

Employment Responsibilities and Rights within Property Services

An introductory guide for staff new to the sector



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- i) It is circulated in the original format and includes this acknowledgement
- ii) It shall not by any way of trade or otherwise be sold, whether or not for commercial gain.

1. INTRODUCTION

This information pack has been produced by Asset Skills and is designed to be of benefit to all staff new to the sector.

Understanding Employment responsibilities and rights (ERR) is important for everyone and is a particular requirement for those undertaking a Foundation or Advanced Modern Apprenticeship programme.

It is up to you to decide which part of the package to study first although health and safety issues (i.e. fire alarms and evacuation procedures) should obviously be a very early priority.

Questions are included in the pack to help you check your progress and summary worksheets are provided at the end of sections 2 and 3.

The sooner you understand your rights and responsibilities the sooner you will feel part of the organisation you have joined.

You may already be aware that within the property services sector there are some very large organisations and many small to medium size firms/companies. Property services are also an important part of many public sector organisations, including local authorities and the NHS to give two prominent examples.

In preparing this information pack we have tried to make the information relevant to all sizes of organisations in both the public and private sectors – although it is understood that in small firms some procedures, job roles etc. may be much less formal than is implied in the text!

We welcome comments and feedback on the guide – as well as suggestions for additional material for inclusion when the guide is updated.

Richard Foxwell

Director of Operations
Asset Skills
June 2004

2. EMPLOYMENT RESPONSIBILITIES AND RIGHTS

Employers and employees both have a range of statutory rights and responsibilities under employment law. Employment may also be affected by other legislation.

2.1 Contracts of Employment

What you should know:

- The relationship between an employer and employee is governed by the terms and conditions contained within a contract of employment.
- Employment contracts are legally binding on both the employer and employee and serve to protect the rights and responsibilities of each.
- A contract of employment comes into force as soon as a firm offer of employment has been made and accepted, even if agreement has only been verbal e.g. at an interview.
- By law (the Employment Rights Act 1996) all employees are entitled to a written statement of the key terms and conditions of their employment within two months of starting work, providing the contract is to last for more than one month.
- Employment contracts cover full or part-time work and may be permanent, for a fixed term e.g. one year, or for a temporary period.
- Changes to employment contracts must be made following procedures that are designed to protect the employee from unfair treatment and to ensure the employee is consulted about the nature of any changes proposed.
- The ending (termination) of an employment contract is governed by rules which protect the employee and employer from unfair treatment.
- Codes of practice exist for managing problems which may arise between an individual employee and their employer. These should be highlighted in grievance procedures set out by the employer.
- Employees who believe they have been unfairly dismissed or otherwise treated unfairly have the right to take their case to an independent Employment Tribunal. Certain rules may need to be

met about how long the employee has been employed, and the procedures that have been followed by their employer.

- Some people are self-employed. They have different responsibilities and rights with regard to their entitlement to a range of statutory benefits. If they offer a service (e.g. plumbing, gardening, financial services) they enter into a different kind of contract with the person or organisation for whom they carry out any work. This is governed by different legislation.

How it affects you

You will need to know about your own contract of employment ⁽¹⁾ and/or written terms and conditions statement, the system of payments used and the related documentation.

Q1 When is your salary paid and how often?

.....

Q2 What period of notice would you have to give if you wished to leave?

.....

You will also need to know what you should do if you have a grievance about the terms and conditions of your employment.

Q3 If you have a grievance to whom should you go?

Name:..... Job Title:.....

2.2 Discrimination

What you should know:

- You have a legally protected right, which applies during the recruitment process and from the first day of employment, not to be discriminated against on the grounds of gender, race, religion or disability.
- Anti-discrimination measures protect an employee who has made a complaint of discrimination, or who has said they intend to complain, from victimisation by the employer.
- Some exemptions from the Sex Discrimination Act exist to cover very specific situations, such as the employment of ministers of religion.
- The right to receive equal pay regardless of whether you are a man or woman (Equal Pay Act) covers not just payment, but all the terms of an employment contract.
- Some exemptions from the Race Relations Act exist to cover very specific situations, such as employees working wholly or mainly outside the UK.
- The Disability Discrimination Act 1995 is being implemented progressively. It imposes total ban on discrimination against customers/clients on the grounds of disability but does exempt very small organisations (15 employees or less) from complying with some of its more complex provisions regarding the adaptation of premises to provide disabled access etc.
- The definition of 'disability' addresses a wide range of conditions. The Act states that a disabled person is one who: -

"Has a physical or mental impairment which has substantial and long-term adverse effect on his/her ability to carry out normal day to day activities".

