

Compromise Agreements A Preliminary Note to Employees

This is a preliminary advice note and is not a substitute for taking detailed legal advice in relation to your situation, which may be legally complicated.

Compromise agreements are a relatively common way of ending an employment relationship. Under the terms of the Agreement the employee receives a lump sum payment and the agrees to accept the money in settlement of all claims past, present or future which the employee has or may possess as against the employer, any group company or any officer or staff member.

For an employee, it is important to obtain best advice if such agreement is presented to yourself to sign from your employer.

The role of the legal adviser is not just to witness your signature, but to provide detailed advice to an employee as to their legal position, and indeed whether the employee should accept the monetary offer made by the employer under the terms of the Agreement and to discuss other options available.

The legal adviser will also consider amendments which should be made to the wording of draft agreement. These agreements are usually drafted very favourably towards the employer, and need to be amended to redress the balance, and to protect the employee's interests.

It is not uncommon for the employer to offer a contribution towards the employee's legal costs under the terms of the Agreement.

In our experience such costs contribution is negotiable, and the amount will usually be required to be increased. This is primarily because the amount of costs offered usually only provide for the signing off the agreement without any amendment. This is of course deliberate on the part of employers, since they do not wish their draft agreements to be amended.

Some of the terms of draft agreements are very onerous, such as an obligation upon the employee to repay the whole of the compromise money if they breach (however minor) their obligations under the Agreement. Such obligations usually include warranties that the employee has never been in breach of their employment agreement (which would include arriving for work late), or will not disclose the terms or even the existence of the compromise agreement to any third parties.

It can therefore be appreciated why amendments are usually recommended.

Employees should be wary about legal advisers who do not suggest any amendments or any serious amendments to the terms of the draft agreement and who are prepared to rely entirely upon the costs contribution to be paid by the employer.

Sometimes we advise clients not to accept the monetary offer on the table.

It is in fact not uncommon for the amounts offered by employers under compromise agreements to be inadequate.

One notable example comes from a client of ours who was offered £8,000 from an employer under a compromise agreement. We could not recommend the client to sign off the agreement and following the making of a Tribunal claim, settlement with the Employer was agreed in the sum of £25,000.

It is also not uncommon for employees to have the benefit of legal expense insurance cover in order to bring Tribunal claims. This is a common add-on to home contents insurance policies. Alternatively, where there is no legal expenses cover, in the case of a reasonably strong claim then we would be prepared in conjunction with a barrister to enter into no-win, no-fee agreement.

However, upon the basis that the employee is willing to accept the money on the table then it is necessary to run through with the employee each of the paragraphs of the compromise agreement making amendments where necessary or instructed to do so.

Compromise agreements are generally extremely onerous and in a perfect world we will normally only recommend the employee to sign after implementing reasonable changes.

Legal costs will depend upon the amount of work involved and whether the employee feels that they can live with the Agreement in its amended state or whether we should push to secure further amendments.

Compromise Agreements represent a core area of the work of this firm.

We offer an initial fixed fee interview of half an hour at a cost of £75 plus VAT. We are pleased to undertake this by way of a telephone conference if this should be more convenient.

If you would wish this firm to assist please contact Lawrence Rodkin (partner).