

Human Resource Management Guidebook for SMEs



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Funded by SME Development Fund:



工業貿易署
Trade and Industry Department

Introduction

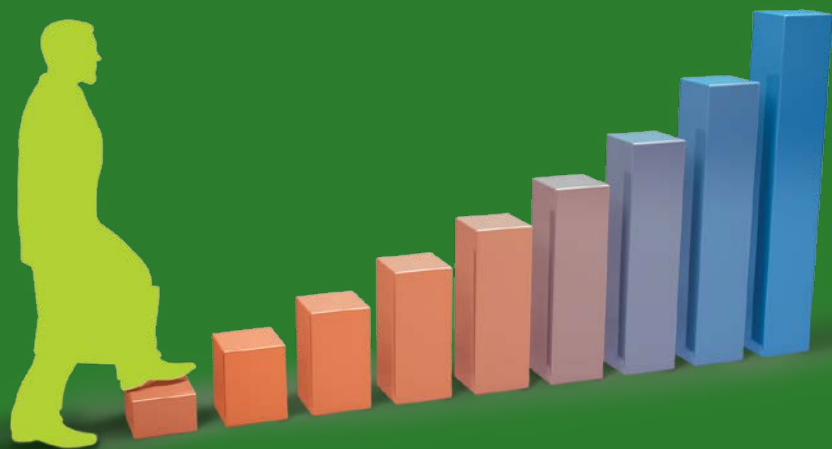
This guide book aims to assist SMEs to appreciate the various functions within the job family of Human Resources (HR) and their inter-related activities to enable SMEs to manage their human capital more effectively. This guide book also aims to elaborate on some of the key HR activities that are to be managed on a day-to-day basis. Soft copies of this guidebook can be downloaded from <http://www.hksmehr.org/>.

Effective human capital management in any organization requires the HR Managers to be well versed with Hong Kong Employment Law and its related Ordinances. Section 2 of this guide book attempts to highlight some of the key components of Hong Kong Employment Law and its related Ordinances as they are considered to be more frequently referred to in daily operation.

Some useful links have been included in this guide book to facilitate users to have quick access to more detailed information.

You may find it useful to read this guidebook in conjunction with “A Concise Guide to the Employment Ordinance” published by the Labour Department, for an overview of the Employment Ordinance. Hard copies are available from the Labour Departments’ offices while soft copies can be downloaded from the Labour Department website:

[http://www.labour.gov.hk/eng/public/wcp/EOatAGlance\(E\).pdf](http://www.labour.gov.hk/eng/public/wcp/EOatAGlance(E).pdf)



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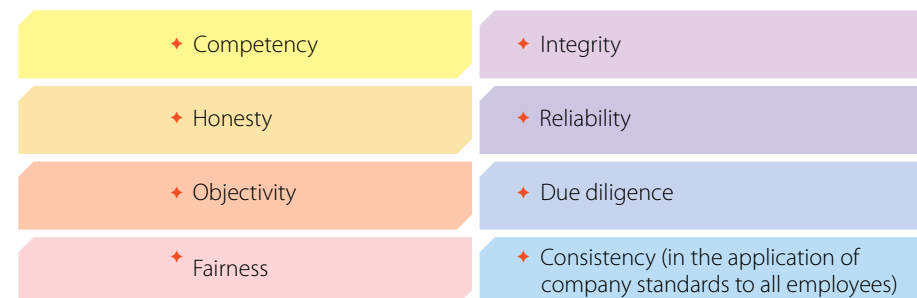
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1. HR Ethics and Code of Conduct

Human Resource Management is all about managing the most valuable asset a company possesses – its human capital. Human Resource (HR) staff members are advocates for both the company and the people who work in the company. Consequently, a good HR professional performs a constant balancing act to meet both needs successfully. Whatever human resource management role you play in the company, you bear the responsibility for all of the people-related processes and systems in the company.

According to the Hong Kong Institute of Human Resource Management's Code of Conduct, members should conduct themselves as a person of integrity. Personal credibility is built up on the basis of the following important factors:



1A HR Ethics and Code of Conduct

1A.1 HR ethics

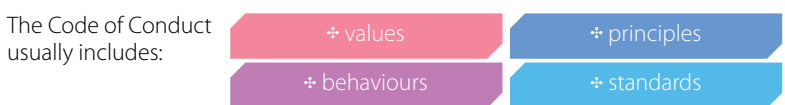
HR people should act legally, ethically and professionally

- Act legally – represent the most core of obligations and compliance is non-negotiable. HR is responsible for keeping current with changes in employment law or compliance issues and keeping management informed of risk or possible exposure to liability.
- Act ethically – HR represents all employees at all levels of the organization, regardless of sex, age, race, colour, marital status, religion, disability or other protected class. At the same time, HR promotes the ethical culture of an organization. They must model the highest level of ethical behavior, administer all company policies and procedures fairly. In handling disciplinary, compliance or grievance issues, HR must conduct thorough investigations and make recommendations or decisions based on facts without favoritism.
- Act professionally – HR must keep employee's and company's information in the strictest confidence, and protect the integrity of company proprietary information when dealing with employees or individuals outside of the company.
HR must keep abreast of changes in employment law, company policies and employment issues. They are also responsible for continuing education to remain experts in their field.

1A.2 Code of Conduct

The Code of Conduct of a company is a central guide and reference to support ethical decision making within the company. It should:

- ✦ disclose the way the company operates,
- ✦ provide visible guidelines for behavior,
- ✦ list out what a company expects its employees to act at all times in accordance with the requirements of the code,
- ✦ reflect the company's beliefs and culture.



A Code of Conduct is published and disseminated to its employees, and to existing and potential stakeholders such as members of the board of directors, customers, partners, vendors, suppliers and the general public. The Code of Conduct is both an internal commitment to a company's beliefs and a standard of behaviour, and a public declaration of the company's position on a set of values, principles and standards. It is an extremely useful source of reference for HR professionals when trying to maintain a good balance when meeting the company's and its employees' needs.

1B The Role of HR in Business

Traditionally, the role of the Human Resource professional in many companies has been closely aligned with personnel and administration functions that were viewed by the company as paperwork. In many companies, the HR function came out of the administration or finance department because hiring employees, paying employees, and dealing with benefits were the primary needs of the company. Often employees believed that the HR function was in place solely to serve management.

In light of the ever changing and more complex environment, the role of HR professionals has been evolved to meet the needs of their changing company. Successful companies are becoming more adaptive, resilient, more responsive to change and customer-focused. Within this environment, the HR professional is a strategic business partner, a subject matter expertise, an employee advocate and a change agent.

a. Strategic Business Partners

In this role, the HR person contributes to the development of and the accomplishment of the company-wide business plan and objectives.

The HR business objectives are established to drive and support the attainment of the overall strategic business plan and objectives. HR is responsible for turning this future business plan into future work force capabilities and management practices such that the business results can be achieved.

This impacts all dimensions of the HR services such as the design of work positions; sourcing and staffing; reward and recognition; performance management and appraisal systems; employee learning and development; employee engagement; talent management and succession planning. When HR professionals are aligned with the business, the human component of the company will be viewed as a strategic contributor to business success.

To be a successful strategic business partner, HR should possess business knowledge, understand the cost implications of people-related initiatives, and be accountable for and responsible for measurement and cost containment of all HR programs and processes.

b. Subject Matter Expert

In this role, the HR person should possess sound HR knowledge in relation to the most up-to-date employment law and the best HR practices for sourcing and staffing, remuneration strategy and systems, performance management, employee relations, and people development, and advise business as appropriate.

At all times, a professional HR will keep their management informed of any potential risk and liability to the business due to the change of employment law.

c. Employee Advocate

As an employee advocate, HR creates and fosters a work environment in which people are motivated, engaged, contributing and happy at work. The HR professional helps establish and promotes the organizational culture in which people are willing to demonstrate the competency required to perform the job, and commit to address customers' needs and concerns.

In this role, the HR person identifies and facilitates overall talent management strategies, employee development opportunities, employee assistance programs, long term incentive and retention strategies, and effective communication opportunities and channels between management and employees.

d. Change Agent

Knowing how to link changes to the strategic needs of the organization and being able to show empathy and address employee concerns will minimize employee dissatisfaction and resistance to change. This requires the HR professional to have both the knowledge about and the ability to execute successful change strategies.

1C The Various Functions HR Performs

Depending on the size of the organization, the HR manager has responsibility for all of the functions that deal with people-related needs and activities in the organization as follows:



2. Employment Law and Related Ordinances

2A Employment Ordinance

The following provisions of the Employment Ordinance are relevant in the management and execution of a HR function on a day-to-day basis. They are:

- ✦ Terms of Contract of Employment
- ✦ Wages
- ✦ Rest Days, Statutory Holidays and Leave
- ✦ Sickness Allowance
- ✦ Maternity Protection
- ✦ End of Year Payment
- ✦ Employment Termination
- ✦ Employment Protection

2A.1 Overview of Employment Ordinance

The Employment Ordinance covers almost all employees, irrespective of their hours of work but with a few exceptions such as family members who live in the same dwelling as the employer.

Employees covered by the Ordinance are entitled to basic protection under the Ordinance including payment of wages and the granting of statutory holidays, etc.

Employees who are employed under a continuous contract are further entitled to such benefits as rest days, paid annual leave, sickness allowance, severance payment and long service payment, etc. An employee who has been employed continuously by the same employer for four weeks or more, with at least 18 hours worked in each week is regarded as being employed under a continuous contract.

All employees: protection under the Ordinance

- payment of wages
- restrictions on wage deductions
- granting of statutory holidays, etc.

Employees who are employed under a continuous contract of employment:

- rest days
- paid annual leave
- sickness allowance
- severance payment/long service payment
- statutory holiday pay (after completing 3 months of employment) etc

Figure 1: Employees' entitlements under the Employment Ordinance

Chapter 1: Application of the Employment Ordinance of "A Concise Guide to the Employment Ordinance" provides more details about who are covered by the Employment Ordinance.
<http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/01.pdf>

Every employer must at all times keep a record setting out the wage and employment history of each employee covering the period of his employment during the preceding 12 months.

The record should include the following information of the employee:

- ✦ name and identity card number;
- ✦ date of commencement of employment;
- ✦ job title;
- ✦ wages paid in respect of each wage period;
- ✦ wage period;
- ✦ total number of hours worked in each wage period (if applicable*);
- ✦ periods of annual leave, sick leave, maternity leave and holidays entitled and taken, together with details of payments made in respect of such periods;
- ✦ amount of end of year payment and the period to which it relates (if applicable);
- ✦ period of notice required for termination of contract;
- ✦ date of termination of employment (if applicable).

The wage and employment records must be kept at the employer's place of business or at the place where the employee is employed, and they should also be kept for a period of another six months after the employee ceases to be employed.



2A.2 Terms of contract of employment

A contract of employment is an agreement on the employment conditions made between an employer and an employee. The agreement can be made orally or in writing and it includes both express and implied terms.

Before employment begins, an employer must inform each employee clearly the conditions of employment under which he is to be employed. There are core and non-core terms that could be included in the contract.

a. Core terms of an employment contract are:

- ✦ Contract period
- ✦ Wages
- ✦ Wage period
- ✦ Place of work
- ✦ Working hours (whether meal breaks are paid or not)
- ✦ Work days and rest days (whether rest days are paid or not)
- ✦ Personalized terms, e.g. position
- ✦ Probation period
- ✦ Notice period of termination of employment
- ✦ Leave and holiday entitlement
- ✦ End of year payment (if applicable)
- ✦ Eligibility for other discretionary payments (if applicable)

b. Non-core terms which are optional in an employment contract are:

- ✦ Medical benefits
- ✦ Insurance, e.g. life insurance
- ✦ Entitlement for allowances, e.g. education allowance, etc.

Chapter 2: Contract of Employment of “A Concise Guide to the Employment Ordinance” provides more details about the requirement under Employment Ordinance in relation to employment contract: <http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/02.pdf>

The Labour Department also published the following to give you more guidance on employment contract:

“Notes for preparing an employment contract”

<http://www.labour.gov.hk/eng/public/wcp/NoteSampleEC.pdf>

“Sample Employment Contract”

<http://www.labour.gov.hk/eng/public/wcp/ECsample.doc>

“Using Written Employment Contract (booklet)”

<http://www.labour.gov.hk/eng/public/wcp/WrittenContract.pdf>

This contract of employment is entered into between _____ (hereinafter referred to as ‘Employer’) and _____ (hereinafter referred to as ‘Employee’) on _____ under the terms and conditions of employment below :

1. Commencement of Employment† Effective from _____
☐ until either party terminates the contract.
☐ for a fixed term contract for a period of _____ * day(s)/week(s)/month(s)/year(s), ending on _____.
2. Probation Period† ☐ No ☐ Yes _____ * day(s)/week(s)/month(s)
3. Position and Section Employed _____
4. Place of Work _____
5. Working Hours† ☐ Fixed, at _____ days per week, _____ hours per day
 from _____ * am/pm to _____ * am/pm
 and _____ * am/pm to _____ * am/pm
☐ Shift work required, _____ hours per day
 from _____ * am/pm to _____ * am/pm
 to _____ * am/pm to _____ * am/pm
☐ Shift work required, at _____ working day(s) per *week/ month, totalling _____ hour(s).
☐ Others _____ (details of the arrangement on working hours and total working hours)
6. Meal Break† ☐ Fixed, from _____ * am/pm to _____ * am/pm * with/without pay
☐ Not-fixed, at _____ * minutes/hour(s) _____ per day, * with/without pay
 Meal break *is/ is not counted as working hour(s).
7. Rest Days ☐ On every _____, * with/without pay
☐ On rotation, _____ day(s) per * week/month, * with/without pay
 (The employee is entitled to not less than 1 rest day in every period of 7 days)
8. Wages
 (a) wage rate† Basic wages of \$ _____ per * hour/day/week/month; plus the following allowance(s) :
☐ Meal allowance of \$ _____ per * day/week/month
☐ Travelling allowance of \$ _____ per * day/week/month
☐ Attendance allowance of \$ _____ (amount) _____ (details of criteria and calculation of payment)
☐ Others (e.g. commission, tips) \$ _____ (amount) _____ (details of criteria and calculation of payment and date of payment)
 (b) overtime pay† ☐ At the rate of \$ _____ per hour
☐ At the rate according to * normal wages/ _____ % of normal wages
 (c) payment of wages & wage period(s)† ☐ Every month, on _____ day of the month
 for wage period from _____ day of the month to _____ day of * the month/the following month.
☐ Twice monthly, payable on
 (i) _____ day of * the month/following month
 for wage period from _____ day of the month to _____ day of * the month/the following month.
 (ii) _____ day of * the month/following month
 for wage period from _____ day of the month to _____ day of * the month/the following month.
☐ Once for every _____ * day(s)/week(s) for wage period from _____ to _____.
9. Holidays† The Employee is entitled to:
☐ statutory holidays as specified in the Employment Ordinance
☐ public holidays
☐ plus other holidays _____ (please specify)
10. Paid Annual Leave† ☐ The Employee is entitled to paid annual leave according to the provisions of the Employment Ordinance (ranging from 7 to 14 days depending on the Employee's length of service).
☐ The Employee is entitled to the following paid annual leave according to the rules of the company _____ (please specify)
11. Maternity Benefits† ☐ The Employee is entitled to maternity leave and maternity leave pay according to the provisions of the Employment Ordinance.
☐ The Employee is entitled to the following maternity leave and maternity leave pay according to the rules of the company _____ (please specify)
12. Sickness Allowance† ☐ The Employee is entitled to sickness allowance according to the provisions of the Employment Ordinance.

† Please put a “□” in the clause(s) as appropriate

* Please delete the word(s) as inappropriate

- ☐ The Employee is entitled to sickness allowance according to the rules of the company under the following circumstances:
- If the number of sickness days taken is _____ day(s) or below, an appropriate medical certificate in support of the sick leave **is/is not* required.
 - If the number of sickness days taken is _____ day(s) or more, an appropriate medical certificate in support of the sick leave is required.
- ☐ Others _____ (please specify)
13. Termination of Employment Contract†
A notice period of _____ * day(s)/week(s)/month(s) or an equivalent amount of wages in lieu of notice (notice period not less than 7 days).
During the probation period (if applicable) :
- within the first month : without notice or wages in lieu of notice
- after the first month : a notice period of _____ * day(s)/ week(s)/ month(s) or an equivalent amount of wages in lieu of notice (notice period not less than 7 days).
14. End of Year Payment†
An amount of * \$ _____ or equivalent to _____ month's basic/ normal wages upon completion of each
☐ *calendar/lunar year
☐ specified period : from _____ to _____
Payment is to be made within _____ days before commencement of the following * calendar/lunar year.
15. Mandatory Provident Fund Scheme†
The Employer and the Employee are to make contributions towards the Mandatory Provident Fund Scheme in accordance with the requirements specified in the Mandatory Provident Fund Schemes Ordinance.
☐ **In addition to the mandatory contribution**, the Employer provides monthly voluntary contribution to the Mandatory Provident Fund Scheme * in the amount of \$ _____ /at a rate of _____ % of the Employee's monthly wages.
☐ **In addition to the mandatory contribution**, the Employee provides monthly voluntary contribution to the Mandatory Provident Fund Scheme * in the amount of \$ _____ /at a rate of _____ % of the Employee's monthly wages.
16. Work Arrangements during Typhoon†
☐ The Employee is required to work when typhoon signal no.8 or above is hoisted. In addition to wages, the employee is entitled to * typhoon allowance/travelling allowance at \$ _____ or _____ % of normal wages.
☐ The Employee is not required to work when typhoon signal no.8 or above is hoisted and no wages will be deducted during the period. The Employee is required to resume duty if the typhoon signal no.8 is lowered not less than _____ hours before close of working hours.
17. Work Arrangements during Black Rainstorm Warning†
☐ The Employee is required to work when black rainstorm warning is hoisted. In addition to wages, the employee is entitled to * rainstorm allowance/travelling allowance at \$ _____ or _____ % of normal wages.
☐ The Employee is not required to work when black rainstorm warning is hoisted and no wages will be deducted during the period. The Employee is required to resume duty if the black rainstorm warning is cancelled not less than _____ hours before close of working hours.
18. Others
The Employee is entitled to all other rights, benefits or protection under the Employment Ordinance, the Minimum Wage Ordinance, the Employees' Compensation Ordinance and any other relevant Ordinances.
(If appropriate) Additional rules and regulations, rights, benefits or protection promulgated under the * Company Handbook/ _____ also form part of this contract.

The Employer and the Employee hereby declare that they understand thoroughly the above provisions and agree to sign to abide by such provisions. They shall each retain a copy of this contract for future reference.