- Employers have the responsibility to make reasonable adjustments to working practices and the workplace to meet the needs of disabled employees. For example:
 - *Altering desk and seating arrangements to enable wheelchair access*

- *Re-allocating heavy work duties if for example a member of staff develops a heart condition or other form of disability that makes heavy work impossible*
- *Arranging, where possible, for an employee to use ICT to carry out work rather than writing documents or making visits.*
- Unlike discrimination on the grounds of race and sex, the employer can justify discrimination against disabled person in certain circumstances. There must be material and substantial reasons why the person's disability would prevent them from doing the job or make it exceedingly difficult for them to do it **and** there is no adjustment that could be made that would allow the disabled person to do the job. For example, where a person's medical condition requires the taking of a drug which affects concentration and decision-making, and poor skills in these areas would be likely to put safety at risk, as in a driving occupation.
- Although there is no **age discrimination law** at present in the UK, certain work activities require a person to have reached a minimum age before they can carry them out. For example:
 - *Work with certain types of equipment or plant*
 - *Work which requires driving a motor vehicle.*

Furthermore there is increasingly government encouragement (a voluntary code of practice exists) for employers not to discriminate on the grounds of age. Questions on age at interview are strongly discouraged.

Within the sector many estate agents find that more mature individuals are preferred by sellers and some buyers and it is quite common for, example, for women returning to work after having had a family to be employed in selling or letting/managing homes.

How it affects you

You need to know about equal opportunities policies and procedures in your workplace and any exemptions from the Sex or Race Discrimination Acts which are relevant to your job:

Q4 Give an example of an occupation (apart from ministers of religion) which would be exempt from the Sex Discrimination Act and why?

.....
.....

You also need to know the steps that you should take if you experience or witness discrimination and/or bullying at work.

Q5 Who should you contact in the first instance if you experience or witness discrimination and/or bullying at work?

.....

Name: Job Title:.....

2.3 Working Hours and Holiday Entitlements

What you should know:

- The **Working Time Regulations**, which apply to all employers in the UK, regardless of sector or organisation size, set rules about the amount of time that employees can work and the amount of rest time to which they are entitled. They are enforced by employment tribunals, combined with inspections by the Health and Safety Executive, which is a government body responsible for ensuring health and safety.
- There are special provisions which limit the hours that young workers aged 16 to 17 can work. *For example young people 16 – 17 must have at least 12 hours uninterrupted rest from work in any 24 period with at least 2 days off each week and a rest break of 30 minutes for each period of work lasting more than 4 and a half hours.*
- Some categories of employee are excluded from these provisions, and there are some situations which may be exempt from different parts of the provision. For example:
 - *Seasonal workers in the run-up to Christmas*

- *Workers in sectors where the work cannot be interrupted on technical grounds e.g. electricity production/transmission or emergency services.*

- The legal rights and responsibilities of both employees and employers about the amount and timing of holidays taken from work.
- There are legal rights to time off work for public duties and other functions (e.g. jury service), not all of which need be paid for by the employer.
- Young people (16 and 17 year olds who left school with less than 5 GCSE passes at grades A-C or equivalent and 18 year olds who have already begun their study or training with another employer) are entitled to paid time off during normal working hours to undertake a course or training leading to a relevant qualification e.g. NVQ Level 2 or GCSE's
- There are specific rights and responsibilities that apply in the case of maternity and paternity leave.

How it affects you

You need to know about your working hours and the steps you should take to request a period off work, including the organisation's rules that apply to time off work for different reasons.

Q6 *What is the maximum number of hours per week you can be asked to work?*

.....

Q7 **How many days paid holiday per year are you entitled to?**

.....

2.4 Sickness Absence and Sick Pay

What you should know:

- There is a statutory (i.e. automatic) right to a prescribed level of sick pay that all employers must abide by. Some employers go beyond this and pay additional entitlements if employees are unwell.
- There are rules about who can claim Statutory Sick Pay which relate to how old the employee is, how much they earn and whether they have or are claiming any other form of statutory benefit e.g. statutory maternity pay or incapacity benefit.
- Employees are allowed to "self certificate" the first few days of their sickness without the need to get a certificate from their doctor.

How it affects you

You need to know about the sick pay arrangements in your organisation, including how and when you must notify your employer if you are unable to go to work because of ill health, and the implications of not following the procedures.

Q8 *Where would you get a "self certification" form and how many days sickness are you allowed to self certificate, before you have to get a doctor's certificate?*

.....

.....

