is defined by the Work Foundation as:

“Employee engagement describes employees’ emotional and intellectual commitment to their organisation and its success. Engaged employees experience a compelling purpose and meaning in their work and give of their discrete effort to advance the organisation’s objectives.”

One result of such employee engagement is that these staff are more likely to be satisfied with their job, take pride in customer service and are less likely to leave. A college that engages well with its employees will have:

- good communications – extensive and varied formal and informal systems of communication, eg team briefing, newsletters, notice boards and intranet, and arrangements for meeting with employee representatives. Your college may also use attitude surveys and focus;
- groups to gauge feedback from staff;
- a culture in which employees’ efforts are recognised, appreciated and rewarded;
- extensive involvement and delegation

– regardless of their role in the college, employees welcome the chance to be involved in the design and delivery of a service, or the identification of a problem and the solution to it. Management by fiat (autocratic and whimsical intervention, for instance) is disempowering and causes discontent and poor work practices;

- opportunities for personal development and improvement. (There is more on this in Section 5) and
- low levels of employee turnover, sickness absence and other indicators of poor employee relations.

All these things together are often described as the ‘management culture’ of the college. Setting, or at least influencing, that culture is one of your primary roles.

Task 3

- What measures does your college have in place to ensure employee engagement and how effective are they?
- How is this monitored?
- How do you personally go about engaging employees?
- Reflect on any changes you would like to make to your own approach or to the college’s engagement measures in general.

Feedback

For feedback see end of unit.

Workforce planning

Your strategic planning will include projections of the future range of activities of the college. Of necessity this process will include judgements about the numbers of staff, mix of skills and size of the salary bill. This planning should be a continuing process rather than being triggered by a particular set of needs. If you are lucky (and probably unique!) the rate of change in your college will be steady enough for you to make adjustments to the staffing profile through normal turnover. If you have developed a flexible workforce, have accurate forecasting and you plan far enough ahead, you might be able to accommodate even big changes in your workforce requirements smoothly and efficiently. To accomplish this, in addition to good information about the college's future business, you will need accurate data about your current staff including:

- age profile;
- salary cost and
- grade mix.

This is fairly straightforward, but you will also want information about:

- skills levels and
- workload and efficiency (eg the extent to which academic timetables are fully met by individuals).

All this information should be stored in a way which lets you look at the data by individual, by grade and by school or department. You will have most of the core data on record already, but the skill and efficiency data may be harder to come by. If you have not been routinely collecting this data, you should be aware of the possible effect on staff perceptions of beginning to do so. It is always preferable to collect such data routinely and not just to inform say, a restructuring exercise.

How you share what you do with this data can involve difficult choices. If you ask individuals to verify the data you hold about them they

will understand what is in their record. They have a right anyway to see their records under the Data Protection Act.

If you are in a potential redundancy situation, it is generally a case of the more you share the better, but you will also want to avoid causing unnecessary alarm. However, it is normally not possible to evaluate different staffing scenarios without involving other managers and this usually means that knowledge of the exercise will become known around the college sooner or later. In this case it is probably better to take control of the communications process than to be the victim of ill-informed rumour.

Task 4

How much information on your workforce is currently available to you? Does it include data on workloads, efficiency and skills profiles?

How would you set about collecting these data in ways which did not unnecessarily alarm staff or provoke an unhelpful reaction from employee representatives?

Feedback

For feedback see end of unit.

Bringing about change

As indicated above, you will sometimes be looking at staff data because you have a large-scale change to manage.

Some changes are wholly positive (eg expansion without the need for other reorganisation) but these situations are regrettably rare. In all other circumstances, you will be managing the negative effects on staff, both as individuals and collectively. There is likely to be a legal process to undertake in complying with individual and collective rights of staff and recognised trade unions. Employment contracts in this country recognise that the requirements of an

organisation will change over time and that employees are reasonably expected to adapt and adjust their behaviour in accordance with these changes. However, it can be difficult to spot when a change amounts to an unreasonable unilateral variation of a contract when this could lead to a claim of constructive dismissal.

You will need to be able to depend on your HR team's understanding of the legal processes that underpin contractual change. Getting it wrong can be both expensive and damaging to employee relations. Be clear about when you need to consult with your staff on change and when you need to negotiate. Broadly, if the subject matter for change is in the employment contract and is 'material' then you will need to negotiate, ie reach agreement. Where the matter isn't contractual, you may still have a duty to inform and consult with a view to reaching agreement, as in the provisions for collective consultation (see below). It is not always easy to determine what is contractual and what is not and your HR team will usually advise. Remember that they will usually err on the side of caution.

Redundancies

The statutory definition of redundancy is as follows:

"An employee who is dismissed shall be taken to be dismissed by reason of redundancy if the dismissal is attributable wholly or mainly to:

- the fact that the employer has ceased or intends to cease to carry on the business for which the employee was employed in the place where the employee was employed
- the fact that the requirement for employees to carry out work of a particular kind at the place of work where the employee was employed has ceased or diminished or are expected to cease or diminish."

(Section 139, Employment Rights Act 1996)

The key point here is that there is a reduction in the number of employees needed. Redundancies can involve a single post or wholesale college reorganisation involving hundreds of posts. If redundancy is probable then you will need to consult with staff individually and, where sufficient numbers are being made redundant, collectively.

Redundancy situations pose a series of challenges to the college as a whole and to you and your leadership team. Here are some of the main ones.

- Reaction of employees - It is inevitable that there will be a sense of uncertainty and anxiety among employees when possible redundancies may occur.
- Reaction of managers - Managers do not usually relish having to make redundancies, particularly to those in teams they manage.
- Uncertainty - Usually you are trying to anticipate a future change. This often means that there is a degree of uncertainty about the business case supporting the need for redundancy. Formal redundancy procedures demand that you start consultations as soon as possible. But the earlier you start the less sure you can be about the business data underpinning your plans. You can expect this uncertainty to be attacked by staff and their representatives.
- Cashflow - Redundancy pushes your costs up in the short term so it is not a suitable response to an immediate cashflow crisis.

Consultation

The obligations to consult are extensive and onerous. Indeed, you should be particularly careful about how you go about effecting redundancies in general. Although tribunals and courts have generally been wary about challenging employers' justifications for making redundancies or even the basis for

selection (or at least until 2007 and the case involving UK Coal Mining Ltd and NUM and BACM which said that employers have to engage in meaningful collective consultation about the economic basis for a decision), they have shown no such caution about punishing procedural errors so it is important that you get this right.

In addition to the rights that individual employees and other workers have to be consulted, there is also a duty on employers to consult collectively with staff and their representatives when proposing more than 20 redundancies, in transfer situations and in certain circumstances which may involve dismissing staff under 'some other substantial reason' (one of the potentially fair reasons for dismissal). This might be where, for instance, an employer wishes to change contractual terms and staff and unions do not agree to the change. The Information and Consultation of Employees Regulations give employees the right to request the negotiation of an agreement which will set out a procedure for informing and consulting workforce representatives on a variety of business issues to include changes in work organisation, contractual relations including redundancies and transfers and the development of business activities and economic situation.

The law lays down some minimum consultation periods depending on the number of staff affected. These are:

Collective consultation

- Where there are 20 or fewer employees at risk of redundancy there is no stipulated period of consultation, although it is good practice to aim for 30 days.
- Where there are more than 20 but fewer than 100 employees at risk of redundancy in a 90 day period you must consult for 30 days before a decision is made about their dismissal for redundancy.
- Where there are 100 employees or more at risk of redundancy you must consult for 90 days before a decision is made about their

dismissal for redundancy.

Individual consultation

Regardless of the number of individuals involved, you need to consult individual employees with a view to avoiding the redundancy and their potential dismissal. Failure to do so could result in a redundancy dismissal being found unfair.

