



COMMUNITY ADVICE TRAINING & SUPPORT

LEGAL UPDATE



August 2007: Issue 5

VAB welcomes feedback on its services from customers and service users. If you wish to make a compliment, complaint or comment about the service you have received, please contact our main office for a copy of our procedure or send your comments in writing to:

Chief Executive
Voluntary Action Barnsley
35 Queens Road, Barnsley, S71 1AN

Tel: 01226 242726 Fax: 01226 206580

E-mail: info@vabarnsley.org.uk

If you wish to be added or removed from the database please call **01226 206294** with your request.

Inside this issue:

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If you would like to receive this Legal Update in an alternative format, please contact us and we will try to meet your requirements. If you do not have access to internet facilities for seeking further information on a particular subject, please contact us so that we may obtain the information on your behalf.

Legal Surgeries 2007

The next legal surgery will take place on **Monday 17th September**, during the morning.

These are held at the CATS team office, 23 Queen's Road (ring buzzer 9).

Please contact our office if you wish to book an appointment.
Tel: 01226 286841

Dates for the rest of 2007 are as follows:

Friday 9th November



CATS gratefully receives funding from the following



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DISCLAIMER STATEMENT

Whilst every care has been taken to ensure the accuracy of this work, no responsibility for loss or damage occasioned to any person or organisation acting, or refraining from action as a result of any statement in it, can be accepted by the authors or by Voluntary Action Barnsley.

BILLS INTRODUCED TO PARLIAMENT

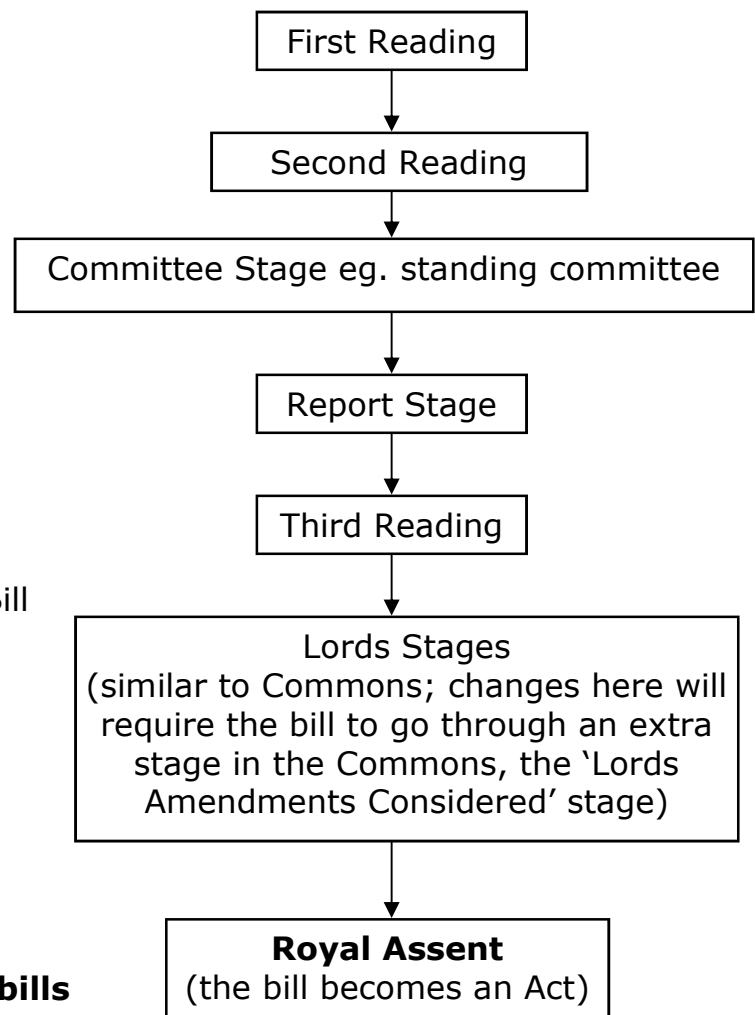
The Government has published its draft legislative programme for the current parliamentary session. A title summary of the bills in the programme are as follows:

