



Taking on
your first
employees

TORQUELAW

SPECIALIST EMPLOYMENT
SOLICITORS

“ON SETTING UP MY BUSINESS I WANTED TO ENSURE THAT I HAD THE SUPPORT OF AND EXPOSURE TO THE RIGHT PEOPLE. TORQUE LAW TOOK TIME TO UNDERSTAND MY PLANS, GUIDE ME AND ANSWER ALL MY QUESTIONS. I REALLY RATE THEIR PERSONAL, FRIENDLY AND OPEN APPROACH. I’D RECOMMEND THEM TO ANY BUSINESS, EITHER STARTING OUT OR SCALING UP. ”

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NOTE TO READERS

This guide is for your information only. It provides only an overview of employment law considerations for start-up businesses and references to laws and other regulations that are in force at the time of publication. No action should be taken in reliance on the guide without seeking advice from Torque Law LLP. Torque Law LLP accepts no responsibility for any loss suffered as a result of any acts or omissions by any person in reliance on the material contained in this guide.

IF YOU'RE THINKING ABOUT TAKING ON YOUR FIRST MEMBERS OF STAFF, IT'S IMPORTANT THAT YOU KNOW ABOUT THE LEGAL REQUIREMENTS AND HAVE THE NECESSARY ARRANGEMENTS IN PLACE.

IT'S ALWAYS A GOOD IDEA TO SPEND TIME GETTING THINGS RIGHT FROM THE START AND TO CALL ON THE RIGHT EXPERTISE.



Tiggy Clifford
& Emma Whiting of Torque Law

THAT'S WHERE WE COME IN...

At Torque Law, we're specialist employment solicitors. It's all we do. We've got heaps of experience in guiding employers through the employment relationship from recruitment and (if it's needed!) to termination and any tricky issues along the way.

On top of that, we're business owners too and we know first-hand what it's like to take the plunge and engage your first team members as well as the ups and downs you may face along the way.

How we work with our clients is really important to us. The majority of our work comes from word of mouth recommendations. **That's why we've committed to our client pledge.**



We make our clients' lives easier by:

Listening to what our clients want to achieve and putting ourselves in their shoes to build long-term relationships;

Delivering quality advice without any nasty surprises on fees; and

Using our deep understanding of employment law and tactical nous to prevent employment issues from becoming an unwelcome distraction.

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TORQUELAW

1.

GETTING READY FOR YOUR FIRST EMPLOYEE

EMPLOYMENT STATUS

You'll need to decide whether you want to employ your staff or engage them on a self-employed or freelance basis. The distinction is important because employees have greater rights and protections than those who are self-employed.

Employee: An individual who works under a contract of employment or apprenticeship.

Self-employed: An individual who genuinely runs their own business, often for multiple clients and takes responsibility for its success or failure.

You need to be aware that there's a third category of 'worker' where the individual still has some employment rights, even though they may appear to be self-employed.

In reality, the distinction between these three categories can be blurred and so it's important that you're clear from the outset about the employment status of the individuals you take on. We can provide further advice and relevant documents to suit.

WHO WILL EMPLOY THEM?

When starting up a new business, or when reviewing the situation before you take on your first employees, it's worth thinking about the best business structure to protect you. The options are to be a sole trader, a limited company, or a partnership/limited liability partnership.

Sole Trader: A business owned and operated by one individual, where there is no legal distinction between the two. Whilst you will have ultimate flexibility and control, you'll be personally liable for all company debts and claims, without any limit.

Limited Company: The most common way of operating a business with employees. Although there is more administration and upfront cost, shareholders have the advantage that debts and liabilities are limited to the value of the company's assets. It can also be more tax efficient.

Partnership: You and your partner (or partners) personally share responsibility for the business, including any losses the business makes or any debts it incurs. The partners share the business's profits, and each partner pays tax on their share. It's possible to set up a limited liability partnership which is a cross between a traditional partnership with some advantages of the limited liability enjoyed by a limited company.



The decision about the right structure for you and your business usually involves tax and other financial considerations.

Specialist advice should be sought and our trusted partners can help.

SEE PAGE 22

YOU'LL NEED TO DECIDE WHETHER YOU WANT TO EMPLOY YOUR STAFF OR ENGAGE THEM ON A SELF-EMPLOYED OR FREELANCE BASIS.