Q9 *What are the arrangements for notifying your employer of sickness?*

.....

Q10 *After how many days sickness can your employer claim statutory sick pay?*

.....

2.5 Data Protection and Access to Personal Information

What you should know:

- Legislation exists to protect data held about an employee by an employer. This covers both computerised and manual filing systems.
- There are a range of principles which govern personal information:
 - What sort of information it is acceptable to collect
 - How it should be processed
 - How inaccuracies should be dealt with
 - Who should have access to it
- The protection that should be in place to ensure that no unauthorised person gains access to it.

How it affects you

You need to know who to report to on matters to do with your personnel records, and the procedure to follow to report any changes in your circumstances.

Q11 Give three examples of changes to your personal circumstances and to whom you should report these changes:

EXAMPLE 1

Report to

EXAMPLE 2

Report to

(If different from above)

EXAMPLE 3

Report to

(If different from above)

You also need to know what type of information is in your personnel record and who has access to it.

Q12 Do you have the right to see your personnel record?

.....

2.6 Health and Safety

What you should know:

- The main legislation covering health and safety in the workplace.
- Under this legislation, employers and employees have certain responsibilities. These are:
 - *Employers must safeguard as far as is reasonably practicable, the health, safety and welfare at work of all the people who work for them. This applies in particular to the provision and maintenance of safe plant and safe systems of work and covers all machinery, equipment and substances used.*
 - *People at work (employees) have a duty to take reasonable care to avoid harm to themselves or to others by their work activities, and to co-operate with employers and others in meeting statutory requirements. Employees must not interfere with or misuse anything provided to protect their health, safety or welfare.”*
- There are many health and safety regulations and codes of practice that relate to different kinds of work and different sorts of workplaces.
- There are specific health and safety requirements relating to the employment of young people. Many of these refer to specific tasks which should not be undertaken if they are beyond the physical capacity of a young person or involve toxic chemicals and other dangerous materials. It is unlikely that work in the property services environment would involve these types of hazards.

How it affects you

You need to know about the specific health and safety regulations and codes of practice which apply to your workplace and job and the equipment you use.

Q13 Give one example of a health and safety regulation which applies to your workplace:

.....

You need to know about the measures put in place by your employer to protect you and others, the name of the person who is responsible for health and safety in your workplace, and your personal responsibilities.

Q14 Who is your health and safety representative?

Name:..... Job Title:.....

Q15 Give two examples of your own responsibilities for health and safety in the context of your current job role:

.....

Q16 If you have to evacuate the building for any reason, where should you go?

.....

Q17 When should you return to the building and why?

.....

.....

2.7 Legislation and Codes of Practice for the Property Services Sector

What you should know:

- Legislation and regulations are established to provide a framework of acceptable practice that everyone covered by that framework must adhere to. Legislation and regulation provide protection for the public against working practices that are considered not to be in their best interests.
- Areas of specific legislation, as set by the national governments of the UK and EU, that specifically relate to the sector.
- The name and role of regulatory bodies relevant to the property services sector - which exist to monitor and enforce the legislative frameworks - to include general bodies such as the Health and Safety Executive as well as sector specific regulatory bodies. These include the Office of Fair Trading, who look after the Estate Agents Act, professional bodies as far as their members and, potentially, the new regulatory body for Home Inspectors which will come into existence following the proposed Sellers Pack legislation (see the last bullet point below).
- Specific legislation that may relate to your particular job role within the sector. The extent of legislative requirements will depend on the job you are doing and it is the responsibility of your employer to ensure that you know how you are affected.
- The government has announced its intention to introduce legislation to reform the home buying and selling process. As and when enacted sellers will be required to have prepared a Home Condition Report before placing their property on the market. This report will form part of a wider seller's information pack.

You will need to keep your eyes and ears open for news from the government – the subject is already forming a lively scope for discussion in the trade and professional press!

2.8 Internal and External Sources of Information and Advice about Employment Rights and Responsibilities [ERR]

2.8.1 Internal Sources:

You need to know who to ask for information and advice in your organisation – this can be on a range of topics related to:

- Employment and personnel issues
- Training and personal development
- Assessment of your progress

2.8.2 External Sources:

- **Adviceguide** – information about a range of topics, including contact details of the National Association of Citizen’s Advice Bureaux website: www.adviceguide.org.uk
- **Commission for Racial Equality**
Elliott House
10 –12 Allington Street
London, SW1E 5EH
Tel: 0207 828 7022 Website: www.cre.gov.uk
- **Equal Opportunities Commission**
Arndale House,
Arndale Centre
Manchester, M4 3EQ
Tel: 0161 833 924 Website: www.eoc.org.uk
- **Health & Safety Executive**
H & SE Infoline
Tel: 0870 545500 Fax: 02920 85926 Email: hseinformationservices@natbrit.com
- **H & SE Books**
PO Box 1999,
Sudbury
Suffolk, CO10 6FS
Tel: 01787 881165 Fax: 01787 313995

2.9 SUMMARY WORKSHEET: Statutory Responsibilities and Rights

How much do you know and where did you learn about it?