Signature of Employee

Signature of Employer or Employer's Representative

Name in full : _____

Name in full : _____

HK I.D. No : _____

Position held : _____

Date : _____

Date : _____

Chop of the Company

2A.3 Wages

a. Definition of wages

Wages mean all remuneration, earnings, allowances, including:

- ✦ Travelling allowances
- ✦ Attendance allowances
- ✦ Commission
- ✦ Overtime pay if it is of a constant nature, or its monthly average over the past 12 months is at or over 20% of the average monthly wages of the employee during the same period
- ✦ Tips and service charges
- ✦ Special "one-off" payments, e.g. leave pay compensation, sign-on bonus
- ✦ Special cash bonus, share option

Wages do not include:

- ✦ the value of any accommodation, education, food, fuel, light, medical care or water provided by the employer
- ✦ any contribution paid by the employer to any retirement scheme
- ✦ any bonus, allowance or commission which is of a gratuitous nature or which is payable only at the discretion of the employer
- ✦ any travelling allowance which is of a non-recurrent nature
- ✦ the value of any travelling concession
- ✦ any gratuity payable on completion or termination of a contract of employment

b. Deductions

Allowable circumstances for deduction from wages are:

- ✦ In the case of absence – deduction has to be proportionate to the absence period
- ✦ In the case of damage or loss of employer's goods/property/equipment

Other allowable circumstances include deductions for:

- ✦ the recovery of advance or over-payment of wages
- ✦ the recovery of loan made by the employer to the employee
- ✦ retirement scheme/medical benefit scheme
- ✦ the value of food and accommodation supplied by the employer

Deductions, even though allowable by law, are subject to certain limits:

- ✦ the total of all deductions made in any one wage period should not exceed ½ of total wages payable, except for:
 - absence from work
 - outstanding maintenance payment owed by the employee pursuant to the Attachment of Income Order issued by the court.
- ✦ deductions for damage or loss of goods, equipment or property – the sum deducted shall not exceed the equivalent in value of the damage or loss, and shall not exceed \$300, total of such deductions shall not exceed ¼ of total wages payable
- ✦ deductions for the recovery of any advance or over-payment of wages – total of such deductions shall not exceed ¼ of total wages payable

According to the Employment Ordinance, an employer who:

- ✦ illegally deducts employees' wages will be liable to prosecution and, upon conviction, to a fine of HK\$100,000 and imprisonment for 1 year
- ✦ willfully and without reasonable excuse fails to pay wages when they become due will be liable to prosecution and, upon conviction, to a fine of HK\$350,000 and imprisonment for 3 years
- ✦ willfully and without reasonable excuse fails to pay interest on the outstanding amount of wages will be liable to prosecution and, upon conviction, to a fine of HK\$10,000

c. Payment of Wages

Wages shall

- ✦ become due on the expiry of the last day of the wage period. An employer:
 - should pay wages to an employee as soon as practicable but in any case no later than 7 days after the end of the wage period
 - is required to pay interest on the outstanding amount of wages to the employee if he fails to pay wages to the employee within 7 days when it becomes due
- ✦ be paid on a working day directly to an employee at
 - their place of employment or at any office; or
 - other place customarily used by the employer for the purpose of payment of wages; or
 - at any other place mutually agreed
- ✦ be paid, with the consent of an employee
 - by cheque, money order or postal order; or
 - into an account in his name with any bank; or
 - to his duly appointed agent

However, wages shall not be paid:

- ✦ in any place of amusement; or
- ✦ in any place where cash-sweeps, fixed odds betting or pari-mutuel betting is

organized or conducted; or

- ✦ in any place where intoxicating liquor or any dangerous drug is sold; or
- ✦ in any shop or store for the retail sale of merchandise, except where the employee is employed in such place, shop or store

d. Average Daily Wage

Average Daily Wage is used as a base for calculating the various payments:

- ✦ annual leave pay and its payment in lieu
- ✦ statutory holiday pay
- ✦ sickness allowance
- ✦ maternity leave pay
- ✦ end of year payment
- ✦ wages in lieu of notice

Calculation of Average Daily Wage:

- ✦ This is calculated on the basis of the average daily wages earned by an employee in the 12-month period preceding the specified dates as stipulated by the Employment (Amendment) Ordinance 2007. If an employee is employed for less than 12 months, the calculation shall be based on the shorter period.
- ✦ Here are the steps:
 - Based on the type of leave, determine the specified date and the 12-month period for calculating the pay. For example, holiday pay for 1 July should make reference to the 12-month period commencing 1 July last year up to 30 June this year. Another example, holiday pay for 25 December should reference to the 12-month period commencing 1 December last year up to 30 November this year.
 - Identify periods and wages when the employee is paid less than full wages which are to be disregarded
 - Calculation as follows:

Average Daily Wage	=	Total Wages in the 12-month period*	—	Wages during the 12-month* period to be disregarded
		Total number of calendar day in the 12-month period*	—	Number of calendar days in the 12-month* period to be disregarded

* "month" refers to "calendar month"

For more details, refer to the guidebook *"A Concise Guide to the Employment (Amendment) Ordinance 2007"* published by Labour Department, available from their website <http://www.labour.gov.hk> > Publications > Labour Relations > Employment Ordinance. <http://www.labour.gov.hk/eng/public/wcp/GuideEAO2007.pdf>

2A.4 Rest days, statutory holidays and annual leave

Rest day, statutory holiday and annual leave are types of leave that an employee is entitled to during his/her employment.

a. Definition

i. Rest days

A rest day is defined as a continuous period of no less than 24 hours during which an employee is not required to work for his/her employer. Rest days shall be in addition to any statutory holiday, or alternative holiday or substituted holiday, to which an employee is entitled.

ii. Statutory Holidays

12 statutory holidays per year as follows:

- the first day of January
- Lunar New Year's Day or, if that day falls on a Sunday, then the fourth day of Lunar New Year
- the second day of Lunar New Year or, if that day falls on a Sunday, then the fourth day of Lunar New Year
- the third day of Lunar New Year or, if that day falls on a Sunday, then the fourth day of Lunar New Year
- Ching Ming Festival
- Labour Day, being the first day of May
- Tuen Ng Festival
- Hong Kong Special Administrative Region Establishment Day, being the first day of July
- the day following the Chinese Mid-Autumn Festival or, if that day falls on a Sunday, then the second day following that Festival
- National Day, being the first day of October
- Chung Yeung Festival
- Chinese Winter Solstice Festival or Christmas Day, at the option of the employer

Employers can opt for either the Chinese Winter Solstice Festival or the Christmas Day as a statutory holiday and employers must inform their employees of such decision.

iii. Annual leave

Annual leave are paid leave days employees entitled to after having been employed for every 12 months.

b. Eligibility

i. Rest days

Employees employed under a continuous contract, are entitled to not less than one rest day in every period of 7 days.

With consent of the employee, an employer may substitute some other rest day:

- within the same month before the original rest day, or
- within 30 days after the original rest day

ii. Statutory holiday

All employees, irrespective of length of service, are entitled to the 12 listed statutory holidays. An employee who has worked under a continuous contract for not less than three months immediately preceding a statutory holiday is entitled to the statutory holiday with pay.

Statutory holiday falling on a rest day should be taken on the day following the rest day.

iii. Annual leave

Under the statutory provision, an employee's entitlement increases progressively from 7 days to a maximum of 14 days according to their length of service. Some employers may grant more leave days to their employees than the statutory provision, depending on company's policy or employees' position in the company, etc. These additional leave days, if not otherwise specified, will be treated in the same manner as the statutory leave.

Employees with less than 3 months' employment in a leave year are not entitled to any annual leave.

Annual leave entitlement accrued has to be taken in the following 12 months. Annual leave should be granted for an unbroken period (core leave) unless the employee so requests, employer may grant the leave in the following manner:

Leave entitlement is 10 days or less	Maximum 3 days can be granted separately, the balance to be granted consecutively
Leave entitlement is more than 10 days	At least 7 days should be granted consecutively

To facilitate administration, some employers adopted the "Common Leave Year" approach for all their employees. Under such circumstance, if an employee has not been employed for 12 months in the common leave year, such employer should calculate the employee's leave entitlement on a pro-rata basis (rounded up to nearest integer).

c. Rate of pay and payment in lieu

A glance at the rate of pay and payment in lieu under various holiday/leave scenarios:

	Rate of pay	Payment in lieu
Rest day	not required by law, can be determined by employer	not allowed
Statutory holiday (applicable only to those who have having been employed under a continuous contract for not less than 3 months immediately preceding a statutory holiday)	sum equivalent to the average daily wages earned by the employee in the 12-month period preceding the statutory holiday (or first day if more than 1 consecutive day)	not allowed
Statutory Annual leave (leave in accordance with the provision under Employment Ordinance)	sum equivalent to the average daily wages earned by the employee in the 12-month period preceding the annual leave day (or first day if more than 1 consecutive day)	payment in lieu of statutory leave only applies to the portion which is in excess of 10 days (except for termination of employment)
Contractual Annual leave (leave in excess of the provision under Employment Ordinance, if any)	sum equivalent to the average daily wages earned by the employee in the 12-month period preceding the annual leave day or first day if more than 1 consecutive day; if not otherwise stated	payment in lieu is allowed

d. Working on rest days/statutory holidays

i. Working on a rest day

An employer must not compel an employee to work on a rest day except in the event of a breakdown of machinery or plant or in any other unforeseen emergency.

For any rest day on which the employee is required to work, the employer should substitute some other rest day within 30 days after the original rest day. The employer should notify the employee of the arrangement within 48 hours after the employee is required to work.

ii. Working on a statutory holiday

If an employer requires the employee to work on a statutory holiday, the employer should make the following arrangement:

- arrange an alternative holiday 60 days before the statutory holiday and give the employee at least 48 hours' prior notice before the alternative holiday.

- arrange an alternative holiday within 60 days after the statutory holiday and give the employee at least 48 hours' prior notice before the statutory holiday.
- if the employer and employee agree, any day within 30 days of the statutory or alternative holiday may be taken by the employee as a substituted holiday.

Employers are advised to keep clear records of the alternative or substituted holidays taken by an employee.

2A.5 Sick leave and sickness allowance

a. Eligibility

Sick leave is one of the basic rights of an employee. If they suffer from genuine sickness and is supported by an appropriate medical certificate, sick leave has to be granted.

b. Paid sickness day

Criteria for paid sickness day:

- ✦ Employee is employed under a continuous contract; and
- ✦ Sick leave taken is not less than 4 consecutive days (except for any day off taken by a female employee for her pregnancy check-ups, post confinement medical treatment or miscarriage); and
- ✦ Sick leave is supported by an appropriate medical certificate issued by either a registered medical practitioner or a registered Chinese medicine practitioner or a registered dentist. The medical certificate should state the number of days and the nature of the sickness/injury that the employee is unfit for work; and
- ✦ the employee has accumulated sufficient number of paid sickness days.

The daily rate of sickness allowance is a sum equivalent to four-fifths of the average daily wages earned by an employee in the 12-month period preceding the sickness day or the first sickness day if more than 1 consecutive day.

c. Accumulation of sickness days

Paid sickness days can be accumulated:

- ✦ at the rate of two paid sickness days for each completed month of the employee's employment during the first 12 months and 4 paid sickness days for each completed month of employment thereafter.
- ✦ up to a maximum of total 120 days:
 - up to 36 days in Category 1
 - up to 84 days in Category 2

When sickness days taken exceeds the number of paid sickness days remaining in Category 1, the excess paid sickness days shall be deducted from the total number of paid sickness days in Category 2 accumulated by the employee.

d. Record of Sickness Days

An employer should keep the following records:

1. the date of commencement and termination of employment of each employee;
2. all paid sickness days accumulated by each employee, including the number of paid sickness days accumulated in Category 1 and 2;
3. paid sickness days taken by each employee and deducted from the total number of paid sickness days in either categories; and
4. sickness allowance paid and the sickness days in respect of which the sickness allowance was paid.

The record should be signed by the employee within 7 days of his return to work from paid sick leave, and the employee has the right to inspect the record.

For detailed information on sick leave and sickness allowance, please refer to *Chapter 5: Sickness Allowance of "A Concise Guide to the Employment Ordinance"* published by Labour Department <http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/05.pdf>

You may refer to the *"Guide on Human Resource Management Practices Relating to Sick Leave"* published by the Labour Department for more useful guidelines on human resource management practices relating to sick leave: <http://www.labour.gov.hk/eng/public/wcp/SickLeave.pdf>

2A.6 Maternity protection

a. Eligibility for Maternity Leave

A female employee employed under a continuous contract immediately before the commencement of her maternity leave and having given notice of pregnancy and her intention to take maternity leave to the employer is entitled to the following periods of leave:

- ✦ a continuous period of 10 weeks' maternity leave;
- ✦ if confinement occurs later than the expected date of confinement, a further period equal to the number of days from the day after the expected date of confinement to the actual date of confinement;
- ✦ the employee may enjoy an additional period of leave for not more than 4 weeks on the grounds of illness or disability due to the pregnancy or confinement.

With agreement of her employer, pregnant employees may decide to commence her maternity leave from 2 to 4 weeks before the expected date of confinement. If there is no agreement or if the employee does not decide on the date, the maternity leave will commence 4 weeks before the expected date of confinement.

Maternity leave commences on the date of confinement if it occurs before the scheduled maternity leave. In this case, within 7 days of her confinement the employee should give to her employer notice of the date of confinement.

A sample of *"Maternity Leave Record prescribed form"* is available from the Labour Department website <http://www.labour.gov.hk> > Publications > Labour Relations > Maternity Protection: <http://www.labour.gov.hk/eng/public/wcp/MaternityLeaveRecord.pdf>

b. Payment for maternity leave

An employee is eligible for maternity leave pay for a period of 10 weeks if:

- ✦ She has been employed under a continuous contract for not less than 40 weeks immediately before the commencement of scheduled maternity leave;
- ✦ She has given notice of pregnancy and her intention to take maternity leave to her employer after the pregnancy has been confirmed;
- ✦ She has produced a medical certificate specifying the expected date of confinement if so required by her employer.
- ✦ The daily rate of maternity leave pay is a sum equivalent to four-fifths of the average daily wages earned by an employee in the 12-month period preceding the first day of the maternity leave. If an employee is employed for less than 12 months, the calculation shall be based on the shorter period. In calculating the average daily wages, an employer has to exclude (i) the periods for which an employee is not paid her wages or full wages, including rest day, statutory holiday, annual leave, sickness day, maternity leave, sick leave due to work injuries or leave taken with the agreement of the employer, and any normal working day on which the employee is not provided by the employer with work; together with (ii) the sum paid to the employee for such periods.
- ✦ Maternity leave pay should be paid on the normal pay day of the employee.

The Labour Department has published a *"Maternity Protection guidebook"* setting out in simple terms the main provisions of the Employment Ordinance on the part of maternity protection: <http://www.labour.gov.hk/eng/public/wcp/MaternityProtection.pdf>

Chapter 6: Maternity Protection of "A Concise Guide to the Employment Ordinance" provides more details about maternity leave, payment for maternity leave maternity protection and prohibition of assignment of heavy, hazardous or harmful work to pregnant employees: <http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/06.pdf>

c. Latest development on paternity leave

More and more employers have now adopted family-friendly practices to enhance employee engagement. Some of these employers will grant paternity leave to male employees around the time of the birth of their children so that the male employees may attend to their spouse/partner or the new born.

In April 2012, the Civil Service Bureau of the Hong Kong SAR Government introduced an initiative granting male civil servants (under a continuous employment contract for at least 40 weeks) eligibility to apply for paternity leave of 5 working days on full pay upon the birth of each child.

Refer to the Labour Department website <http://www.labour.gov.hk> > Publications > Labour Relations > Good People Management (Publications & Audio-visual Materials) > Family-friendly Employment Practices for an outline of the benefits of introducing paternity leave. http://www.labour.gov.hk/eng/public/wcp/paternity_leave.pdf

The table below shows how leave days should be taken if one overlaps with another:

	Statutory Holidays (SH)	Annual Leave (AL)	Rest Days (RD)	Maternity Leave (ML)	Sick Leave with Sickness Allowance (SL)	Temporary Incapacity (TI)
Statutory Holidays (SH)		AL Alternative SH	RD Alternative SH on the following day	No Alternative Holiday	SH with pay No Alternative Holiday	TI No Alternative Holiday
Annual Leave (AL)	AL Alternative SH		AL Alternative RD	ML Alternative AL	AL No Alternative Holiday if AL commences before SL SL before AL	AL No Alternative TI
Rest Days (RD)	RD Alternative SH on the following day	AL Alternative RD		ML No Alternative RD	RD No Alternative RD	TI with compensation No Alternative RD
Maternity Leave (ML)	No Alternative Holiday/Leave	ML Alternative AL	ML No Alternative RD		ML or SL with Pay	ML or TI with Pay
Sick Leave with Sickness Allowance (SL)	SH with pay No Alternative Holiday	SL Alternative AL if SL commences before AL AL No Alternative Holiday if AL commences before SL	SL No Alternative RD	ML or SL with Pay		TI No Alternative Holiday
Temporary Incapacity (TI)	TI with compensation No Alternative RD	TI Alternative AL	TI No Alternative RD	ML or TI with Pay	TI No Alternative Holiday	

2A.7 End of year payment

End of year payment is defined as payment by a company to its employees which is not statutory. End of year payment is a sum equivalent to the average monthly wages based on a 12-month average unless otherwise stated.

a. Eligibility

Employees who have been employed by a company on a continuous basis are eligible unless otherwise specifically stated in the employment contract.

b. Payment

Payment of end of year payment customarily falls either at the end of the calendar year or during the month of Chinese lunar new year.

Calculation of end of year payment is normally on a pro rata basis and should include the probation period.

For more details about End of Year Payment, refer to the *Chapter 7: End of Year Payment of "A Concise Guide to the Employment Ordinance"*:
<http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/07.pdf>

2A.8 Termination of contract of employment

A contract of employment may be terminated by either the employer or the employee by giving the other party due notice or wages in lieu of notice.

a. Termination of contract of employment by notice or payment in lieu

- ❖ the law specifies a minimum length for notice and payment in lieu of notice under various situations
- ❖ a combination of notice period and payment in lieu is allowable
- ❖ shortening/waiving of notice period is allowable by mutual agreement

b. Termination of employment without notice or payment in lieu

An employer may terminate an employee's employment contract summarily if the employee:

- ❖ willfully disobey a lawful and reasonable order
- ❖ misconduct - such conduct being inconsistent with the due and faithful discharge of their duties
- ❖ is guilty of fraud or dishonesty
- ❖ is habitually neglectful in their duties

5 "valid reasons" for dismissal or variation of the terms of the employment contract:

- ❖ poor conduct of the employee
- ❖ the capability or qualifications of the employee for performing the job, e.g. a mismatch in performance delivery or a mismatch in the academic/professional qualifications claimed
- ❖ redundancy or other genuine operational requirements
- ❖ contravention of the law if employment continues, e.g. expiration of work visa
- ❖ other substantial reasons e.g. an employee has been certified by a registered medical practitioner as unfit to be continued employed in the original capacity

On the other hand, an employee may terminate the employment contract without notice or payment in lieu of notice if the employee:

- ❖ reasonably fears physical danger by violence or disease
- ❖ is subjected to ill-treatment by the employer
- ❖ has been employed for not less than 5 years and is certified by registered medical practitioner or a registered Chinese medicine practitioner as being permanently unfit for the type of work the employee being engaged

c. Statutory restrictions on termination of employment contract

An employer shall not dismiss an employee without valid reasons.

An employer dismissing an employee under the following circumstances is liable to prosecution and, upon conviction, to a fine of \$100,000:

Maternity	An employer shall not dismiss a female employee who has been confirmed pregnant and has served a notice of pregnancy.
Paid Sick Leave	An employer shall not dismiss an employee whilst the employee is on paid sick leave.
Giving evidence or information to the authorities	An employer shall not dismiss an employee by reason of his giving of evidence or information in any proceedings or inquiry in connection with the enforcement of the Employment Ordinance, work accidents or breach of work safety legislation.
Trade Union Activities	An employer shall not dismiss an employee for trade union membership and activities.
Injury at Work	An employer shall not dismiss an injured employee before having entered into an agreement with the employee for employee's compensation or before the issue of a certificate of assessment.

d. Termination payments

Payments in relation to termination usually include:

- ✦ Wages
- ✦ Payment in lieu of notice
- ✦ Annual leave payment (accumulated and pro-rata leaves)
- ✦ Pro-rata end of year payment (if applicable)
- ✦ Severance or long service payment (where appropriate)

e. Severance payment and long service payment

The Employment Ordinance provides that an employee is eligible to severance payment/long service payment subject to specified conditions:

- ✦ Severance Payment:
 - not less than 24 months under a continuous contract; and
 - the employee is dismissed by reason of redundancy, or employment contract of a fixed term expires without being renewed by reason of redundancy or the employee is laid off
- ✦ Long Service Payment:
 - not less than 5 years under a continuous contract; and
 - any of the following conditions:
 - the employee is dismissed but he is not summarily dismissed due to his serious misconduct or his dismissal is not by reason of redundancy; or
 - employment contract of a fixed terms expires without being renewed; or
 - the employee dies; or
 - the employee resigns on ground of ill health; or
 - the employee, aged 65 or above, resigns on ground of old age.

To be eligible for severance payment under redundancy or lay-off, the employee must have been employed under a continuous contract for 24 months or more.

Severance payment should be paid to employees not later than 2 months from the receipt of such notice. And failure to pay without reasonable excuse is liable to prosecution and, upon conviction, to a fine of \$50,000.

Long service payment should be paid to employees within 7 days after the date of termination of employment contract. And failure to pay without reasonable excuse is liable to prosecution and, upon conviction, to a fine of \$350,000 and to imprisonment for 3 years.

While on the subject, we shall elaborate on the meaning and entitlement to severance payment due to redundancy or lay-off and long service payment.

i. Meaning of redundancy

An employee is considered redundant if:

- the employer closes or intends to close the business
- the employer relocates the business operations
- when the business requirements for employees to carry out a particular type of work no longer exists

ii. Meaning of lay-off

An employee is considered laid-off if they are not provided with work or are not paid for:

- More than half of the total number of normal working days in any 4 consecutive weeks
- More than one-third of the total number of working days in any 26 consecutive weeks

iii. Meaning of long service

Any employee who has been employed, under a continuous contract with the same employer for not less than 5 years.

The following formula applies to the calculation of both severance payment and long service payment:

Monthly rated employee	(last month wages X 2/3) *	×	reckonable years of service [^]
Daily or piece rated employee	any 18 days' wages chosen by the employee out of his last 30 normal working days *	×	reckonable years of service [^]

[^] Service of an incomplete year should be calculated on a pro rata basis.

