

Ellisons

SOLICITORS

Essential Information Leaflet: EMPLOYMENT

FRQUENTLY ASKED QUESTIONS

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- **What does the law say about contracts of employment?**

Employers should give employees Written Particulars of the terms and conditions of their employment. Most employers choose to do this by issuing contracts of employment which provide the information stipulated in s1 Employment Rights Act 1996.

- **How many types of discrimination are there?**

Race, sex, religion/belief, sexual orientation, age and disability. However there is also legislation to protect part-time workers and those on fixed term contracts.

- **How much notice must an employee give and receive?**

The contract of employment should specify the notice an employee has to give if they wish to leave their job. If an employee gives less than the required notice and the employer suffers loss as a result, the employer may bring a claim against the employee for breach of contract.

For employers, the employment contract may stipulate the notice to be given to the employee but the minimum notice that must be given to the employee is set out in statute. This will be one week until an employee has attained two year's continuity of employment at which point it becomes two weeks. Thereafter, for each additional year's service the employee is entitled to receive an additional week of notice up to a maximum of twelve weeks when an employee has been employed for twelve complete years.

- **Do employers have to give employees a reference?**

With the exception of some sectors of the financial services industry, an employer is not obliged to give a reference. The only obligation on an employer is that any reference it chooses to give must be fair and accurate. If an employee suffers loss as a result of an inaccurate or misleading reference, he or she may bring an action against the ex employer to recover the losses suffered.

- **How do you know if a worker is self employed or an employee?**

This is a complex question and has no clear cut answer. It all depends upon the relationship between the parties. Even if the worker is classified as an employee or a self employed individual within a contract, then this will not be definitive as the courts and Tribunals will

disregard overt labelling when considering the question of employment status.

Many factors are taken into consideration such as whether or not the employer provides the tools for the worker to carry out the job, but the largest single factor in determining employment status will be the degree of control that the business is able to command over the worker.

- **How much annual leave do employees receive?**

Full time employees are entitled to receive 24 days paid holiday per holiday year. Bank and statutory holidays may be used to offset this entitlement. The entitlement increases to 26 days in April 2009. Part time employees receive a pro-rata entitlement.

- **Do employees on long term sick leave accrue holiday entitlement?**

A recent decision from Europe means that, a worker who is on sick-leave for the whole of an annual leave year is entitled to a period of four weeks' paid annual leave, despite the fact they are not actually at work. The national courts can decide whether the paid leave can be taken *during* that year, or whether it should be carried over to another year, but either way the employee is entitled to be paid at some point. The right to paid annual leave is not extinguished at the end of a leave year if the worker was on sick leave for the whole of that year, or if he was absent on sick leave for part of the year and was still on sick-leave when his employment terminates

- **What does the law say about the Right to be Accompanied?**

Employees have a right to be accompanied at disciplinary and grievance hearings. The right is strictly limited. Employees may be accompanied by a colleague or a trade union representative. The chosen companion may ask questions on behalf of the employee but my NOT answer questions of their behalf.

The information given herein is not a comprehensive guide to the law and is intended to be a brief and non-exhaustive summary only. Specific legal advice should be sought for actual cases.

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