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Employment Law

Contracts of Employment



All employees have a contract of employment whether or not it is in writing. Those that do not have a written contract of employment will have a contract of employment nonetheless, made up of terms agreed orally, and implied terms, including those implied by custom and practice.

The absence of a written contract of employment can inevitably lead to disputes as to what the terms actually are. This can result in Court or Employment Tribunal claims in order to construe the terms of the contract, and settle any dispute relating to it.

A written contract of employment therefore has the clear advantage of there being certainty as to the terms of the contract, and minimising the risk of expensive litigation.

Furthermore, there is a statutory duty upon employers to provide employees with a statement of their main terms and conditions of employment within 8 weeks of the commencement of employment date. That statutory obligation, which is designed to protect employees, provides for there to be written terms relating to such matters that the employee needs to know, including place of work, hours of work, pay and holidays. It does not include any terms which are for the protection of the employer.

If a written statement has to be given to employees by virtue of statute, and if a written contract has the advantage of certainty, it makes sense from an employer's perspective that the contract also contains clauses to protect the employer. It can be very difficult to impose such clauses at a later date.

Commonly, an employer may wish to impose an obligation on the employee to keep the employer's trade secrets and commercial sensitive information confidential. It may wish to impose restrictions on the employee poaching clients and customers, and even colleagues, following termination of employment. It may wish to seek repayment of training costs. These are just a few examples of the many protections that an employer may wish to impose upon an employee at commencement of employment, and the only way to do this is through the contract of employment.

The value of properly drafted contracts of employment to an employer cannot be underestimated.

For further information, please contact:

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