Notification of Department for Business, Innovation and Skills (BIS)

You have to notify the Department for Business, Innovation and Skills (BIS) if you are planning on making twenty or more staff redundant using form HR1 which calls for you to lay out your procedure in some detail. You may not have this detail if you have started with a consultation about the business problem (a reduction in demand for particular courses, for instance) before trying to specify the solutions. In this situation, you can either let BIS have successively more detailed versions of the HR1 or delay submitting it until you have got to the point of designing a redundancy selection procedure.

How do you select those at risk of redundancy?

The criteria used will depend on the reason for the redundancy and the scale of the reorganisation. It is important that any criteria are objectively chosen and fairly applied and that you have made sufficient effort to find suitable alternative employment for those staff 'at risk', provided retraining for employees as part of the means of avoiding redundancies, and given them time off to find other work.

Normally unless the individuals at risk are in a discrete 'pool', you select people to be made redundant. For large-scale redundancies, or where the pool of potentially affected staff is large enough (even if the number of redundant posts is small), you might select those who are to retain posts. Many colleges prefer this approach because it generally feels more positive than actively selecting people to be sacked, but you should bear in mind

that this might subject more people than is actually necessary to uncertainty and stress.

The most common criteria for selection are those based on the skills, aptitude and experience required to deliver the new business plan rather than 'Last in, first out' (LIFO). The criteria used must not be discriminatory; for example, sickness records may be used, but you should be aware of the risk of disadvantaging someone with a disability; 'Last in, first out' might disadvantage women or young workers. Methods of selection also vary depending on the scale of the programme and how well defined the area of reducing demand is. If you are closing a section and the staff that work in it work nowhere else, the selection criteria are self-evident. Otherwise, selection by interview is commonly used to make the assessment, and those best matched against the person specifications for the new or remaining roles will remain with the college. Alternatively a paper based assessment can be undertaken based on an evaluation of the specific criteria to be used (eg outcomes of appraisal/ performance review, records of attendance and any disciplinary records to select out those who least meet the requirements of the college).

Transfers

Although growth and expansion is generally 'a good thing', if you are taking over some work previously done by another organisation, you may well be obliged to 'acquire' the staff doing it as well. Similarly, if you were to transfer a number of courses to a neighbouring college, they might be obliged to take your staff too, and on their current terms and conditions.

The legislation governing the protection of employment rights for staff is contained within the Transfer of Undertakings (Protection of Employment) Regulations (TUPE). The effect of the regulations is to protect the rights of employees if the 'undertaking in which they are employed

transfers to a new employer'. If an employer breaches those regulations the employee can claim automatic unfair dismissal.

This is a complicated area of employment law and it is often difficult for the parties to a transfer to decide whether and how TUPE applies. For this reason, you should always seek legal advice when a transfer is being considered, although in most cases TUPE will apply.

Consultation provisions for transfers are set out in the annex.

Redundancy payments

Minimum redundancy payments are defined in law, but the amounts are quite low, especially for professional staff. The current statutory weekly limit is £380. It used to be commonplace for colleges to enhance these payments up to full pay for anything up to a year, and to enhance pensions too. Current accounting practices (which require all these figures to be shown as liabilities) have eroded this practice and this level of generosity is now rare. Payments on redundancy should also include any contractual pay (eg accrued holiday pay, untaken notice pay). Certain employees will have continuous service that includes relevant service with other public sector organisations under the Redundancy Payments (Modifications) Order and this will extend their service with your college for the sole purpose of calculating their redundancy payment. You might want to get some advice from an employers' association (eg. Association of Colleges) and you will definitely want to consult your finance director before proceeding.

Key points - summary

- Pay and other material rewards are not the only factors to influence staff morale and performance. You can improve college culture by ensuring that employees can influence their work, know what's going on, understand what they are being asked to do and why and are treated civilly and as professionals by managers.
- Making sudden large changes in the workforce is difficult and expensive in comparison to planning change over the long term. To do this, you need good information about your business environment and, more particularly, about your staff. Some of this information may not be collected routinely, so you will need to consider the possible effect of doing so on staff confidence and morale.
- Redundancy is the hardest change to manage. The rules are onerous and complex and it is easy to make expensive procedural mistakes. Staff morale usually suffers during the process. Don't forget the morale of those who have to effect the redundancies and those who remain after the process is complete. Watch out for previous service when paying redundancy pay.
- Transfers of undertakings (TUPE) is a legal minefield. If you are transferring work to someone else or planning on taking on work from elsewhere, get some legal advice.

Section 4: Performance management, problems, discipline and dismissal

Introduction

In this section you will consider the key features of a robust and effective college performance management (PM) system. You will then look at ways of dealing with HRM problems, in particular discipline and dismissal, and consider how your college's processes and procedures contribute to maintaining the standards that you expect of your staff.

This section will help you to:

- understand the processes in your college that aim to continuously improve individual, team and corporate performance;
- evaluate the processes used in your college to manage workforce problems and substandard performance or conduct and
- ensure that your college complies with all the relevant employment legislation.

Performance management (PM)

Colleges have PM and review (or appraisal) systems for a number of reasons. At their best, these approaches provide a supportive structure within which staff can review their professional performance against a set of criteria and targets which relate to the objectives of their unit, school or department and, ultimately, the college as a whole. To achieve this consistently across the college requires a considerable commitment to the process on the part of individuals and middle and senior managers. Colleges also use PM systems, as a means of identifying staff development needs, as a pay review mechanism and to support an application for, or implementation of, Investors in People (IiP) status.

In a good PM system:

- performance objectives are explicit;
- individuals understand what is expected of them and how their work objectives relate to those of the organisation or their part of it;
- managers understand their PM role and are equipped to carry it out and
- individuals accept responsibility for identifying their own learning and development needs.

In such a system:

- individuals and their managers look at ways to continuously improve the performance of individuals and teams;
- staff are supported and encouraged to develop the competence needed to perform effectively in their roles;
- opportunities for individuals to develop their full potential and 'talent' are identified for the longer term and
- reviews of the effectiveness of the system are regularly held.

Most PM models are 'top down' and

managerial; that is, they start with the strategic objectives and cascade downwards. This has the merit of aligning with the management structure and means that decisions and agreements made (eg. about a staff development process) stand a good chance of being implemented. There are other approaches. Peer (or team) review is favoured amongst academics and, so-called, 360 degree review (see below) is increasingly popular for management posts.

Defining performance expectations

The most common method of communicating expectations of performance to staff is the setting of individual objectives. A sophisticated model will link what each individual does to the overall aims of the team, unit and, ultimately, the whole college (though this final step can be challenging, especially in large and complex organisations). The down side is that objectives tend to focus on what is to be achieved rather than how.

A competency approach seeks to supplement the process of objective setting by describing the behavioural standards or competencies that are expected of each employee in carrying out his or her role. The aim of this approach is to help everyone build a more rounded view of 'performance' in which areas for improvement are identified in both functional and behavioural terms. The challenge here is to produce expectations which are meaningful and specific to each individual. Many colleges go no further than producing a series of 'class' standards applicable to groups of employees, though some will take this down to role level by describing exactly what is required in each specific job. A good example of this integrated approach is the Role Specifications for Principals of Further Education, Sixth Form and Specialist Colleges – a career planning tool kit (available from LSIS).

Performance measurement and identification of learning needs

To improve performance, you need to evaluate current performance. Measurement provides the basis for providing and generating feedback, building a platform for further success and identifying where things are working less well. The most usual form of measurement remains staff performance review or appraisal.