Employment Rights and Responsibilities	Employer's Induction and/or Handbook <i>(please ✓)</i>	College/ training provider's induction and/or handbook <i>(please ✓)</i>	Other: Please say which sources you used
<p>Contracts of employment:</p> <ul style="list-style-type: none"> • General • Your own/the organisation's, including grievance procedures and systems of payment • Working hours and holiday entitlements • Sickness absence and sick pay 			
<p>Legislation: (2)</p> <ul style="list-style-type: none"> • Data Protection Act • Disability Discrimination Act • Employment Rights Act • Equal Pay Act • Health & Safety at Work Act • Race Relations Act • Sex Discrimination Act • Working Time Regulations • How this legislation affects you 			

3. ABOUT YOUR JOB AND THE PROPERTY SERVICES SECTOR

You need to understand the structure of your employer's organisation, of the property services sector and the career pathways that are open to you.

3.1 Your Employer's Organisation

- Within the property services sector there are a very wide variety of organisational types. Some corporate firms, often owned by financial institutions such as banks and insurance companies, have thousands of staff and many different departments dealing with sales, lettings, property management, financial services and a wide range of what are generally described as professional services (e.g. valuation of property of all types, surveying and investment appraisal).

Such organisations will have specialist accounts, administration and personnel departments together with specialist marketing functions – and sometimes an overseas network of branches as well!

- At the other end of the spectrum may be found the tiny firm owned by one or two individual partners, maybe concentrating on one single aspect of the business, such as sales or property letting and management.
- As an alternative you may be employed within property services department/division of a central government department, a government agency or within local government. Here you will need to understand what the department exists for and the contribution it makes to the organisation as a whole.

How it affects you

You need to know how your organisation is structured, where your occupational role fits in, what your responsibilities are, and whether your organisation is similar to others in the property services sector

Q17 State who owns the organisation you work for. This may be a partnership (you should know the name of the partners), a private limited company, a public limited company or a public body.

.....
.....

Q18 Draw a structure chart of your organisation, workplace or department, showing your name and job title.

You need to know what steps you should take to try to ensure you communicate effectively with colleagues and contacts in the workplace and why this is important to the organisation.

Q19 Give two examples of how your employer benefits from effective working relationships:

Example 1

Example 2

3.2 The Property Services Sector

The property services sector has faced many changes over recent years that have affected working practices and the way in which organisations operate. For example the increase in the use of email and the Internet and its impact on client confidentiality has affected the sector.

Changes in legislation also have a considerable impact on the work of property professionals e.g. the Property Misdescriptions regulates the way in which estate agents are permitted to describe properties for sale.

The Estate Agents Act prescribes a number of ways in which estate agents conduct their business. Both Acts have stringent penalties for infringement.

How it affects you

You need to understand the impact, if any, that these changes have had on your employer and how you do your job.

Q20 Give an example of one change, which your employer made recently to respond to legislative requirements.

.....

.....

.....

3.3 Career Pathways

- For those willing to work hard and increase their skills and knowledge there are excellent career pathways in almost every area in the property services sector. Starting with few if any qualifications it is quite possible to work your way up the organisation simply by performing the job well.

If you are willing to study and train it is possible to gain qualifications such as those awarded by professional bodies, external awarding bodies and higher education institutions. These may be Higher National Certificates or Diplomas, National Vocational Qualifications (NVQs), etc.

Asset Skills publishes a qualifications and training framework leaflet which may be downloaded from the Internet or obtained in hard copy.

- Depending on the size of the organisation, there may be an opportunity to specialise in the sale, letting or management of property or, for surveying technicians, to specialise in a particular area of work. In smaller organisations, personnel will be expected to cover a range of activities.

How it affects you

You need to know about the main occupations represented in the sale, letting and management of residential property or surveying. including:

- The occupation for which you are preparing
- The main stages and requirements of the development programme that you are pursuing
- What training and development opportunities your employer provides in relation to this.

You also need to know about the requirements and characteristics of typical career paths associated with your chosen occupation and other closely related occupations.

