

Employment Law

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YORK

Address

Sentinel House
Peasholme Green
York
YO1 7PP

Tel 01904 716 000

Fax 01904 716 100



WETHERBY

Address

The Aire Suite
Brunswick Court
Victoria Street
Wetherby
LS22 6RE

Tel 01937 583 210

Fax 01937 587 556



Settlement Agreements

(previously known as Compromise Agreements)

Employment Law Changes



Employers can dismiss employees under one of six potentially fair reasons for dismissal: conduct, capability, redundancy, breach of a statutory enactment, some other substantial reason and retirement.

However carefully these dismissals are carried out by the employer, there is always a possibility that an unfair dismissal claim will be brought either because the dismissal is not for a fair reason or because it was not procedurally fair.

To circumvent this, the parties can enter into a settlement agreement which effectively waives an employee's right to take their case to an employment tribunal in exchange for a sum of money being paid to the employee. Settlement agreements can also relate to a number of other claims. Even if the employee has less than 2 years' service, there might still be a risk in dismissing them if their circumstances fall into a category for automatically unfair dismissal. Alternatively, there may be grounds for a claim unrelated to the manner of dismissal, such as a claim for harassment or discrimination which occurred within the workplace.

In practice settlement agreements are more frequently used in the case of relatively senior employees.

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Services for businesses:

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Email law@warekay.co.uk
Web www.warekay.co.uk

For a settlement agreement to be valid certain conditions must be met:

- it must be in writing;
- it must relate to a particular complaint or complaints;
- legal advice must have been given to the employee by an independent legal adviser;
- the adviser must be insured;
- the agreement must identify the adviser;
- the agreement must state that the conditions regulating settlement agreements have been satisfied.

Where a number of claims have been raised by an employee, they can all be settled in a single settlement agreement.

It is common practice for settlement agreements to include warranties from the employee, for example requiring the employee to return the employer's property or to keep certain matters and information confidential, as well as a warranty that the employee has not been offered another job. It is also common practice for the settlement agreement to include an agreed reference.

Negotiations leading up to the making of a settlement agreement should be made "without prejudice" so that the employee cannot refer to the attempted settlement at tribunal.

Ware & Kay

good on paper, even better in person

Contact us

For further advice on your employment issues please contact **Gill Wilkinson** on 01904 716050 or email gillian.wilkinson@warekay.co.uk.