Increasingly the manager–staff form of review and measurement is supplemented – or, more rarely, replaced – by a process of 360 degree feedback. As the term implies, this form of assessment involves the collection of data (based on specific performance-related questions) from a range of sources, most usually an individual's direct reports, their manager, people they work with regularly from outside the unit, and customers (or students). An individual will also assess their own performance against the same criteria, with their results then being compared with the views of others.

Team review

Team-working is an important part of life in many organisations, and where teams are permanent or established for longstanding projects, measures can be based on team instead of – or sometimes as well as – individual performance. Team measures are not very different from those for individuals, and members need to agree their objectives and receive feedback in the same way as if they were operating individually. Team review is not easy and will not be effective unless both the working arrangements and culture are suitable for this approach.

Evidence

Whichever format for PM review is used, views need to be based on evidence, particularly if the judgements made are challenging. Collecting that evidence can be both difficult and time-consuming but, without it, the review process is just an exchange of opinions. For example, a lecturer's review should draw on evidence which includes an examination of

student success rates and direct observational evidence of his or her teaching. Management posts can have many aspects to them and it can become a bit more difficult to figure out what evidence is relevant and available in their roles. Do you need to sit in on staff meetings or training and development sessions? What other indirect evidence might be relevant? For instance, is staff progression evidence of effective staff development?

Identification of need

PM should support, encourage and facilitate opportunities for employee development. The output from a development review meeting will be some kind of personal development plan (PDP) containing details of what has been agreed between manager and employee, along with time-scales, review dates, etc. Most will cover both development needs in current role, and that needed to support future career aspirations and capabilities.

There are a number of ways in which an organisation can recognise, encourage and support performance improvement and these are covered in the following sections of this unit.

To be effective, your college's PM system must encompass the need for a diverse workforce and should not disadvantage any particular individual or group of staff. This can be quite subtle and difficult to spot. For instance, in some cultures, direct criticism and/or open disagreement is socially unacceptable. A member of that community can seem sly or devious or complacent in a review environment in which robust judgements about performance are expected to be exchanged.

Task 5

Assess honestly the extent to which your college's PM system is being applied consistently and effectively across the college.

- Do performance reviews systematically draw on evidence?
- What changes do you need to make?

Feedback

For feedback see end of unit.

Problems at work

A part of any manager's job will be to address problems as they arise, and as a strategic leader you are likely to be expected to address any number of diverse workforce issues that develop. To this end the college will have in place a number of procedures which signpost staff to the most appropriate place to seek advice and resolution of any given problem. For example, your college may have a specific procedure for the handling of bullying and harassment, or for managing stress at work, alongside the main grievance procedure.

Your grievance process should be based on the procedures laid down. This provides a framework for employees to raise grievances and have them addressed by their employer before turning to an employment tribunal. A standard process involves three stages:

- lodging a grievance;
- meeting to discuss the grievance and
- an appeal stage.

Many grievance procedures which were inherited from local authorities had more stages than this, but increasingly colleges have sought to have a model which deals quickly and effectively with issues at work. It is standard that with each stage the matter is referred to a more senior manager

than previously. In some cases, college governors hear any appeal, although as noted above, many colleges have exercised the discretionary powers to delegate authority for action, including appeals, to managers.

When addressing any problem the key is to seek resolution, and this is more achievable if the problem is addressed quickly and informally, if at all possible. Managers often regard minor grievances expressed by staff as petty, insignificant and an intrusion on their time when they are busy with other work priorities. Failure to address these minor issues at an early stage often results in a formal grievance being taken out and, not infrequently, leads to a breakdown in working relationships which often cannot be salvaged, even with mediation. Managers need to be clear about their responsibilities in addressing grievances and be prepared to take advice where necessary to achieve an early resolution. This does not mean acquiescing to every complaint raised, but demonstrating sufficient interest in investigating the nature of the grievance. If there is substance to the grievance, managers must take action to avoid the grievance arising again; where there is no substance, they should provide feedback to the complainant. A key aspect that is often overlooked in the management of grievances is a failure to keep the complainant informed as to progress and outcome, balanced with the need for confidentiality and compliance with data protection legislation.

Discipline

Many colleges have rules and codes of conduct, although they will rarely cover every eventuality and incident. Disciplinary procedures standardly contain a list of matters which can be classed as gross misconduct.

Disciplinary procedures are designed to address matters of misconduct. Most colleges have separate procedures to address matters of poor performance and sickness absence, and that is seen as good practice given the ways in which Employment Tribunals

address issues of unfair dismissal. The use of disciplinary procedures can provide a lever to raising standards of conduct in an individual, team or college.

When an individual commits an act of misconduct it falls to their manager to decide whether it is serious enough to warrant any disciplinary action - including an informal chat - or not. Sometimes incidents that are trivial in isolation become more serious if repeated; a common example of this is poor time-keeping. Further up the scale are serious breaches of the rules, or unacceptable behaviour towards other staff, culminating in incidents regarded as gross misconduct.

Disciplinary procedures are drafted to deal with the full range of unwanted conduct or behaviour, either through an escalation of warnings or the imposition of a penalty such as dismissal for a first offence, if it is sufficiently serious to warrant dismissal.

Staff can occasionally get themselves into situations outside work which impact on their job. Where such conduct has impaired their ability to do their job and there has been a breach of trust and confidence an employer may dismiss the individual, so long as a fair procedure has been used.

You may be faced with an employee being charged or found guilty of a criminal offence. However, you cannot use the allegation or even proof of a criminal offence as an alternative to a disciplinary process. You have to consider whether, and to what extent, the crime or criminal charges impact on the employee's capacity to perform his or her job. Each case will depend on the circumstances and mitigation put forward at a formal hearing. It is equally true that you do not have to await the outcome of a criminal trial before proceeding with your own disciplinary processes, or change the outcome of the disciplinary process if the employee is subsequently acquitted.

Under the Employment Act 2008 the

Government produced the ACAS Code of Practice and the ACAS Guide on Discipline and Grievance at Work. These set out the minimum procedure organisations must have. They detail that staff should have the opportunity to put their case in person in response to written allegations about their conduct, or any other circumstance which has led to disciplinary action being taken. The procedure should also allow for an appeal.

Staff have a right to be accompanied at disciplinary and grievance hearings, though under most college procedures this is usually extended to the right to be represented; this confers on the companion the right to answer questions on the employee's behalf, along with asking questions and being allowed to confer with the employee.

It is essential that the college carries out a thorough investigation and provides the employee with the opportunity to put their case. As employer you must also consider:

- the gravity of the misconduct;
- its effect on the college and on the individual's job;
- the employment record of the employee and
- any mitigation presented by the employee.

It is for the employer to decide the action taken so long as it is reasonable. There are penalties for both employer and employee if they act unreasonably; these amount to an uplift of up to 25 per cent in the penalty for the employee or its reduction for the employer.

Competence

The management of poor performance, incapacity and sickness absence are approached differently to misconduct, though ultimately it may be necessary to dismiss someone for poor performance. The same rules identified for misconduct will apply in determining the fairness or otherwise of the

dismissal but the process is likely to take a lot longer with several warning stages and support and training to help the employee improve. These cases are generally much harder to manage and often cause a lot of distress for the individual and his or her colleagues and managers. There is a particular burden on line managers to monitor performance, set short-term performance targets and keep good records. Some of these cases are emotionally upsetting, particularly when the individual is a victim, for instance of family breakdown, ill health, or drug or alcohol dependency.

Employers should manage long-term sickness absence with due regard to the Disability Discrimination Act 1995 (amended 2005). There is more detail of this and other anti-discrimination legislation in the 'Equality and Diversity' self study unit.

