

## Share for employment rights - what employers need to know

Three different types of employment status have existed for some time: employee, self-employed and worker. Each benefits from a slightly different range of employment rights. From September 2013, a fourth type joined the list: employee shareholder.

This measure was introduced by the government to reduce employment costs for employers by giving employees a stake in the company they work for in return for waiving some of their employment rights.

Employees have to be given shares in the business in order to become employee shareholders. The status can only be offered if your business is run as a company. Sole traders, partnerships, charities and public sector organisations will not be able to take part. An employee shareholder has to be given fully paid-up shares worth at least £2,000 and there is no maximum amount they can be given.

Job offers can be made conditional on an employee agreeing to be an employee shareholder. Employee shareholder status can be offered to existing employees, but if they refuse to accept such an offer they cannot be treated less favourably.

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In return for being given shares, the employee can be asked to waive any or all of the following employment rights:

- the right not to be unfairly dismissed – although they could still bring a claim if the reason for dismissal was discriminatory or automatically unfair;
- the right to a statutory redundancy payment;
- the right to request flexible working;
- the right to request training or undertake study; and
- the right to give eight weeks' notice of an early return from maternity or adoption leave, instead the employee shareholder would have to give 16 weeks' notice.

There are many considerations before deciding whether to offer shareholder status to your employees including following the correct procedure, valuing the shares correctly, tax consequences and how shares are to be transferred if the employee leaves or the business is sold.

Legal advice at an early stage will help you work out how the new employee shareholder status could benefit your business.

## Ware & Kay LLP

good on paper, even better in person

### Contact us

**Ware & Kay's specialist, Gill Wilkinson, has extensive experience in all aspects of employment law. Contact her on 01904 716000 or 01937 583210 or gillian.wilkinson@warekay.co.uk.**

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