* The sum should not exceed 2/3 of \$22,500 (i.e. \$15,000). An employee may also elect to use his average wages in the last 12 months for the calculation.

You may refer to **Chapter 10: Severance Payment and Long Service Payment of "A Concise Guide to the Employment Ordinance"**.

<http://www.labour.gov.hk/eng/public/wcp/ConciseGuide/10.pdf> for meaning of redundancy/lay-off, amount and payment of severance/long service payment.

2A.9 Employment protection

a. Sickness

An employer shall not dismiss an employee whilst the employee is on paid sick leave, except in cases of summary dismissal due to the employee's serious misconduct.

b. Maternity

An employer is prohibited from dismissing a pregnant employee from the date on which she is confirmed pregnant by a medical certificate to the date on which she is due to return to work upon the expiry of her maternity leave if she has been employed under a continuous contract and she has served a notice of pregnancy to her employer. The Employment Ordinance also protects pregnant employees from being assigned with heavy, hazardous or harmful work.

c. Employee sustained an injury giving rise to temporary or permanent incapacity

An employer shall not terminate, or give notice to terminate, the contract of service of an employee:

- ❖ where the employee sustained an injury giving rise to temporary incapacity not exceeding 3 days before the period of temporary incapacity has expired and the compensation has been paid
- ❖ where the employee sustained an injury giving rise to temporary incapacity exceeding 3 days or permanent incapacity:
 - before the Commissioner for Labour has issued the Certificate of Compensation Assessment; or
 - before the employer agrees with the injured employee as to the compensation payable under the Ordinance; or
 - before an Employees' Compensation Assessment Board has issued the Certificate of Assessment or the Certificate of Review of Assessment, whichever occurs first.



d. Unreasonable variation of the terms of employment contract, unreasonable and unlawful dismissal

An employee may claim for remedies against an employer under the following situations:

Situation	Condition	Remedies
Unreasonable Dismissal	<ol style="list-style-type: none"> the employee has been employed under a continuous contract for a period of not less than 24 months; and the employee is dismissed other than for a valid reason as specified in the Employment Ordinance 	<ul style="list-style-type: none"> An order for reinstatement or re-engagement; or An award of terminal payments
Unreasonable and Unlawful Dismissal	<ol style="list-style-type: none"> the employee is dismissed other than for a valid reason as specified in the Employment Ordinance; and the dismissal is in contravention of the law 	<ul style="list-style-type: none"> An order for reinstatement or re-engagement; or An award of terminal payments and/or award of compensation not exceeding \$150,000
Unreasonable Variation of the Terms of the Employment Contract	<ol style="list-style-type: none"> the employee has been employed under a continuous contract; the terms of the employment contract are varied without the employee's consent; the employment contract does not contain an express term which allows such a variation; and the terms of the employment contract are varied other than for a valid reason as specified in the Ordinance 	<ul style="list-style-type: none"> An order for reinstatement or re-engagement; or An award of terminal payments

e. Right of an employee in participating in trade unions

Every employee shall have the following rights to:

- ❖ be a member or an officer of a trade union
 - ❖ take part in the activities of the trade union at any appropriate time*, if the employee is a member or an officer of a trade union
 - ❖ associate with other persons for the purpose of forming or applying for the registration of a trade union
- * appropriate time means outside working hours or during working hours by arrangement and with the consent of the employer

An employer shall not:

- ❖ prevent or deter an employee from exercising any of the above rights;
- ❖ dismiss, penalise or discriminate against an employee for exercising the above rights;
- ❖ make it a condition of employment that an employee must not exercise the above rights.

2B. Employees' Compensation Ordinance

The Employee's Compensation Ordinance (ECO) specifies the rights and obligations of the employers and employees in respect of injuries or death caused by accidents arising out of and in the course of employment, or by prescribed occupational diseases under the Ordinance.

2B.1 Overview

Application of Employees' Compensation Ordinance

a. The Ordinance is applicable to

- ❖ All full-time and part-time employees who are employed under contracts of service or apprenticeship, irrespective of length of employment
- ❖ Employees employed in Hong Kong by local employers who are injured while working outside of Hong Kong
- ❖ Crew members of a Hong Kong ship, and any person employed in any capacity on board of a Hong Kong ship

b. However, the Ordinance is not applicable to

- ❖ Outworkers (these are workers, by their contract of employment, agree to work for the organization but whose place of work is not within any of the organization's vicinity)
- ❖ Employer's family members living with him or her and without insurance cover
- ❖ Casual employees (with some exceptions) - casual employees are temporary workers or independent contractors

c. Notification of Accidents/Occupational Disease

i. Responsibility of Employee

An injured employee should give the employer notice of the accident as soon as possible. Failure to give prompt notice may jeopardize and delay the claim of employees' compensation.

Notice may be given orally or in writing to the employer or to the employee's supervisor. The employer is presumed to have had notice of an accident if the employee dies on the employer's premises.

ii. Responsibility of Employer

An employer must notify the Commission for Labour of any accident or prescribed occupational disease, irrespective of whether the accident or the occupational disease gives rise to any liability to pay compensation.

If an employee sustains an injury or dies as a result of an accident arising out of and in the course of his/her employment, his/her employer is in general liable to pay compensation under the Employees' Compensation Ordinance even if the employee might have committed acts of faults or negligence when the accident occurred.

Refer to Table 1 below for a summary of notice period required for notifying accidents/occupational disease and methods of claims settlement.

	Resulting in	Notice Period	Settlement of Claims
Work Injury	Temporary incapacity for a period not exceeding 3 days	Within 14 days	Direct payment by employer (ie. periodical payment for sick leave required) and also pay the medical expenses concerned.
	Temporary incapacity for a period exceeding 3 days but not more than 7 days		Employer may directly agree with the employee as to the compensation payable under the Ordinance and also pay the medical expenses concerned.
	Incapacity for a period exceeding 3 days		The Commissioner for Labour will assess the compensation payable under the Ordinance and issue to the employer and the employee a Certificate of Compensation Assessment stating the amount of compensation payable.
	Death	Within 7 days	
Occupational Disease	Incapacity	Within 14 days	
	Death	Within 7 days	<u>Temporary Incapacity:</u> the certificate will be issued after medical clearance. <u>Permanent Total or partial Incapacity:</u> the employee concerned will be referred to the Employees' Compensation Assessment Board for assessment and a Certificate of Compensation Assessment will be issued after the Certificate of Assessment is issued by the Assessment Board.

Table 1 Summary of Notice Period Required for Notifying Accidents/Occupational Disease and Methods of Claims Settlement

An employee suffering incapacity arising from an occupational disease is entitled to receive the same compensation as that payable to an employee injured in an accident arising out of and in the course of employment, if the disease is one due to the nature of any occupation in which they were employed at any time within the prescribed period immediately preceding the incapacity caused.

Before employing an employee in a trade or industry in which an occupational disease is prone to be contracted by employees, the employer may, at its own cost, require the employee to be medically examined by a registered medical practitioner. An employee refusing to undergo the medical examination may forfeit his/her entitlement to compensation in the event of death or incapacity caused by an occupational disease.

2B.2 Compulsory insurance

According to the Employees' Compensation Ordinance, all employers (including contractors and sub-contractors) are required to take out insurance policies to cover their liabilities both under the Ordinance and at common law, for injuries at work, in respect of all their employees, irrespective of the length of employment contract or working hours, full-time or part-time, permanent or temporary employment.

The minimum insurance cover should be for an amount:

No. of Employees	Amount of Insurance Cover per Event
not more than 200	not less than HK\$100 million
more than 200	not less than HK\$200 million

An insured employer is required to display, in a conspicuous place on each of their premises where any employee is employed, a notice in both English and Chinese, showing the name of the employer, the name of the insurer, the policy number, the issue date of policy, the commencement and expiry dates of the period of insurance, the number of employees insured and the amount of liability insured under the policy.

An employer who fails to comply with the Ordinance to secure an insurance cover commits an offence and is liable, on conviction, to a maximum fine of HK\$100,000 and imprisonment for 2 years.

If an employer experiences difficulties in acquiring employees' compensation insurance cover, they may apply to join the Employees' Compensation Insurance Residual Scheme. Please visit the following website for more details: <http://www.ecirsb.com.hk>

For detailed information on the provisions of Employees' Compensation Ordinance and details on compulsory insurance under the Ordinance, please visit the Labour Department website <http://www.labour.gov.hk> > Labour Legislation > Overview of Major Labour Legislation > Employees' Compensation Ordinance, Chapter 282
<http://www.labour.gov.hk/eng/legislat/content1.htm>

"A Concise Guide to the Employees' Compensation Ordinance with Frequently Asked Questions on Common Employees' Compensation Issues" published by the Labour Department, will set out the main provisions of the Employees' Compensation Ordinance and explain procedures and administrative procedures adopted by the Department in handling and processing claims. The booklet is available from the Labour Departments' offices while soft copies can be downloaded from the Labour Department website <http://www.labour.gov.hk> > Publications > Employees' Compensation: <http://www.labour.gov.hk/eng/public/ecd/pco360.pdf>

2C. Minimum Wage Ordinance

The Minimum Wage Ordinance establishes a statutory minimum wage (SMW) regime aimed at striking an appropriate balance between forestalling excessively low wages and minimising the loss of low-paid jobs while sustaining Hong Kong's economic growth and competitiveness. SMW provides a wage floor to protect grassroots employees.

2C.1 Coverage

The Minimum Wage Ordinance applies to every employee whether they are monthly-rated, weekly-rated, daily-rated, hourly-rated, piece-rated, permanent, casual, full-time, part-time or other employees, and regardless of whether or not they are employed under a continuous contract as defined in the Employment Ordinance, with the following exceptions:

- ✦ persons to whom the Employment Ordinance does not apply; e.g. seamen, apprentices, civil servants
- ✦ live-in domestic workers, including domestic helpers, care takers, chauffeurs, gardeners, boat-boys or other personal helpers, who dwell free of charge in their employing household, irrespective of their sex or race
- ✦ student interns as well as work experience students during a period of exempt student employment

SMW applies to employees with disabilities and able-bodied employees alike. In order to strike a balance between providing wage protection to persons with disabilities and safeguarding their employment opportunities, special arrangement is also provided under the Minimum Wage Ordinance so that employees with disabilities whose productivity may be impaired by their disabilities have the right to choose to undergo a productivity assessment to determine whether they should be remunerated at not lower than the SMW level or at a rate commensurate with their productivity. The right to invoke assessment is entirely vested in the employees with disabilities, not the employers. The Labour Department has published the *"Concise Guide to Productivity Assessment for Persons with Disabilities under the Statutory Minimum Wage Regime"* to explain the details of this special arrangement.

2C.2 Basic principles in computing minimum wage

SMW is expressed as an hourly rate. In essence, wages payable to an employee in respect of any wage period, when averaged over the total number of hours worked in the wage period, should be no less than the SMW rate.

The prescribed minimum hourly wage rate is HK\$30/hour, effective 1 May 2013.

For the purposes of computing minimum wage, hours worked include any time when the employee is:

- ✦ in attendance at a place of employment, irrespective of whether they are provided with work or training at that time; or
- ✦ travelling in connection with their employment, excluding travelling between their place of residence and their place of employment.

Whether meal breaks and rest days are with pay or otherwise are employment terms to be agreed between employers and employees. Whether meal breaks are hours worked and/or with pay, whether rest days are with pay, wage period, wage calculation, reckoning and payment arrangement of commission, etc. are relevant in the computation of minimum wage. Where necessary, employers and employees should seek consensus on the employment terms on lawful, sensible and reasonable grounds through labour-management communication and consultation.

An employee is entitled to be paid wages in respect of any wage period of not less than the minimum wage. The minimum wage for a wage period is the amount derived by multiplying the total number of hours (including any part of an hour) worked by the employee in the wage period by the SMW rate. Even if the hour worked is less than one whole hour, the minimum wage should be computed based on the actual period of time worked. Hence, in computing minimum wage, the following formula will be used.

$$\text{Minimum wage} = \text{Total number of hours worked by the employee in the wage period*} \times \text{SMW** rate (i.e. \$30 with effect from 1 May 2013)}$$

* "wage period" is normally defined as one month unless the contrary is proved
 ** SMW means Standard Minimum Wage

If the wages payable to the employee in respect of the wage period are less than the minimum wage, he is entitled to be paid the difference (i.e. "additional remuneration").

Illustration

Assumption

- an employee with monthly salary of \$7,800 has worked 24 days in a wage period of 30 days with the total number of hours worked being 204 hours
- in this wage period, payments made to the employee for time that is not hours worked include rest day pay for 4 days (\$260 per day), statutory holiday pay for 1 day (\$260) and annual leave pay for 1 day (\$260)

SMW rate: \$30

Calculation

(1) Minimum wage according to the total number of hours worked for this month:

\$6,120 (204 hours x \$30)

(2) Wages payable to the employee in respect of this month:

\$6,240 (\$7,800 - (4 x \$260) - \$260 - \$260)

Since (2) is not less than (1), the monthly salary of \$7,800 of the employee has met the minimum wage requirement.

For a more comprehensive understanding on how minimum wage will be computed under different scenarios, please visit the Labour Department website <http://www.labour.gov.hk> > Publications > Labour Relations > Statutory Minimum Wage for the various guidelines on statutory minimum wage
http://www.labour.gov.hk/eng/public/smw/SMW_Reference_Guidelines_2013.pdf

2C.3 Keeping record of total number of hours worked

The wage and employment records kept by an employer under the Employment Ordinance should include the total number of hours (including any part of an hour) worked by the employee in a wage period if

- ✦ SMW applies to the employee (Please refer to 2C.1. Coverage above); and
- ✦ wages payable in respect of that wage are less than \$12,300 per month*.

Therefore, when wages payable in respect of a wage period are at \$12,300* or above per month, the wage and employment records kept by an employer according to the Employment Ordinance are not required to include the total number of hours worked by the employee in that wage period.

Employers and employees should keep proper records in relation to attendance, hours worked, wages, etc. to safeguard their respective rights and benefits and help avoid unnecessary disputes.

An employer who fails to keep the wage and employment records is liable to prosecution and, upon conviction, to a fine of \$10,000.

*as at 1 May 2013

2C.4 Wage items and wages payable

The term "wages" means all remuneration, earnings, allowances including travelling allowances, attendance allowances, commission, overtime pay, tips and service charges, payable to an employee in respect of work done or to be done.

No matter how the wage of an employee is calculated (e.g. monthly-rated, weekly-rated, daily-rated, hourly-rated, piece-rated, etc.), the minimum wage is still derived by multiplying the total number of hours worked in a wage period by the SMW rate.

2C.5 Exemptions

SMW does not apply to student interns as well as work experience students during a period of exempt student employment.

A student intern is:

- ✦ a student undergoing a period of work arranged or endorsed by a local education institution specified in Schedule 1 to the Minimum Wage Ordinance, and the work is a compulsory or elective component of the requirements of a full-time accredited program being provided by the institution to the student; or
- ✦ a student resident in Hong Kong and undergoing a period of work arranged or endorsed by an institution, and the work is a compulsory or elective component of the requirements of a full-time education program for a non-local academic qualification at degree or higher level being provided by the institution to the student.

A work experience student is:

- ✦ a student who is enrolled in a full-time accredited program provided by a local education institution specified in Schedule 1 to the Minimum Wage Ordinance; or
- ✦ a student who is resident in Hong Kong and enrolled in a full-time education program for a non-local academic qualification at degree or higher level and is under the age of 26 years at the beginning of employment. The work experience student may agree with the employer to have a continuous period of up to 59 days as exempt student employment if:
 - (a) the student has not commenced another exempt student employment period within the same calendar year (whether under the employment of the same employer or not); and
 - (b) the student has made a statutory declaration verifying the fact in (a) above and provided the declaration (or copy) to the employer.

2D. Mandatory Provident Fund Schemes Ordinance

2D.1 Overview of MPF Schemes Ordinance

To help the workforce save for their retirement, the Mandatory Provident Fund Schemes Ordinance ("MPFSO") was launched in December 2000. It was designed as an employment-based retirement protection system in Hong Kong. Both the employers and the employees are mandated to make regular contributions into an MPF scheme.

Coverage of the MPF system

- a. Regular employees who are:
 - ✦ aged between 18-65, and
 - ✦ employed under an employment contract for 60 days or more
- b. Casual Employees who are:
 - ✦ aged between 18-65, and
 - ✦ employed in the construction industry or the catering industry on a day-to-day basis or for a fixed period of less than 60 days
- c. Self-employed persons who:
 - ✦ earn income from the production of or trade of goods or services in a capacity other than that of an employee, including sole proprietors and partners in a partnership, and
 - ✦ are aged between 18-65

Employers should take note of the following when handling MPF matters:

1. choosing an MPF scheme
2. enrolling employees
3. making contributions
4. providing pay-records
5. arranging for employees' cessation of employment
6. keeping records
7. updating information

The Mandatory Provident Fund Schemes Authority(MPFA) has published the following for employers' reference:

- ✦ Learn More About MPF Regulations
- ✦ Understanding MPF Schemes and ORSO Schemes
- ✦ MPF 7 Smart Tips for Smart Employers
- ✦ MPF Scheme – Increasing Choice for Your Employees
- ✦ Learn About MPF Employee Choice Arrangement
- ✦ Learn More About MPF Intermediaries
- ✦ MPF Industry Schemes – Catering Industry and Construction Industry

The above publications are available from the Mandatory Provident Fund Schemes Authority website <http://www.mpfa.org.hk> > Information Centre > Publications > MPF Booklets & Publications > MPF System
http://www.mpfa.org.hk/eng/information_centre/publications/booklets_publications/mpf_system/index.jsp

2D.2 Choose an MPF Scheme

It is every employer's responsibility to:

- a. select MPF trustee(s) and scheme(s)
- b. display participation certificate at office premises

Types of MPF scheme

- ✦ Master Trust Scheme
It is the most common type of scheme, open to relevant employees of participating employers and self-employed people
- ✦ Industry Scheme
It is specially established for industries with high labour mobility such as catering and construction industries
- ✦ Employer Sponsored Scheme
It is limited to specific employees of a single employer and its associated companies

2D.3 Enrol your employee

All employers are required to:

- ✦ enroll eligible employees into the Scheme within the permitted period (within first 10 days of employment for casual employees in the catering and construction industries and 60 days for all other employees)
- ✦ pass the membership certificate received from the trustees to employees within 7 working days



2D.4 Make contribution

a. Contribution amount

Employers are required to make contributions:

- ✦ mandatory contribution – 5% by both employer and employee if monthly relevant income* is above HK\$ 7,100 per month (effective from 1 November 2013). Employees with a monthly relevant income of less than HK\$7,100 per month are not required to make the employee's portion of mandatory contributions.
- ✦ maximum contribution – HK\$1,500 per month by both employer and employee respectively, if employee's monthly relevant income* is more than HK\$30,000.

* Relevant income is defined as any wages, salary, leave pay, fee, commission, bonus, gratuity, perquisite or allowance expressed in monetary terms, but exclude severance payments or long service payments under the Employment Ordinance

Contributions are calculated as follows:

Monthly relevant income	Employer's mandatory contributions	Employee's mandatory contributions
Less than HK\$7,100	Relevant income x 5%	No contribution required
HK\$ 7,100- HK\$30,000	Relevant income x 5%	Relevant income x 5%
More than HK\$30,000	HK\$1,500	HK\$1,500

^ As at 1 June 2014

For casual employees* and their employers in construction or catering industry under industry schemes, the contributions are calculated as follows:

Daily relevant income	Amount of mandatory contributions	
	Employer's contributions	Employee's contributions
Less than HK\$280	\$10	Not required
HK\$280 to less than HK\$350	\$15	\$15
HK\$350 to less than HK\$450	\$20	\$20
HK\$450 to less than HK\$550	\$25	\$25
HK\$550 to less than HK\$650	\$30	\$30
HK\$650 to less than HK\$750	\$35	\$35
HK\$750 to less than HK\$850	\$40	\$40
HK\$850 to less than HK\$950	\$45	\$45
HK\$950 or more**	\$50	\$50

* "Casual employees" refers to employees who are engaged in the construction industry or the catering industry, and are employed on a daily basis, or for a fixed period of less than 60 days.