Children in Care Bill
Child Maintenance and Other Payments Bill
Climate Change Bill
Constitutional Reform Bill
Coroners Bill
Counter Terrorism Bill
Criminal Justice and Immigration Bill
Crossrail Bill
Education and Skills Bill
Employment Simplification Bill
Energy Bill
European Communities (Finance) Bill
Health and Social Care Bill
Housing and Regeneration Bill
Human Tissues and Embryos Bill
Local Transport Bill
National Insurance Contributions Bill
Pensions Bill
Planning Reform Bill
Planning Gain Supplement Bill
Regulatory Enforcement and Sanctions Bill
Sale of Student Loans Bill
Unclaimed Assets Bill



For further information on the draft bills please contact Ann or Jane on 01226 286841

PARLIAMENTARY PROCESS



LEGAL UPDATE

STAFF HANDBOOKS AND CONTRACTUAL EFFECT

Caution should be taken when developing staff handbooks. The recent case of ***Keeley v Fosroc International Limited [2006]*** illustrated that terms written in a staff handbook may sometimes have contractual effect, in this case that staff were entitled to enhanced payments in the event of redundancy, the staff handbook stating,

Those employees with two or more years' continuous service are entitled to receive an enhanced redundancy payment from the company... Details will be discussed during both collective and individual consultation.

Organisations should ensure that they consider appropriate language when preparing such documents.

For further information about this case, or for assistance in preparing staff handbooks, please contact Jane Jefferson on 01226 286841

COMPANIES ACT 2006

The Companies Act received Royal Assent in October 2006, with a target for the entire act to be implemented by October 2008.



A timetable and summary of changes which will particularly affect the Third Sector is as follows:

Since 1 January 2007

- ◆ Companies must state their registered name, place of registration eg. 'Registered in England & Wales', company registration number, registered office, and the fact that they are a Company Ltd by Guarantee (if that is the case) on business forms, websites, order forms, and all business correspondence.

Since 20 January 2007

- ◆ Notice for general meetings can be given in hard copy, or by electronic form eg. email or website. In the case of the latter it must be notified that the notice is featured on the website.
- ◆ Companies are able to state an electronic address on a notice of a general meeting where electronic communications concerning the meeting may be sent.

Companies Act 2006 continued over...

LEGAL UPDATE

COMPANIES ACT 2006 Cont...

Meetings

- ◆ Companies will not be required to hold an AGM unless their Articles expressly require it, though a company may still find it useful to voluntarily hold one.
- ◆ Companies will not be required to present their accounts and reports before a general meeting.
- ◆ General meetings will only require a 14 day notice period, even when a special resolution is being proposed.
- ◆ A company will only require 90% of members to agree to hold a general meeting at short notice.
- ◆ There will be a statutory right for members to appoint a proxy to attend and vote on a show of hands at a meeting on their behalf.

Accounts

- ◆ An auditor will be deemed to be reappointed annually unless the company decides otherwise.
- ◆ Deadline for filing accounts will be reduced from 10 months to 9 months.

Resolutions

- ◆ Written ordinary resolutions will only require a simple majority of members to pass them.

Directors and Company Secretaries

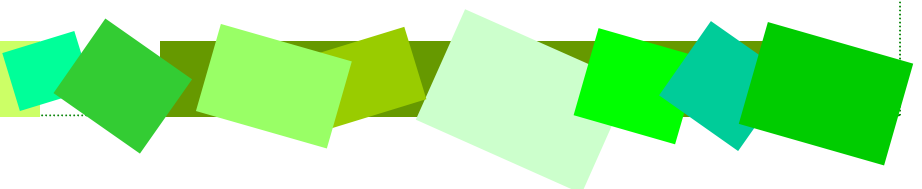
- ◆ A company will not be required to appoint a Company Secretary (though this may still be a requirement in the company's Articles, and companies should note that the Company Secretary functions will still need to be carried out).
- ◆ Deeds will be able to be validly executed by a director and a witness.

Memorandum & Articles

- ◆ Companies will no longer need to amend their Articles of Association following a change of name.
- ◆ There will be a new short form of Memorandum of Association for newly formed companies.

Stone King (2007) *The Companies Act* [on-line]

For further information please contact Ann or Jane on 01226 286841



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GOVERNMENT REVIEW COULD CHANGE AUDIT THRESHOLDS

The audit thresholds were recently changed in-line with the Charities Act 2006, from those having a gross income of more than £250,000 to being those with a gross income of more than £500,000. However, the Government and Charity Commission have now announced a review of all thresholds due to start this autumn.

Watch this space for further details...

AFFECTED BY FLOODS...?

