



## **EMPLOYMENT LAW – PROBLEMS AT WORK**

Employment Law can be complicated and few people have a clear idea of all their rights at work.

### **GET ADVICE EARLY**

If you think your employer has treated you unfairly, it is important to get legal advice at the earliest opportunity. In some circumstances there are specific deadlines for making complaints against an employer, and generally the longer you leave a problem, the harder it is to solve.

A Solicitor can:

- explain your options;
- tell you if you have a legal case against your employer;
- help you decide whether your case is worth taking further; and
- explain what you should do next.

### **STARTING THE PROCESS**

Once you have found a Solicitor, you should explain your situation briefly over the phone and set a date for a meeting. If you plan to take someone with you to the meeting, mention this and ask if there are any documents you need to bring.

### **WHAT YOUR SOLICITOR WILL NEED TO KNOW**

At the meeting your Solicitor is likely to ask you:

- how long you have worked for your employer;
- how much you earn;
- the details of your problem at work;
- what events have led you to your current situation;
- whether you have any relevant documents;
- whether there are any documents which you do not have that might be relevant to the case; and
- what, if anything, you have already done to sort the matter out.

### **EXPLORING THE ALTERNATIVES**

Once you have explained your circumstances in detail, your Solicitor can explain your options. If your Solicitor believes you have a case and you want to take it further, you need to decide how you are going to do this.

You should, if possible, try and sort out your problem through internal company grievance procedures. You should do this because:

- matters can often be sorted out quite quickly this way; and
- Employment Tribunals may refuse to hear your claim or reduce your compensation if you haven't tried to sort out the matter internally before taking your case to them.

Ideally you should consult a Solicitor before using internal procedures. Your Solicitor can help you set out your case or negotiate a settlement for you. If you are happy to carry out

these negotiations directly with your employer, your Solicitor can offer useful advice on how best to go about doing this.

If your attempts to solve the problem internally are not successful, an Employment Tribunal may be your best option. If so, your Solicitor can help by preparing your case or representing you at the Tribunal.

### **TIME LIMITS**

If you do want to take your complaint to an Employment Tribunal, you must normally do this within three months less one day of the date of the events you are complaining about. The deadline may be extended in special circumstances, or if you are following a disciplinary or grievance process, but the rules in this area are complex and you should ensure you take legal advice. If your claim is for a redundancy payment, you normally have six months less one day to take it to the Tribunal.

### **COMPROMISE AGREEMENTS**

If you can reach an agreement with your employer without going to a Tribunal, this can be recorded in a 'Compromise Agreement'. This is a legal document which confirms the terms of the settlement you have agreed, in exchange for which you give up your legal claim against your employer. Your employer will normally make a contribution to your legal costs as part of the agreement.

### **EMPLOYMENT TRIBUNALS**

An Employment Tribunal hearing is chaired by an Employment Judge and made up of two independent 'wing' members with experience of employment relations. It is up to the Tribunal to:

- weigh up the evidence;
- consider the law; and
- decide whether your claim against your employer is justified.

In doing this the Tribunal is likely to consider:

- what policies or procedures your employer has for dealing with problems at work; and
- what steps you and your employer have already taken to solve the problem.

They will also consider your behaviour and your employer's behaviour throughout the time you were employed.

Tribunal hearings are usually completed within a day, but may take longer depending on the amount of evidence the Tribunal has to hear. Decisions are made by majority vote and may be announced straight away or the Tribunal may reserve their judgment to be given in writing at a later date. If the Tribunal decides in your favour, it has the power to award you compensation. If you are claiming for unfair dismissal, it can sometimes order your employer to give you your job back, though this is rare.

The value of compensation awarded will depend on your individual case and the nature of your legal claims. The Tribunal normally calculates the value of your compensation with reference to the actual financial losses you have suffered. The mean average compensation award for an unfair dismissal claim in 2006/07 was £7,974.

### **CLAIMING UNFAIR DISMISSAL**

Generally you are only entitled to make a claim for unfair dismissal once you have been employed for a year or more, full or part time. However, if you are dismissed for any of the reasons described below, your dismissal may be 'automatically unfair' or you may have a claim of discrimination. This means that you are protected by law from the first day of your employment. These reasons include:

- Pregnancy, childbirth or maternity, paternity, adoption, parental or dependant care leave;
- Discrimination on grounds of sex, race, disability, age, religion or belief and sexual orientation;
- Equal pay;
- Trade union membership or duties;

- Health and Safety issues; and
- Exercising a legal right, such as your right to a minimum wage, paid leave, a written statement of your terms and conditions of employment, or an itemised pay statement.

### **DISCRIMINATION**

If you believe that you are being treated less favourably than other employees and that the reason for this is related to your race, sex, disability, age, religion or belief or sexual orientation you may have a discrimination claim. Your Solicitor can tell you more about this.

### **SOLICITORS' CHARGES**

Charges can vary between Solicitors. They depend on:

- the experience and knowledge of the Solicitor; and
- how complicated your case is.

Although Legal Aid is not available for Tribunal cases, there are a number of options for funding a case. These can include instructing a Solicitor on a private client basis, at an agreed hourly rate, and the possibility of your insurance company funding your claim if your household or contents insurance contains legal expenses cover. You may also be entitled to free legal advice as a member of a trade union. Your Solicitor can take you through the options.

Stone Rowe Brewer  
Stone House  
12-13 Church Street  
Twickenham  
Middlesex  
TW1 3NJ  
Telephone: 020 8891 6141  
Fax: 020 8744 1143  
DX 200006 Twickenham

Email: [info@srb.co.uk](mailto:info@srb.co.uk)  
Web: [www.srb.co.uk](http://www.srb.co.uk)

JENNIFER BREWER IAIN LESLIE LL.B PAUL McNUTT LL.B JOHN ANDREWS LL.B LISA BRODDLE B.A PHILIP HOLT LL.B

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