** Effective from 1 June 2014, this income band contains the daily maximum relevant income level (i.e. \$1,000) and the maximum amount of contribution (i.e. \$50). If the daily income of a casual employee is more than \$1,000, the amount of contributions payable by both the employer and employee will remain at \$50 each per day.

b. Timing for making contributions:

- ✦ normal contributions are to be made on or before the 10th day after the end of the contribution period
- ✦ a contribution period is the period for which the employer pays relevant income to the employee. Under the MPF System, for monthly-paid regular employees, an employer is required to make mandatory contributions on or before the 10th day of each month (i.e. the "contribution day") unless it falls on a Saturday, a public holiday, a gale warning day or a black rainstorm warning day. In this event, the next working day will be considered the contribution day. For example, if 10 January is Saturday, the contribution day will be postponed to 12 January (Monday).
- ✦ employers in the construction and catering industries who have enrolled their casual employees in the Industry Schemes may choose to make mandatory contributions either on the next working day (i.e. any day other than a Saturday, a public holiday, a gale warning day or black rainstorm warning day) following the relevant pay-day, or within 10 days after each contribution period.
- ✦ new employees will enjoy "contribution holiday":
 - the first 30 days of employment and the first incomplete payroll cycle (wage period)
 - employers are not required to deduct any employee contributions from employees' salaries during the "holiday". However, employer contributions should be calculated from the employees' first day of employment.
 - after the employees' 60th day of employment, employers should then make the first contribution within the first 10 days of the following calendar month
 - for example, a monthly-paid employee commences employment on 6 March:
 - the 30th day of employment will fall on 4 April
 - contribution holiday is from 6 March to 30 April
 - the 60th day of employment will fall on 4 May
 - first contribution should be made on or before 10 June

2D.5 Issue records

Employers should provide pay records to the employees within 7 working days after making contributions and the pay records should contain the details of relevant income and respective contributions made during the month. Any amount of voluntary contributions should also be set out in the pay-record.

2D.6 Notify termination

Employers should inform the trustees in writing or via remittance statement on or before the 10th day of the following month after the employee ceases employment; specifying the employee's termination date.

2D.7 Keeping and updating information

Employers should

- ✦ ensure relevant information of employees and MPF scheme are kept up to date - records including the employee's name, address, dates of employment, amounts of relevant income, MPF contribution amount and the date on which contribution is made in respect of every employee
- ✦ notify the trustee within 30 days of any change of employer's name, business address, telephone number etc.

2D.8 Offsetting of long service payment and severance payment

Employers are allowed to use the employers' portion of contribution to offset against severance payment/long service payment to the extent that they relate to the employees' years of service for which the severance payment/long service payment is payable.

2D.9 Employee choice arrangement

Commencing on 1 November 2012, the MPF Employee Choice Arrangement (ECA) gives employees greater autonomy, allowing them to, once a year, opt to transfer the employee's portion of the mandatory contributions and investment returns (i.e. the accrued benefits) in their contribution accounts to an MPF trustee and scheme of their own choice.

Employees can however opt not to make any change. They can retain the accrued benefits in the original MPF scheme selected by their employers.

Employees wishing to transfer their accrued benefits should contact the new trustee directly. The transfer does not need to be arranged through their employers.

2D.10 MPF for part-time employees

According to the Mandatory Provident Fund Schemes Ordinance, if an employee is aged between 18 to 65 and employed for 60 days or more, irrespective of the employee's job nature either as a full-time or a part-time employee, they are covered by the MPF System. The employer must enrol the employee in an MPF scheme and make timely contributions in accordance with the law.

For updated information on Mandatory Provident Fund Schemes Ordinance, please visit the Mandatory Provident Fund Authority website <http://www.mpfa.org.hk> > Information Centre > Publications > MPF Booklets & Publications:
http://www.mpfa.org.hk/eng/information_centre/publications/booklets_publications/mpf_system/index.jsp

2E. Equal Opportunities Legislations

The Equal Opportunities Commission (EOC) is a statutory body set up in 1996 to implement:

- ✦ the Sex Discrimination Ordinance (SDO)
- ✦ the Disability Discrimination Ordinance (DDO)
- ✦ the Family Status Discrimination Ordinance (FSDO)
- ✦ the Race Discrimination Ordinance (RDO)

The Commission works towards the elimination of discrimination on the grounds of sex, marital status, pregnancy, disability, family status and race.

- ✦ Employers are legally responsible for the actions of their employees, done in the course of their employment, whether or not these were done with the employer's knowledge or approval. Therefore, employers have the responsibility to maintain the work environment free of harassment. Employers are recommended to have an Equal Opportunities (EO) policy in place, which should:
- ✦ state clearly the commitment of the employer to maintain a working environment free of discrimination and harassment;
- ✦ provide sufficient information on what kind of conduct would amount to discrimination and harassment and would not be tolerated;
- ✦ state the procedure for making a complaint should an unlawful act of discrimination or harassment occur.

The employer should also appropriately communicate the EO policy to employees at all levels and where applicable and reasonably practicable, to job applicants. For a sample of an EO policy, visit the Equal Opportunities Commission website <http://www.eoc.org.hk> > Publicity & Training > EO Club > EO Essentials Kit for SME <http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/policy.pdf>

Managers and supervisors have the responsibility to stop harassment. If they become aware of harassment in their respective work area, or elsewhere in the organization, they must endeavour to stop it, whether or not a complaint has been made. Sample procedure for handling EO related problems is available from the Equal Opportunities Commission website <http://www.eoc.org.hk> > Publicity & Training > EO Club > EO Essentials Kit for SME <http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=SMEContent>

Employers and managers should also ensure that employees are not victimised for raising a concern or lodging a complaint against unlawful discrimination and harassment.

Apart from having an EO policy, an employer should also establish a proper grievance handling mechanism so that investigation of complaints arising from discrimination issues is carried out fairly for both the complainant and the respondent. The procedures of the mechanism should be made known to all employees in order that they may seek timely help if discrimination or harassment is encountered in the workplace. This is to encourage discrimination disputes being resolved efficiently and effectively. Employers should protect employees who have lodged complaints of discrimination or harassment from being victimised.

The Equal Opportunities Commission has developed the following tools for employers' reference:

- Good Management Practice Series > Guidelines for Application Forms Design
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10068>
- Good Management Practice Series > Interviewing Procedures
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10069>

- Good Management Practice Series > Pre-employment Medical Examinations
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8888>
- Good Management Practice Series > Pre-hiring and Post-hiring Procedures
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10070>
- Good Management Practice Series > Recruitment Advertisements
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10071>
- Good Management Practice Series > The Use of Consistent Selection Criteria
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=10072>
- Sample Equal Opportunity Policy
<http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/2012/policy.doc>
- Sample procedure for handling EO related problems
<http://www.eoc.org.hk/EOC/UPLOAD/SMEKIT/2012/procedure.doc>

2E.1 The Various Discrimination Ordinances

a. Sex Discrimination Ordinance (SDO)

The SDO stipulates that discrimination on the basis of sex, marital status and pregnancy, and sexual harassment are unlawful.

Refer to the following information available from the Equal Opportunities Commission website <http://www.eoc.org.hk> > Discrimination Legislation to learn more about SDO:

- Code of Practice on Employment under the Sex Discrimination Ordinance
http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops_sdo
- Preventing Sex Discrimination in Pay > An Illustration on Developing an Analytical Job Evaluation System Free of Sex Bias
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEVBook1Web-e.pdf>
- Preventing Sex Discrimination in Pay > A Systematic Approach to Pay Determination Free of Sex Bias
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEVBook2Web-e.pdf>
- Preventing Sex Discrimination in Pay > Easy Read Guide on Equal Pay between Men & Women Under the Sex Discrimination Ordinance
http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/EPEV_guide_e.pdf
- Preventing Sex Discrimination in Pay > Guide to Employers on Equal Pay between Men & Women Under the Sex Discrimination Ordinance
<http://www.eoc.org.hk/EOC/Upload/UserFiles/File/EPEV/MainGuideWeb-e.pdf>
- Pregnancy Discrimination
<http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=pregnancy20discrimination>
- Good Management Practice Series > Sex as a Genuine Occupational Qualification
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8893>
- Good Management Practice Series > Sexual Harassment in the Workplace
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=9881>

b. Disability Discrimination Ordinance (DDO)

The DDO stipulates that it is unlawful for an employer to discriminate against or harass an employee on account of their disability in the course of the employee's employment with the employer. Protection begins from the pre-employment stage applicable to job applicants and extends to post employment on discriminatory acts encountered during the course of employment.

Some disabilities are so serious making the persons having them genuinely incapable of carrying out the inherent requirement(s) of the jobs concerned. Most disabilities, however, could be overcome with workplace adjustments and reasonable accommodation by the employer and the employer is encouraged to make the necessary adjustment and accommodation unless there is unjustifiable hardship on their part in doing so.

Under the DDO an individual is personally liable for committing discrimination and harassment while an employer could be held vicariously liable for the unlawful conduct of their employees. The DDO also imposes vicarious liability on a principal for discriminatory act done by its agent. Additionally, liability for discriminatory act may also arise in contracting or sub-contracting working relationships where a contract worker is discriminated on account of his/her disability.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about DDO:

- Easy Read Guide to the Code of Practice on Employment under the Disability Discrimination Ordinance (2011)
http://www.eoc.org.hk/eoc/Upload/UserFiles/File/EOC_AW.pdf
- Code of Practice on Employment under the Disability Discrimination Ordinance
http://www.eoc.org.hk/eoc/Upload/UserFiles/File/ddocop_e.pdf
- Good Management Practice Series > Absence of Disability as a Genuine Occupational Qualification
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8885>
- Good Management Practice Series > Reasonable Accommodation and Unjustifiable Hardship
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=8891>

c. Family Status Discrimination Ordinance (FSDO)

Under the FSDO, it is unlawful for anyone or any organisation to discriminate against a person, male or female, on the ground of family status. Family status means the status of having a responsibility for the care of an immediate family member. An immediate family member is a person who is related by blood, marriage, adoption or affinity. The FSDO applies to seven different areas including employment.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about FSDO: Family Status Ordinance Code of Practice on Employment
http://www.eoc.org.hk/EOC/GraphicsFolder/showcontent.aspx?content=cops_fsdo_content#C1

d. Race Discrimination Ordinance (RDO)

The RDO protects people against discrimination, harassment and vilification on the ground of their race. Race in relation to a person means the race, colour, descent, national or ethnic origin of the person. The RDO applies to seven different areas including employment.

Refer to the following available from the Equal Opportunities Commission website <http://www.eoc.org.hk> to learn more about RDO:

- Race Discrimination Ordinance Code of Practice on Employment
http://www.eoc.org.hk/eoc/graphicsfolder/showcontent.aspx?content=cops_rdo
- Good Management Practice Series > Race as a Genuine Occupational Qualification
<http://www.eoc.org.hk/eoc/GraphicsFolder/showcontent.aspx?itemid=9625>

2F. Occupational Safety and Health Ordinance

The Occupational Safety and Health Ordinance provide for the safety and health protection to employees in workplaces, both industrial and non-industrial.

This ordinance covers almost all workplaces. In addition to factories, construction sites and catering establishments, other places, such as offices, laboratories, shopping arcades, educational institutions also come under the ambit of the law. Under this ordinance, all employers, occupiers and employees have a role to play in creating a safe and healthy workplace.

Employers should contribute to safety and health in their workplaces by:

- ✦ providing and maintaining work systems that do not endanger safety or health;
- ✦ making arrangement for ensuring safety and health in connection with the use, handling, storage or transport bulky or heavy substances (eg. changing distilled water bottles);
- ✦ providing all necessary information, instruction, training, and supervision for ensuring safety and health (eg. participating in fire drills);
- ✦ providing and maintaining safe access to and egress from the workplaces (eg. keeping all corridors and fire exits clear of obstacles);
- ✦ providing and maintaining a safe and healthy work environment (eg. ensuring the office is well-lit and well-ventilated).

For an overview of the Occupational Safety and Health Ordinance, please visit the Labour Department website <http://www.labour.gov.hk> > Labour Legislation > Overview of Major Labour Legislation > Occupational Safety and Health Ordinance
<http://www.labour.gov.hk/eng/legislat/content4.htm>

Following are publications from the Occupational Safety & Health Council website <http://www.oshc.org.hk> > Publications > Leaflets in relations to providing a safety and healthy workplace to employees:

- Act Before Fire Strikes
<http://www.oshc.org.hk/others/bookshelf/CL167C.pdf>
- Fire Safety at Workplace
<http://www.oshc.org.hk/download/publishings/3/817/CB391C.pdf>
- Ergonomics & Occupational Safety and Health in Office
http://www.safetydirectory.hk/info_list019_e.htm
- Influenza Prevention in Workplace
<http://www.oshc.org.hk/download/publishings/3/2137/Workplace%20Influ%20leaflet%2009%20New.pdf>
- Improving Indoor Air Quality
<http://www.oshc.org.hk/others/bookshelf/CL165E.pdf>
- Office Lighting/Design of Office Work Station
<http://www.oshc.org.hk/others/bookshelf/CL162C.pdf>
- Prevention of Occupational Diseases
<http://www.oshc.org.hk/others/bookshelf/CL154C.pdf>
- Safe Manual Handling – Office
<http://www.oshc.org.hk/others/bookshelf/CL176E.pdf>

- Safe Operation of Office Equipment/Safety in the Office
<http://www.oshc.org.hk/others/bookshelf/CL160E.pdf>
- Safety & Health Guide for Retail Industry
<http://www.oshc.org.hk/download/publishings/3/823/CB134C.pdf>

2F.1 Occupational Safety and Health (Display Screen Equipment) Regulation

This Regulation aims at protecting the safety and health of employees who use display screen equipment (DSE) at work for prolonged periods of time.

As a result of prolonged DSE work, users could suffer discomfort and other short-term health problems like upper limb pains and discomfort, eyestrain, fatigue and stress. Whilst many of these problems are temporary and may go away after work, they can and should be avoided. If the temporary ailments are ignored, such symptoms can deteriorate into chronic health problems requiring long-term treatment which is expensive to both employers and employees, and ultimately to the health care service at large.

In any workplace, there may be workstations which are set up for use by different persons for different purposes. For the sake of protecting the safety and health of users, those workstations that fulfill the following conditions fall within the scope of the Regulation:

- ✦ provided by a person responsible for the workplace (employer or occupier of the workplace, as the case may be) to be used by users for work;
- ✦ not intended for use by the public; and
- ✦ normally used or intended to be normally used by users.

The following DSE applications that would pose minimal health risks are excluded from regulatory control:

- ✦ DSE that is used mainly to show pictures, television or films;
- ✦ Drivers' cabs or control cabs for vehicles or machinery;
- ✦ DSE on board a means of public transport;
- ✦ Portable systems not in prolonged use;
- ✦ Calculators, cash registers or any equipment having a small data or measurement display required for direct use of the equipment; and
- ✦ Window typewriters.

The person responsible for a workplace shall:

- ✦ perform risk assessment of workstations;
- ✦ keep records of all risk assessments;
- ✦ take steps to reduce any risk identified in a risk assessment;
- ✦ ensure that the workstations in the workplace are suitable having regard to the safety and health of users of those workstations; and
- ✦ ensure users employed by them is provided with necessary safety and health training in the use of workstations.

A person responsible for a workplace or an employer who fails to comply with the relevant provisions of the Regulation commits an offence and is liable to a maximum fine of \$50,000. These offences are offences of strict liability.

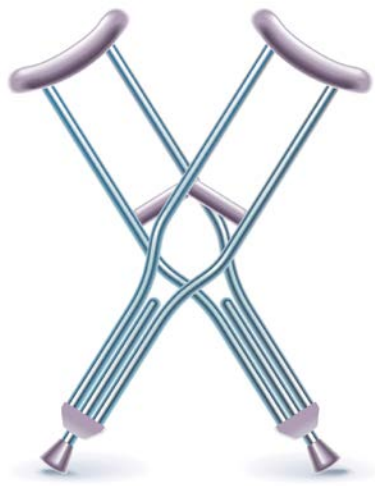
A user who fails to comply with the relevant provision of the Regulation commits an offence and is liable to a maximum fine of \$10,000.

For detailed information about Occupational Safety and health (Display Screen Equipment) Regulation, read the following leaflets available from the Labour Department website <http://www.labour.gov.hk> > Publications > Occupational Health:

- ✦ Section A : Guides to Legislation and Codes of Practice >
 - A Brief on the Occupational Safety and Health (Display Screen Equipment) Regulation <http://www.labour.gov.hk/eng/public/oh/dser.pdf>
 - Code of Practice for Working with Display Screen Equipment <http://www.labour.gov.hk/tc/public/pdf/oh/OHB90.pdf>
- ✦ Section B : General Guides on Occupational Health and Hygiene >
 - A Health Guide on Working with Display Screen Equipment <http://www.labour.gov.hk/eng/public/oh/HG-DSE.pdf>
 - A Guide to Work with Computers <http://www.labour.gov.hk/eng/public/oh/DisplayScreen.pdf>

For the OSH Guides for Computer Workstation, visit the Occupational Safety & Health Council – website <http://www.oshc.org.hk> > Publications > Leaflets <http://www.oshc.org.hk/others/bookshelf/cl234c.pdf>

To know more about Safe Use of Display Screen Equipment, visit the Occupational Safety & Health Council – Hong Kong Occupational Safety & Health Products & Services – website <http://www.safetydirectory.hk> > OSH Information > Safe Use of Display Screen Equipment http://www.safetydirectory.hk/info_list3_e.htm



2G. Inland Revenue Ordinance

According to the Inland Revenue Ordinance (IRO), an individual will be charged salaries tax on their income arising in or derived from Hong Kong from any employment, office, and pension. Under the IRO, employers are required to keep payroll records of their employee and report remuneration paid to an employee within designated time.

2G.1 Keeping payroll records

Employers have to maintain payroll records of their employees and keep these records for at least 7 years.

On hiring, employers have to maintain a record of all employees':

- ✦ personal particulars (eg. name, address, identity card number, marital status)
- ✦ nature of employment (eg. full-time or part-time)
- ✦ capacity in which employed (eg. shop manager, clerk, director)
- ✦ amount of cash remuneration (including remuneration paid overseas)
- ✦ non-cash and fringe benefits (eg. share award, share option, quarters)
- ✦ employer's contributions to the Mandatory Provident Fund (MPF) or its equivalent
- ✦ employee's contributions to the Mandatory Provident Fund (MPF) or its equivalent
- ✦ employment contract and amendments to terms of employment
- ✦ period of employment

Employees should inform their employers about any changes of personal particulars such as change of address, marital status etc.

During the course of employment, employers have to inform the Inland Revenue Department (IRD) if any of the following happens:

- ✦ change in the employee's personal particulars
- ✦ change in the employee's terms of employment
- ✦ issuance of Hong Kong ID Card to employees who do not have an HKID Card at the time of employment

For more information on employers' obligations to keep payroll records under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > What you need to know as an employer > Employer's Obligations > Keeping payroll records http://www.ird.gov.hk/eng/tax/ere_obl.htm#a01

2G.2 Reporting to IRD remuneration paid to employees

For the purpose of salary tax assessment, employers need to report to IRD the remuneration paid to employees, within one month, by submitting annual Employer's Return (BIR56A and IR56B).

a. Continuous employment

An employer is required to report employees' remuneration on the Employer's Return (BIR56A and IR56B).

b. New employment

An employer is required to furnish in writing to IRD (IR56E), within 3 months of employing a new employee, with particulars of such employee, for the purpose of salary tax assessment.

c. Termination of service (or death)

An employer who is about to cease employing an employee must notify the IRD (IR56F), in writing, within 1 month of the employment end date or upon the death of an employee.

d. Employee's leaving Hong Kong for good or for a substantial period of time

The employer of any individual intending to leave Hong Kong for good or for a substantial period of time is obliged to notify IRD, in writing (IR56G), at least 1 month before the expected date of departure. This does not apply to persons who are required to leave Hong Kong frequently in the course of their employment, business or profession. Therefore, employers should ascertain whether the employee leaving their employment intends to leave Hong Kong.

For employees intending to leave Hong Kong upon leaving their employment, the employer is required to withhold any payments of money to the employee for a period of one month from the date on which the notification was given, or until a "letter of release" is received from the IRD, whichever is earlier.

For details, refer to PAM 46(e) – "*You or your employee is going to leave Hong Kong (What are You Required to do under the Tax Law?)*" available from the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information - Individuals/Businesses > Employers > Employer's obligations > Reporting remuneration paid to an employee > IR56G (On his leaving Hong Kong for good or for a substantial period of time) > You or your employee is going to leave Hong Kong (What are you required to do under the tax law?) <http://www.ird.gov.hk/eng/pdf/pam46e.pdf>

For more information on employers' obligations to report remuneration paid to an employee under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > What you need to know as an employer > Employer's Obligations > Reporting remuneration paid to an employee http://www.ird.gov.hk/eng/tax/ere_obl.htm#a02

2G.3 Employee's income

Employees' income that attract salaries taxes are varied and could be quite extensive. They include salaries, wages, leave pay, director fees, commission, bonus, holiday journey benefits, etc.

