

EMPLOYMENT SETTLEMENT AGREEMENTS

As you move through your working life, you will almost certainly change employers several times. Whilst you may leave a former employer without much formality, it has become more common for the employer/employee relationship to be formally ended through what is termed a "Settlement Agreement". Where employment has come to an end through redundancy or there is a potential dispute between the employer and employee, a Settlement Agreement is quite likely.

A Settlement Agreement is a contract between the employer and employee. A Settlement Agreement is usually entered into when there is a potential dispute between the employer and employee, there being a risk that the employee has a claim against the employer due to something the employer has done, or failed to do, which may have been wrong. The employee could have a potential claim against the employer for many reasons, a common reason being that the employee believes he/she has been unfairly treated by his/her employer and it is proving difficult for the working relationship to continue (as an example, such as where an employee and his/her supervisor simply cannot work together due to a personality clash and the employee considers that he/she is being unfairly treated by the supervisor).

In any contract, each party must agree to something. In a Settlement Agreement, the employee agrees to give up virtually all his/her rights against his employer, including the right to make any legal claim against the employer (such as for the unfair treatment, as referred to in the example above). This means that under the Settlement Agreement, the employee will not take any legal proceedings (in the Employment Tribunal) against the employer due to the alleged unfair treatment.

The obligation placed upon the employer under the Settlement Agreement is generally that the employer will pay the employee a sum of money that would not otherwise be due to the employee. Any such sum paid to an employee is further enhanced by the fact that income tax is not payable on the first £30,000 of such a payment.

The only rights that an employee cannot give up under a Settlement Agreement relates to pensions, enforcement of the Settlement Agreement itself, and any legal action in relation to a "latent" personal injury, such injury being an injury allegedly caused by the employer but which the employee did not know of, or could not have reasonably known of, at the time of signing of the Settlement Agreement (a common example being asbestos-related illness, which may not appear for several years).

A key component of a Settlement Agreement is that the employee must receive legal advice as to the implications to the employee of the Settlement Agreement. A solicitor must advise the employee of such implications. The solicitor will sign a certificate confirming that he/she has given such advice to the employee and is satisfied that the employee understood such advice. There will of course be a fee to be paid to the solicitor for such advice however such advice will almost always be paid for by the employer.

If you need advice in respect of a Settlement Agreement, please contact Andrew Stokes at Alison Fielden & Co Solicitors, telephone 01285 653261.