Our welcoming team can help at every stage of the employment journey

More information can be found on the Health & Safety Executive website.

[CLICK HERE](#)

OTHER CONSIDERATIONS

Health and safety

As an employer you have a duty to protect the health, safety and welfare of your staff. This includes assessing what risks there are in the workplace and what can be done to control those risks.

Employers also need to display a Health and Safety Executive ("HSE") approved poster outlining health and safety law in a prominent position in each workplace (or to provide each worker with a copy of the HSE approved leaflet).

Data protection

As you'll be handling data about your staff, you'll need to register with the Information Commissioner's Office to confirm the types of data you'll be processing and to pay a fee.

Regulatory compliance

Your type of business may also mean that you have additional regulatory requirements to consider, perhaps in relation to licensing, food hygiene, care standard or financial services requirements. You should ensure that your employment contracts and policies reflect any essential qualifications or requirements and that your systems document the records you need.

Insurances

If your business will employ individuals, it is a legal requirement that you obtain Employers Liability Insurance as well as your company and vehicle insurance. If you wish, you can also put in place insurance benefits for your staff such as Income Protection, Critical Illness and Life Assurance.

Details are on the Information Commissioner's website.

[CLICK HERE](#)

2.

RECRUITMENT

JOB DESCRIPTION

It's important that you're clear what you want from your member of staff and a great way of doing this is to write a job description setting out their duties and responsibilities. You can also set out what qualifications and skills you feel are essential or desirable from candidates.

Preparing a clear job description is also helpful when it comes to avoiding one of the main risks when recruiting staff – a potential claim of discrimination from the unsuccessful candidate(s).

RECRUITMENT PAPERWORK

Data protection rules apply to the information you collect about your candidates.

We recommend that you produce a Candidate Privacy Notice which you provide during the application process. We can supply a template as part of our packages for new employers (see page 23)

IT'S IMPORTANT THAT YOU'RE CLEAR WHAT YOU WANT FROM YOUR MEMBER OF STAFF. A GREAT WAY OF DOING THIS IS TO WRITE A JOB DESCRIPTION SETTING OUT THEIR DUTIES AND RESPONSIBILITIES.





Before recruiting it is good practice to refer to the Equalities and Human Rights Commission guidance code for employers

[CLICK HERE](#)

ADVERTISING

The job description should be used as the basis for advertising the position.

Top tips:

- use an appropriate job title – don't show bias e.g. waiter/waitress
- avoid specifying working patterns unless it's essential for the job e.g. full time
- avoid referring to specific academic or trade qualification unless these are essential
- avoid health requirements unless they can be justified for the job e.g. 'in good health'

RECRUITMENT DECISIONS

Unsuccessful candidates should be informed and if requested, feedback provided to them.

INTERVIEWING DO'S & DON'TS

DO'S				
Agree questions and weighting in advance	Ask all short-listed candidates the same questions	... and score them consistently	Keep a note of candidates' answers	Comply with Data Protection Act 2018
DON'TS - Ask questions or draw conclusions about:				
Children or childcare	Living arrangements	Relationships or sexuality	Plans to get married or have children	General health or sickness record

3.

PRE-EMPLOYMENT PAPERWORK

OFFER LETTER

To give your candidate the good news that they've been successful, it is advisable to issue an offer letter containing the main terms of their employment.

The offer letter should set out any conditions which need to be met before the employment can start, for example receiving satisfactory references or documents confirming their right to work in the UK.

We'd recommend that the letter includes a deadline for accepting the offer and getting back to you with the relevant details.

EMPLOYMENT CONTRACT

We'd recommend sending out a copy of the employment contract with the offer letter.

You need to provide all your employees (and from 6 April 2020, your workers too) with a written statement of the particulars of their employment. At the latest the contract must be provided within two calendar months of them starting. However, from 6 April 2020, it will have to be given on or before their start date.

You're required to provide certain minimum information in an employment contract, such as:

- name and address of the employer and employee;
- date the employment starts
- probationary period details
- pay, pay dates and benefits
- day and hours of work
- holiday entitlement and pay
- family leave entitlement and pay
- sick leave and pay
- job title or description
- place of work and
- notice requirements.