The following types of income are chargeable to Salaries Tax and should be reported by the employer:

- ✦ Salaries, wages, leave pay, directors fee, commission, bonus (item 11(a) to (e) of IR56B)
- ✦ Payment in lieu of notice accrued on or after 1 April 2012 (item 13(d) of IR56F and item 11(d) of IR56G)
- ✦ Back pay, end-of contract/other gratuities, ex-gratia payments, terminal awards (item 11(f) of IR56B)
- ✦ Salaries Tax paid by employer (item 11(h) of IR56B)

- ✦ Education benefits (item 11(i) of IR56B)
- ✦ Gain realised under share option scheme (item 11(j) of IR56B)
- ✦ Tips paid by customers (item 11(k) of IR56B)
- ✦ Holiday Journey Benefits (item 11(k) of IR56B)
- ✦ Certain payments from Retirement Schemes (item 11(g) of IR56B)
- ✦ Pension (item 11(l) of IR56B)
- ✦ The provision of a place of residence to the employee (item 12 of IR56B)
- ✦ Income received by the employee from an overseas company, whether paid in Hong Kong or overseas (item 11 and item 13 of IR56B)

For more information on employers' obligations and responsibilities under the Income Revenue Ordinance, please visit the Inland Revenue Department website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > Know More About > Employee's Income <http://www.ird.gov.hk/eng/tax/ere.htm#a03>

2G.4 MPF and Recognized Occupational Retirement Schemes

Tax obligation under MPF Schemes and Recognized Occupational Retirement Schemes

- ✦ The employer's contributions to the MPF Scheme do not constitute income of the employee for tax purposes.
- ✦ Normally the employee receives their salaries net of their MPF contribution. Therefore, the income to be reported on form IR56 series should be "the gross monthly salary" and not "the net pay" after deduction of the employee's MPF contributions.
- ✦ Some employers voluntarily pay the employee's contributions to the MPF Scheme. The employees do not have to make any contributions and they receive salary without deduction. In this circumstance, the "employee's contribution" becomes additional remuneration and should be reported as income of the employee.
- ✦ Any taxable accrued benefits from the MPF scheme or Recognized Occupational Retirement Schemes, being "the amount in excess of the proportionate benefit" as represents the employer's contributions, must be reported on form IR56s.
- ✦ Generally speaking, only in the case of termination of employment where the employee's service is less than 10 years and the employer has made "voluntary contribution", the employer has to report the "accrued benefits" (i.e. taxable under Salaries Tax). Any contribution in excess of the mandatory requirement is called "voluntary contribution".

For more details about reporting of accrued benefits from MPF Scheme or Recognized Occupational Retirement Scheme, visit IRD's website <http://www.ird.gov.hk> > Tax Information – Individuals/Businesses > Employers > Know More About > Employee's Income > MPF and Recognized Occupational Retirement Schemes.

Employer's Tax Obligation under MPF Schemes and Recognized Occupational Retirement Schemes http://www.ird.gov.hk/eng/pdf/esem_er_mpf.pdf

Deductibility of contributions for employees and self-employed persons - MPF scheme or Recognized Occupational Retirement Scheme <http://www.gov.hk/en/residents/taxes/salaries/allowances/deductions/mpf.htm>

2H. The Personal Data (Privacy) Ordinance (PD(P)O)

Personal data means any data “relating directly or indirectly to a living individual, from which it is possible and practical to ascertain the identity of the individual from the said data, in a form in which access to or processing of the data is practicable”. Obvious examples of personal data are an individual’s identity card number and fingerprints, through which they can be identified.

The Ordinance places a statutory duty on data users to comply with the requirements of the six Data Protection Principles contained in Schedule 1 to the Ordinance. The Ordinance provides that a data user shall not do an act, or engage in a practice, that contravenes a data protection principle unless the act or practice, as the case may be, is required or permitted under the Ordinance. It also gives data subjects certain rights, including the right to be informed of whether any data user holds their personal data; to be supplied with a copy of such data; and to request correction of any data they consider to be inaccurate.

Generally speaking, the Ordinance governs the ways of collecting and using personal data, and prevents any abuse of data that is considered as intruding on an individual’s privacy.

2H.1 Coverage of the Ordinance

The Ordinance applies to any person who collects, holds, processes and uses personal data within the private and public sectors as well as government departments.

2H.2 Employers’ responsibilities

Data users who handle personal data in performing human resource management functions and activities need to observe the PD(P)O when handling issues concerning collection, holding, accuracy, use and security, and data subject access and correction in relation to the personal data or prospective, current and former employees. Employers are liable to protect the data of their prospective, current and former employees.

The protection covers the scope of using, collecting, maintaining and sharing of the collected data. All practicable steps should be taken to ensure the proper handling on the personal data including the implementation of adequate security measures and that access should be authorized.

Sections 53 and 55 of the Ordinance state that personal data used for following employment-related purposes are exempt from the provisions of data access requests (data protection principle 6):

- ✦ personal data relating to staff planning;
- ✦ personal data generated by certain evaluative processes, including a recruitment or promotion exercise, prior to a decision being taken and where an appeal can be made against such a decision;
- ✦ a personal reference for an appointment up to the time when the position is filled.

Refer to Table 2 below for the Do’s and Don’ts under Personal Data (Privacy) Ordinance.

Table 2:

	Do’s	Don’ts
Recruitment	Recruitment advertisements that directly ask job applicants to provide personal data should include a statement informing applicants about the purposes. And contact information of the employer should be stated in the advertisement.	An employer should not solicit personal data from job applicants in a recruitment advertisement that doesn’t provide identification of either the employer or the employment agency acting on its behalf.
	To conceal its identity, an employer may, in recruitment advertisements, upon request provide job applicants with application forms that bear the employer’s identity. Personal data collected from job applicants should be: <ul style="list-style-type: none"> - adequate - relevant to the purpose of identifying suitable candidates for the job 	An employer should not collect a copy of the identity card of a job applicant during the recruitment process unless and until the individual has accepted an offer of employment.
	Personal data concerning the health condition of a selected candidate may be collected (eg. by pre-employment medical examination) if the data directly relate to the inherent requirements of the job (eg. bank guards).	
	Personal data of unsuccessful applicants may be retained for two years from the date of rejecting applicants and should then be destroyed.	
Current Employment	On appointment, employer may collect additional personal data from employee and their family members: <ul style="list-style-type: none"> - for the purpose of employment, or - to fulfill lawful requirements 	Information compiled about an employee in the process of disciplinary proceedings, performance appraisal or promotion planning should not be disclosed to a third party unless such party has legitimate reasons for gaining access to those data.
	Information compiled about an employee in the process of disciplinary proceedings, performance appraisal or promotion planning should only be used for purposes directly related to the process concerned.	When employment-related data are transferred or disclosed to a third party, an employer should not disclose data in excess of that necessary for the purpose of use by the third party.
	Employer should provide the employee with a Personal Information Collection Statement (“PICS”) before collecting personal data from them.	Employer should not disclose employment-related data of employees to a third party without first obtaining the employees’ consent unless the disclosure is for the purposes directly related to the employment, or such disclosure is required by law/statutory authorities.

	Do's	Don'ts
Current Employment	An employer who engages a third party organisation to handle its employment-related functions (eg. administration of medical benefits) should implement appropriate measures to ensure that the third party protects the employment-related data against unauthorised or accidental access or disclosure.	
Former Employment	Personal data of a former employee may be retained for a period of up to seven years from the date the former employee ceases employment. The data may be retained for a longer period if there is contractual or legal justification.	In any public announcement notice regarding a former employee having left employment, do not disclose the identity card number of the employee concerned in the notice.
	Upon the departure of an employee, ensure that only relevant information of the former employee is retained to satisfy its retention requirements.	Should not provide a reference concerning a former employee to a 3 rd party without first obtaining the employee's consent for this unless the employer is satisfied that the 3 rd party requesting the reference has obtained the prior consent of the employee concerned.

Refer to the following publications issued by the Privacy Commissioner for Personal Data for more practical guidance to data users on how to properly handle personal data that relate to each phase of the employment process. These publications cover issues concerning collecting, holding, correcting, use and security and data subject access in relation to the personal data of prospective, current and former employees; available from the Office of the Privacy Commissioner for Personal Data, Hong Kong website <http://www.pcpd.org.hk>> Publications & videos > Code of Practice/Guideline & Explanatory Booklet:

- "Code of Practice on Human Resource Management"
http://www.pcpd.org.hk/english/ordinance/code_hrdesp.html
- "Privacy Guidelines: Monitoring and Personal Data Privacy at Work"
http://www.pcpd.org.hk/english/publications/files/monguide_e.pdf
- "Compliance Guide for Employers and HRM Practitioners"
http://www.pcpd.org.hk/english/ordinance/code_hrm.html
- "Fact Sheet -- Frequently Asked Questions About Recruitment Advertisements"
http://www.pcpd.org.hk/english/ordinance/code_faq.html
- "Code of Practice on the Identity Card Number and other Personal Identifiers"
http://www.pcpd.org.hk/english/ordinance/code_id.html
- "Code of Practice on the Identity Card Number and other Personal Identifiers – A Compliance Guide for Data Users"
http://www.pcpd.org.hk/english/ordinance/code_data_1.html

2I. Qualifications Framework (QF) - a platform to facilitate lifelong learning

While participation in Hong Kong's Qualifications Framework (QF) is voluntary, it is backed up by legislation, that is, the Accreditation of Academic and Vocational Qualifications Ordinance (abbrev. AAVQO) (Cap. 592) which lays the foundation for establishing QF and the associated quality assurance mechanism underpinning it.



To ensure the territory's sustainable manpower development in the era of knowledge-based economy, QF was established to facilitate the development of a network of learning pathways leading to articulation of learning among academic, vocational and continuing education sectors. By encouraging and promoting lifelong learning, the framework also enables individual learners to pursue their learning flexibly according to their own roadmaps.

QF was officially launched in Hong Kong in May 2008. The underpinning quality assurance mechanism aims to clearly define the standards of different qualifications, ensure their quality and make available articulation between qualifications at different levels. Qualifications encompassed in the QF are outcomes-based and are not confined to academic attainment.

2I.1 Quality assurance mechanism

The AAVQ Ordinance, which came into full operation on 5 May 2008, empowers inter alia the Hong Kong Council for Accreditation of Academic and Vocational Qualifications (HKCAAVQ) to be the Accreditation Authority and the Qualifications Register Authority, responsible for assuring the quality of qualifications recognized under the QF and the administration of the Qualifications Register (QR).

2I.2 Industry Training Advisory Committees (ITACs)

The Qualifications Framework Secretariat (QFS), the executive arm of the Education Bureau to implement QF, is responsible for assisting various industries in setting up Industry Training Advisory Committees (ITACs). Each ITAC will consist of representatives from employers, employees, professional bodies, trade associations, and related government agencies. So far, ITACs have been formed for 19 industries, namely, Automotive, Beauty, Banking, Chinese Catering, Elderly Care Service, Electrical & Mechanical Services, Hairdressing, Import & Export, Information & Communications Technology, Insurance, Jewellery, Logistics, Manufacturing Technology (tooling, Metals & Plastics), Printing & Publishing, Property Management, Retail, Security Services, Testing, Inspection & Certification, and Watch & Clock.

One of the major roles of ITACs is to draw up the competency standards of various job functions in an industry (collectively known as Specification of Competency Standards (SCS)) and to promote the SCS to the education and training market for the development of SCS-based programmes that meets the training needs of the industry.

21.3 Specification of Competency Standards (SCS)

To strengthen the industry's leading role in the development of vocational training so as to enhance the industry's competitiveness, the ITACs are actively developing the Specification of Competency Standards (SCS), setting out the competency standards required for job holders to effectively perform different tasks up to workplace requirements. The competency standards specified in units of competency (UoCs) are learning outcomes for learners to attain through formal, non-formal or informal learning.

In addition, each UoC has a designated QF level to indicate the complexity and depth of learning in the UoC, and designated QF credits to indicate the volume or size of learning in the UoC.

21.4 Recognition of Prior Learning (RPL) mechanism

Under the QF, qualifications are not confined to academic and training attainments. A Recognition of Prior Learning (RPL) mechanism will be considered and developed by each ITAC for which the SCS is completed for the purpose of allowing experienced practitioners without formal qualifications to acquire some QF-recognised qualifications by virtue of the skills, knowledge and experience acquired at the workplace. With the RPL qualifications, employees may pursue further studies as well as career progression more easily as they need not start from scratch or repeat training.



3. Sourcing and Staffing

3A. Manpower Planning

3A.1 Understand the organization's business strategy and HR needs

Manpower planning means human resource planning. It is a process where human capital requirements are identified and plans are then made to meeting those requirements, to achieve the organization's strategic goals.

HR Managers should understand the business strategies before any effective manpower planning can be done. How can you do that? You can start to understand the business your company is in through the following analysis:

- ✦ who are your customers? what do they look for from your company?
- ✦ who are the competitors? what are they good at?
- ✦ what are the foreseeable changes in your industry? changes in the market?
- ✦ what are your company's plan for the next year? the next 3-5 years?

With the above information, you will then know the human resource required to fulfill these business needs, in terms of:

- ✦ what skills will be needed?
- ✦ any new skills to be acquired? is training a solution?
- ✦ any existing skills may become obsolete?
- ✦ what work experience will be needed?
- ✦ will new staff be needed? how many? when?
- ✦ when are your experienced employees retiring?

Effective manpower planning will:

- ✦ minimize manpower and skills shortages
- ✦ lay the groundwork for succession planning
- ✦ shape the optimum future workforce by having the right people, for the right jobs and at the right time.

If new staff is needed, you will need to conduct a job analysis for the new vacancies.

3A.2 Job analysis for new vacancies

Job analysis is an in-depth study of a job. It is a systematic investigation of the tasks, duties and responsibilities of a job and the necessary skills and capabilities that a person needs to perform the job adequately. In doing the analysis, you or an employee will gather information about jobs through interviewing employees, observing performance of certain tasks, asking employees to fill out questionnaires and worksheets. It provides information for job descriptions.

Here are the 5-steps to conduct a job analysis:

a. Review current workforce

You should know the business needs in terms of its growth areas and business focus and assess the availability and capability of internal resource to meet those needs. Consider how your current workforce can be reorganized to meet the new business needs while spotting new skills and knowledge required from the business plan.

b. Identify skills and knowledge gaps

Identify any shortages in terms of skills and capabilities in meeting the business objectives.

c. Write a job description

Job descriptions describe the scope of work which employers use, to communicate their expectations with the job holders. A well put together job description is a good business investment because it can be used to facilitate most HR activities: recruitment, selection, orientation, training, work plans, performance reviews and compensation. Job descriptions explain the key responsibilities of the actual position, reporting relationships and work environment.

Job descriptions normally contain:

i. Duties and responsibilities

A job description should specify as clearly as possible the responsibilities, tasks and duties of the job by specifying:

- the responsibilities to avoid clashes over authority
- the position within the organizational structure of the company
- the tasks and duties of the job holder
- special physical requirements of the position.

ii. Performance expectation

There should be a section within the job description specifying the end-results expected of the job holder. This can be in both quantitative and qualitative terms. For example: process 10 transactions per hour, achieve sales targets/turnover of..., achieve cost savings by..., achieve process improvements and turnaround times byetc. The achievement of these end-results is normally documented and tracked via the performance management system.

iii. Technical competencies

These include technical knowledge and skills specific to a particular task that is usually developed through in-house or professional training. For example, "knowledge of banking law" and "bank notes countering methods" are examples of technical competencies in banking industry.

iv. General competencies

This refers to knowledge, skills, abilities, and on-the-job behaviors that can be applied across different jobs, organizations, and industries. For example, "communication" and "relationship building" are general behavioral competencies that can be gained through general education or work experience.

v. Personal competencies

This refers to the personal attributes required of the job holder for effective performance. For example, drive, motivation, self-discipline, initiative and willingness to take on new challenges etc. Personal competencies are vital when seeking a person who will fit in with the culture of the company. If the company is dynamic and fast-paced, you will want to recruit a person who is energetic and enthusiastic.

Step-by-step approach

When putting together a job description, the following can be taken into consideration:

i. **Job Purpose** - why this job exists in the organization? What is the job's contribution to the organization?

ii. **Critical Success Factors** - describe the key factors required to make the job functions effectively in the work unit

iii. **Accountabilities** - state the end results or key outputs of the job

iv. **Decision Making** - list major decisions that the job holder will need to make independently and those that will make with others

v. **External Contacts** - could be joint venture partners, customers or government agencies, whom the job holder works with outside the organization. State the nature of relationship with the external contact

vi. **Dimensions** - state the significant quantifiable criteria on which the job has direct or indirect impact eg. annual budgeted expenses, operating costs, project costs, number of persons reporting to the job holder

vii. **Organizational Relationships** - indicate the reporting relationship of this position in the organization – manager/supervisor, peers within the team and other departments of which this position will interact with, and subordinates

Job Description Form

Position Title:

Division/Department:

Level/Grade:

Type of position: ☐ Full-time ☐ Contractor
☐ Part-time ☐ Intern

Reports to: _____ Position Title: _____

Purpose of Position

(Provide a short and accurate statement to explain why this position exists in the organization. Provide organization chart for reference)

Key Roles and Responsibilities:

(Typically 5-8 key accountabilities of this position)

Skills, Competencies and Languages Requirements:**Education Qualifications and Work Experience Requirements:****FOR HR INTERNAL USE**

Approved by:

Position Title:

Date:

d. Develop the job specification

Once you have laid down the job description, you are ready to define the job specification. A job specification describes the knowledge, skills, education, experience, and capabilities you believe are essential to performing the particular job. Job specification normally consists of the following information:

- ✦ Experience
- ✦ Education
- ✦ Required job skills, knowledge and personal characteristics
- ✦ Job requirements

e. Set salary

There are two approaches to setting salaries in an organization:

- ✦ Market-Driven approach
This entails tracking market changes. Pay levels can go up and down substantially due to external reasons, such as demands and skills shortages.
- ✦ Job-Worth approach
Each job has a worth as determined by a job evaluation process. The criteria considered include, for example: skills required, knowledge required, number of subordinates managed, size of assets managed and etc.

The following table demonstrates the difference between Market-Driven Approach and Job-Worth Approach:

	Market-Driven	Job-Worth
Priority	External market condition	Internal equity
Advantage	Reflect how the market pays the position	Maintain internal equity and staff morale
Disadvantage	Rely on market information heavily and market data may not be available for some jobs	Less flexible and may not be responsive to market changes
Suitable organization	Organizations with high staff turnover and numerous external hires	Seniority-driven organizations with long-service employees

While adopting the Market-Driven Approach, many companies will benchmark their pay level against the market's. Benchmarking is used to provide data for setting pay levels to attract and retain employees and for developing equitable and competitive pay structures.

This can be a one-off exercise but usually it is a continuous process. It is a collection and analysis of comparative information on competitors' reward practices as a means of assessing own areas for change and improvement.

There are a few approaches to benchmarking:

- ✦ Collect information through research data that are available from public domain, eg. through other companies' job advertisements, from interview reports, etc
- ✦ Engage consulting firms to carry out benchmarking exercise or to purchase market pay surveys Conduct in-house company surveys

Whilst, a lot of companies do not have the resource to conduct in-house company surveys, the Hong Kong Institute of Human Resource Management <http://www.hkihrm.org/> conducts a Hong Kong Pay Trend and Pay Level Survey every year since 1980s. The survey provides valuable pay level data which is a source of important reference to corporations in Hong Kong in making pay-related decisions.

3A.3 Make (succession plan) or Buy (recruit from external)?

Succession planning is a process whereby a company ensures that employees are recruited and developed to fill the key roles within the company. Through succession planning process, you recruit high-performing employees, develop their knowledge, skills, and capabilities, and prepare them for advancement or promotion into even more challenging roles in 3-5 years' time.

Companies that do not implement succession planning have the option to buy or recruit the required resource from the market.

a. Succession Planning

To develop the employees you need for your succession plan, you assign them onto special projects, team leadership roles, lateral movement and both internal and external training and development opportunities.

Through your succession planning process, you will retain high-performing employees because they appreciate the time, attention, and development that you are investing in them. Employees are motivated and engaged when they can see a career path for their continued growth and development.

As much efforts and supports will be required for undertaking succession planning, hence it is normally confined to the most key and critical positions in the organization.

The succession plan should identify:

- ✦ key positions, its key roles and contributions to the organization
- ✦ key success factors of key positions: skills, knowledge, capabilities and competencies
- ✦ causes of turnover
- ✦ potential successor identification
- ✦ development plans for potential successor to reach the required success factors
- ✦ contingent plans for which no apparent internal successor identified

The information derived from the succession plan should feed into the training and development of the individuals concerned by ensuring that they attend the necessary training and are posted to jobs that will provide them with the experience for their intended role.

b. Recruit from external

Buying or recruiting resource from the market is suitable for meeting the company's short-term staffing needs and is more appropriate for the junior to middle level positions.

