



Settlement Agreements

Top 10 FAQs

1. What is a settlement agreement?

A settlement agreement (previously called a compromise agreement) is a legally binding contract between an employee and an employer which takes away the employee's rights to make a claim in a court or tribunal. In exchange, the employer promises various payments, usually beyond what the employee is legally entitled to. Settlement agreements can be used to end an employment relationship; settle disputes whilst still employed or to settle claims already issued at the Employment Tribunal, such as unfair dismissal.

2. Who can advise on/sign off a settlement agreement?

For a settlement agreement to be effective, the employee must have received independent legal advice on the effect of the agreement; essentially that they are waiving their rights to bring an employment claim against the employer. There is no equivalent requirement that the employer has obtained legal advice.

The employee's adviser must:

- Be named in the agreement.
- Have a current contract of insurance, or professional indemnity insurance, covering the risk of a claim against them by the employee in respect of the advice.

Hence why this will almost always be signed off by an employment solicitor/lawyer.

3. Will I be able to bring any claims against my employer after I sign the settlement agreement?

As a general rule the aim of a settlement agreement is to settle a particular issue (e.g. redundancy or a dispute), however, most employers will also want satisfaction that you will not pursue any other claims against them (particularly if your employment is terminating). There are some claims which cannot be waived via a settlement agreement, typically these are claims for accrued pension rights and unknown personal injury claims, as well as a claim for breach of the settlement agreement, ie: if your employer does not pay the sums outlined in the settlement agreement.



4. Will I need to pay tax on the compensation sum?

Compensation sums up to £30,000 can usually be paid tax free. There are some situations where sums less than £30,000 may be taxable, for example, if the sums offered constitute wages, notice, bonus or holiday pay. This is quite a complicated area of settlement agreements and our employment team can advise in individual circumstances.

5. Will I need to keep the settlement agreement terms confidential?

Every settlement agreement is different but it is more than likely that your employer will want to keep the terms and sums of money paid to remain confidential between you and them.

6. Does my employer have to provide a reference?

This will be a term of the settlement agreement that we will negotiate on your behalf. Usually, however, employers are reluctant to offer anything more than a factual reference.

7. How long do settlement agreements take?

Typically a member of our employment team will provide advice on your settlement agreement on the same day we receive it. This advice can be over the telephone, or in a 'face to face' meeting at our offices, or at a location in or around our offices, whichever is most convenient to you. Negotiations on the settlement agreement can usually get finalised within a week or two.

8. How much will I have to pay to take advice on a settlement agreement?

In almost all cases your employer will cover all our charges for advising on the settlement agreement. This means you pay us nothing. Sometimes however your employer's contribution is insufficient and as a first port of call we would ask your employer to increase this. No extra costs are incurred without your prior approval.

9. How much money should I expect to get in my settlement agreement? How do I know it's a fair offer?

It's not an exact science but, since you're waiving your right to bring any claims, the amount offered should reflect the value of the claims you're giving up.

So, the points we would be looking to answer include:

- Is there any potential claim you could bring against your employer?
- If so, how likely is it that the claim would succeed at a tribunal?
- If you did succeed, how much would you be likely to recover?

The answers to these questions will affect the amount that you should expect your employer to pay you by way of compensation.



10. I'm an employer, can you draft me a settlement agreement?

Yes. If you are an employer and require a settlement agreement to be drafted and/or advice on whether to offer a settlement agreement and/or how to conduct a "without prejudice/off the record/protected conversation", please do not hesitate to contact our employment team.

We hope this information pack has been helpful and gives you peace of mind with practical advice. For more information on the services the employment team provides please [click here](#).

Our employment team regularly host events for professionals with HR responsibility or an interest in employment law, if you would like to register your interest in attending please email events@gardner-leader.co.uk

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