In addition, we would strongly recommend that you also include, at the very least, extra protection for your business in relation to:

- confidential information
- restrictions against an employee competing against you or poaching your customers or staff
- intellectual property and
- making deductions from employees' pay

Contracts for directors

Senior employees or directors should have a more detailed contract, usually called a Service Agreement. These will capture the additional obligations that directors have and the additional responsibilities of senior staff, such as:

- following the company's rules including those in the articles of association
- keeping company records and reporting changes
- filing accounts and the tax returns
- always acting in the best interests of the company and avoiding conflicts of interest.



We are able to provide you with bespoke Contracts of Employment and Service Agreements as part of our packages.

SEE PAGE 22

YOUR OFFER LETTER SHOULD SET OUT ANY CONDITIONS WHICH NEED TO BE MET BEFORE THE EMPLOYMENT CAN START.



Let us walk you through your pre-employment checklist

Right to work checks should be carried out on all employees. It is important that you do not make assumptions about an individual's right to work in the UK and only check certain groups of people; by doing so, you may discriminate.

You'll need to:

- ask to see original documents belonging to your workers which prove that they have a right to work in the UK (e.g. a passport, a biometric residence permit or a residence card)
- check that the documents are valid for example you should check that photographs are the same across all documents and look like the individual, that the document has not been tampered with and that the documents are not beyond their expiry dates
- take clear copies of the documents, make a record of the date the check was carried out and keep copies whilst they are employed and for two years afterwards.

If the employee's right to work in the UK is time limited, you may need to carry out follow up checks.

If you need any advice about right to work checks or other immigration matters, please get in contact with us.

References

It's strongly recommended that you get two references for all new employees, one of which should be from their last employer or place of training. Ideally, these should be in writing.

More details are available from the Disclosure & Barring Service website.

[CLICK HERE](#)

DBS checks

If your employee is going to be working with vulnerable people or in a security setting, you should ensure that the appropriate DBS check is in place before they start and obtain any necessary updates. For a basic DBS check, you can ask the employee to obtain their own record and provide it to you. For a standard or enhanced DBS check, you'll need to submit a request online.

Compliance checks

Where an employee's qualifications or certifications are essential for the role, you should also see the originals of the relevant certificates and take copies.

Health checks

There are restrictions about asking questions about a candidate's health during the recruitment process, but once an offer has been made you can request medical information/assessment where justified.

PRE-EMPLOYMENT CHECKS

Right to work in the UK

It is a legal requirement that before you employ any individual you must check and ensure that they are legally allowed to work in the United Kingdom. It is illegal to employ anyone who is not allowed to work in the UK and, if there is no evidence that a right to work check has been carried out, you may be fined up to £20,000 for each illegal worker discovered.

4.

START OF EMPLOYMENT

INDUCTION

As well as showing new starters around the office, you should also make sure that the induction process is used to explain company rules and policies to your staff, including explaining their obligations under your equal opportunities, health and safety and email, internet and social media procedures.

It's also a good opportunity to make sure that you've got copies of their right to work documentation and a signed copy of their employment contract.

STAFF HANDBOOK

We would highly recommend that all employers have a well drafted staff handbook. A handbook introduces employees to your business's culture, values and ethos and clearly communicates to employees what is expected of them during the working relationship. It also gives managers the guidance to deal with employees fairly and consistently.



MAKE SURE THAT THE INDUCTION PROCESS IS USED TO EXPLAIN COMPANY RULES AND POLICIES TO NEW MEMBERS OF STAFF.

Importantly, a staff handbook is very useful should the business be required to defend a legal claim against it. It will demonstrate that the business had comprehensive and compliant policies and procedures in place at the time of the events in question and that it had exercised "reasonable care" towards its employees.

At the very least, handbooks should contain policies relating to:

- equal opportunities and
- discipline and grievance procedures

It is a legal requirement to provide copies of these procedures if they have not been included in the contract of employment.

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We are able to provide you with a bespoke staff handbook as part of one of our packages.

SEE PAGE 22

We would strongly recommend that your handbook also includes policies on:

- sickness and absence
- other absences including holidays and family friendly leave
- expenses
- email, internet and social media use
- anti-corruption and bribery
- whistle-blowing
- data protection and confidentiality and
- health and safety.

You should note that some industries / sectors have specific obligations that may override the contracts and policies that you put in place, for example, obligations set out by the Care Quality Commission, the Financial Conduct Authority and the Food Standards Agency. You should consider this from

the outset.

PRIVACY NOTICE

Since the introduction of updated data protection laws in 2018, employers are required to explain to staff how they process their personal data, how it is stored and how long it will be kept. The best way to comply with these obligations and inform staff of their rights, is to provide a privacy notice at the start of their employment. This is separate from any privacy notice about how you handle the data of your customers and other business contacts.

PROBATIONARY PERIOD

It is good practice to have a 3 or 6 month probation period during which an employee's suitability can be assessed. We'd recommend a formal review at the end of the probationary period when their employment can be confirmed, ended or an extension to the probation period agreed.

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We can provide you with tailored staff and candidate privacy notices as part of our packages for employers.

SEE PAGE 22



For peace of mind, we can prepare or review your documents

5.

PAYING YOUR EMPLOYEES

PAYE REGISTRATION

You'll need to register with HMRC for PAYE so that National Insurance and Income Tax can be collected from staff salaries.

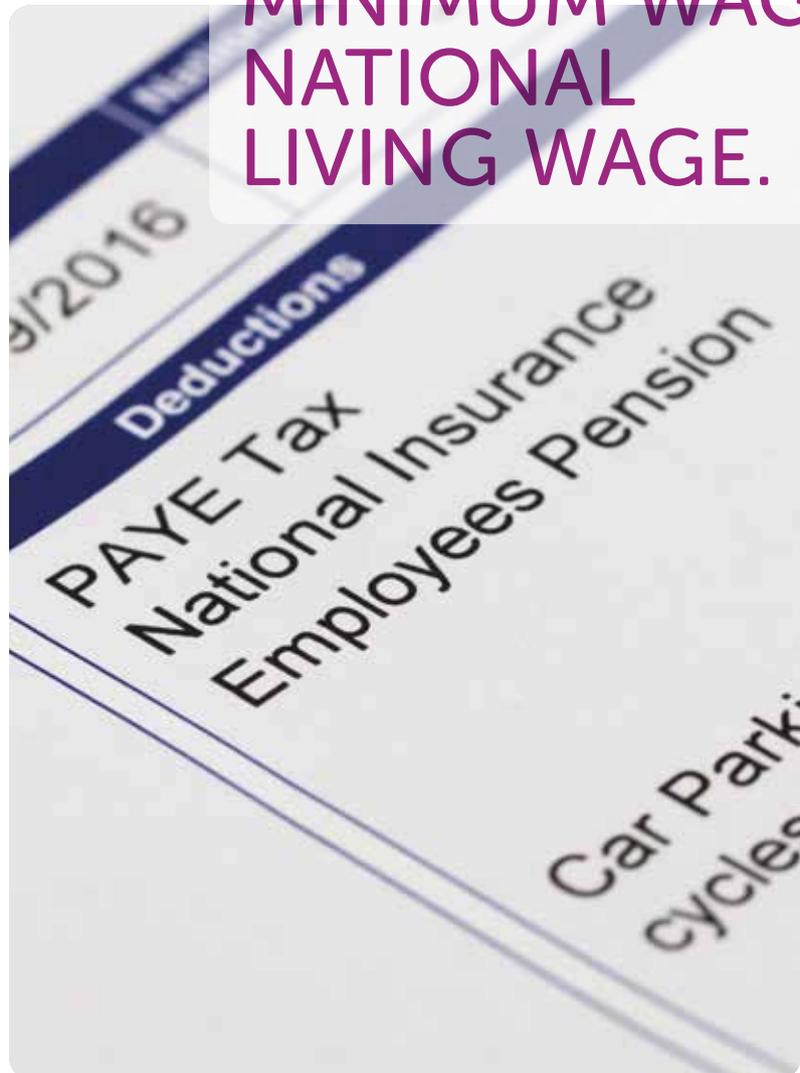
ITEMISED PAY STATEMENTS

You are obliged to provide a pay slip each time you pay your staff. If their pay is based on an hourly rate, you'll need to specify the number of hours worked and the pay received for those hours.

NATIONAL MINIMUM WAGE

You must make sure that the rates of pay for all staff meets the National Minimum Wage/National Living Wage. The rates are reviewed each April and may also increase with an employee's age, so make a note to check on their birthdays! Some of your costs for providing staff uniforms or accommodation could be offset against the National Minimum Wage.

YOU MUST MAKE SURE THAT THE RATES OF PAY FOR ALL STAFF MEETS THE NATIONAL MINIMUM WAGE/ NATIONAL LIVING WAGE.



2019 RATES AND LIMITS

Statutory minimum payments

From April 2019

National Living Wage (age 25 and over)	£8.21 an hour
National Minimum Wage (age 21-24)	£7.70 an hour
National Minimum Wage (age 18-20)	£6.15 an hour
National Minimum wage (under 18)	£4.35 an hour
National Minimum Wage (apprentice rate if under 19 or in first year of apprenticeship)	£3.90 an hour
Statutory maternity, paternity, adoption and shared parental pay	£148.68 a week
Statutory sick pay	£94.25 a week

Statutory maximum payments

From April 2019

Week's pay (for calculation of basic award and statutory redundancy payments)	£525
Statutory redundancy payment/basic award maximum	£15,750
Unfair dismissal maximum compensatory award	Lesser of 1 year's pay and £86,444

Injury to feelings awards

From 6 April 2019

Lower band	£900 to £8,800
Middle band	£8,800 to £26,300
Upper band	£26,300 to £44,000
Exceptional cases	Over £44,000

Visit our website for all of the up to date employment rates and limits.

Current rates and limits at:
CLICK HERE



We can help check compliance with rules about wages.

DEDUCTIONS FROM PAY

You may need or want to make deductions from your staff's pay. You're required by law to deduct money for student loan repayments or employee pension contributions, but for other deductions, such as payment for staff uniforms or damage to company property, you'll need an employee to agree in writing to a deduction before it is made.

We'd recommend this is one of the clauses in your standard employment contract and we can include this in any documents we prepare for you.

6.

BENEFITS

AUTOMATIC ENROLMENT PENSIONS

It is a legal requirement that all employers provide a pension scheme for their employees and workers (if they meet the definition of “eligible jobholder”) automatically enrol them into the scheme, and then make minimum contributions to it.

Once you have enrolled the individuals, they are able to opt out of the scheme if they want to, but you must not influence their decision.



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Our trusted partners are able to help you comply with your duties under the auto enrolment scheme.

SEE PAGE 22

OTHER BENEFITS**Sick pay**

All staff are entitled to receive statutory sick pay (“SSP”) provided they earn more than the minimum threshold amount (£118 per week for 2019/20) and report their absence to you in line with your handbook rules. The current rate of SSP is £94.25 per week (for 2019/20).

SSP is only payable from the fourth day of continuous absence up to a maximum of 28 weeks. You can choose to pay your staff more than SSP. We would always recommend that your contract and handbook are clear about what you pay, that any payments include SSP entitlement and any situations when payment would not be made.



Come and talk to us about the types of benefits you may want to offer

Holiday pay

All staff are entitled to at least 5.6 weeks' paid holiday each year, including bank and public holidays. For full time members of staff this equates to 28 days. Part time members of staff are entitled to a pro rata amount of holiday (including bank holidays). Calculating the amounts due as holiday pay can be complicated depending on days and hours worked, but we can help you through the minefield.

You can give employees more paid time off if you want. Holidays should always be subject to approval by you. Because of this you can limit the number of days which can be taken together, and you can also set times when holiday must, or conversely can't, be taken.

Family leave

Depending on their length of service, employees may be eligible for time off (which in many cases will be paid) for family reasons, such as maternity or adoption leave. The current rate of pay for statutory family leave is £148.68 per week.

Employees with dependants are entitled to take reasonable time off to deal with an emergency. There is no requirement to pay the employee if they are absent for this reason, but it is normal for employers to pay for between 1 and 2 days of emergency leave.

It is helpful for employees to have an awareness of the different types of family leave and the notice requirements that they must satisfy to be able to take the leave.

Additional benefits

Over time you may wish to give your staff access to more benefits such as staff discounts, subsidised gym membership or insured benefits (such as private medical, critical illness or death in service benefits). Whatever benefits you offer, make sure that you have clear written rules in place.



**WHATEVER
BENEFITS YOU
OFFER, MAKE
SURE THAT YOU
HAVE CLEAR
WRITTEN RULES
IN PLACE.**

7.

RECORD KEEPING DURING EMPLOYMENT

WORKING TIME AND MINIMUM WAGE RECORDS

You will need to have a system in place to show that you are compliant with working time and national minimum wage requirements. This will include records of your staff's:

- hours of work - no more than 48 hours per week, unless they've opted out of this limit
- rest breaks - breaks during the working day as well as daily and weekly periods away from work
- paid holidays - 5.6 weeks paid holiday per year and
- pay that they receive during these times

OTHER RECORDS

As a business you will collect and process the "personal data" of your staff. In brief terms, personal data can be anything that allows a living person to be directly or indirectly identified (for example, a name, an address, or bank details).

Under data protection laws, personal data must be handled appropriately and you must make sure that adequate security measures are in place (more so for sensitive personal data such as health records).

As well as making sure that you handle your staff's data in the right way, you must also ensure that your staff receive training about how they handle the personal data of their colleagues (past and current), your customers and other business contacts.

WE CAN HELP YOU THROUGH THE MINEFIELD OF WHAT RECORDS TO KEEP AND HOW TO STORE THEM.



PRE-EMPLOYMENT CHECKLIST

ACTION	Essential	Recommended
ON/BEFORE FIRST DAY OF EMPLOYMENT		
Within your organisation:		
Health and safety procedure and poster	✓	
Register with & pay fee to Information Commissioner's Office	✓	
Disciplinary & Grievance procedure	✓	
Privacy Notices	✓	
Employers' liability insurance	✓	
Business structure review		✓
PAYE registration	✓	
For each individual employee:		
Contract of employment		✓
Job description		✓
Induction process		✓
Auto-enrolment pension	✓	
Right to work in the UK checks	✓	
Other relevant compliance checks		✓
References		✓
WITHIN 8 WEEKS *		
Contract of employment	✓	
TO BE AVAILABLE ON REQUEST		
Staff Handbook	✓	

* Contract to be provided within 8 weeks if not already provided, but from 6th April 2020 must be provided on or before start of employment.



ENDING EMPLOYMENT

BRINGING THE EMPLOYMENT RELATIONSHIP TO AN END

There are three ways to bring employment to an end:

- termination by the employer
- resignation by the employee and
- settlement / managed exit.

HOW TO TERMINATE EMPLOYMENT

For all employees who have been with you for more than two years, you need to avoid the risk of an unfair dismissal claim. This means that you need to have a fair reason for dismissal (more details below but this will include things like redundancy or conduct) and that you've followed a fair procedure before deciding to dismiss them.

For employees with less than two years' service, there can be more flexibility BUT that shouldn't be an excuse to throw away the rule book. These employees can still bring claims about discrimination, whistle-blowing or breach of contract. We therefore advise that a procedure is followed in all cases to reduce the risk of any claims.

Reasons

It is advisable to give employees a reason for their dismissal at the time. Employees can request written confirmation of the reason.

If you're thinking about dismissing an employee because of their conduct or performance, it's important that you explain what the problem is and give the employee the chance to give their version of events before you make your decision.

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The ACAS Code of Practice on Disciplinary and Grievance Procedures provides a good starting point in showing the process steps to follow and what is expected of a 'good' employer.

[CLICK HERE](#)



Our team of employment specialists can help you navigate any tricky situations

FOR ALL EMPLOYEES WHO HAVE BEEN WITH YOU FOR MORE THAN TWO YEARS, YOU NEED TO AVOID THE RISK OF AN UNFAIR DISMISSAL CLAIM.

You can calculate an individual's statutory redundancy entitlement here.

[CLICK HERE](#)

Redundancy

If you need to restructure your workforce or reduce headcount then you'll need to follow a formal redundancy procedure. Employees who are made redundant and have two or more years' service are entitled to a statutory redundancy payment for which there is a set formula.

Notice

If you do decide to dismiss an employee, you'll need to give them the right amount of notice which is either the amount set out in their contract or the statutory minimum if longer. You may want to think about whether you want them to work out their notice or make a payment in lieu – either option is possible.

The need to give notice falls away if they're being summarily dismissed for gross misconduct, but deciding what is or is not gross misconduct can be tricky and we'd always recommend that you take legal advice before dismissing someone without notice.

We can advise you every step of the way through a disciplinary or dismissal process, including providing guidance of what to say in meetings and template letters.

WHAT HAPPENS IF AN EMPLOYEE RESIGNS?