Dismissal

The law relating to dismissal provides employees with protection against being unfairly dismissed, assuming they have more than one year's continuous service with the college. However, it should be noted that there are many circumstances where no service requirement is needed to bring a complaint of unfair dismissal. The Employment Rights Act 1996 (ERA) sets out the provisions which regulate whether dismissals may be regarded as fair and the process which tribunals must adopt in determining whether dismissals are in fact just and equitable.

Other aspects to consider when dismissing staff include:

- giving sufficient notice in line with the employee's contract, or managing the outcome where you wish someone to leave immediately, eg by making payment in lieu of notice. You should note that in cases of gross misconduct the dismissal is a summary one, ie without any notice;

- the possibility of using compromise agreements to bring an employment relationship to an end. These are particularly useful to protect the college from such situations as when there is insufficient time to manage a disciplinary procedure before dismissal; to safeguard against claims for discriminatory acts; and where the employment relationship has broken down. The agreement means that employee signs away their rights to claim unfair dismissal, discrimination, equal pay, etc., usually in return for some form of severance payment. Particular rules regulate the construction of compromise agreements.

Key points - summary

- Performance management should be a positive process, and good systems will create a culture in which success is applauded and a solution-focused approach taken to performance difficulties.
- Access to procedures which enable staff to raise grievances, and the effective management of those issues, will enhance employee engagement.
- Discipline and dismissal are sometimes necessary to maintain and enforce standards. They are heavily regulated areas, and failure to follow college procedures and the law can be costly to the college.
- Monitoring and evaluation of these areas can aid in the development of appropriate action plans to support HR strategy that is aligned to business objectives.

Section 5: Staff learning and development

Introduction

In the previous section, you considered the importance of performance management through an effective performance review/appraisal process. We develop this theme in this short section on staff learning and development. It is important to align these activities with the business objectives to maximise not only individual development but that of the college as well. The college needs to commit both time and resources to providing the training staff need to improve their performance and to build organisational capability for the longer term.

This section will help you to:

- understand the staff learning and development processes used in your college and to ensure that they support the development and maintenance of a diverse workforce;
- retain and maintain the talents of your staff and
- comply with the relevant legislation.

The learning environment

Most colleges would probably claim to have a learning culture when it comes to developing their own staff – and so they should, given the nature of their business. It is less easy to claim that this learning culture is made available consistently and equally across all staff groups and in all parts of the college. The college will need both a strategy and a series of effective operational approaches to deliver that strategy. Typically, the strategy and the operation will involve a training and development policy and one or more training and development plans.

To know what you have to do, you need to assess the training needs of the college and its employees; this is most often achieved through a training needs analysis or audit process. The sources of information will be varied and are likely to include some or all of the following:

- personal development plans gathered from the performance review/appraisal process
- the need to train as a consequence of introducing new equipment or new business development opportunities
- identification of training needs for new staff, those newly appointed and those who have gone through discipline and capability procedures.

Development of staff can support succession planning. It should provide job enrichment, and stretch an individual to tackle tasks beyond the present job.

Individuals should be encouraged to take personal responsibility for their own development, with management staff as role models showing genuine interest in their own development and advancement and that of their staff.

Methods for adult continuing professional development (CPD)

There is an enormous range of training

interventions available and the problem for most colleges is figuring out which ones are useful and cost-effective. The choice will depend on the activity to be undertaken, the different learning styles of staff, and the particular skill or knowledge to be acquired. In some instances, it is straightforward: you have a new computer system and your staff need to know how to use it, so you train them in an uncomplicated didactic mode to use the computer system. However, for most developmental purposes this is a poor approach.

Examples of the types of CPD available include:

- training workshops;
- secondments;
- open learning centres;
- other continuous learning opportunities;
- job enrichment;
- counseling;
- coaching and
- short and long courses leading to higher qualifications.

Some approaches are more effective than others. Systematic reviews of research into CPD approaches provides strong evidence that CPD is more effective when it includes:

- the use of specialist external expertise;
- peer support;
- observation and feedback from specialists;
- observation for learning including debriefing;
- scope for participants to identify their own CPD focus and starting points (within a framework);
- processes to encourage, extend and structure professional dialogue and reflection and
- effective use of time to embed practices.

Mentoring and coaching based approaches

are most likely to improve employee performance and practice to enhance customer satisfaction and student success. You can find out more about this from the EPPI Centre:

(<http://eppi.ioe.ac.uk/cms/Default.aspx?tabid=366>).

Having a training strategy to support the business plan should benefit the college by improving employee performance and employee engagement. Well-established personal and career development programmes are seen by employees and prospective employees as the marks of an attractive employer. This is important when the job market for skilled personnel is fierce. CPD helps staff engage more directly in decisions affecting their careers; this is particularly important in an age when people have to build a career sequentially across several jobs and employers.

The development of staff flourishes in a supportive environment where:

- managers and supervisors demonstrate their own willingness to develop themselves and their careers
- there is a recognisable shift of ownership for development to the learner.

Task 6

Do you have a strategic training plan in your college? If so, is it consistently implemented across the college?

Feedback

For feedback see end of unit.

Key points – summary

- A staff learning and development environment can support all aspects of HRM:
 - at recruitment
 - to assist with retention by nurturing employee engagement
 - to aid improvements in performance when staff are experiencing difficulties
 - to support appropriate reward mechanisms.
- There are lots of different training and development opportunities, but they are not all equally effective, so it is important to be selective and choose the best CPD approach for the job.
- As with all other areas of HRM, effective monitoring and evaluation systems are essential to determine the effectiveness of the staff learning and development plans that your college has in place

The next section continues with the theme of employee engagement and motivation, but this time through the college's system for pay and rewards.

Section 6: Pay and reward

Introduction

In this section you will consider the college's approach to pay and reward and how this contributes to the development of the college by aiding the recruitment, engagement and retention of staff. As a strategic leader you will want to ensure that the reward strategy your college has in place is supporting the business strategy and is cost-effective in achieving the desired outcomes whilst complying with the relevant legislation.

This section will help you to:

- consider the approaches needed to build a high performing college with its associated pay strategy;
- understand the pay and reward processes in your college and ensure that they support the development and maintenance of a diverse workforce and
- comply with the legislation relating to pay and reward.

Job evaluation

With the development of the modernising pay agenda for the sector there has been an increased interest in undertaking job evaluation. There are a number of proprietary schemes, including the Association of Colleges (AoC)-developed scheme specifically for the FE sector. This is a valuable tool for determining the relativities between posts and can support the development of appropriate grading structures.

More information is available at:

<http://www.aoc.co.uk/Members/consultancy/jobevaluation/view>

Financial reward

Employers use ‘pay’ (in its broadest sense) to:

- attract staff to the organisation;
- recognise and encourage high levels of performance;
- build and sustain employee engagement and
- support the retention of staff.

Pay and reward can take a number of different forms, including:

- base pay, as set out in your college’s pay and grading structure;
- performance-related pay;
- bonuses and
- benefits.

Performance-related pay and bonuses are not widely used within the sector, but do often feature as a reward mechanism for senior postholders. However, these approaches are increasingly seen in some colleges as an option to reward and retain other specialist staff and teaching staff.

Base pay

For the majority of staff, pay may be

structured around a single pay spine with broad bands as defined by job evaluation, or split into job families – usually academic staff, support staff and management. AoC has produced guidance to assist colleges in changing the pay structure to eliminate pay inequalities and to produce a system of reward which is more closely aligned to the business strategy.

Changes to pay, as a contractual term, will require extensive consultation with staff and, probably, trades unions in order to reach agreement over new methods of pay and grading.

The base salary may or may not provide a mechanism for a periodic pay uplift. The usual method in the past has been the use of increments. The disadvantage of this approach is that it has normally has no link to performance or engagement of the employees and causes pay drift. The advantage is that such systems are usually fair and transparent and easy to administer.