Q21 *What options are open to you to progress within the sale, letting and management of residential property or surveying and with whom can you discuss these options?*

.....
.....

3.4 Representative Bodies within the Property Services Sector

- Within any sector there is a range of representative bodies that provide a mechanism for promoting the views of a group of people with common interests e.g. professional bodies and trades associations, or federations. The representative bodies collect the views of their members and act as their voice in discussions with other groups on issues affecting them.
- Representative bodies operate both within an organisation and between organisations and other organisations and bodies. Representation between different bodies can occur at both local and national levels.

How it affects you

You will need to know the name and role of representative bodies relevant to your part of the sector and the name of any regulatory bodies.

Q22 Give the names of two property services professional and/or trade bodies and outline their principal roles in as far as staff in your organisation are concerned.

Example 1

.....

.....

Example 2

.....

.....

3.5 Sources of Information and Advice on Training and Career Pathways

Asset Skills

2 The Courtyard
48 New North Road
Exeter EX4 4EP
Tel: 01392 423399 Fax: 01392 423373
Email: enquiries@assetskills.org
Website: www.assetskills.org

National Association of Estate Agents (NAEA)

Arbon House
21 Jury Street
WARWICK CV34 4EH
Tel: 01926 496800 Fax: 01926 400457
Email: education@naea.co.uk Website: www.naea.co.uk

Royal Institution of Chartered Surveyors (RICS)

12 Great George Street
Parliament Square
London SW1P 3AD
Tel: 020 7222 700 Fax: 020 7334 3844
Email: contactrics@rics.org.uk Website: www.rics.org

Association of Residential Lettings Agents (ARLA)

Maple House
53/55 Woodside Road
AMERSHAM HP6 6AA Tel: 01494 431680 Fax: 01494 431 530
Email: info@arla.co.uk Website: www.arla.co.uk

Careers Advice

- Your local Careers/ Connexions service
- National and local advice services such as the Careers/ Connexions service Website: www.connexions.gov.uk
- Department for Education and Skills [DfES] Website: www.dfes.gov.uk

Local Training; consult your local telephone directory for:

- Local Learning and Skills Council
- Local colleges or training providers

3.6 SUMMARY WORKSHEET: Your Job and the Property Services Sector

How much do you know and where did you learn about it?

Your Job and the Property Services Sector	Employer's Induction and/or Handbook (please ✓)	College/ training provider's induction and/or handbook (please ✓)	Other: Please say which sources you used
<p><u>Structure of the Organisation</u></p> <ul style="list-style-type: none"> Your employer's organisational structure and how typical this is Functions of different departments/ sections Your main job role and responsibilities and where you fit into the organisation Formal and informal systems for ensuring co-operation and managing conflict How to interact with colleagues and why this is important to the organisation 			
<p><u>About the Property Services Sector</u></p> <ul style="list-style-type: none"> The different segments which make up the property services sector and how they relate to each other Main suppliers Numbers of employees, size of turnover, market share Changes taking place within the sector affecting working practices and their importance 			
<p><u>Career Pathways</u></p> <ul style="list-style-type: none"> Main occupations within the property services sector including your own job Requirements of typical career paths Main stages and requirements of the Modern Apprenticeship programme and what career/ development opportunities your employer might offer in the future 			

Employment Responsibilities and Rights within Property Services

Your Job and the Property Services Sector (cont'd...)	Employer's Induction and/or Handbook <i>(please ✓)</i>	College/ training provider's induction And/ or handbook <i>(please ✓)</i>	Other: Please say which sources you used
<p><u>Representative Bodies</u></p> <ul style="list-style-type: none"> • The role of the Skills Agency for property services (Asset Skills) • How to contact Asset Skills • Roles and range of professional and trade bodies and how to contact them • Roles and range of regulatory bodies 			

Notes:

COMPLETION STATEMENT AND SIGNING OFF THE ERR WORKBOOK

We, the undersigned, agree that the knowledge and understanding covered in the Employment Responsibilities and Rights workbook, has been completed by the:

(Please ✓ as applicable)

FOUNDATION Modern Apprenticeship

ADVANCED Modern Apprenticeship

Apprentice's name in capitals:	Signature:	Date:	Date of birth:
Employer's name:	Signed for employer:	Date:	
College/ Training Provider's name: <i>(If applicable)</i>	Signature for provider:	Date:	

A copy of this page should be retained by the apprentice / training provider for submission to Asset Skills when claiming a Modern Apprenticeship completion certificate/ diploma for the Apprentice.

Notes:

Notes: