



Harold Benjamin | Solicitors

LEGAL MINDS *business thinking*

Employment Pocket Guide

DID YOU KNOW?

- Employees accrue holiday entitlement when they are on sick leave and maternity leave
- There is now no set retirement age
- Before an employee can bring a claim in the Employment Tribunal they must first try to settle the claim through the ACAS Early Conciliation process
- Full time employees are entitled to 5.6 weeks paid holiday (28 days) but this can include the normal 8 days bank holidays
- Employees are entitled to minimum notice periods of 1 week for every full year worked up to a maximum of 12 weeks' notice for 12 years or more employment

USEFUL WEBSITES

www.acas.org.uk

www.gov.uk (Link to Employing People)

www.hmrc.gov.uk (Link to Employers)

www.justice.gov.uk (Link to Tribunals – Employment)

EMPLOYMENT ADVICE AT HB



Marina Vincent

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Marina Vincent can advise on all aspects of employment law, from the start of the employment relationship regarding recruitment, employment contracts and policies, then through the employment relationship advising on matters such as restructuring, varying contracts, redundancies, managing sick leave and disciplinary and grievance procedures. She also advises on Employee Shareholder Agreements.

In the event the employment relationship ends in dispute, she provides advice and representation through all stages in Employment Tribunal or High Court or County Court claims.

She takes a commercial view and advises settlement where appropriate while also robustly defending her clients at the right time. She handles high value termination contracts for senior executives and advises both employers and employees regarding Settlement Agreements used to settle disputes.

Compensations Limit - 2015/16

Complaint	Maximum Award
Unfair Dismissal: - Basic Award - Compensatory Award	£14,250 (maximum) 1 year's net pay or £78,335 (whichever is less)
Discrimination	Unlimited
A week's pay used to calculate basic awards and statutory redundancy payments	£475
Statutory Redundancy Pay	£14,250 (maximum)
Dismissal for Health and Safety reasons: - Basic Award - Compensatory Award	£14,250 (maximum) Unlimited
Dismissal for making a protected disclosure: - Basic Award - Compensatory Award	£14,250 (maximum) Unlimited
Breach of Contract	£25,000 in the Employment Tribunal (no limit in the High or County Courts)
Failure to inform or consult over a TUPE transfer	13 weeks' actual pay
Breach of Right to be Accompanied	2 weeks' pay (up to £950)
Failure to give statement of employment particulars	£950 to £1,900

Qualifying Periods and Time Limits

Complaint	Qualifying Period	Time Limit
Discrimination	None	3 months from the date of the act complained of
Written Reasons for Dismissal	2 years	3 months starting from EDT*
Unfair Dismissal	2 years	3 months starting from EDT*
Automatically Unfair Dismissal e.g. Pregnancy, Health and Safety, Whistle Blowing	None	3 months starting from EDT*
Statutory Redundancy Payment	2 years	6 months from relevant date
Written Particulars of Employment	1 month	3 months from the date employment ceased
Contract Claim	None	3 months from EDT* in the Employment Tribunal (6 years from breach in the High or County Court)

Fees

Fee Type	Issue	Hearing
Type A Claim	£160	£230
Type B Claim (most claims)	£250	£950

*Effective Date of Termination

FREQUENTLY ASKED QUESTIONS

I dismissed an Employee for gross misconduct for falsifying his travel expenses. He has now claimed race and disability discrimination against the company but it was not. Can he do that?

The Employee must have one or more of the protected characteristics, these are: sex, gender reassignment, being married or in a civil partnership, being pregnant or on maternity leave, race (including ethnic or national origin, nationality and colour), disability, sexual orientation, religion or belief, and age. Discrimination occurs if an Employee is treated less favourably than another person in the same or similar circumstances (the "comparator") because of one of the above characteristics. As long as you would have dismissed anyone in the same circumstances, irrespective of the protected characteristic, it will not amount to discrimination under the Equality Act 2010.

I have an Employee who joined me 3 months ago. His wife is pregnant and he says he intends to take Paternity Leave. Is he entitled to it and how long for?

To qualify, an Employee must have worked continuously for the Employer for 26 weeks ending with the 15th week before the baby is due. Accordingly, you will have to check when the baby is due to be born and whether your Employee will have been with you for 26 weeks by then.

I dismissed an Employee last week because they were not performing well enough. Can they claim they have been unfairly dismissed?

This will depend on the length of employment. They must have worked two full years before they claim unfair dismissal. Compensatory Awards at the moment can go up to a year's net pay or £78,355, whichever is less, and Basic Awards up to £14,250. If Employers fail to follow a fair dismissal procedure, an Employment Tribunal can increase Compensatory Awards by up to 25%



Harold Benjamin | Human Resources

Solutions for the modern business

DO YOU NEED HELP WITH HR ON A BUDGET?

HBHR is an easy-to-use web-based HR solution for you and your employees.

HBHR is designed to make your life easier and save you money by providing a blend of staff management solutions including:-

- Tools to manage sickness, holidays, shifts and rotas
- Access to legally compliant standard letters and documents
- A portal within which to store employee papers and any legal advice you receive
- A weekday advice line to our experienced solicitors between 8:00am and 6:00pm

The cost of defending a Tribunal claim can run into thousands of pounds. HBHR is for a fixed yearly price plus a one-off joining fee and can be limited to 1 year. Many similar products require at least a 2 year and often up to a 5 year commitment.

For further information please call
Marina Vincent on 020 7118 8551

Alternatively, visit our website
www.haroldbenjamin.com/site/resources/hbhr

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