An alternative to a system using increments is to use ‘spot salaries’. Here individuals are appointed on a fixed salary that is subject to review depending on performance. One weakness of this system is that such salary levels are usually kept confidential to the individual whereas an incremental scale is usually well known. This can lead to unnecessary curiosity about others’ pay levels. Another weakness is that the actual salary used as the ‘spot salary’ is likely to be towards the top end of the scale that would have been used in an incremental scale since that is the salary level to which the individual would have moved after several years performance (and hence experience).

Another approach to pay is the use of competence-based pay, which rewards individuals as and when they achieve a previously agreed level of ‘competence’ (expressed in terms of knowledge, skills, behaviours and consistent application) rather than on the basis of time served in a role, or

at a particular time of year. Supporters of this approach say that it encourages people to take ownership of their own performance and learning, it consistently rewards people in line with their contribution and that it avoids the problems of budgetary restraints at annual review. It also helps organisations to retain the most valuable staff. It is, however, a resource intensive approach and one that requires managers to understand the relationship between increased salaries (and therefore competence/contribution) and staffing levels within their unit.

There are many different ways of structuring base pay, often driven by the resources available to the college in the development and implementation and management of such systems. The key is developing a system that is workable for the college. Payment systems from other sectors and industries do not always translate well to the FE sector as they do not necessarily fit with the culture and work environment.

In addition to base pay your college is likely to enter into pay bargaining with the recognised trades unions on an annual uplift of pay – usually to address cost of living increases caused by inflation. Although the AoC recommend a salary increase normally from 1 August, there is merit in considering having a salary review date in your college that is later in the year so that you can assess the impact of the student recruitment in September.

Employee benefits

Benefits regarded as employee benefits include those contained within employees' contracts:

- contractual benefits;
- pension;
- sick pay;
- annual leave and
- contractual benefits over and above the statutory entitlements to such things as maternity leave and pay, annual leave, etc.

The disadvantage for the sector is that many of these benefits are taken for granted because every other college offers the same or similar benefits and staff come to regard them as standard.

The benefits of working in a college may be:

- subsidised restaurant;
- services provided through student courses (eg hairdressing, catering, horticulture) and
- access to training and personal development opportunities.

Then there are a number of other benefits, including financial ones.

- Enhanced life insurance
- Private medical insurance
- Various discounts and offers.

Working in a college can offer a number of benefits which have no actual cash value.

In the past, these would have included job security, long holidays and a relatively unpressured working environment. Few of these features still apply, but there are some non-financial benefits still experienced by some people in some colleges, for instance:

- the moral and ideological comfort of doing something of worth to the public;
- a comfortable and safe working environment;
- a collegiate working culture;
- a rich and varied work mix;
- good holidays (though this does have a monetary value) and
- opportunities to learn and develop as a person.

Colleges are increasingly looking at more imaginative and varied ways of constructing the benefits package in order to appear as an employer of choice when recruiting staff. Some employee benefits are offered as 'voluntary' benefits since the individual chooses whether to access them. There is

normally no cost to the college in offering these benefits.

A further model offers 'flexible' benefits. Here the individual is 'given' a pot of money they can use on benefits of their choice. This allows them to choose a mix of benefits to suit their needs (eg. childcare rather than private medical insurance). In this model employees are often given a chance to sell and buy annual leave. Salary sacrifice arrangements make such benefits more attractive.

The following are some of the difficulties in managing reward effectively.

- Managing staff expectations and ideas of 'worth', eg that they should always get a cost of living increase, comparison with other job markets. Job evaluation can be a valuable tool in addressing ideas of 'worth' between roles within the college. A system which manages pay and grading queries is important in maintaining the integrity of the particular pay system.
- Balancing the need to reward and to support the cultural values and desired strategic aims of the college with the demands of a finite budget. The pay bill is likely to be your college's largest single item of expenditure, usually in excess of 50–60 per cent of total budget. Agreeing to systems which allow uplifts which are unchecked and not tied into business effectiveness will ultimately lead the college into financial difficulty.
- Factoring in the pressure of the market place when recruiting. Historically IT staff have been able to exploit premium payments due to national shortages. Likewise, the need to attract professionally qualified academic staff has resulted in market supplements designed to attract high calibre individuals to teach within the sector.
- Understanding the appropriate local and national market for the college is important in assessing the likelihood of recruiting and retaining staff.
- Addressing equality issues as governed by the equal pay legislation also needs to be considered. As with concepts of 'worth' there can be serious issues of pay equality which colleges have inherited from earlier pay and grading systems, where informal approaches to assessing pay levels for different jobs resulted in a wide variance with little logic from a strategic perspective. Addressing inequalities in the pay system is important to allay criticisms from staff and unions. Job evaluation is again a useful tool along with a transparent pay and grading system.
- Other legal aspects to consider will be compliance with National Minimum Wage legislation, not making unlawful deductions from wages, and managing the requirements associated with National Insurance payments, HMRC and the full range of pension schemes.

Task 7

- Is the pay and reward strategy within your college aligned with the business objectives?
- Does it adequately reflect the increasing complexity of the working environment in terms of issues like flexible working and performance related pay?
- What aspects of the strategy might need to be updated or modified and who would you need to consult as part of this process?

Feedback

For feedback see end of unit.

Key points - summary

- A robust and modern approach to pay and reward that is closely aligned with the business strategy will aid the recruitment, engagement and retention of high quality staff in all areas of the college.
- Job evaluation is a valuable tool for determining equalities between posts and supporting the development of appropriate grading structures.
- Pay and reward mechanisms in FE centre mainly around base pay and benefits (both financial and non-financial); performance-related pay and bonuses may feature as a reward mechanism for senior postholders and those employed in commercial roles.
- As a strategic leader, you need to be aware of the potential difficulties associated with managing pay and reward effectively in an increasingly complex working environment – and your legal obligations.

This is the final section of the 'Human Resources' self study unit.

Sources of more information

References

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Websites

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<http://www.aoc.co.uk/> The Association of Colleges (AoC) employment team offers advice to member colleges on a wide range of employment issues.

<http://www.lsis.org.uk/> LSIS is the sector-owned body that aims to accelerate the drive for excellence in the learning and skills sector, building the sector's own capacity to design, commission and deliver improvement and strategic change.

<http://www.cipd.co.uk/default.cipd> Website of the Chartered Institute of Personnel and Development (CIPD) which has information across a range of HRM topics and an e-newsletter.

<http://www.personneltoday.com/home/default.aspx> Website of Personnel Today which also has information on a broad range of HRM topics and a good legal section.

<http://www.bis.gov.uk/> Website of the Department for Business, Innovation and Skills. It has a good section for employment.

<http://www.businesslink.gov.uk/> Website for Business Link which is the site to which BIS refers employers for advice and guidance.

Suggestions for further reading

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Feedback on tasks

Feedback 1

In your contract you should look for the following concepts:

- flexible wording to allow for variation of contract without having to get the individual's agreement to the change;
- automatic incorporation into the contract of agreements reached with recognised bodies, including trade unions.

You should also look for certain phrases and subjects, for example:

- you are required to perform such duties consistent with your position as may from time to time be assigned to you;
- working flexibly and efficiently;
- working in accordance with college policy and plans;
- work in such a way as to ensure the efficient operation of the college;
- disciplinary and grievance procedures may be varied following consultation with staff;
- required to work such hours as are reasonably necessary for the proper performance of your duties and responsibilities;
- your place of work will initially be.....
You may be required to work on either a temporary or a permanent basis at any premises which the college has or may acquire
- any changes in the terms and conditions which are agreed between the college and the recognised trade unions after the date of this contract shall be incorporated automatically into this contract;
- any agreements which are reached between any national employers body of which the Corporation is a member and the recognised trade unions will, if they are adopted by the Corporation, be binding on you.

