

Settlement Agreements – Update

“Compromise agreements are now called settlement agreements & ACAS has a new voluntary code of practice”

Compromise agreements have been used to settle employment issues for many years, the government made the changes effective 29/07/13 to more clearly reflect their purpose. Although the code is not a legal requirement, to ignore it would seriously jeopardise your case in a tribunal. The code states that agreements must:-

(1) Be in writing (2) relate to a particular issue or proceedings (3) State the details of the employee’s “relevant independent advisor” (RIA) (4) Confirm that the RIA has the relevant insurance cover (5) State that the regulations have been complied with.

An RIA can be a certified or authorised official, qualified lawyer, trade union member or employee or a properly trained/authorised advice centre worker. The code also sets out best practice to prevent harassment/bullying/discrimination, time scales for consideration of the agreement (10 days), rights of the employee to be accompanied & the fact that you can’t force a settlement agreement on an employee.

Scottish Executive – Pension Promise

“An independent Scotland will offer better pension protection according to a Scottish Executive report”

The report provides details for state, private & public sector pension provisions under an independent Scotland. The major points:-

(1) Basic state pension will be paid on time & in full at the current rate of £110.15/wk rising to £118.60 in 2016/17. (2) The UK single tier system will be put in place from 2016 at a rate of £160/wk (3) there will be a triple protection system keeping pensions in line with earnings & costs during the 1st term of an independent parliament. The report also raised the possibility of an earlier retirement age in Scotland as the Scottish government is not convinced about the intended increase in retirement age to 67 between 2026/28.

Financial Transaction Tax Criticised

“EU Lawyers say the tax on bank & financial institution transactions to be adopted by 11 EU states, will be illegal”

The financial transaction tax (FTT) applies to share/ currency/ bond transactions in the financial sector. Lawyers believe the tax would discourage free capital movement & therefore be illegal. Sometimes known as the “Robin Hood” tax, it’s intended to reduce risky trading, produce fairer tax revenues & be a source of funding for addressing poverty & climate change. The 11 countries include Germany, Spain, Italy, France & Belgium but not the UK over fears it could damage trading with foreign businesses. The tax is expected to bring in €35bn/year in revenues.

Mervyn King (former B of E Governor) says the banking sector is widely sceptical about the impact of the tax.

I Was Told to do it That Way!

“In procedural misconduct proceedings an employee claims that they were told to do it that way by a manager, who has now left. Where do you stand”

Let’s take the example of an employee who has breached cash handling procedures (deemed gross misconduct), their claim won’t automatically get them off the hook because (a) while it may be the truth, it doesn’t wholly justify their actions (b) they may be using the fact the manager has left to their advantage.

Don’t take the claim at face value, ask the employee to provide a witness statement from the manager. If one is provided then you will have to take it into consideration. If one isn’t forthcoming then ask other employees & identify if they received similar instructions. If you can’t establish fact then don’t dismiss, you can still issue a final written warning. Ensure your staff are re-trained in the correct procedure & they sign to say so. If you are absolutely satisfied they have lied & still want to dismiss ensure your evidence is clear & robust, as it is likely to be challenged in a tribunal.

Employers Wise up on Staff Benefits

“The Chartered Institute of Personnel & Development (CIPD) reports that more employers are targeting staff benefits towards achieving corporate goals”

The report shows more targeted staff benefits are contributing towards better recruitment, retention & motivation and are helping companies achieve success. Findings also include:-

(1) Companies who concentrate on excellent customer service/ products focus on employee training/ development benefits. (2) Those companies with costs as a key driver tend to offer products/services at a discounted rate. (3) Companies with a high graduate intake offer defined contribution pension schemes.

Where benefits are made clear defined & transparent the result is improved employee relations, better productivity, lower sickness/absence rates, lower staff turnover & less pay dissatisfaction.

Nearly 50% of Employers Improve Wages

“The Federation of Small Businesses (FSB) reports 49% of small businesses paying national minimum wage (NMW) have or would like to increase their rates of pay”

The FSB report covering the last 12 months also reports that:- (1) Those paying NMW has fallen by 4% to 23%. (2) The Living Wage (basic cost of living rate) is paid by nearly 50% of firms. (3) The majority of small businesses intend to increase rates as soon as is financially viable. (4) 15% of small employers increased staffing in the 3rd quarter of 2013, the highest rate since the survey began in 2010.

Businesses in traditionally low pay sectors such as retail & leisure however report slower recovery and are therefore not able to implement rises. The FSB comments that small businesses are becoming more competitive in the labour market but business rate & utility costs are still impacting on many firms and calls for a concerted enterprise policy to boost growth.