Recruiting from external can help bring in new skills and new experience to the company. Sources of supply can be from a combination of full-time/part-time employees, recruitment agencies' temporary workers and contract workers.

3B. Recruitment

3B.1 Recruitment methods and channels

a. Internal recruitment methods:

- ✦ Internal job posting
- ✦ Employee database - contain personal details, qualifications, skills, experience and work history
- ✦ Staff referral program
- ✦ Ex-employees/retirees

b. External recruitment methods:

- ✦ on-line recruitment websites
- ✦ recruitment agencies
- ✦ media advertising, e.g. newspapers, magazines, radio & television, roadside billboards or posters on buses etc.
- ✦ career fairs
- ✦ school/campus recruiting
- ✦ Labour Department
- ✦ social network website for professionals, eg. LinkedIn

3B.2 Ways to attract candidates throughout the recruitment process

a. A good job advertisement will:

- ✦ state clearly the required/desirable qualifications, skills and experience as well competencies required for the job
- ✦ state the tasks and duties of the job holder
- ✦ outline the rewards, benefits and the prospect for the job that the company offers
- ✦ not solicit personal data from job applicants in a job advertisement that doesn't provide identification of either the employer or the employment agency acting on its behalf
- ✦ reflect the company's culture
- ✦ raise job applicants' interest and enhance employer branding simultaneously.

b. A good application form will:

- ✦ ask for generic and necessary job related information only, observing the data privacy and discrimination laws when designing the layout of the form
- ✦ be precise and brief.

c. Initial contact with the job applicant

- ✦ It is important to create the right impression when:
 - the HR person contacts the job applicants and invite for an interview
 - the HR person/hiring manager conducts the job interview
- ✦ HR person has to be:
 - prepared by going through the resume in advance and highlight areas to
 - inquire further during the interview
 - knowledgeable about the company, the role in discussion and the job application process the applicants will go through so as to be able to answer questions they might have
 - enthusiastic, friendly and courteous so the applicant will be inclined to view the opportunity more positively
 - resourceful and helpful to hiring managers such as sharing tips as interviewer, how to manage interviewees' expectation etc.

3B.3 Arranging interviews

a. Provide the shortlisted candidate with helpful information about the interview including:

- ✦ when and where the interview will take place
- ✦ who will be in the interview
- ✦ how the interview will be conducted

b. To facilitate a smooth and effective interview, the interviewer should:

- ✦ ensure the interviewing environment is comfortable and free from workplace disturbances
- ✦ not leave the candidate waiting for too long

c. When closing the interview, the interviewer should advise the candidate of the possible next steps



3C. Selection

Selection is the process of choosing the candidate who best meets the criteria, based on the job description and job specification of that position created earlier (refer to section 3A.2C. above for more details). There are various selection methods and some are better than others under different circumstances, but no one technique is meant to be perfect.

The resources and costs involved in the recruitment process are also to be taken into account when selecting the tool. Below are some commonly used preliminary selection methods:

3C.1 Selection criteria

Before the selection process begins, one needs to define the selection criteria in order to be able to identify the most suitable candidate as a result.

Selection criteria:

- ✦ are job-related qualifications, experience, special skills, abilities or aptitudes
- ✦ can be the adaptability to fit into the company's culture
- ✦ can be the perceived potential and capacity to generate sustainable competitive advantages for the organization.

3C.2 Selection methods and processes

a. Application form/curriculum vitae

This is the basic source of candidate's employment information. It provides information for short-listing and help the interviewer structure the interview.

b. Standard scoring system

It is a system which gives every candidate a 'score' for further selection and the scores are to be assigned to competencies of:

- ✦ acquired skills
- ✦ knowledge
- ✦ experiences
- ✦ evidence of application of their talents to different circumstances or situations
- ✦ evidence of achievement in different settings.

Competencies are identified, prioritized and allocated a weighting. Then apply the 4-scale rating system to identify suitable applicants:

1 – show no evidence of the competency

2 – show some evidence of the competency

3 – show full evidence of the competency

4 – show evidence of the competency displayed at higher level than required

Standard scoring system is particularly suitable when standard application form is used. However, it requires that competencies for the job had been clearly specified.

c. Online screening of application forms

Using a customized program to compile, search and compare job applicants' information. Keywords or multiple criteria such as job skills, years of experience, education, study major, are used to preliminarily identify suitable candidates for further selection processes.

3C.3 Selection interview Do's & Don'ts

Table 3 below outlines the Do's and Don'ts of the interviewer:

	Interviewer Do's	Interviewer Don'ts
Before the interview	<ul style="list-style-type: none"> • Give clear instruction to the candidate about the date, time, venue and the name (and position) of the interviewer • Be knowledgeable yourself with the job, the structure and the reporting line of the job • Ensure the interviewing environment (room temperature, lighting, seating arrangement) is agreeable and comfortable • Have a copy of the job description and organization chart (if available) in case of need for clarity 	<ul style="list-style-type: none"> • Leave the candidate waiting for too long for no reason • Assume that you know the job well unless the interviewer is the immediate line manager • Give the wrong interview information/details to the candidate
During the interview	<ul style="list-style-type: none"> • Greet the candidate warmly and introduce yourself • Be courteous, enthusiastic and sincere because the candidate will be inclined to view the opportunity more positively • Focus on the job requirements and elaborate when asked • Prepare open-ended questions for the candidate to elaborate on their skills, experiences and knowledge • Give the candidate the chance to elaborate on their credentials or to ask questions • Maintain good eye contact with candidate to show interest and to observe their behaviours 	<ul style="list-style-type: none"> • Go straight into interviewing without introducing who you are • Start interrogating or challenging the candidate on the content of the CV • Ask close-ended questions (ie. yes or no answers) • Ask leading questions (eg. What do you think of the horrible effect of building a waste treatment plant in Tseung Kwan O?) • Divert/digress into something which is totally irrelevant to the job • Do all the talking without giving the candidate the chance to sell themselves or to ask questions
After the interview	<ul style="list-style-type: none"> • Inform candidate of the possible next step • Allow some flexibility of deadline for the candidate to reply acceptance. Nonetheless, a deadline is necessary so as to put some pressure for a reply • Your message should be sincere and brief with a positive note as ending, if the candidate is found not suitable • Thank the candidate for coming to the interview 	<ul style="list-style-type: none"> • Give the wrong impression of candidate's status of success or failure • Insist on an immediate acceptance of the job • Tell the candidate bluntly that they are not suitable • Walk out of the interview room with a grim face and not thanking the candidate

Common errors made by interviewer in selection interviews

The selection decision is a matter of human judgment. Decisions could be influenced by personal perception, preference and judgment, which may lead to the hiring of less desirable employees. People are often unaware of biases of themselves and how they affect the hiring decisions.

a. Bias

Contrast effect - give a candidate a higher-than-deserved rating when he or she is interviewed immediately after a weak candidate, or vice versa

Similarity effect - give higher ratings to candidates who resemble the interviewer in terms of values, beliefs, thinking etc. and overshadow the negatives

First impression error - form a lasting overall reaction to candidates based on first impression

Stereotyping - assume all members of a group share characteristics which is typical to that group, which might lead to poor hiring decisions

b. Prejudice

Interviewers start to evaluate candidates on the basis of their résumés or recommendations, and would let these prejudgments lead the way when conducting the interview.

Personal beliefs and values may lead interviewers to ask same questions and but make different judgment.

c. Discrimination

It means favour one candidate against another on grounds of gender, marital status, race, colour, nationality, ethnic origin or age.

Direct discrimination means treating someone less favourably based on gender, marital status or race.

Indirect discrimination arises from a requirement or condition which theoretically applies equally to everyone but in practice puts a gender group, racial group or married persons at a disadvantage because they have greater difficulty in meeting the requirement or condition.

Discrimination can be illegal.

3C.4 Background/reference check

Before an offer is made and wherever applicable, feasible or appropriate, you should conduct work reference checks from candidate's previous employers on information such as employment date, attendance record, last salary, etc.

If reference check can only be performed after an offer is made, a condition can be clearly stated in the offer that employment will only be valid upon successful reference check.

You should secure a signed permission from the candidate before conducting such checks in accordance with the Personal Data (Privacy) Ordinance. When reference checking, only check for work-related information and do not ask questions about age, race, colour, sex, religion, national origin, sexual orientation, disability or marital status to avoid discrimination issues.

If the job nature requires so, you must take precaution and observe the legal requirements when requesting for the following special reference checks:

- ✦ Credit history check – this is only undertaken if the job requires cash-handling or handle financial transactions
- ✦ Medical history check – this may be checked by undergoing a medical examination
- ✦ Criminal history check – this check can only be confined to job-related convictions and must inform the applicant that a conviction record will not necessarily bar them from employment.

3D. Employment Offers

3D.1 Legal considerations and common pitfalls

Before making an offer, you will have to consider the following:

- ✦ employability – is the person eligible for employment?
- ✦ is the offer made on the basis of equal opportunities?
- ✦ what should be included in the employment contract?

a. Employability

The employability of an employee should be checked before offering employment.

As a general rule, any person, other than those who have the right of abode or the right to land in Hong Kong (i.e. HKID card), must obtain an employment visa before coming to Hong Kong for the purpose of taking up employment. Other restrictions include the following:

i. The Employment of Children Regulations

Under the Employment of Children Regulations, it is stipulated that:

- Children aged under 15 are prohibited from working in all industrial undertakings.
- Children aged 13 and 14 may be employed in non-industrial establishments, subject to the condition that they attend full-time schooling if they have not yet completed Form III of secondary education and to other conditions which aim at protecting their safety, health and welfare.
- Children aged under 13 are prohibited from taking up employment. However, for the purposes of art and training, the Commissioner for Labour may grant special permission for children to be employed as entertainers, subject to certain stringent conditions as the Commissioner may specify.

The Employment of Children Regulations do not apply in relation to children who are registered apprentices under the Apprenticeship Ordinance.

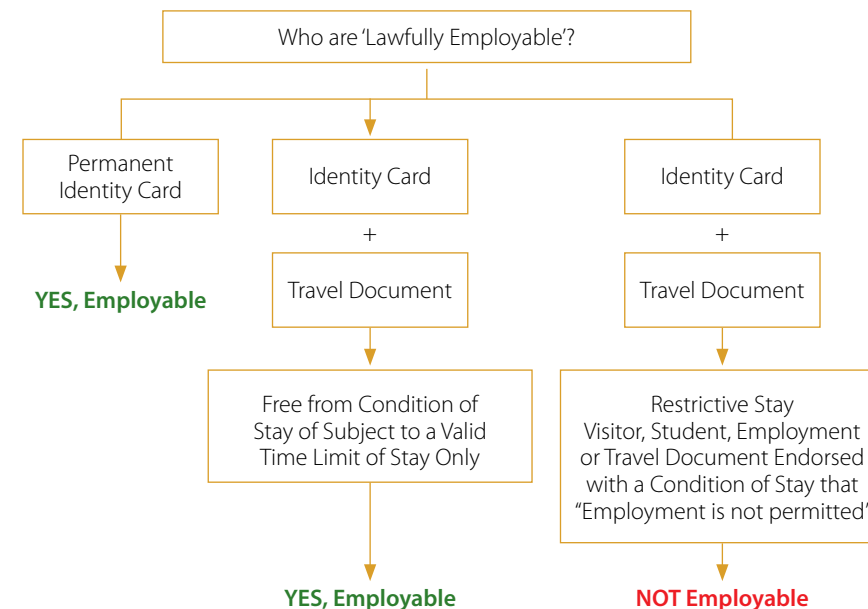
ii. Apprenticeship Scheme

Under the Apprenticeship Scheme, apprentices can enter into a contract of employment within the 45 designated trades.

iii. People without the right of abode or the right to land in Hong Kong

If the job applicant is not holding a Hong Kong permanent identity card, the law requires an employer to inspect the job applicant's valid travel document in order to ensure the job applicant is lawfully employable before entering into a contract of employment.

Persons permitted to remain on as visitor/student, with employment conditions or persons whose travel documents are stamped with a condition of stay of "Employment is not permitted", are not lawfully employable without first obtaining approval from the Director of Immigration.



Non-local fresh graduates who wish to apply to stay and work in the HKSAR are not required to secure an offer of employment upon application if they submit applications under the Immigration Arrangements for Non-local Graduates (IANG) to the Immigration Department within six months after the date of their graduation. Persons admitted under the IANG may be granted 12 months' stay on time limitation without any other conditions of stay provided that normal immigration requirements are met.

Participants of the Working Holiday Scheme are not permitted to engage in permanent employment and should not work for the same employer for more than six months (for participants from France and the Republic of Korea) or three months (for participants from Australia, Canada, Germany, Ireland, Japan and New Zealand) during their stay in Hong Kong.

For more information relating to immigration guidelines, you may refer to the Immigration Department website <http://www.immd.gov.hk> > Public Services > Hong Kong Visas > Immigration Guidelines for Entry to the Hong Kong Special Administrative Region of the People's Republic of China.

And for further information on who are legal workers, please visit the Immigration Department website <http://www.immd.gov.hk> > FAQs > Visit/Transit > FAQs > Q7. Who are lawfully employable > Don't Employ Illegal Workers <http://www.immd.gov.hk/en/faq/visit-transit/dont-employ-illegal.html>

Employers are liable to penalties of \$350,000 and three years' imprisonment if they employ people not lawfully employable.

b. Equal Opportunities

Equal Opportunity is about giving people a fair chance to prove what they are capable of. A selection decision should be based upon an individual's merit, but not their sex, marital/family status, whether or not they are disabled/pregnant.

To treat a person less favourably than another person in comparable circumstances on the ground of their sex, marital/family status, disability or pregnancy is considered direct discrimination. Indirect discrimination includes not imposing same requirement/condition on all people, unjustifiable requirement for the job, etc. An employer has to be cautious about these discrimination issues when making the selection decision.

Refer to previous section 2E. Equal Opportunities Legislations for more details.

c. The employment contract

A contract of employment is an agreement on the employment conditions made between an employer and an employee. The agreement can be made orally or in writing and it includes both express and implied terms.

Whenever there is any change in the conditions of service, whether these have merely been proposed to an employee or are actually in force, the employer shall inform him in an intelligible manner. If such change to conditions of service is in writing or upon the written request from the employee, a copy of the written amendment must be provided to the employee.

Refer to previous section 2A.2 Terms of contract for more information.

3D.2 Terms of employment – permanent employee/part time employee/temporary employee/contractor/self-employed person

The Employment Ordinance (EO) applies to employers and their employees engaged under a contract of employment. The EO does not differentiate between “temporary”, “part-time”, “substituted”, “permanent” and “full-time” employees regardless how they are termed by the employer. All employees covered by the EO, irrespective of their designated job titles or working hours, are entitled to statutory rights and protection such as wage payment, restriction on deductions from wages and granting of statutory holidays, etc.

To avoid misunderstanding or dispute and to safeguard their rights and benefits, the relevant persons should understand clearly their mode of cooperation according to their intention and clarify their identities, whether they are engaged as an employee or a contractor/self-employed person, before entering into a contract.

In differentiating an “employee” from a “contractor or self-employed person”, all relevant factors of the case should be taken into account. There is no one single conclusive test to distinguish these two identities. Moreover, there is no hard and fast rule as to how important a particular factor should be. The common important factors include:

- ✦ control over work procedures, working time and method
- ✦ ownership and provision of work equipment, tools and materials

- ✦ whether the person is carrying on business on his own account with investment and management responsibilities
- ✦ whether the person is properly regarded as part of the employer's organisation
- ✦ whether the person is free to hire helpers to assist in the work
- ✦ bearing of financial risk over business (e.g. any prospect of profit or risk of loss)
- ✦ responsibilities in insurance and tax
- ✦ traditional structure and practices of the trade or profession concerned
- ✦ other factors that the court considers as relevant

3D.3 Orientation

a. What is it? and what are the benefits?

It is the introduction of new employees to their jobs, their colleagues and the organization.

- ✦ Orientation can help achieve significant cost savings by cultivating corporate culture and values to new employees and fostering positive staff attitudes, job satisfaction and a sense of commitment at the start of the employment relationship. Establish clear standards that help reduce disputes and limit liability
- ✦ Promote consistent management
- ✦ Inform new employees of the company's policies
- ✦ Demonstrate a commitment to equal treatment of personnel
- ✦ Provide protection from claims of discrimination and sexual harassment

b. How is orientation to be conducted? By who and when?

i. Formal company-wide orientation

- is essential to provide information about the organization's business, objectives, structure, corporate culture and values, policies, staff benefits and office operations
- is often scheduled on a monthly or quarterly basis, depends on the recruitment/onboarding status of the organization, to accommodate a group of new employees
- include presentations by members of senior management and functional/department heads, public relations materials such as corporate videos, and sharing sessions by recently joined employees about their experiences working in the organization

ii. Informal orientation

- can be a more relaxed and personalized introduction to the colleagues, the job and the organization upon the new employee joining the organization
- use mentors or sponsors who act as advisors and role models for the new employees

iii. Job-specific orientation

- typically begins as soon as the new employee starts a new job and generally takes the form of one-on-one training with a co-worker or supervisor

iv. Follow-up

- essential part of a well-planned orientation program
- in a form of interview/meeting with the employee's supervisor and a representative of the HR department to ensure that any unanswered questions and misunderstandings are clarified.

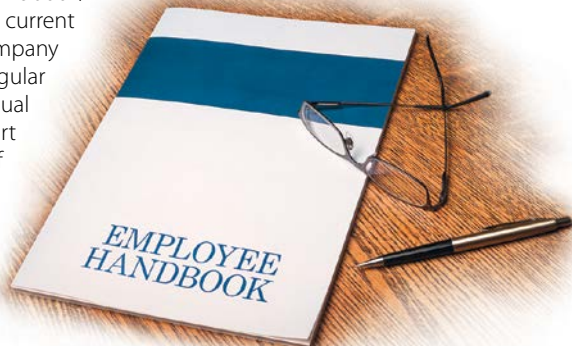
Information provided in all types of orientation will help new employees rapidly become a productive member of the organization.

3D.4 Employee handbook/manual

An employee handbook/manual is a communication tool between employer and employees. It sets forth the company's expectations for their employees, and describes what the employees can expect from the company, which usually covers:

- ✦ Core principles and values of the company
- ✦ Corporate governance
- ✦ Code of conduct
- ✦ Typhoon & rainstorm arrangement
- ✦ Employee communication
- ✦ Employee wellness, health, safety and environment
- ✦ HR policies & guidelines (eg. work hours, use of employee facilities, etc)
- ✦ Salaries and benefits
- ✦ Dress code
- ✦ Performance management

It is important that the employee handbook/manual is updated and kept current especially laws as well as company benefits might change. However, regular update of employee handbook/manual could be costly. Also, if it forms part of the terms and conditions of employment, it might become a legal document at court when an employee dispute arises.



3E. Retention

After filling the vacancies with new recruits, the next HR challenge is to keep the productive employee in the company.

3E.1 Turnover

Employee turnover is the rate at which an employer gains and loses employees. Simply put, it is "how long employees tend to stay"? High turnover may be harmful to a company's productivity if skilled workers are often leaving and the worker population contains a high percentage of new or inexperienced workers.

Most labour turnover occurs in the first six months of employment, so helping new employees to feel part of the organization can minimize labour turnover costs and improve organizational profitability and competitiveness. Impressions formed by new employees within their first 60 to 90 days are lasting, with the first day being particularly crucial.

Refer to section 3D.3 Orientation above for details about minimising labour turnover of new employees through orientation.

3E.2 Why employees leave?

Employees leave for a variety of reasons. For example:

- ✦ Difficulty to fit into the culture of the company
- ✦ Job responsibilities do not match what was described/promised during the interview
- ✦ Bored/unchallenged by the work itself
- ✦ No clear working knowledge of the purpose of their own role
- ✦ Cannot see contribution of work to the company's business goals
- ✦ Cannot see management's recognition of employee's job performance
- ✦ Not enough support given during the first month in the job - this could mean no orientation or no on-the-ground support e.g. guide to workplace, health, safety and hygiene issues or introduction to "frequent contacts" which could help them build the relationship and to help the new employees settle into the job and the new environment
- ✦ Poor managerial and/or supervisory skills, act with no integrity, play favoritism etc.

In order to encourage employees to stay in the company, the employer should understand the needs of the employees, knowing and addressing the issues that valued by employees, for example:

- ✦ recognition of achievements and contributions
- ✦ fairness at work
- ✦ trust in employees
- ✦ care for employees' wellbeing
- ✦ concern for employees' development
- ✦ feeling of involvement and participation in the company's future plans

To minimize costs on recruitment which is costly, you will have to keep the turnover rate of the company at a healthy level.

