

attwaters solicitors
www.attwaters.co.uk



employment update october 2011

the basics

Contract of Employment

Employees have the right to receive a written statement of their terms of employment within two months of starting work. Employers may be liable to a fine of between two and four weeks' pay if employees are not given such a statement. The contract basics should contain:

- Name of employer and employee;
- Start date (and details if fixed term);
- Job title with a brief description;
- Place of work (and mobility clause if appropriate);
- Salary (including date of pay);
- Hours of work (and details if part time).
- Paid leave entitlement;

References in the contract to the Staff Handbook concerning;

- Sickness absence and pay entitlements;
- Notice required to terminate the contract;
- Disciplinary and grievance procedures;
- Provision for any pension;
- Whether a collective agreement applies to the employment;
- Trade union membership.

Working Time

Most employees cannot be required to work more than 48 hours a week unless they expressly agree otherwise with their employer.

Holiday

Employees are entitled to 28 days' paid leave a year, which include public and bank holidays.

Discrimination

Employees have the right not to be discriminated against on grounds of marital or civil partnership status, sex, sexual orientation, age, race or national origin, religion or belief, or disability. Compensation for breach of the discrimination law is uncapped.

Pension

Employers with 5 or more employees must designate a stakeholder pension scheme to which employees can contribute.

Personal Data

Employers need employees' consent to process any personal data, but this may be obtained through an appropriate provision in the employment contract (which must be signed by both parties).

notice period

The minimum statutory right is to one week's notice after once month's employment, rising by one week for each year of service up to a maximum of 12 weeks. A contract of employment can provide for greater periods of notice but cannot reduce them.

statutory redundancy

To be entitled to a redundancy payment an employee must have 2 years of continuous service which is capped at 20 years service. For each completed year of service an employee is entitled to 1 weeks pay capped at the statutory limit (currently a week's pay is capped at £400). However age plays a part in the calculation as follows;

Less than 22 years old

Half a week's pay

22-40 years old

One week's pay

More than 41 years old

One and half week's pay

If the redundancy process is to affect 20-99 employees then the consultation process must take at least 30 days prior to any dismissal. If 100 or more employees are affected by any redundancy process then the consultancy process must take 90 days prior to any dismissals take place.

statutory payments

National minimum wage from October 2011	Workers aged 21 and over £6.08 per hour Workers aged 18-20 £4.98 per hour Workers aged 16-17 £3.68 per hour
Statutory sick pay	Standard rate £81.60 per week for up to 28 weeks in any 3 years.
Statutory maternity pay (higher rate)	90% of normal weekly earnings for 6 weeks
Statutory maternity pay (basic rate)	£128.73 a week or 90% of normal weekly earnings if lower for 33 weeks
Maternity allowance	£128.73 a week or 90% of normal weekly earnings if lower for 39 weeks
Statutory paternity pay	£128.73 a week or 90% of normal weekly earnings if lower for 2 weeks
Statutory adoption pay	£128.73 a week or 90% of normal weekly earnings if lower for 39 weeks
Statutory redundancy	Capped at £400 per week

compensation payments

employment rights maximum award

Unfair dismissal	
Basic award	£12,000
Compensatory award	£68,400
Additional award	£10,400–£20,800 i.e. 26 –52 weeks' pay
Redundancy pay	£12,000
Discrimination	No limit
Dismissal for union/employee representative or pension trustee reasons	
Basic award	£12,000 (minimum £5,000)
Compensatory award	£68,400
Dismissal for health and safety reasons	
Basic award	£12,000
Compensatory award	No limit
Dismissal for making a protected disclosure	
Basic award	£12,000
Compensatory award	No limit
Guarantee pay	£111.00 (5 days in any period of 3 months - £22.20 a day)
Breach of Contract claims in a Tribunal	£25,000
Limit on a week's pay	£400 (where applicable)

forthcoming changes

- October 2011** Abolishment of the default retirement age of 65.
- October 2011** The Agency Worker Regulations 2010 in force from 1 October 2011. After 12 weeks working in the same role, an agency worker will be entitled to the same basic working and employment conditions as the employer's permanent employees.
- April 2012** Increase in the qualifying period for unfair dismissal from one year to two years.
- To be announced possibly 2013** Introduction of tribunal fees for issuing a claim and a further fee when the Hearing is listed. Increased fees for claims over £30,000. Fees will be recoverable by Claimant if the claim is successful.

attwaters solicitors

For more information please contact:



Jonathan Clarke
Partner
Head of Commercial Dept
DD 01279 638808
jonathan.clarke@attwaters.co.uk



Tim Carter
Solicitor
Commercial Dept
DD 01279 638869
tim.carter@attwaters.co.uk

Jonathan deals with corporate and commercial work including company and commercial contracts, business sales and acquisitions and commercial property transactions.

Tim deals predominately with employment law for both Claimant and Respondent and advises on the multitude of issues arising from employer/employee relations.

We provide a wide range of services to private individuals and businesses including:

Private Client Services

Residential Property
Family
Wills, Probate & Trusts
Disputes
Personal Injury
Medical Negligence

Business Services

Corporate
Commercial
Contracts
Commercial Property
Employment
Dispute Resolution



Harlow office
Rothwell House Harlow Essex CM20 1LQ
t: 01279 638888 f: 01279 639970

Loughton office
147 High Road Loughton Essex IG10 4LY
t: 020 8508 2111 f: 020 8508 8879

The information contained in this employment update is correct as of September 2011. It is intended for guidance only and is not intended to provide specific legal advice to you or your business. Expert advice on any issue should always be obtained. Attwaters Solicitors do not accept liability for any loss that may arise from relying on or using the information contained in this data card.

We hope that the information contained within Attwaters' employment update has been helpful. If you do or do not wish to receive copies of our employment update please email tim.carter@attwaters.co.uk to unsubscribe and providing your name, organisation and address.