With phrases such as these you will be building the necessary flexible way of working that is needed in a college.

Feedback 2

Staff selection is very important, but getting the processes right can be a challenge. The records of the recruitment exercises you have pulled out should show that they:

- were well planned (ie did the selection panel meet beforehand, agree a process, conduct proper shortlisting, allow enough time, etc.?);
- attracted a good field of applicants;
- drew on evidence other than an application form and the interview;
- are sufficiently well documented that you can understand the basis of the decision.

Designing or selecting tasks for candidates can be an onerous task and it is quite easy for selection panels to use just an interview or inappropriate ones to save time and effort. Giving an in-tray exercise to a technician, for instance, may tell you nothing useful whereas it can give you insights into a manager's sifting and prioritising skills. Feedback from the candidates can be useful, and you could ask the successful applicant what he or she made of the experience.

Once you have done your analysis, you might want to discuss the issues it raises with your HR team. Do they have any means of assessing the effectiveness of their recruitment processes? Do they talk to candidates and get feedback from them (as opposed to giving feedback themselves)?

Feedback 3

Employee engagement, staff morale and management culture are elusive concepts, but are important in all organisations since you want to get the best performance from your employees. It is particularly so in an organisation where the staff have mostly to be trusted to do the right thing with little supervision: this is so for most academic roles.

A crucial starting point is the mission and values of your college. Are these still correct? What mission and values do you and your colleagues want? And your governors? Do you and your managers work by these values? Do you recruit new employees in accordance with them? Do your employees know what your college exists to achieve and how they are expected to contribute to those aims? Do your employees know what the college is seeking to achieve this year and their part in achieving this? Do your employees know how well the college is doing in pursuit of those objectives?

How visible are you and your managerial colleagues in the day to day life of the college? It is easy to be in meetings all day or out in the local community and ignore having contact with your staff. It might be as simple as taking your place in the lunch queue, doing the occasional stint in reception or an evening duty officer slot or just walking about talking to staff and students.

How often do you and your managerial colleagues give thanks and praise to your employees - informally as well as formally?

Communicating with your employees is very important and you will never have done enough. So, you need to have a staff newsletter and attend regular staff meetings and formal consultations with the staff/trades union representatives as well as these other informal approaches.

In much of management the Pareto Principle applies (80% of your effort is ignored or expected, it's the other 20 per cent that counts). If you are not familiar with the Pareto Principle, see for example,

<http://www.clickz.com/showPage.html?page=988291>.

Monitoring employee engagement can be through staff satisfaction surveys, turnover rates, exit questionnaires, levels of grievances brought, etc. A number of colleges have found the Investors in People (IiP) preparation processes to be a helpful vehicle for monitoring employee engagement.

Feedback 4

You may find that you already have this information within the college without having to ask staff directly. You probably started by finding out about the information routinely stored in employee records, but you are likely to find that this is of limited use for workforce planning purposes. You should look at both paper based as well as computerised records. Do you have one or a series of computerised records for your staff? Are you payroll and training records synchronised with the main HR system? The Staff Individualised Record (SIR) data collected by LLUK extends this a bit, but a lot of the more interesting data has not been collected centrally for some time – though your college may have continued to collect it. You might be supplementing these core data by updating employees' skills profiles as part of the performance review system or similar exercises, through asking your employees to update and check the information they have given you or via such external process as IiP recognition.

Workload data for academic staff are most easily acquired via your computerised student tracking system and will allow you to see the extent to which these employees are meeting their timetabled hours. For other staff you will need to find other, less well structured methods (such as talking to employees, managers and even asking employees in surveys whether they are fully occupied and stretched at work) this to get a fuller picture.

Feedback 5

Look first at the process your college is using and determine whether it is meeting your needs. Does it meet its purpose of providing a review of an individual's performance and development, as well as communicating the wider goals and objectives of the team/ department and college?

Is the structure of the performance review/ appraisal system appropriate for the desired outcomes and is the return on the investment of time allocated to it as you want it to be?

Secondly, ascertain whether the practice in the college is applied with equal diligence across the organisation. It is important to know if the process is being operated in name only, or not even that, in a significant part of the college (a whole department, say). You probably have a performance review/appraisal monitoring system operating somewhere (typically in HR) and they may know that the process is being systematically ignored somewhere. Your predecessor may have turned a blind eye to this and you need to decide what, if anything, you plan to do about it.

What happens to the outcomes (new targets, feedback, training and development plans) to the reviews? Who sees the overview?

Then look at the extent to which the process and outcomes are monitored and evaluated in the college.

Using a performance review/appraisal discussion to exchange views on a particular employee's work is probably better than not doing it at all, but it is better still if informed by some evidence. Direct observational evidence is very valuable, particularly for academic staff since it mirrors the process used by Ofsted. Staff and reviewers should be encouraged to routinely bring evidence relating to targets set previously to review meetings. Where this is the product of other college systems (eg student outcomes data) you should try to reduce the bureaucratic burden on the staff by supplying it routinely.

Feedback 6

CPD planning is an often neglected aspect of HRM. Does your college have a plan or just a series of ad hoc interventions and training sessions? What expectations do you have that your staff are professionally qualified - part from the statutory requirements? What happens to information on training needs generated through the performance reviews/appraisals? What induction is given to staff newly promoted within the college?

Then you might look at the processes used:

what training and development is delivered face to face, online and via self directed study?

Is the take-up of development opportunities - compulsory and voluntary ones - monitored? Some training is seen as unproblematic and unquestionably necessary (induction for new staff, supporting the introduction of a new software system, health and safety procedures, self-assessment). But otherwise it has not been at all clear which aspects of CPD are actually valuable and effective, so CPD managers have found it difficult to be systematic, to have a 'plan'. One approach to help you do this is to use the template for such external accreditations as Investors in People (IiP). You will also need a plan to deal with the 30 hours annual CPD entitlement under the professional standards for teachers, tutors and trainers. It is relevant to note that the evidence emerging from the EPPI CPD reviews strongly suggests that peer and specialist supported coaching is the single most effective way of developing teachers' skills.

Feedback 7

Despite colleges spending about 65% of their income on staff pay, many colleges prefer to keep their heads down on the subject of pay. They regret the demise of nationally negotiated pay scales and implement the AoC recommendations with little local discussion. Others have experimented with a wide variety of reward systems. Which you do will be largely a consequence of history, circumstance, the aspirations of management and governors to position the college as an 'employer of choice' as well as responding to the efficiency drives of government and not least the market for jobs and comparative pay and reward packages in your local area - in colleges and in other organisations. Generally, the more complex and diverse an institution you are, the harder it is to take national pay systems as a given.

You might look at the interplay between pay and other benefits in your college. If you cannot pay high salaries can you compensate

for this by offering other benefits such as Child Care Vouchers offered via salary sacrifice arrangements? To what extent do you promote a wide understanding of the contractual benefits your college offers - eg final salary pension, good annual leave, good access to training and development?

Working patterns are changing and so are the employment needs of colleges. You will have staff working complex mixes of hours from full time and full year to term time only contracts, annualised hours and casual part time working. Although the recent legal arrangements for employees on such apparently different contracts have served to water down the differences - eg all employees have access to employment rights and a chance to complain at an Employment Tribunal if they are aggrieved - your college will still probably wish to use a wide range of contracts and terms to attract the best staff.

To what extent does your college reward its employees for their efforts? Is there any system of bonuses or performance related pay? If there is, are these systems robust in their design and application?