Happy employees are more productive than disgruntled or unhappy ones. Encouraging employee involvement and input fosters loyalty and respect. Having a positive attitude is always good business.

4. Reward Management

Reward management is concerned with the formulation and implementation of strategies and policies that aim to reward people fairly, equitably and consistently in accordance with their value in the company.

Employers nowadays can hardly rely solely on base salary to attract and motivate their employees. More emphasis has now been placed on other benefits such as retirement benefits and learning opportunities. It is important for employers to embrace the concept of total reward and recognize that pay is not the only motivator.

4A. Performance and Reward

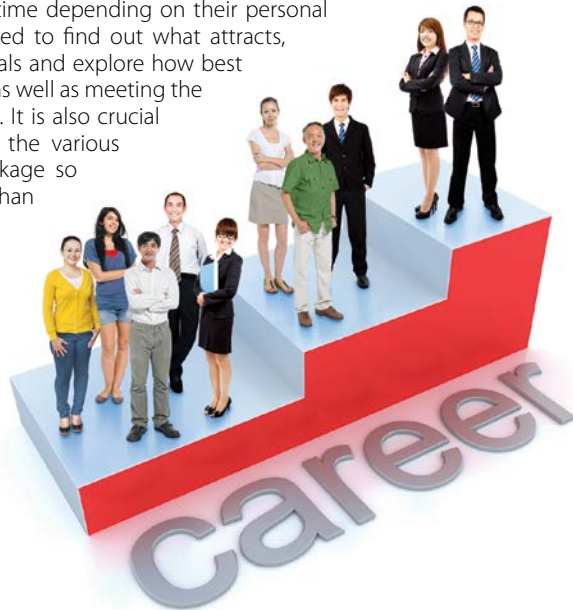
The reward system should be market-based, equitable and cost-effective. It is important that rewards commensurate with not just the skills, capabilities and experience of the individual but also performance. In order to cultivate top rate performers, employers must not only offer rewards for good work, but they must also have consequences for substandard work. Although employers are often reluctant to follow through with negative consequences, it is sometimes a necessary process. Otherwise, employees have no incentive to correct unacceptable behaviour.

It is also important that employees clearly know about what is recognized by the company and how these will be measured, so that they understand the relationship of performance and reward.

4B. Total Reward

Total rewards include everything the employee perceives to be of value resulting from the employment relationship, with a goal to attract, motivate and retain talent.

Latest research reveals that individuals are attracted, retained and engaged by a whole range of financial and non-financial rewards and that these can change over time depending on their personal circumstances. Employers need to find out what attracts, retains and engages individuals and explore how best they can meet these needs - as well as meeting the requirements of the business. It is also crucial that the company integrate the various elements of the reward package so that they support, rather than contradict, one another.



4B.1 Essential components of total reward

The key elements of total rewards are as follow:

a. Direct financial reward

includes base salary which is largely determined by job size, market alignment and performance, bonus, commission, incentive plan, profit sharing plan, stock/equity sharing plan, etc.

b. Indirect financial reward

retirement benefit scheme, health care & life insurance, staff loan, house purchase scheme, leave, child care, fitness & recreational facilities, company cars, etc.

c. Intangible non-financial reward

work-life balance – policies/measures/culture/practices/supports that enable employees to maintain a work-life balance, eg. flexible work hours/home working/unpaid time off/volunteering programs, etc.

development and career opportunities – development is the provision of set of learning experiences designed to enhance employees' applied skills and competencies; development engages employees to perform better Career Opportunities is the provision of a plan for an employee to advance their own career goals and may include advancement into a more responsible position in an company. The company supports career opportunities internally so that talented employees are deployed in positions that enable them to deliver their greatest value to their company.

d. Tangible non-financial reward

performance and recognition – performance is the alignment and assessment of individual efforts towards the achievement of business goals. Recognition is acknowledgement or giving special attention to employee efforts or positive performance. Recognition will satisfy the individual's need for appreciation and can support business strategy by reinforcing certain behaviors that contribute to the company's success. Often there are recognition for outstanding achievements, superior performance, loyalty etc. Awards can be cash or non-cash (e.g., verbal recognition during team meetings, trophies, certificates, plaques, dinners, tickets, etc).

The elements represent the “tool kit” from which a company chooses to offer and align a value for both the company and the employee. The elements are not mutually exclusive. Total rewards strategy involves the art of tailoring the combination of these four key elements into attractive packages for employees. An effective total rewards strategy results in satisfied, engaged and productive employees, who create desired business performance and results.

4B.2 Determining factors

- ✦ Determine what are you rewarding for:
 - performance?
 - qualification (eg. having attained a Master Degree)?
 - experience (eg. achieving Qualification Framework Level 5 or equivalent)?
 - potential?
 - behavior?
 - effort?
 - achieving goals/meeting targets?
- ✦ How will the employees be rewarded?
- ✦ Are the awards in line with the company's work culture/characteristics/business strategies?
- ✦ Will the awards drive the right behaviours/performance/efforts?
- ✦ Will the awards be valued by the employee?
- ✦ How often would the awards be given?
- ✦ Is the award short term or long term?
- ✦ Is the award immediate or deferred?
- ✦ How often will these be reviewed?

4B.3 Legal framework for reward management

Reward system should comply with the legal requirement. The following highlights a few common areas requiring special attention:

- ✦ payment of wages within designated timeframes
- ✦ restrictions on wages deduction
- ✦ statutory paid leaves, eg. statutory holidays, sick leaves, maternity leaves; and note that payment in lieu is not permitted
- ✦ statutory minimum wage
- ✦ mandatory provident fund contribution
- ✦ tax reporting on chargeable income (including benefits in kind, such as share options or housing benefits) from any office or employment

4C. Payroll Administration

Payroll administration is important when considering reward management in its entirety. It is essential that employees receive accurate payment in a timely manner, legally compliant with the legislation of Hong Kong.

4C.1 Key components of payroll

Payroll consists of all forms of reward, such as

- a. Salary
- b. Wages
- c. Commission
- d. Tips
- e. Bonuses
- f. Gratuities
- g. Back pay
- h. Allowances
- i. Leave and holiday pay
- j. Contributions to qualifying provident fund schemes

4C.2 Steps for processing the payroll

- ✦ Collection of information, preparation and review of source documents
- ✦ Clarify and authenticate validity and approval of source documents
- ✦ If Human Resources Management System (HRMS) is in use, enter payroll data into HRMS. Otherwise, post payroll data onto your templates/record sheets for the purpose
- ✦ Verify entries against source documents
- ✦ Check accuracy of calculations
- ✦ Approval and sign off of payroll

4D. Benefits

Benefits are important elements of the total reward.

4D.1 Major benefit plans are:

- ✦ Retirement benefit schemes, eg. Mandatory Provident Scheme
- ✦ Personal security e.g. healthcare, dental, hospitalization, accident or life insurance
- ✦ Financial assistance e.g. mortgage interest subsidies, rental subsidies, staff discounts, education subsidies
- ✦ Personal needs e.g. holidays and leave with pay, child care, fitness and recreational facilities, use of holiday house, etc
- ✦ Others eg. Employee shares purchase plan, company car

4D.2 Benefit plan management and communication

Below are the procedures for developing a benefit strategy and plan

Step 1: Decide objectives

- Assess what the company wants to achieve through its benefit strategy & policy and its ability to pay for the changes.

Step 2: Obtain views and input from employees

- Collect employees' views through employee surveys, focus groups and individual interviews.

Step 3: Analyze competitiveness

- Establish/Determine the company's competitive position, through conducting a customised survey or collecting available market data from external providers.

Step 4: Design the benefit package

- Determine the mix and scale of the benefit package, the allocation of benefits, the scope for flexibility and the cost of benefit provision.

Step 5: Consult the senior management team and employees on the proposal

- Get input and buy in from senior management team
- Make amendments if necessary, collecting comments and explore the inclusion of non-financial rewards as benefits.

Step 6: Plan the launch

- Communicate to everyone concerned what is happening, why it is happening, and how it will affect them.

Step 7: Evaluation

- Review the plan on a regular basis and obtain input from employees and management for evaluation purposes.

To enhance cost effectiveness of a benefit plan, it is very important to maintain proper communication with both management and employees:

- a. Get senior management support - explain the advantages of the new benefit plan and the possible outcomes, weighing the costs against possible gains from the employer's perspective
- b. Make sure employees understand the details of the benefit plan – what the benefit covers, when will the benefit take effect, reasons for offering such benefits, how will the employees benefit and any associated terms and conditions.

4D.3 Benefit plan administration

Administering benefit plans involve the following steps

a. Budgeting for benefits based on:

- ✦ Historical information
- ✦ Market information
- ✦ Accounting and tax treatment

b. Administering employee benefits will determine on:

- ✦ Whether the following parties will receive the benefit:
 - employees on probationary periods or long term absence
 - dependents of employees
 - retirees and their dependents
 - survivors of deceased employees
 - employees who are suffering from disabilities
 - full-time/part time employees
- ✦ How many will then be entitled to the benefits
- ✦ How the benefits should be financed
 - non- contributory - employer pays total costs
 - contributory - costs are shared between employer and employee
 - employee financed - employee pays total costs of the benefits
- ✦ Whether the benefits are legally defensible
 - a company should comply with all legal requirements and should develop
 - a compliance checklist and conduct audits regularly

4E. Performance Management

The ultimate goal of reward programs are to attract, retain and motivate people. And it is essential for the company to clearly identify the performance and competency levels required of their employees in different roles at different levels. The company will then evaluate, differentiate and award the employees in a fair and consistent way. Performance Management is one of the most important functions in human resource management. It is also an important tool to link individual objectives with departmental targets.

4E.1 Overview

Performance management is an integral part of a comprehensive human resource management strategy. It is the translation of the company's strategies and objectives into practical and realistic performance goals at each level of the company.

Performance management provides employees with clarity of aims and focus on job expectation, motivates employees to perform better, cultivates the desired culture, helps focus on the desired results, improves communication, helps develop employees' capabilities and helps achieve organizational objectives.

Key elements of performance management:

a. Planning:

- ✦ agree on performance goals and targets, based on job descriptions and business objectives
- ✦ goals and targets have to be SMART:
 - » Specific – clear, straightforward
 - » Measurable – specify quantity, quality, time, money, etc
 - » Achievable – challenging but within reach of competent and committed person
 - » Relevant – relevant to the company's objectives so that the individual's goal can contribute towards the company's

b. Monitoring and coaching:

- ✦ an ongoing and continuous process
- ✦ monitor performance against agreed goals and targets
- ✦ provide direction/support/feedback on how well people are doing
- ✦ recognize and reinforce desirable behaviours
- ✦ coach and help solve difficulties in achieving desirable performance
- ✦ identify problems at early stage, take corrective action in a timely manner

c. Reviewing and evaluation

- ✦ discuss achievement of objectives and competencies
- ✦ usually termed as “mid-year review”
- ✦ identify areas for improvement
- ✦ recognize success
- ✦ encourage development

d. Assessing

- ✦ conclude the performance evaluation through the information collected and with reference to the mid-year review
- ✦ usually termed as “year end appraisal”
- ✦ provide support/feedback, recognize successes
- ✦ identify an appropriate performance rating, which serves as a reference for reward (including pay) and career development consideration



Overview of Performance Management Cycle

4E.2 Performance review/appraisal meeting

Performance review/appraisal meeting:

- ✦ is a formal review on the individual's performance,
- ✦ is usually done once or twice a year to review, reinforce, monitor and record an employee's progress,
- ✦ facilitate the selection of employees for promotion,
- ✦ help identify the training and development needs of employees,
- ✦ foster a better two way communication between the line manager and the employee with regards to performance.

a. Preparation for the appraisal meeting:

- ✦ it is necessary to keep a log of the individual's performance and achievements which gives support to rating
- ✦ allow sufficient time for preparation on
- ✦ what performance problems are to be mentioned
- ✦ views on the possible reasons for success or failure
- ✦ any suggestions to solve the problem
- ✦ give sufficient notice to employee regarding the meeting and request employee to have a self-appraisal before the meeting so that they can identify their own achievements and problems

b. The appraisal form:

- ✦ should be as simple and brief as possible and allow sufficient space for comments
- ✦ terms should be easily understood, with some notes for guidance
- ✦ information to collect on the form includes:
 - key result areas
 - agreed objectives/targets
 - assessment of performance against the key result areas and competency headings
 - details of the development plan to improve performance

Performance Appraisal Form

Employee Name: _____	Date Joined: _____
Position: _____	Date Appointed to Position: _____
Department: _____	Performance Appraisal Period: _____
Appraised By: _____	Position Title: _____

PART 1: Performance Evaluation

Performance Targets/Goals Describe performance targets agreed to be achieved in the appraisal period	Performance Results/Achievements Describe performance results of targets in the appraisal period
Target/ Goal	
Target/ Goal	
Target/ Goal	

Part 2: Appraisal Evaluation Rating

Select one overall evaluation rating with a (✓), based on the employee's total contribution to the agreed performance targets.

A	OUTSTANDING	Delivered results on performance targets which has far exceeded the standards required in quality and quantity.
B	EFFECTIVE	Delivered results on performance targets consistently above the standards required in quality and quantity.
C	SOLID	Clearly delivered results on performance targets and met the standard required, and has occasionally exceeded it in quality or quantity or both
D	GENERALLY ACCEPTABLE	Delivered results on performance targets that meet only the minimum level of standards.
E	PARTIAL ACCEPTABLE	Partially delivered results on performance targets at agreed standards, performance deficiencies observed. Performance improvement plan is needed.
F	UNACCEPTABLE	Did not at all deliver results on performance targets at agreed standards.
G	EXEMPTED	Due to long absence, illness or recent appointment.

Part 3: Development Areas

Review the development activities participated by the employee for the past appraisal period and to agree on a development plan for the coming appraisal period

Development Activities Participated (for current appraisal period)	Remarks/Effectiveness
Development Activities Agreed (for the next appraisal period)	Target Completion Dates and Success Measures

Part 4: Comments

Comments by Employee:	Signature and Date

Comments by Manager:	Signature and Date

Note:

The information provided will be kept confidential. The employee has the right to request access to or correction of personal data provided on this form in accordance with the provisions of the Personal Data (Privacy) Ordinance. Such requests may be made in writing to the HR Department.

c. Procedures for conducting a performance review meeting:

- ✦ Work to a clear structure of how the meeting will proceed
- ✦ Start with stating the purpose of discussion and encourage discussion
- ✦ Give a general overall impression of the evaluation to set the foundation for discussion
- ✦ Discuss each dimension separately
- ✦ Ask the employee to give an impression of their own performance first and explain your views
- ✦ Give positive reinforcement, emphasizing what has been done well
- ✦ Encourage two-way discussion by asking open and probing questions, do not dominate the review
- ✦ Discuss performance based on factual evidence, not opinion
- ✦ Develop possible action plan(s) and review time frame jointly to correct any problems
- ✦ Close the meeting on a positive note with an agreed action plan

4E.3 Success factors of performance management

The key success factors contributing to a good performance management system are:

- simple and transparent system that is applicable to all levels of employees
- well defined "performance" in the aspects of outcomes, behaviors, competencies and traits to ensure fairness and equity
- clearly defined standards and measurements of performance describing different levels of achievements
- appropriately and sufficiently differentiates the merit increase for different levels of performance
- clear linkage of performance with rewards to be awarded.

4E.4 Relationship between performance management and reward

In order to motivate people to perform better, give discretionary effort, and develop new skills, it is only fair and equitable to differentiate reward according to an individual's performance. Performance management system emphasizes and reinforces the importance of performance.

4E.5 Coaching for performance

Managers and supervisors have an important role to play in performance management, which is, to provide feedback and coaching on employee's performance when necessary.

Coaching is a process that helps the employees gain greater competence and overcome barriers to improve job performance on a as needed basis, while training uses a structured design to provide the employees with the knowledge and skills to perform a task. The other difference between coaching and training is that the former is normally done in real time. That is, it is performed on the job, at the workplace. The coach uses real-life tasks and problems to help the learner increase their performance. While with training, learning takes place in a classroom with a controlled setup.

- ✦ Coaching is effective when it
- ✦ Is specific to the individual
- ✦ Is positive and
- ✦ Occurs as soon as performance problems are identified

Procedures for coaching for performance:

- ✦ Identify performance problem by pointing out the facts/describing the behaviours observed in a professional non-confrontational manner, support with evidence if possible
- ✦ Clarify the expectations/standards of the job
- ✦ Explain the consequences of inappropriate actions/behaviours
- ✦ Ask for the employee's view and how they assess their own actions/behaviours
- ✦ Discuss the causes of the problem/analyse reasons for sub-standard performance
- ✦ Develop and agree on tentative solutions, decide on specific action(s) to be taken

4E.6 Reward Communication

Your company could be wasting the money spent on salaries and benefits by leaving employees in the dark about the true value of the total package. Without employee understanding, reward programs will not align or motivate employees' effort toward achieving business objectives. Employers shouldn't take it for granted that potential candidates and existing staff appreciate or understand the value of the retirement scheme or other benefits such as subsidised meals, life assurance and critical illness insurance.

If rewards are used to motivate employees, or to encourage higher performance, it is essential to have a transparent approach to communicating information about pay scales, the provision of benefits and allowances, grading systems, job evaluation, performance-related pay schemes and how pay decisions are made for different individuals or groups of employees.

5. Training, Learning & Development

Training, is teaching people skills that they lack. Learning is a self-directed, work-based process leading to increased adaptive capacity. Developing employees allows them develop into future leaders. Together they can help develop a culture in the company that fosters employee commitment.

Training, learning and development programs can affect the company in two aspects.

- ✦ First, it enables employees to effectively perform their job. As an employee's abilities increase, there is a high potential that the company's performance will increase. Therefore, training, learning and development have a positive relationship with the company's success. And what is even better is the fact that better trained and developed employees are more motivated.
- ✦ Second, it increases the employee's ability to make more effective decisions. Employees are more willing to accept responsibility for their decisions and have strong desire to place the company's objectives above their own.

Line managers must act as a mentor and coach by providing advice and suggestions on further career development through performance appraisals while at the same time paying attention to the career objectives of the employee and adapting the employee's development plan to meet those objectives.

5A. Identify Training Needs

The first step to the process is to identify training/learning/development needs. The output of the needs analysis helps HR and/or line managers to plan and design appropriate training/learning/developmental solutions to fill the gap between the current and anticipated future state.

There are many ways to conduct training needs analysis. A common approach takes the following steps:

- ✦ find out what the human resource requirements are in order to arrive at the ideal state based on the business objectives/strategies of the company.
- ✦ analyse current state of human resource
- ✦ identify gaps between the ideal and current states
- ✦ identify causes of the gaps
- ✦ identify those that can be resolved with training, learning and development
- ✦ prioritise training needs



5B. Identify Training/Learning Events

A wide range of methods for learning, training and development exist. Training sources can be internal to the company or accessed from an external entity. Training can range from short term, to long term, from on-line to in-person, and from low cost to high cost. Development programmes for senior or specialist staff could encompass techniques such as coaching and mentoring or secondment, often undertaken in conjunction with more formal or off-the-job learning or educational arrangements.

The choice of learning methods for each need identified will depend on several factors including:

- ✦ the nature and degree of priority of the learning needs
- ✦ type of occupation, level of seniority and qualifications/educational background of learners
- ✦ organisational culture
- ✦ evaluation of the effectiveness of previous learning and training interventions
- ✦ costs and budgets available
- ✦ time required to complete training
- ✦ learner preference – each individual may prefer learning in different ways, some prefer classroom learning over real-life practicing. Learner preference's over learning ways and styles and their individual characteristics need to be taken into account when selecting, developing and delivering learning methods
- ✦ learners' availability

Learning involves a lot of resources such as capital, human and physical assets, etc. Effective management of learning & development (L&D) is essential in order to bring out the full value of L&D activities.

5B.1 In-house vs external

Internal courses provide an opportunity to focus on company-specific issues, which may increase the possibility of learning transfer. External courses involving interaction with people from other companies, meanwhile, may help individuals perceive situations from a fresh perspective and develop skills in a different knowledge-sharing context and network with counterparts in other companies.

Below are some commonly used training/learning methods:

a. In-house on-the job training:

Basic or general on-the-job training, typically learning through observing and/or being assisted by a colleague with more experience of performing a task, is usually:

- ✦ delivered on a one-to-one basis at the trainee's place of work
- ✦ allocated time to take place, including potential periods when there is little or no useful output of products or services
- ✦ a specified, planned and structured activity

b. In-house development programmes

This category covers a very diverse range of learning interventions that are longer-term, broader and/or of a higher level than basic on-the-job training. Development programmes could encompass techniques such as coaching and mentoring or secondment, often undertaken in conjunction with more formal or off-the-job learning or educational arrangements. Such development opportunities are more likely to be available for senior or specialist staff including those in professional, management or leadership roles – and are sometimes limited to those high-performing or high-potential staff identified as 'talent'.

i. In-house coaching and mentoring

Coaching and mentoring are development techniques based on the use of one-to-one discussions to enhance an individual's skills, knowledge or work performance – often for the current job, but also to support career transitions.