Flood hit law firm Irwin Mitchell have provided a short advice overview for businesses affected by the floods, including: Employee response; Management response; Health and Safety; IT; Disaster Recovery; and Practical Issues.

The guidance can be found at:
<http://www.irwinmitchell.com/PressOffice/PressReleases/FloodHitLawyersOfferAdvice>

Or contact Ann or Jane on 01226 286841



CRB CHECKS FOR TRUSTEES

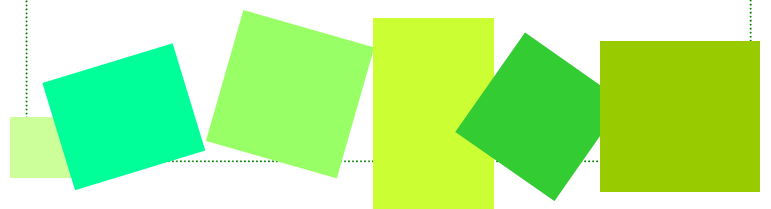
"Trustees of organisations wishing to register as charities will no longer have to provide proof to the Charity Commission that they have passed Criminal Records Bureau checks."

Third Sector (2007) [on-line]

A Charity Commission board meeting last week decided to remove the requirement for some organisations to show that trustees have been CRB checked. Organisations affected include those working with vulnerable adults and children. Board members will instead be asked to sign a declaration confirming whether checks have been carried out.

Further information can be found at:
<http://www.thirdsector.co.uk/Channels/Governance/login/672936/>

For further advice please contact Ann or Jane on 01226 286841



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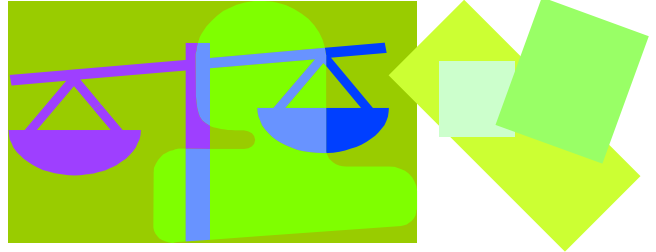
EMPLOYEE PROBATIONARY PERIODS

Many employers insert a probationary period into the contract of employment, often including an option to extend the period as necessary.

The recent case of *Przybylska v Modus Telecom Ltd EAT [2007]* highlights that an employee should be informed prior to the end of the probationary period if they have been unsuccessful in completing it.

This case illustrates the need to ensure probation periods are well managed, with a review prior to the end of the probation period, and notification of the right of the employer to extend it if required.

For further information about probationary periods, or for model monitoring forms, please contact Jane Jefferson on 01226 286841 or email: jane.jefferson@vabarnsley.org.uk



PROPOSALS FOR ONE EQUALITY ACT

Consultation will shortly take place in relation to proposals to replace UK discrimination laws with one equality act. The consultation 'A Framework for Fairness' will consist of a wide review of the current legislation, with a view to simplifying and harmonising the law.

It is unknown as yet what format the new law will take, and what will become of current legal definitions and tests eg. objective justification.

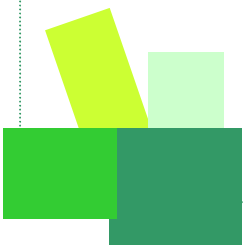
Watch this space for further information...

ACAS WIDENS ITS SERVICE

ACAS (Advisory, Conciliation & Arbitration Service) has announced that it is extending its expertise by providing conciliation in selected cases referred to it by the Employment Appeal Tribunal (EAT).

Types of cases likely to be referred to ACAS are as follows:

- * where the parties employment relationship is on-going
- * where a case could be referred back to the employment tribunal
- * appeals relating to monetary awards.



DEVELOPMENT

Developing an Environmental Policy

Why do we need an Environmental Policy?

An Environmental Policy will set out your organisation's commitment and intention to protect the environment. For some social economic organisations, environmental benefits may even form part of your core objectives.

How do we start?

To prepare an Environmental Policy your organisation must first consider its operational impact on the environment. You may need to carry out a mapping exercise to ascertain this fully.

Involvement and consultation

As with the development of all organisational policies, in order to gain ownership and commitment of all concerned, it is essential that staff, volunteers, service users and other key stakeholders are involved in its development from the outset. **Please refer to the CATS guidance sheet: Policy Development & Implementation.**

What do we need to include?