Changes in this area can have unforeseen consequences so it is worth taking time to plan well. It will certainly attract the interest of your staff and their representatives.

Glossary	
Rating	Definition
Coaching	The provision of support to individuals to build a better understanding of their personal skills, knowledge and goals and encouraging them to apply this so that their job performance improves, leading to the achievement of organisational objectives. It can play an important part in building both performance in a current role and the development of capabilities to meet future organisational needs.
Collective bargaining	Term applied to the relationship between employers and trade unions in the furtherance of employee relations. It has a technical legal application in relation to the recognition of trade unions for the purpose of negotiation and consultation.
Competencies	A composite of the skills, knowledge and behaviours that an individual requires for undertaking the tasks and functions within a defined role with competence.
Constructive dismissal	This is when an employee states that he or she resigned because the unreasonable behaviour of the employer (breach of contract) is so bad that it has in effect negated the contract and the employee was therefore in effect dismissed. A variety of different situations have been regarded as serious breaches, eg failure to ensure a safe place of work, change to terms and conditions of employment, abusive and harassing behaviour.
Counselling	To help others understand what may be troubling them and help them to find their own solutions. Counselling tends to be reactive to situations as opposed to the proactive nature of coaching. It is often offered in organisations through face to face counselling (usually off site) and via an Employee Assistance Programme (EAP).
CRB	The Criminal Records Bureau provides a system for employers to determine whether any potential employee has a criminal record where that person is likely to work with young people or vulnerable people of all ages.
Employee engagement	Employee engagement describes employees' emotional and intellectual commitment to their organisation and its success. Engaged employees experience a compelling purpose and meaning in their work and give of their discrete effort to advance the organisation's objectives.
Employee relations	Concerned with the relationship between employer and employee and how it is managed. It covers the formal arrangements of collective bargaining with trades union representatives such as conditions of service, people management policies and procedure.

Glossary	
Rating	Definition
Exit questionnaires	Questionnaire that asks staff who are leaving employment to detail their reasons for leaving. It can be an effective tool to unpick why staff leave and identify trends which can be used to inform the HR action planning process.
Flexible benefits	These are employee benefits that are structured in such a way that the employee can choose which benefits to have. The employee is often given a benefits' pot' from which to pay for the additional benefits, some models allow individuals to sell certain benefits (eg leave) to fund additional ones (eg dental care insurance).
Gross misconduct	Conduct which is regarded as so serious that it can lead to the summary dismissal of an employee; examples include violent assault, fraud, harassment, and insubordination.
Job analysis	The process of collecting and analysing information about tasks, responsibilities and the content of jobs. Job analysis is crucial in identifying the range of tasks that the new recruit will be expected to undertake. It is a useful tool for examining whether or not existing job profiles/descriptions are appropriate for future needs.
Job Description	A job description provides the detail of the tasks, duties and general responsibilities of a role, most usually expressed in very broad terms. Job descriptions are 'day-to-day' documents and can be used to support a general discussion about the position and to describe it to potential candidates and agencies (if used). In recent years, job descriptions have been criticised as being outmoded and increasingly irrelevant to modern conditions. However, it can be argued that they are still important in providing potential recruits and existing employees with information about what is expected from work. Some organisations have moved instead to use statements of desired outcomes of performance.
Job evaluation	A tool to determine the relativities between different jobs, used in the development of pay structures. It can be used to check on the equality of pay between different types of post.
LIFO	'Last in and first out' was traditionally used as a method of selecting for redundancy. The disadvantage of this method is that it takes no account of skills needed for the future success of the employer. As a result, it is rarely used now, or at least not alone.
Person specification	States the necessary and desirable criteria for selection, for example, necessary aptitudes and experience; qualifications (which should only be those necessary to do the job – unless candidates are recruited on the basis of future potential, for example graduates); personal qualities relevant to the job, such as ability to work as part of a team.

Glossary	
Rating	Definition
Psychological contract	Defines the unwritten relationship between the employer and employee.
Salary sacrifice	A means of providing an employee benefit through the payroll that allows the employee to save tax on its value. The schemes need to be set up to meet HMRC requirements, but are otherwise an inexpensive way of providing employee benefits. Childcare vouchers and cycles for work are two of the most popular benefits provided in this way. They are particularly attractive to high tax rate employees. Employees whose pay is below the National Minimum Wage are ineligible for these schemes.
Stability	Measures the degree of continuity by measuring the number of staff tending to remain with the organisation.
Turnover rate	Represents the number of leavers in year divided by the average number of staff in post during year $\times 100$.
Voluntary benefits	These are employee benefits that are offered in such a way that the employee chooses which benefits - if any - to have. They are 'introduced' by the college and all the cost falls on the employee. An example of these is the Health Savings Plan that can be introduced for employees to contribute via payroll. If done in this way the contribution rate is normally below that of the public rate.
Vetting and Barring	The Independent Safeguarding Authority (ISA) carries out checks on individuals to ascertain whether they are a person who is barred from working with children or vulnerable adults. Organisations break the law if they employ such barred individuals on work, or as volunteers, with those groups.

Technical annex

Summary of main employment legislation Anti-discrimination legislation

There is a full list of anti-discrimination legislation in the annex to the 'Equality and Diversity' self study unit.

Employment Rights Act 1996 (ERA)

Comprehensive legislation which includes within its terms procedures for union recognition and representation, a framework of family-friendly policies, protections against unfair dismissal and powers to extend the scope and coverage of employment protection legislation.

ERA confers rights to:

- not be unfairly dismissed – dismissal is automatically unfair if it is for a reason related to pregnancy, childbirth, maternity leave, parental leave, or time off for dependants (compassionate leave);
- maternity leave and paid time off for ante-natal care;
- unpaid time off to care for or to arrange care for dependants;
- the offer of suitable alternative work on not substantially less favourable terms and conditions if a legislative requirement or a health and safety recommendation prohibits a woman from doing her usual job because she is pregnant, has recently given birth or is breastfeeding or, if no suitable alternative work is available, the right to be suspended on full pay;
- a statement of employment particulars;
- an itemised pay statement;
- not suffer unauthorised deductions from wages;
- a minimum period of notice on termination of employment;
- redundancy payment;
- a written statement of reasons for

dismissal and

- not suffer a detriment by undertaking, not undertaking or considering undertaking work deemed to be 'keeping in touch' days under the Maternal and Parental Leave etc. (Amendment) Regulations 2006 (which allows 10 days for the employer and employee to 'keep in touch' during an employee's maternity leave).

The Information and Consultation of Employees Regulations

These regulations were introduced to provide for works councils across Europe, but offer the scope to ensure a voice for the whole workforce.

If information and consultation agreements are already in place that cover all employees and have been formally approved by the workforce, employers only need to consider making changes if they receive a request for change supported by 40 per cent of employees.

Organisations without a pre-existing agreement may have the Regulations' standard provisions for informing and consulting employees imposed on them if 10 per cent of employers make a request for new arrangements and an agreement cannot be negotiated. Alternatively, the employer can take the initiative and inform the workforce of an intention to establish new arrangements without an employee request; this allows the employer to set the agenda, but if negotiations fail the standard provisions will apply.

Under the standard provisions employers, must inform and consult with their workforce in the following areas:

- any recent or probable developments in the employer's activities and economic situation;
- the implications for employment including any anticipatory measures that are envisaged, especially where there is a

threat to employment and

- decisions likely to lead to substantial changes in work organisation or contractual relations.

The latter might cover:

- working time and practices;
- training and development;
- equality and diversity issues;
- health and safety;
- pensions and welfare;
- merger and acquisition;
- employment plans;
- transfer of undertakings;
- collective redundancies;
- restructuring/reorganizations;
- data protection issues;
- outsourcing;
- pay.