If your employee resigns, they should give you the amount of notice set out in their contract. If you're happy to accept their notice you should confirm your acceptance in writing and set out the arrangements which will apply including final salary, payment for any accrued but untaken holiday, return of company property, etc.

You can refuse to accept a resignation, for example if an employee resigns during a disciplinary investigation which you still want to conclude.

If your employee resigns and simply walks off the job, you only have to pay them for the time they have worked.

SETTLEMENT AGREEMENTS

If you want to achieve a quicker, and sometimes more straightforward, dismissal, it's possible to enter into an agreement with your employee about the terms of their departure. For these agreements to give both parties a legally binding 'clean break', the terms need to be covered in a Settlement Agreement. For the employee, a Settlement Agreement may allow them to depart with dignity and integrity intact, particularly if the alternative is management of his/her performance or conduct. It can provide the opportunity for a tax efficient financial package as well as the ability to have some control over internal and external communications, and their reference.

Employers need to be careful about how they approach the subject of a Settlement Agreement to ensure that discussions are genuinely 'off the record' and cannot be referred to at a later date.

We can guide you through the conversations you'd need to have with an employee about a possible Settlement Agreement as well as talking through the terms you might want to offer. We can, of course, also provide you with a draft agreement and advise you along the way.

9.

RIGHTS OF YOUR STAFF

Throughout employment, your staff have rights which, if not upheld, could lead to claims in the Employment Tribunal.

DISCRIMINATION

The right not to be discriminated against at work applies to employees, workers (including agency workers and apprentices) and, in some cases, self-employed individuals.

Protection against discrimination also applies to job applicants and prospective candidates in a recruitment exercise.

As an employer, you could be liable for all acts of discrimination by your members of staff whether you knew about them or not. Your liability extends to discriminatory acts carried out at work, but also at organised social activities, for example, work parties.

Individual managers and employees can also be held personally liable.

Protected Characteristics

Unlawful discrimination occurs if the reason for the treatment of an individual is because of, or in some way connected to, a protected characteristic.

The protected characteristics are as follows:

- age
- disability
- gender reassignment
- marriage and civil partnership
- pregnancy and maternity
- race
- religion or belief
- sex
- sexual orientation

Compensation

Discrimination claims can be quite costly as compensation is uncapped and will be based on an employee's loss of earnings and their 'injury to feelings'.

UNFAIR DISMISSAL

All employees with two or more years' service are protected from unfair dismissal.

If faced with such a claim, the employer will have to show:

- there was a potentially fair reason for the dismissal and
- the dismissal was fair in all of the circumstances.

The five potentially fair reasons for dismissal are:

- conduct
- capability
- redundancy
- illegality and
- some other substantial reason.

Compensation

If successful, an employee may be awarded a basic award (similar to a statutory redundancy payment) and a compensatory award (capped at the lesser of £86,444 (as of April 2019) or one year's gross salary).

Constructive Unfair Dismissal

Employees who feel that they have been treated so badly that they have no choice but to resign may bring a claim for constructive unfair dismissal. The employee may resign in response to a one-off serious incident (e.g. a reduction in pay) or following a 'last straw' event after a series of more minor incidents (e.g. a pattern of bullying in the workplace).

Such claims are often avoided if complaints and grievances are handled carefully and in accordance with your policies and procedures.

Breach of contract/wrongful dismissal

If you fail to pay the correct amount of notice, an employee can bring a claim for wrongful dismissal.

Talk to us about protecting the rights of your staff



AS AN EMPLOYER, YOU COULD BE LIABLE FOR ALL ACTS OF DISCRIMINATION BY YOUR MEMBERS OF STAFF WHETHER YOU KNEW ABOUT THEM OR NOT.

WHISTLEBLOWING

Where a member of staff raises a concern about a serious issue in the workplace, they can be protected from being dismissed or treated less favourably because of the fact that they've raised that issue.

These sorts of claims can be very valuable to the member of staff as there is no limit on compensation and they don't need to satisfy any minimum period of service.

If you dismiss an employee because of a TUPE transfer, that dismissal could be automatically unfair (i.e. only defensible in very limited circumstances).

TUPE

If you buy a business or take on a contract, you may be responsible for taking on the employees who worked there previously – whether you want them or not! This is known as a 'TUPE transfer' referring to the Transfer of Undertakings (Protection of Employment) Regulations.

