



Employment Documents

With a steady rise in the number of tribunal claims, having the right documentation in place is vitally important in order to help you stay out of trouble. So what are the most important things to get right?

Growth in Tribunal Claims

According to employment tribunal and Employment Appeal Tribunal statistics for 2006/7, tribunal claims have increased to 132,577 (compared to 115,039 in 2005/6). The most claims were for unfair dismissal at 44,491; while those for breach of contract were third with 27,298. This suggests that many employers are still coming badly unstuck with their paperwork. So what are the four most important areas to get right?

1. Recruitment

The recruitment process is where it can all start to go wrong if you're not careful from the outset. This is because many groups are protected from discrimination before they've got a foot in your door. For example, job applicants could have a claim if they believe you rejected them on one of the following grounds: sex discrimination; disability; age; race; religious belief; sexual orientation; and gender reassignment.

2. Contracts and Staff Handbook

As breach of contract claims were the third most popular to go before tribunals, it's important to keep your employment contracts up to date. This will ensure they not only reflect any changes introduced into your business, such as a change to working hours, but also allow you to incorporate any new employment laws.

Tip: Carry out a brief review of your contracts at least annually. If revisions are required, do ensure that the corresponding sections of your staff handbook are updated to reflect them.

3. Restrictive Covenants

The need for restrictive covenants will vary not only between businesses but also from employee to employee. This is an important

point as tribunals have shown themselves very willing to completely strike out any clause that's excessive and unduly restrictive on an employee. Therefore, you should monitor their use in order to ensure that they remain valid and go no further than is absolutely necessary to protect your legitimate business needs.

Tip: Look at the employee's job and determine what level of protection, if any, you reasonably need. If a term seems excessive, e.g. the length or geographical extent of a post-employment restriction, modify it.

4. Disciplinary Procedures

Numerous employers have come unstuck by failing to follow their own disciplinary and dismissal procedures. Yet, apart from non-compliance with the process itself, one area that still causes difficulties is failing to spell out the type of behaviour that could lead to dismissal.

Tip: Avoid an unfair dismissal claim by setting out examples of what behaviour constitutes gross misconduct and what will trigger a suspension from work. With the latter, clarify whether or not any suspension will be paid (in the majority of cases it should be).

As unfair dismissal and breach of contract figure highly in tribunal claims, review your employment contracts annually and ensure that any updates are reflected in your policies. Also clarify how you define gross misconduct.