



HilliersHRWSolicitors

Twelve fast facts about employment law that could save you time and money

If you find employment law complex and, at times, frustrating, you're not alone. Many companies find themselves having to resolve issues to do with employment legislation at some stage. More often than not it's because they've been unaware of the procedures they have to follow, rather than having done anything deliberately wrong.

You can avoid this hassle and cost by being aware of the correct procedures in the first place. The following tips give you a flavour of the kind of things you need to look out for. (It's not a comprehensive list!)

Redundancy

1. What if business slows down and you need to make redundancies? You must follow a set procedure for selecting employees for redundancy. Once you have made a decision, you must confirm this in writing with the employee by way of a Compromise Agreement, which must comply with statutory requirements. Call us for guidance.
2. Even with redundancy, you must still give the appropriate period of notice (depending on how many people you employ), or be liable for extra payments. Make sure you follow the correct procedures.
3. You may automatically be liable to make redundancy payments if you are buying or selling a business under TUPE Regulations – Transfer of Undertakings (Protection of Employment) Regulations.

Discrimination

4. An employment tribunal can award unlimited compensation against you for disability, race or sexual discrimination, whether you intended to discriminate or not.

Unfair dismissal

5. The new limit for improperly dismissing staff is £50,000 and the employee needs to have been employed by you for only 12 months.

Working Time Regulations and National Minimum Wage

6. If any of your staff work a nightshift, or longer than the average 48 hour week, they can insist on their rights under *The Working Time Regulations 1998* unless you have appropriate written agreements in place to effectively override the requirements
7. It is up to you as the employer to pay the *National Minimum Wage* (NMW) to employees. With an appropriate "Compromise Agreement" it is sometimes possible to avoid being bound by the NMW.
8. Your employees, including contract staff or any self employed persons you employ, have the right to insist on a 48 hour working week, 4 weeks minimum paid leave (this includes part-time staff) and entitlement to the *NMWW*

Contracts

9. Every member of your staff must have a properly drawn up employment contract. It may be a service contract for your directors, a consultancy agreement for self-employed contractors, a standard employment contract, or fixed-term contracts with no redundancy/competition clauses – whatever you need to cover – and they must comply with all the latest developments in European Law.
10. Remember to include important clauses/sections for:
 - termination agreements
 - confidentiality, including the use of your customer database and other sensitive information
 - ownership of inventions or designs developed by you on your behalf
 - capability and performance procedures to ensure you can move individuals who do not come up to scratch
 - recovery of your property
 - plus, of course, standard clauses to comply with *Sex, Race and Discrimination* legislation, *The Working Time Regulations 1998*, the 48-hour week plus disciplinary and grievance procedures

At HilliersHRW we can draw up tailor-made contracts for you that will protect your interests. We can also provide employment contracts for you to download into your own computer.

11. Do you employ senior or key personnel who could damage your business if they left? Make sure you protect against this in your contracts. We advise you to include clauses that prevent: poaching and competition, setting up a rival business and soliciting your customers and contacts. Also, be clear about *Garden Leave*, so that employees can be kept away from work when you wish to make changes.

And finally...

12. If you are faced with an employment tribunal, remember you don't have to go through it alone. One of our specialist lawyers can attend the tribunal with you.

For sound, specialist advice on any of these issues – and more! – call HilliersHRW today on 01234 858000. We'll see you safely through the ins and outs of employment law.