

## SETTLEMENT AGREEMENTS: CHECKLIST FOR EMPLOYERS

Settlement agreements (previously called compromise agreements) are a legally binding contract where an individual waives their right to bring the employment tribunal claims listed in the agreement – usually in return for a payment.

### Key considerations for employers:

#### Before deciding whether to offer a settlement agreement:

- What is the reason you are considering a settlement agreement? Is a settlement agreement the best way to deal with the issue?
- Have you considered the implications for the employment relationship with the employee if an agreement cannot be reached? And the implications for employment relations in the wider workforce?
- Is it clear that there is no unlawful discrimination or victimisation involved in offering a settlement agreement in the circumstances?

#### Offering and negotiating a settlement agreement:

- Have you carefully considered the value of any financial payment that may be offered? If you are offering a financial payment is the amount an appropriate offer for settlement?
- Have you considered the taxable status of the payments? Do not offer tax free payments before you've properly considered the position.
- Will you offer to provide a reference? If so, what might that reference say?
- Making an offer of a settlement agreement is inevitably a sensitive issue – have you considered how best to raise the matter with the employee? And have you thought about the appropriate information the employee may need to allow him/her to make an informed decision about their options?
- Will it be useful to arrange a meeting, or a series of meetings, to discuss your proposal with the employee? Are you going to ask the employee if they would like to be accompanied at any such meeting?

- Do you understand the admissibility provisions relating to settlement agreement discussions in employment tribunals and courts?
- Have you considered what might be a realistic and reasonable timescale for any discussions and negotiations?

### **Drawing up a formal written settlement agreement**

- Are you aware of all the legal requirements for a settlement agreement to be valid?
- Does the agreement meet all those legal requirements?
- Will you offer to pay the cost, or a contribution towards the cost, of the employee's independent advice? It's typical to offer a contribution of £350-£500 plus VAT in straight forward situations. The contribution should be higher for senior executive or more complex exits.
- Have you given the employee a minimum period of 10 calendar days to consider the proposed formal written terms of the settlement agreement and to receive independent advice?

**For more information or to speak to a solicitor please contact us by calling 0117 906 9400 or email [hello@gl.law](mailto:hello@gl.law)**

*The content of this guide is intended for general information purposes only and shall not be deemed to be or constitute legal advice.*