While some companies hire external coaches, particularly when coaching those in very senior management or leadership positions, line managers are often expected to operate internally in a coaching capacity in the workplace.

Mentoring tends to describe a relationship in which a more experienced colleague (rather than line managers or external coaches) uses his or her greater knowledge and understanding of the work or workplace to support the development of a more junior or inexperienced member of staff.

ii. In-house job rotation, secondment and shadowing

The learning associated with the experience of secondment, the temporary loan of an employee to another department or role (or, sometimes, to an external organisation), is widely recognised as valuable for both employee development and organisational development. Job rotation and shadowing are similarly useful forms of development, particularly in supporting employees in developing the skills and competencies required for moves to new or higher-level roles.

c. External courses and classroom training

Formal courses away from the workplace have advantages in certain circumstances, for example they offer:

- ✦ protected time for learning
- ✦ the chance for participants to share ideas with each other and learn from shared experience in a structured setting
- ✦ the opportunity to practise skills in a risk-free environment
- ✦ the capacity for a course instructor to give feedback immediately and in a non-threatening way
- ✦ the ability to signal what matters to the organisation – compulsory courses, in health and safety for example, send out a strong signal that this knowledge is important

SCS-based programme (Qualifications Framework - Specification of Competency Standards)

With an increasing need to align more closely with the needs of industry, in-house training is getting more and more outcomes-based so that learners going through the training are equipped with requisite competencies to effectively perform their job.

The units of competency (UoCs) in the SCS can assist development of in-house training as the competency requirements are indeed outcome requirements for the task. These learning outcomes are based on standards set by industry, and assessment is designed to ensure individual learner has achieved all learning outcomes in a learning module or programme.

Even though competency standards are not descriptions of the learning process itself or of any particular method for training and assessment, competency standards do provide a well-established and validated description of actual work outcomes in various industries, and the detail in each UoC is a ready-made source of useful information for in-house trainers to cluster relevant UoCs together to form a single module. Once the formative aspects of the training have been established, the in-house trainers can use his/her educational expertise to plan the appropriate learning and assessment approaches for the training content.

A training module or programme with its contents developed on the basis of the SCS is known as SCS-based programme which follows an outcomes-based approach in the design, implementation, assessment and evaluation of the programme. The emphasis in SCS-based programmes is on “performing” rather than just “knowing”.

SCS-based Training Packages

With the objective of promoting SCS-based programmes, the Government has injected funding for the production of SCS-based Training Packages for those industries having their respective sets of SCS completed, so as to facilitate the education and training market to make use of the completed sets of SCS in curriculum design and in enriching the contents and relevancy of training.

As the name suggests, a SCS-based Training Package is an integrated set of teaching and learning materials and assessment guidelines in respect of one or a small number of UoCs centered on a job function or sub-function drawn from the SCS of an industry. It is usually made up of basic components such as learning & teaching guide, assessment guidelines and support materials that provide for choice for providers in the design of competency-based training and assessment to meet the needs of industry and learners.

In particular, the learning and teaching guide in each Training Package will clearly set out the learning topics, activities & methods, and assessment context and activities that are in alignment with the learning outcomes, context, facilities and supports in relation to the job function or sub-function concerned.

Training Packages encourage the development and delivery of flexible training or learning programme which suits individual and industry requirements; it also encourages learning and assessment in a work-related environment leading to verifiable workplace outcomes.

With Training Packages, assessment and training may be conducted at the workplace, off-the-job, at a training provider, during regular work, or through work experience, work placement, work simulation or any combination of these.

When making the decision to use in-house or external training/learning resources, employers should consider the following questions:

- ✦ is the capability available in-house?
- ✦ do they have the capacity to deliver the training/facilitate the learning?
- ✦ how does the cost of external training/learning opportunities weigh against the benefits?
- ✦ is there budget for the training/learning?

Learning methods must be carefully designed, implemented and reviewed if they are to fulfil their objective of providing the workforce with the skills and competencies required to support business strategy. Setting clear learning objectives and assessing the effectiveness of existing learning interventions is important when determining programs of learning.

5C. Post-training Evaluation

Training evaluation is the systematic collection of evidence to assess the impact of the training/learning activity, for example, if skills are improved/productivity enhanced, etc. Its results can be applied to make decisions, such as selection of appropriate training/learning activities.

Evaluating training, learning and development is crucial to ensuring the effectiveness of an company's learning initiatives and programmes. Effective evaluation means going beyond the traditional 'reactions' focus based on a simplistic assessment of learners' levels of satisfaction with the training provision. Rather, it is important to evaluate learning outcomes and the extent to which learning provision is aligned with business objectives. Such a focus helps to ensure that the activities deliver value for both learners and company alike.

Some commonly used evaluations are:

- ✦ 'happy sheets' – that is, post-training questionnaires asking course participants to rate how satisfied they feel about the training
- ✦ testimonies of individuals
- ✦ return on expected outcomes (for example, whether line managers testify during performance reviews that individuals are able to demonstrate those new or enhanced competencies that the training/learning intervention was anticipated to deliver)
- ✦ the impact on business key performance indicators
- ✦ return on investment (the financial or economic benefit that is attributable to the training/learning intervention in relation to the cost of the investment in learning programmes)

However, it is worth noting that it can be very difficult in practice to measure the impact of training/learning, particularly directly in respect of business success.

6. Employee Relations and Employee Engagement

Traditionally, employee relations is about:

- a. minimizing disputes
- b. managing trade unions, and
- c. keeping employees happy

Today, more emphasis has been put on employee engagement, as part of the employee relations initiatives, with the aim to enhance and improve relationship with the employees. By getting employees engaged into the organization, the employer is benefited with higher staff morale and the advantage of greater competitiveness as employees are willing to invest more efforts and "go the extra mile".

Employee engagement is an ongoing process to which proactive measures need to be taken throughout the HR cycle.

6A. Handling Employee Relations and Enhancing Employee Engagement

The drive for an engaged workforce needs to build on good people management and development policies and the active support of line managers. People management strategies and policies need to be aligned with those of the wider business. Employees need to understand how their work contributes to organisational outcomes. A minority of employees may not want to be engaged; organisations may need to give particular attention to recruitment and communications.

- ✦ Common drivers of employee engagement are:
- ✦ feeling well-informed about what is happening in the organisation
- ✦ involvement in decision-making
- ✦ freedom to voice ideas upwards, to which managers listen
- ✦ feeling enabled to perform well
- ✦ having opportunities to develop the job
- ✦ feeling the organisation is concerned for employees' health and well-being

Employers who are successful in engaging their employees observe or follow the following activities throughout the employment cycle.

6A.1 Recruitment & selection

It is always more effective to select people who fit the company culture and expectation, than to attempt to change them after they have joined the company.

Make it clear what are expected from the employees and what employees can expect from the company.

Select job fit, career fit and culture fit candidates.

6A.2 Orientation/on-boarding

The purpose of orientation/on-boarding is to help new staff settle into their jobs as quickly as possible.

When a new staff is on board, organization orientation/on-boarding activities should provide them with related organization structures, guide to workplace, health, safety and hygiene information, a clear understanding of the values and aims of the organization and more importantly to provide them with relevant supports, such as peer group support, mentoring program etc.

6A.3 Training & development

Employees who receive work-related training are significantly more fully engaged and more likely to feel positive about their long-term career prospects with the company.

6A.4 Recognition, compensation and benefits

Recognition can be in various forms. But in terms of compensation and benefits, employees will want to feel that they are being equitably paid for their performance and benefits are on things that they value.

In addition, communication channels should be in place for access to information such as company policy, expectation, opinions and grievance handling.

6B. Employee Wellness

Employee wellness is a combination of educational, organizational, and environmental activities initiated by the employer aiming to support behavior, conducive to the health of employees and their families. It consists of health education, screening and interventions designed to change employees' behavior towards individual's wellness.

Ill-health and injuries inflicted by inappropriate or poor working conditions result in sufferings and loss to individuals and their dependents in addition to resulting in losses and damages for the organization

The benefits of employee wellness therefore are:

- ✦ Lower absence rate
- ✦ Higher productivity
- ✦ Minimize the cost of accidents and litigations
- ✦ Improve staff morale and employee relations



6C. Work Life Balance

Work-life balance is having enough time for work and enough to have a life, thus the work life balance. It is a concept including proper prioritizing between “work” (career and ambition) and “lifestyle” (health, pleasure, leisure, family and spiritual development/ meditation). This concept arises as communication technologies advances. With new technologies, employees may respond to an email or a voice mail after-hours or during the weekend, typically while not officially on the job, they are more connected to the jobs beyond the boundaries of the traditional workday and workplace. The more this boundary is blurred, the employees may experience more work-to-life conflict when they spend more time at work and spare less time for themselves.

a. Cost of poor work-life balance:

- ✦ lead to physical illness, stress, depression and even mental illness which leads to absenteeism and poor performance
- ✦ cause tension to personal and family relationships
- ✦ increase faults or errors and lack of motivation

b. Benefits of work life balance:

For employees:

- ✦ may experience higher overall job satisfaction leading to a much lower staff turnover rate, a greater pride in their organization and a willingness to recommend it as a place to work
- ✦ may feel less stress at work which leads to improved attendance and better performance

For employers:

- ✦ lower staff turnover rate with sequential cost savings in health-care, new staff recruitment and training expenses
- ✦ high staff morale with high work efficiency
- ✦ enhance reputation as an “employer of choice”

c. Common work-life balance initiatives are:

- ✦ flexible work-hour arrangements or part-time working
- ✦ leave options, eg. birthday leave, sabbatical leave, unpaid leave
- ✦ work from home
- ✦ employee wellbeing and health & family support

d. Successful action to develop a successful work-life strategy is as much about the process of making changes as about the changes themselves. An action plan should include the following elements:

- ✦ identify business need - so as to demonstrate to business colleagues how having a work-life strategy will benefit both the business and the workforce as a whole.
- ✦ adapt policies to match operational needs - by looking at both employee and business priorities and considering for example impact on customers, back-up arrangements to cover absence and training needs. Don't simply copy-cat what other employers are doing.

- ✦ include measures for performance based on outcomes and results, not just on presence in the office alone.
- ✦ develop clear guidelines - as a basis for fair treatment and to help promote work-life balance policies to engage with line managers to gain commitment.
- ✦ lead from the top – identify a senior management champion and/or senior management role models who are using work-life balance benefits.
- ✦ communicate plans using a wide variety of methods to involve employees.
- ✦ monitor progress and draw lessons from experience – even piloting the practices in a section or division if necessary.

Employers who invest in the health and well-being of their employees by ensuring their managers are equipped with people management skills and providing work-life balance opportunities for employees, as well as support to help those with health problems to return to work sooner rather than later, will benefit from enhanced employee engagement and lower levels of absence and staff attrition.

6C.1 Family-friendly Employment Practices

Family-friendly employment practices have gained popularity amongst employers in recent years. The implementation of family-friendly employment practices is to help employees fulfill their work and family responsibilities simultaneously, thereby balancing their work and family lives. These employment practices will help organizations build positive corporate image, facilitate long term corporate development and help attract talents.

There is a wide range of family-friendly employment practices, which can be generalized into the following categories:

Category	Example
Grant special leave to meet employees' family needs	Marriage leave, paternity leave, compassionate leave, parental leave, special casual leave
Flexible work arrangements	Flexible work week, flexible working hours, home based work, job sharing
Provide living support	Child care service, counseling services on stress or emotional management for employees and their family members, medical protection, family recreational activities

Family-friendly employment practices are not exclusive for large enterprises, they can also be implemented by smaller employers just with a little more care and consideration and a stretch of imagination. Of course, the management must support and endorse the concept of family-friendly employment practices for the family-friendly culture to thrive in the company. During the planning process and prior to implementing each measure, employers have to communicate with their employees thoroughly to understand their genuine needs.

For more information on Family-friendly Employment Practices and case sharing by companies in Hong Kong, please refer to the following links:
<http://www.labour.gov.hk/eng/public/wcp/FamilyCasebook.pdf>
<http://www.gov.hk/en/residents/employment/recruitment/familyfriendly.htm>

6D. Handling Labour Disputes

As employees and employers may view their interests and rights from very different perspectives, it is inevitable that disagreements will arise. It is important that dispute resolution mechanisms are in place in order to manage these conflicts and achieve the amicable settlement of disputes before they cause any disruptions to the parties involved. It is important that labour dispute resolution mechanisms function correctly and that the social partners feel confident in using these mechanisms.

Proper handling on labour disputes is of great significance to every organization. The disputes, regardless of the scale, will have negative impact to the whole operation and image of the organization.

Following are some common resolution processes:

- ✦ Dialogue: A process of talking and listening, sharing information, ideas and concerns
- ✦ Negotiation: Dialogues between two or more parties with both common and conflicting interests, with a common goal of reaching a mutually acceptable agreement
- ✦ Voluntary conciliation/mediation: A situation in which arbitration is set in motion only with the agreement of the disputing parties.
- ✦ Adjudication: A process of settling a dispute in court before a judge or magistrate, in accordance with the formalities and procedures required by law
- ✦ Strike: A concerted work stoppage of or withdrawal from work by a group of workers of a group of employees to express a concern or to enforce demands

Many disputes – but not all – are resolved by the parties themselves through consensus-based processes of dialogue, negotiation, and bargaining.

The Labour Relations Division of the Labour Department is responsible for the maintenance of harmonious labour relations in the non-government sector. Its main activities include:

- ✦ providing in-person consultation service to employers and employees on matters relating to conditions of employment and their rights and obligations under the Employment Ordinance; and
- ✦ providing voluntary conciliation service to employers and employees to help settle their disputes and claims

The Labour Relations Division assists employers and employees in establishments outside the government sector in resolving their labour disputes through the provision of conciliation service.

About conciliation service provided by the Labour Relations Division:

- ✦ it is provided free of charge.
- ✦ it is informal, time saving and relatively simple procedures which help resolve labour disputes.
- ✦ it is accessible to both employers and employees, either party involved may contact a branch office near their work place to make enquiries in person.

✦ the process:

- the staff at the Labour Relations Division office will interview the enquirer to understand the issue involved and explain the relevant requirements of the Employment Ordinance and/or the Minimum Wage Ordinance.
- if conciliation is required, a meeting for the purpose would be arranged, and the other party would be requested in writing to turn up at the conciliation meeting at the scheduled time.
- at the conciliation meeting, the conciliation officer would assist both parties in exploring the crux of the issue concerned, and in analyzing the situation. Attention will be drawn to the relevant statutory requirements and terms of the employment contract, thus facilitating them to reach a mutually acceptable settlement.
- if necessary, a settlement agreement would also be signed by the parties.
- if the settlement involves compensation by cash payment, the conciliation officer would assist in making arrangements for effecting payment.
- if either party fails to attend the conciliation meeting, or no settlement is reached between both parties at the meeting, the conciliation officer will arrange another conciliation meeting, or at the request of the party concerned, refer them, depending on the claim amount, to lodge a claim with the Minor Employment Claims Adjudication Board or the Labour Tribunal where the dispute will be adjudicated by the Adjudication Officer of the Minor Employment Claims Adjudication Board or the Presiding Officer of the Labour Tribunal.

For detailed information on conciliation service provided by the Labour Relations Division of the Labour Department, please visit the Labour Department website <http://www.labour.gov.hk> > Publications > Labour Relations > (E) : Conciliation Service and Claims <http://www.labour.gov.hk/eng/public/csc.htm>



6.E Disciplinary Action

All employees are expected to meet performance standards and behave appropriately in the workplace. Disciplinary or corrective action is a process of communicating with the employee to improve unacceptable behavior or performance. You may take disciplinary action in a progressive way – verbal warning, written warning, and even suspension, when other methods such as coaching and performance appraisal have not been successful.

6E.1 Principles

- ✦ A fair and effective disciplinary action procedure is one that concentrates on improving or changing behaviour, and not one that relies on the principle of punishment
- ✦ Not to be avoided at all cost – sometimes labour disputes, disciplinary action and lawsuit are unavoidable if integrity and company policy is to be upheld

6E.2 Procedures

- ✦ For verbal/written warning
 - a. record “formal” verbal warnings
 - b. state the reasons clearly
 - c. allow explanation from the employee’s record
 - d. explain what will happen next if the desired changes are not achieved
- ✦ For major disciplinary action
 - a. management states reason in writing
 - b. employee invited to a hearing and decision informed
 - c. appeal on a further hearing and final decision communicated

6F. Handling Grievances

A grievance is any discontent or feeling of unfairness and in the workplace, it should be pertaining to work. A grievance is more deep-seated than a complaint. Complaints are expressions of grievances, but a grievance is deep-rooted such that the employee takes appropriate remedial action to seek satisfaction.

Grievances usually arise because of certain behaviour of supervisor and other employees, or certain management decision. The grievance may be unreasonable but the emotion itself is genuine. Grievances are important to those employees who express them and must, therefore, be treated seriously.

6F.1 Principles

- a. Fairness
 - Would treatment be biased?
 - Would the junior staff/complainant be victimized?

- b. Consistency

Would similar situation be handled in the same way?
Are precedents documented and referred?

- c. Representation

Is the company allowing employees involved to be represented by fellow colleagues/ trade union members? If so, what can be their role?

- d. Promptness

Are grievances and complaints addressed as soon as possible?
Are concerned parties kept informed of the progress?

6F.2 Procedures

A 3-stage procedure is indicated in Figure 6F.2a

Stage 1: immediate supervisor

Stage 2: next level of management + HR

Stage 3: next level of management + HR, final decision to be made by Senior Management

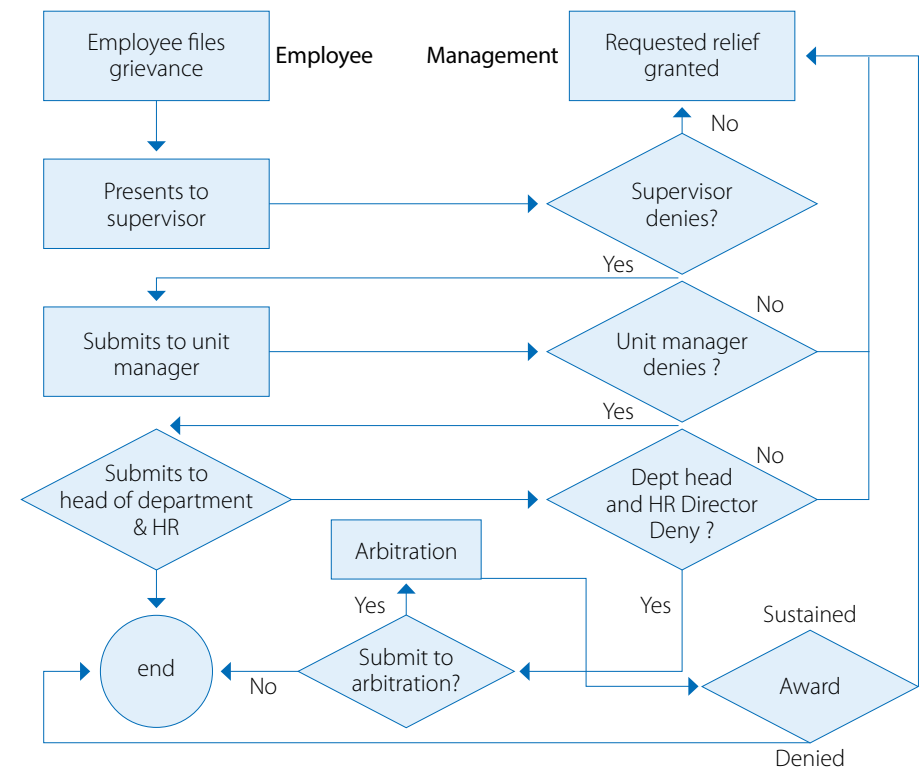


Figure 6F.2a 3-steps Handling Grievances Procedures

6F.3 Interview/meeting with the staff concerned

a. Preparation

- ✦ Fact finding
- ✦ Analyze
- ✦ Establish objectives
- ✦ Decide strategy and tactics

b. During interview/meeting

- ✦ Listen
- ✦ Respect and empathy
- ✦ Non-judgmental attitude
- ✦ Find out what her or his needs are

c. After interview/meeting

- ✦ Decide: case genuine or unfounded?
- ✦ Resolve situation and negative feeling if any