Transfer of Undertakings (Protection of Employment) Regulations (TUPE)

TUPE comes into effect if a business, or part of one, is transferred to a new employer or if another employer takes on a contract to supply a particular service on the original employer's behalf. The broad effect of TUPE is to preserve the continuity of employment and the terms and conditions of employment for the employees transferred to the new employer. The terms and conditions of transferred employees may only be made in certain restricted situations. A variation of an employment contract is void if the sole or principal reason for the variation is:

- the transfer itself
- a reason connected with it that is not an economic, technical or organisational (ETO) reason entailing changes in the workforce.

An employment contract may lawfully be varied where the sole or principal reason for

the change is:

- a reason unconnected with the transfer or
- a reason connected with the transfer that is an ETO reason entailing changes in the workforce.

There are specific provisions to protect employees from dismissal before or after the transfer.

In general it is safer to assume that TUPE applies in any merger or acquisition than that it does not. This is one area where it is worth getting legal advice.

(See below for more on consultation of employees in TUPE situations.)

Employment Act 2002

The Employment Act 2002 covers:

- support for working parents (including simplification of the rules on maternity, paternity and adoption leave and pay);
- improvements to employment tribunal procedures (including the introduction of an equal pay questionnaire);
- provisions to implement the Fixed Term Workers Directive;
- the right to time off work for union learning representatives;
- work-focused interviews for partners of people receiving working-age benefits and
- some data sharing provisions.

The Working Time Regulations

The Working Time Regulations relate to working hours and minimum annual leave provisions. The main points are:

- an overall limit of 48 hours work per week, unless the worker has completed an 'opt out' agreement;
- night workers who are subject to special hazards are limited to an average of 8 hours in any 24 hour period;
- night workers are entitled to be offered

regular health assessments;

- workers have an entitlement to a minimum consecutive 11 hour rest period per day, ie at least 11 hours uninterrupted rest between each shift. Young workers - ie those below the age of 18 - have an entitlement to a minimum consecutive 12 hour rest period per day, ie at least 12 hours uninterrupted rest between each shift;
- workers have an entitlement to a 20 minute break away from the workstation if the working day is longer than 6 hours. If this is not possible, alternative compensatory rest periods must be arranged. Young workers must have a 30 minute break after 4.5 hours continuous work;
- workers currently have an entitlement to 28 days paid annual leave. This can include Bank Holiday and
- in addition to the 11 (or 12) hour rest breaks, workers have a right to a minimum weekly rest period of at least 24 consecutive hours or 48 hours per fortnight

The National Minimum Wage Act

The National Minimum Wage Act aims to provide employees with decent minimum standards and fairness in the workplace. Pay is generally defined as basic pay, bonuses and performance-related pay. Overtime, shift work and allowances not consolidated into basic pay do not count. Most benefits in kind are also excluded. Rates are reviewed annually.

Summary of rights to time off work

Reasonable, but not necessarily paid, time to perform public service duties, eg serving as a magistrate, jury service. Duties considered appropriate to qualify for time off include attendance at a meeting, committee or sub-committee and any other duty involving the discharge of the functions of the relevant body.

Statutory Maternity Leave includes Ordinary Maternity Leave (OML) and Additional Maternity Leave (AML) – giving women up to a year's absence on maternity leave. Returning employees have the right to return to work under no less favourable terms and conditions of service. All contractual arrangements other than remuneration apply during maternity leave.

Parental leave is the right to take up to 13 weeks unpaid time off work to spend time with a child up to the age of five (or 18 if the child is disabled), or until the fifth anniversary of the placement in the case of adoption.

Time off for dependants (compassionate leave) entitles an employee to take a reasonable amount of unpaid time off during working hours to deal with family emergencies.

Adoption leave is similar to maternity leave and entitles an employee to time off when adopting a child.

Paternity leave provides limited time off work with statutory paternity pay, subject to qualifications.

Parents of children under six or a child with a disability under 18 have the right to apply to work flexibly, as do those who have caring responsibilities for adults. There is not an automatic right to work flexibly, however, as circumstances may mean that an employer is unable to accommodate the request.

Employees with two years continuous service and who are under a notice of redundancy have the right to reasonable time off with pay to arrange training or a new job.

Elected representatives have the right to reasonable paid time off to undertake duties like consultation on redundancies or TUPE (Transfer of Undertakings Regulations, which seek to protect employees when a business changes hands).

Consultation

Redundancy consultation

The employer has to consult if proposing to dismiss more than 20 employees at one establishment within a period of 90 days or less.

The consultation must begin in good time and, in any event, begin at least 90 days before the first dismissal takes effect where 100 or more redundancies are proposed at one establishment. Consultation must be complete before notices of dismissal are given.

Under s.188 of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULRCA), collective consultation should consider ways of:

- avoiding the dismissals;
- reducing the numbers of employee to be dismissed and
- mitigating the consequences of the dismissals.

Consultation should be carried out specifically with a view to reaching agreement with the appropriate representatives.

s.188 also imposes an obligation on the employer to disclose in writing the following information.

- The reasons for the proposals
- The number and descriptions of employees whom it is proposed to dismiss as redundant
- The total number of employees of any such description employed by the employer at the establishment in question
- The proposed method of selecting the employees who may be dismissed
- the proposed method of carrying out the dismissals, with due regard to any agreed procedure, including the period over which the dismissals are to take effect

- The proposed method of calculating the amount of redundancy payments to employees who may be dismissed.

There is also a requirement under the Trade Union and Labour Relations Act (TULRCA) 1992 that consultation takes place in circumstances such as a change to terms and conditions of employment for staff. The same consultation and provision of information has to be complied with.

Notification to BIS

Under TULRCA employers are obliged to also notify BIS of proposed redundancies on form HR1 before notices of dismissal have been given to employees. If 100 or more redundancies are proposed within a 90 day period, the notification must be at least 90 days before the first of the dismissals takes effect, or 30 days before if the employer proposes to dismiss as redundant 20 to 99 employees within a period of 90 days. Failure to comply is a criminal offence.

The employer is also obliged to provide a copy of the HR1 to the appropriate representatives.

Consultation in TUPE situations

The duty to inform and consult extends to any employee of the transferor or the transferee who may be affected by the transfer or any measures taken in connection with it. This may include staff not transferring but who may be affected because of a change in work methods or a reorganisation.

With respect to the duty to inform, the duty on the employers is to disclose to the appropriate representatives:

- the fact that a transfer is to take place, why and approximately when;
- the legal, economic and social implications of the transfer for affected employees – this may relate to benefits, pay and the effect of TUPE on contracts of employment;
- the measures envisaged (or the fact that

none are envisaged) and

- where the employer is the transferor, any measures that the transferee envisages taking in relation to the transferred employees.

The duty to consult arises only where an employer envisages taking measures in relation to any such employees. The consultation must be with a view to reaching agreement on the measures taken.

This means:

- consultation when the proposals are still at an early stage of development (ie in good time before the transfer occurs);
- providing adequate information for a response;
- providing adequate time in which to respond and
- conscientious consideration by the employer of the response to consultation.

Appropriate representatives can be either trades unions and/or elected staff representatives. Where neither are in place then consultation should be with all staff affected.

Where representatives are in place they must be provided with appropriate facilities, for example accommodation, and be given reasonable time off with pay to undertake the consultation and inform members/colleagues. Representatives must not be subjected to a detriment for acting in this capacity.

The Learning and Skills Improvement Service (LSIS) is the sector-owned body supporting the development of excellent and sustainable FE provision across the learning and skills sector. Its aim is to accelerate the drive for excellence and, working in partnership with all parts of the sector, builds on the sector's own capacity to design, commission and deliver improvement and strategic change.

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