

# Employment



**What employers need to know**

## Our role

Employees can be one of the most valuable assets a business has but when things go wrong they can also represent a major risk to the business. Employment law is becoming more complex and keeping abreast of evolving legislation can be time consuming and difficult. However, to ensure good practice and minimise the risk of non-compliance, it is essential.

As specialist employment lawyers we are naturally up to date with the latest employment related legislation, but our role encompasses more than that. We work closely with our employer clients to become familiar with each business enabling us to provide commercially relevant help and support, particularly in relation to the management of risk. The relationship between the employer client and lawyer is very much a personal relationship based on trust and underpinned by an appreciation of the commercial reality of the employer's business.

We offer a wide range of services to support employers including those set out **below**;

## Contracts & policies

Carefully drawn contracts and policies are an integral part of the risk management process for any employer.

We are able to advise on and draft appropriate forms of contracts and policies. However, it is not simply a case of having contracts and policies in place; it is essential to make sure that management and employees are familiar with the policies and procedures. We are able to give support and assistance with appropriate training programmes.

Contracts for senior employees are crucial. The contract should be drawn in such a way that it gives the senior employee security and motivation but it is also vital that the contract is framed to protect the employer's business secrets, confidential information and reputation if there is a parting of the ways. Restrictions on the activities of a senior employee after he or she has left the business should also be considered as part of this process.

Where there is to be a parting of the ways sometimes that can include a severance payment to the employee in return for the employee waiving any potential claim he or she may have against the employer. We can provide advice and prepare a compromise agreement that the employee should sign before receiving the severance payment.

## Disciplinary & dismissal procedures

On 6 April 2009, the Government changed the way in which employers and employees address problems at work. The Advisory Conciliation and Arbitration Service (ACAS) Code of Practice now underpins the processes. The code gives employers and employees some flexibility to resolve problems at an early stage in a way that suits both parties best.

Non compliance with the Code can lead to employers being exposed to substantial claims. We can provide help and guidance in this area and assist in managing the risk.

## Redundancy

Following the correct procedure is also essential for any business in a position where it needs to make redundancies. Again, a failure can be costly from the employer's point of view. We are able to provide help and guidance from the start to the end of the redundancy process.

There are special rules regarding large scale redundancies and, again, we are able to advise on the relevant procedure.

## Diversity, discrimination & equal pay

Claims under the broad heading of Equal Opportunities present a significant risk for employers. Policies and procedures should include provisions against harassment and victimisation not only to encourage positive working relations between staff but also to minimise an employer's liability. We can give advice and support in relation to policies/procedures and for the appropriate training that is required.

## Dispute resolution

Our overall objective is to enable employers to avoid disputes where ever possible. However, the reality is that this may not always be achievable and where disputes do arise we will work to ensure that where possible, those disputes are settled in a cost effective manner.

It goes without saying that we will consider negotiation and we will also consider whether it is worthwhile seeking a resolution by commercial mediation.

There will be some cases which, despite every effort, come before a court or tribunal and we will be able to represent you in those instances.

Strategy and budget are central elements to any dispute resolution and we agree these with you at the outset. Any necessary variations as the case proceeds will be carefully and thoroughly discussed and agreed with you.

## Buying and selling businesses

The sale and purchase of businesses with employees are subject to the Transfer of Undertakings Regulations. The Regulations are far from straightforward. We are able to help and advise you on the consultation which must take place with employees prior to the transfer and also advise and help you with issues such as harmonisation of employment contracts post the transfer. There are significant risks for employers where businesses are transferred if things are not done correctly.

## Employment relations generally

The profile of trade unions is increasing once again. We have experience of dealing with trade unions and of assisting employers with the negotiation and settlement of union recognition agreements. We also have experience of assisting employers in negotiations with trade unions on industrial relations generally.

Many employers (whether or not there is a recognised trade union) are now finding that a works council is a useful mechanism for communication and the maintenance of good industrial relations, and this is something we are also able to help with.

The Information and Consultation of Employee Regulations have to some extent changed the industrial relations landscape. The Regulations affect employers with 50 or more employees. We can provide help and assistance to employers to ensure that, where relevant, full compliance is achieved.

## Overall objective

By working closely with the employer as part of their team we can provide advice and guidance that can help the business to achieve its overall commercial objectives within the law. Taking timely advice can often help prevent the escalation of issues and avoid the need for litigation.

With a professional approach we will agree goals at the outset and, where possible, agree a fixed fee for the work undertaken.

Our overall objective at all times is to make a positive and constructive contribution to the employer's business.

This booklet deals in general terms with a complex subject. Whilst we believe the contents to be correct, they should not be regarded as sufficiently full, accurate or precise so as to apply to any particular situation. You must always seek legal advice concerning any situations referred to in this booklet.

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**Jonathan Insley  
Gepp & Sons  
58 New London Road  
Chelmsford  
Essex  
CM2 0PA**

**Tel: 01245 228 141  
e-mail: [insleyj@gepp.co.uk](mailto:insleyj@gepp.co.uk)**

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LawNet Limited  
93/95 Bedford Street, Leamington Spa,  
Warwickshire CV32 5BB

Tel: 01926 886990  
Fax: 01926 886553  
email: [admin@lawnet.co.uk](mailto:admin@lawnet.co.uk)  
[www.lawnet.co.uk](http://www.lawnet.co.uk)