

What is a Settlement Agreement

A dispute with your employer can bring stress and uncertainty not only to your work life but can also have a detrimental impact on your personal life as well. Therefore, it is important to be aware of your employment rights and seek independent legal advice if you have reason to question the actions of your employer.

While the field of employment law is vast, this article explains your legal rights and what to do if your employer offers you a settlement agreement.

What is a settlement agreement? (“SA”)

A SA (sometimes known as a “severance package”) is a legally binding contract which can be used to end the employment relationship on agreed terms.

Its core feature is that it relinquishes your right to make a claim to the Employment Tribunal or Court with regards to the matters specifically contained in the SA. For example, the SA may prohibit you from making a claim against your employer for unfair dismissal.

While this may sound unfair, it is important to remember that the employer will often offer money to the employee and will therefore want to ensure that legal proceedings cannot be issued at a later date.

Is my proposed SA legally valid?

For a SA to be legally valid, a number of conditions must be complied with. For example it must be:

- In writing
- It must specifically state which types of claim it is intending to prohibit the employee from making (eg unfair dismissal, redundancy)
- The employee must have obtained advice from a “relevant independent adviser” (eg a solicitor) on the terms and effect of the proposed SA. Employers often cover the employee’s legal fees for this meeting. This meeting is crucial as it may become apparent that your employer’s offer is far less generous than what could be awarded at the Employment Tribunal.

Would taking my claim to the Employment Tribunal achieve a better outcome?

While this will depend on the facts of your individual case, entering into a SA may be more advantageous for the following reasons:

- a) Your employer may be willing to enter into negotiations regarding its contents. This provides greater flexibility and may even leave you with a better deal than originally offered. In stark contrast, the decision of the Employment Tribunal would be final and therefore provide no opportunity to negotiate.
- b) Entering into a SA is also quicker, more cost-effective, and less stressful than taking the matter to the Employment Tribunal. Legal proceedings take many months (or even years) to settle, are often expensive and can place a great deal of stress on everyone involved.
- c) SAs can include terms that the Employment Tribunal cannot order. For example, the SA may include a term that the employer must formally apologise to its former employee or could allow them to keep an asset such as a company car.

d) Finally, SAs tend to avoid publicity. While decisions of the Employment Tribunal are a matter of public record, the parties to the SA could include a confidentiality clause to ensure its contents remain private.

SAs can therefore provide an alternative to issuing legal proceedings. However, as with all cases, the best approach will always depend on the specific facts of the case. As such, it is crucial to obtain comprehensive legal advice to ensure your employment rights remain protected.

If your employer offers you a settlement agreement and you require further advice about asserting your rights, please contact a member of our Litigation Department on 01384 371622.

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