Your policy should open with a brief description of your organisation eg. "[Organisation] is predominantly an office based organisation, with some 'outreach' provision and attendance of meetings/events requiring regular use of transport."

Your policy should cover the following issues:

- ✓ Your commitment to pursuing and following relevant legislation eg. waste disposal legislation
- ✓ Your commitment to reducing environmental impact eg. waste/pollution prevention
- ✓ Your commitment to economy saving eg. switching off appliances when not in use, or purchasing energy efficient products
- ✓ Your commitment to re-cycling eg. using re-cycled products and re-cycling used products such as printer cartridges, paper, etc
- ✓ Your commitment to seeking suppliers with good environmental practices, and supplies with minimum packaging which have travelled less distance eg. considering your energy and product suppliers

Developing an Environmental Policy continued...



DEVELOPMENT

Developing an Environmental Policy continued...

- ✓ Your commitment to avoiding using chemicals wherever possible by seeking substitutions eg. alternative cleaning solutions
- ✓ What you will do when a significant environmental hazard occurs eg. developing a spill response plan. You may also need to consider your requirements under health and safety legislation in such areas
- ✓ Your commitment to reducing transport pollution, eg. offering mileage allowance for cyclists as well as motorists, encouraging car sharing or use of public transport
- ✓ Your commitment to always considering the environmental benefit in relation to maintenance and repairs of your premises/equipment
- ✓ A commitment to carrying out a regular audit for improvement.
Please contact the CATS advice team if you would like a model audit for this purpose Tel: 01226 286841.

Target Setting

The policy should identify realistic targets for improvement or reduction of pollution eg. 5% reduction in energy and water bills, switching to use of energy efficient bulbs, or movement to paperless practices by a particular target date. If it is not possible to reduce pollution, can you make steps to balance your environmental impact eg. support a tree planting programme?

Best practice Environmental Policy

A well produced Environmental Policy should contain clear language and be flexible enough to include all of the organisations services and practices.

The policy as a living document...

Ultimately, the success of the policy will lie in how it is put into practice and how this practice is monitored. Your organisation will need to consider how it will monitor and support staff and volunteers in adhering to it eg. training and regular review. It should be clear that the Environmental Policy is a 'living' document requiring continuous improvement, and as such it should be regularly reviewed, communicated (both internally and externally); and there should be clear processes for improvement.

If you have any questions regarding the above information, or would like assistance in developing support systems, please contact our Advice Team on 01226 286841 or Email: advice@vabarnsley.org.uk

HUMAN RESOURCES & PAYROLL



The CATS advice team provides free of charge comprehensive HR support including:

Human Resources & Personnel Advice

- ◆ Assistance in developing personnel policies
- ◆ Setting up personnel systems
- ◆ Recruitment and selection
- ◆ Preparing contracts of employment
- ◆ Induction programmes
- ◆ Guidance on the employment relationship and good practice
- ◆ Supervision and appraisal
- ◆ Termination of the employment relationship
- ◆ Legal surgery for HR legal problems
- ◆ A comprehensive Employment Law resource library
- ◆ Quarterly Legal Update
- ◆ Other related areas of HR/personnel



Voluntary Action Barnsley provides a competitively priced payroll bureau, offering the following:

Payroll Bureau & Advice Service

- ◆ Production of payslips for all staff on our multi-faceted payroll system
- ◆ Production of necessary payroll reports
- ◆ Assistance with payroll, tax and Inland Revenue queries
- ◆ Production of all year end data such as P60's
- ◆ Assistance with year end queries
- ◆ Advice and training on any payroll issues

If you want to find out more about the **HR Service** please contact Jane Jefferson on **01226 286841** or email: jane.jefferson@vabarnsley.org.uk

If you want to find out more about the **Payroll Service** please contact Debbie Hollingsworth on **01226 242726** (Tuesdays if possible) or email: payroll@vabarnsley.org.uk

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Please note that although our building has disability access, the CATS office is based on the first floor and is accessed by stairs only. We do however have use of a ground floor room if and when required.

Should you have a meeting with any of our staff and require a ground floor room please call our office and let us know so that we may make arrangements with the room provider. The team also offers 'outreach' facilities for many of its services should your organisation require this.

If you have any suggestions on how we might change or improve our newsletter, or you would like to talk to someone about anything contained in this newsletter please contact our office.

Community Advice Training & Support
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