

Avoiding tribunal trouble

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Tribunal claims are the dread of every employer, but they don't have to be if you've done your homework. Three employers that have managed to stay out of trouble share the secrets of their success.

Wagamama

In its 15-year history, Wagamama, the award-winning Asian noodle restaurant chain, has never been taken to tribunal. So what's its recipe for success?

In 1992, the first Wagamama restaurant was launched in Bloomsbury, London, with only a handful of staff. Today the company employs more than 2,000 people in 51 UK restaurants and a further 1,000 staff across Europe and the US.

Back in the early days when it was a fledgling business there were no dedicated HR personnel. Within a few years, however, the business was expanding rapidly and the commercial director, Paul O'Farrell, brought in law firm Charles Russell to develop a risk management strategy. The idea was that outsourcing risk management would give senior managers the opportunity to concentrate more on the commercial side of the business. A number of HR policies were implemented as part of the risk management audit, including employment law training for all senior managers. A 24-hour support helpline was also established so managers could contact employment law experts to answer any questions.

In 2005, Wagamama appointed Glyn House, now operations director, as head of HR. House believes that a key ingredient in avoiding tribunal proceedings to date was the establishment of a "watertight employment law strategy early on in the business model".

"Some employers forget to focus on HR and put business growth and financial strategy first. But Wagamama has never left itself open to an employment law risk because management made the investment early on to protect the business," says House.

He went on to form his own HR team which is now regularly briefed on forthcoming legislation and adapt company policies accordingly.

House says: "The key is to get teams into good habits early on, so that the only way they know is the right way. And bring in experts in all areas, including, obviously, employment law."

West Lancashire District Council

West Lancashire District Council employs more than 670 staff and has a relatively low staff turnover of just 6%. West Lancashire is one of about 35 local authorities covered by the North West Employers' Organisation and has been praised as an example of best practice in employment law policies.

Assistant HR manager Barbara Devers has worked at the council for more than 12 years, during which time the council has been taken to tribunal 15 times. But, Devers points out, it has never lost a case and has, in fact, been praised by the tribunal chair for its policies and procedures.

Devers says involving trade unions in policy making and tackling any issues as soon as they crop up has been critical to the council's success.

The HR team also attends regular employment law seminars and training courses and keeps an eye on emerging trends, such as the growing prevalence of alcohol and drug misuse.

"We like to be prepared and don't want to be in a position where something suddenly hits you unawares," Devers says.

"We always try to have policies and procedures in place to deal with employment matters and even with our existing ones, we constantly review and look at ways to improve them," she adds.

Trinity-Chiesi

The fact that Sharon Benson (left), recently heralded HR director of the year in the Personnel Today Awards 2007, has never experienced any tribunal proceedings during her 11-year career in HR speaks for itself.

Benson, who joined pharmaceutical company Trinity-Chiesi three years ago, says: "The majority of grievances are usually raised by employees who are unhappy with the way they are managed by their line manager."

She argues that you can have the most robust policies but if they're not followed through correctly and consistently, employers are at risk of being led down the tribunal path. "You need to have well-written policies that are easy to understand and the objectives of the policies made clear," states Benson, "so a large proportion of investment goes to developing and training our first- and second-line managers."

Managers attend a rigorous induction course where they are taken through all policies and procedures and then issued with 'manager guides' on how to implement them. Every 18 months, all managers attend a three-day legal training course or a shorter refresher course to keep up with employment law. The company has also just launched coaching master-class sessions where roleplays are carried out so that managers learn how to steer away from the legal pitfalls.

"We encourage our employees to go through the grievance procedure as soon as they start raising concerns," Benson says. "In the past, some senior managers have questioned why we do this, but it means that there can be no future recriminations if we've thoroughly investigated the grievance. This also provides us with the opportunity to resolve issues in-house while the individual is still in employment, because it's much more salvageable and averts employees from leaving then claiming for constructive dismissal."

She says this also sends a positive message to employees that they can raise any concerns in a safe and protective environment, avoiding legal battles.

Her advice is to adopt policies to suit your company culture. "It's all about consistency," says Benson. "Objectives and expectations can be made crystal clear through policies and how managers need to follow them in a way that's consistent across the business that will eradicate any ambiguity, so that everyone knows where they stand, helping to eliminate the risk of tribunal."

Employment tribunals rose by 15% in 2006-07
www.personneltoday.com/42176.article

Minimise the risk

- Set out in your disciplinary and grievance procedures what type of conduct could lead to disciplinary action and dismissal.
- Train employees about company policies and procedures, in particular your line managers and supervisors.
- Communicate with staff and employee/trade union representatives about any issues which may affect employees.
- Don't ignore problems. Deal with issues as soon as they arise.
- Act consistently.

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