



Top Tips to Avoid Employment Disputes

A guide by PCB Solicitors

With the average claim in the UK for unfair dismissal ranging from between £8,000 to £16,000 the financial impact on a small business is potentially colossal. And that doesn't take into account the additional management time required to deal with any dispute, the potential impact on a business's reputation, or the effect on the morale of an organisation's wider workforce. Added to that is the fact that over a quarter of small businesses admit to not keeping up to speed with legislative changes and a third do not consider employment law to be relevant to their day-to-day business.¹

Failing to keep up-to-date with just what is required of you as an employer could potentially put you, your team and your whole business at risk. Which is why we've put together a number of top tips to help you understand your responsibilities when it comes to employing staff, and what you need to consider to avoid any future disputes or potential claims to the Employment Tribunal.

Recruitment

Employee protection begins even before the employment relationship does. Any job adverts cannot be discriminatory under the Equality Act, meaning that it is unlawful for any employer to discriminate against a person on the ground of any protected characteristic, ie, age, race, sex, gender reassignment, disability, marriage or civil partnership, religion or belief, or sexual orientation. In addition, if a candidate has a disability then you as a potential employer will need to consider making any reasonable adjustments.

Offer of employment

Once you are ready to make an offer of employment to a potential employee, you will need to carefully consider the full terms of the actual job offer and to provide all relevant information to the selected candidate(s). This will require a detailed outline of the terms and conditions of employment you intend to offer, which will normally be recorded in a Statement of Particulars or an Employee Contract. The statement must be provided within two months of the employee's start date.

It is also good practice to have either Policies or a Handbook in place upon the employment commencing to cover all elements of the employment relationship and to avoid any confusion or disagreements further down the line. Policies can be drafted and adapted to cover a number of issues relevant to your specific business and workplace, including sickness, disciplinary, grievances and even social media use. Any offer of pay must meet the Minimum and Living Wage.

During Employment

The Equality Act continues to apply throughout the employment relationship and employers must not discriminate against employees or workers at any time or for any reason.

The Working Time Regulations also applies to all employees and workers. This statutory directive stipulates and governs the number of hours an employee should work in an average week, including minimum rest periods and paid annual leave (including bank holidays and public holidays) that should be provided.

Should you decide to either buy or sell a business, then the Transfer of Undertakings Protection of Employees (TUPE) Regulations are likely to apply. These ultimately provide rights to an organisation's employees when their employment changes through a business transferring to a new owner. The key for any employer in this situation is to take action well in advance and to seek the correct advice on procedure to avoid any claims.

Ending the Employment

If you are considering ending the employment relationship – whether for a whole host of reasons – then you need to make sure that you follow a fair procedure. If an employee is going to be dismissed, then make sure you check the employment contract thoroughly to ensure the correct notice period is provided. Failure to follow a fair procedure, dismiss for a fair reason, or if dismissal is not considered a reasonable or valid response, then the dismissal may be found to be unjust.

In any redundancy situation, as per TUPE above, the key is to prepare and act well in advance and to seek professional legal advice on procedure to avoid any claims. All potential redundancy situations need to be dealt with on their own merit as where there are 20 employees at risk of redundancy, for example, then future statutory obligations will need to be followed.

Another consideration when considering ending any employment relationship is whether any Post-Termination Agreements apply. These are clauses which are often contained within an employment contract and may restrict an individual from conducting competitive activities once their employment has ceased. This can be particularly important where the individual at risk of dismissal holds a senior position and may have access to confidential information, or have influence over staff and/or clients.

¹HR Magazine



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