

Frequently Asked Questions



Settlement Agreements

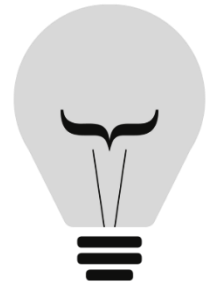
What is a settlement agreement?

A settlement agreement is a **legally binding agreement** used to resolve disputes between an employer and an employee. It typically involves the employee **agreeing to waive or settle any claims** they may have against their employer in **exchange for a payment**.

Why may an employer offer an employee a settlement agreement?

A settlement agreement is often used for the following reasons:

1. to amicably **resolve workplace conflict**.
2. to provide a quicker route to termination for **poor performance**.
3. in return for **voluntary redundancy**.
4. to **settle existing claims**.



Is legal advice required?

Yes. For the agreement to be legally binding, the employee **must receive independent legal advice** from a qualified legal professional on the terms and effect of the agreement. If the employee does not receive independent legal advice, the settlement agreement will be unenforceable, even if all other requirements are met.

Who pays for the legal advice?

It is **standard practice for the employer to contribute** to the employee's fees for getting legal advice on the agreement. Case law suggests that a contribution should typically be **around £500 plus VAT**, though this can vary depending on complexity and seniority.

How long should be given to consider the agreement?

ACAS guidelines suggest that employees be given at least **10 calendar days** to consider the terms of the agreement and obtain legal advice, unless agreed otherwise.

What claims are waived when signing?

Most employment related claims are waived when signing the agreement, provided that they are clearly specified. However, a settlement agreement **cannot remove an employee's right to make a claim relating to:**

1. Accrued **pension rights**.
2. Future **personal injury** claims for unknown injuries (e.g. asbestos).
3. Enforcement of the **agreement itself**.



What happens if an employee brings a claim after signing?

If it is a claim for an **event which occurred during employment** which has been **expressly waived** in the agreement, the employer can bring a **claim for breach of contract** to recover losses they have suffered as result. Most agreements include an **indemnity clause** whereby the employee agrees to **reimburse the employer for the losses** they incur as a result of any breach.

What if the employee refuses to sign?

The agreement will be as if it **never existed**, and the employer may choose to **pursue alternative processes**, such as their internal **disciplinary or capability** procedures.

What are the tax implications of a settlement agreement?

Any **notice pay or holiday pay** will be **subject to tax** and national insurance as normal. However, the **termination payment** (or **ex gratia payment** as it is sometimes described) is payable **tax free** provided it is less than £30,000.

Can an employee request a better reference?

Yes! Whilst it is **common practice** for an employer to include simple **factual reference** as part of the termination package, this **can be negotiated**. As future employment often requires a reference, it is **not unreasonable** to request a **mutually agreed reference** that is more than merely factual.

What should an employee do if they think there has been discrimination of unfair treatment?

Contact us! We can advise you on whether you on any claims you may have that could significantly **improve your position** for negotiating a better settlement package.

Are settlement agreements confidential?

Settlement agreements are **generally confidential** if they include an express confidentiality clause. The clauses typically include a requirement to keep the existence of the settlement confidential, with **exceptions for disclosures required by law, court orders, or to professional adviser like us.**

Need help? Contact the employment team



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Solicitors who help you get the job done.

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