If there is a TUPE transfer, you'll have to carry on employing the individuals on the same or similar employment terms and conditions and only have limited scope to change them. You will also assume responsibility for any breaches by the outgoing employer, e.g. non-payment of wages. It's therefore important that you ask the right questions and talk to the employees concerned well in advance before taking over a business or contract where employees are involved.

OTHER CLAIMS

Staff can bring claims about a range of other matters, such as 'family friendly' claims, including in relation to statutory leave / pay, flexible working, time off for dependants and breach of working time regulations.

Employment Tribunal claims are best avoided and the risk can be minimised by having clear and comprehensive staff policies and procedures in place.



As well as providing guidance in your policies and procedures, we offer practical training, including our Managing the Employee Lifeline course and regular seminars. Get in touch if training is of interest to you.

[CLICK HERE](#)

PACKAGES AND PRICING

WE UNDERSTAND THE IMPORTANCE OF COST CERTAINTY TO START-UP BUSINESSES AND HAVE DEVELOPED FIXED PRICING MENU OPTIONS. IN EVERY CASE, THE DOCUMENTS WE PREPARE WILL BE TAILORED TO YOUR BUSINESS.

	BRONZE	SILVER	GOLD
Template contract of employment	✓	✓	✓
Discipline and grievance procedures	✓	✓	✓
Bespoke staff handbook		✓	✓
Staff and candidate privacy notices		✓	✓
Template Service Agreement (for Directors)			✓
Managing Employee Lifeline delegate place			✓
PRICE	£350 + VAT	£1,000 + VAT	£1,500 + VAT

We appreciate that there are lots of upfront costs involved in the early days of a business. Speak to us about payment by instalments.

TRUSTED PARTNERS

Torque Law has many trusted partners, both locally and nationally, who can help businesses when taking on your first employees. These are just a few of our contacts who may be well placed to help you but feel free to contact us for any other recommendations.

ACCOUNTANTS



www.change-accountants.com
www.sunleyandco.co.uk

BUSINESS SUPPORT



www.makeityork.com
www.yorksciencepark.co.uk/space/incubator/

INSURANCE



www.pbcurran.co.uk

FINANCIAL ADVICE, INCLUDING AUTO-ENROLMENT PENSIONS



www.ardentuk.com

“ TORQUE LAW SUPPORT US IN THE DEVELOPMENT OF OUR POLICIES, CONTRACTS AND DAY-TO DAY EMPLOYMENT MATTERS. I REALLY APPRECIATE THEIR PRAGMATIC AND PRACTICAL APPROACH, THERE'S NO JARGON. THEY'RE EASY TO GET HOLD OF AND ARE HUGEY APPROACHABLE WITH A FRIENDLY STYLE. WE WORK IN PARTNERSHIP AND IT WORKS REALLY WELL FOR US. ”

WHAT ELSE WE CAN OFFER

OUR AWARD WINNING TEAM HAVE OVER 50 YEARS' SPECIALIST EMPLOYMENT LAW EXPERTISE WORKING WITH EMPLOYERS WHO DIFFER IN SIZE AND NEED. AS WELL AS WHAT'S INCLUDED IN THIS GUIDE, WE'D BE DELIGHTED TO WORK WITH YOU ON:



SUPPORT FOR EMPLOYERS: we provide seamless employment law support for business owners and management teams on routine HR matters and complex issues. We can guide you through handling disciplinary and grievance procedures, staff sickness and other absences, changes in terms and conditions and restructures, discrimination issues, whistle-blowing complaints and, if it comes to it, handling Employment Tribunal claims.



SETTLEMENT AGREEMENTS: if you need to part company with a member of staff or if you know someone who is leaving their employment, we can use our extensive experience to negotiate the best financial and personal terms under a settlement agreement.



TRAINING: our popular **Managing the Employee Lifeline training course** guides employers through the tricky employment law issues that can arise from recruitment right through to ending the employment relationship and all steps in between. We also offer employment law updates and other interactive seminars and courses, all of which will equip you with practical and confidence-building knowledge to handle HR legal issues.



UPDATES: Subscribe to our newsletter for monthly employment law updates and invitations to our popular events.

We'd love to add you to the list of our clients who value us for making their lives easier. You can be reassured by our promise to deliver quality advice and, as a regulated law firm, you can have complete confidence that you'll be looked after.

We provide strength at every turn

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