



EMPLOYMENT LAW ALERT

There has been a massive increase in the amount of employment legislation over the last few years. MFG's Employment Law team provide a summary of some of the most critical laws that currently apply.

Statutory Dismissal Procedure

The procedure that must be followed to dismiss an employee is as follows:-

- Step 1: The employer must provide the employee with a written statement that explains why the employer is considering dismissal and must invite the employee to a meeting to discuss the matter
- Step 2: A meeting must be held in order to discuss the reason(s) for dismissal, and after the meeting, the employer must notify the employee of the decision taken and of the right to appeal against that decision
- Step 3: If the employee decides to appeal, a further meeting must be held to consider the employee's ground(s) of appeal, and after the meeting, the employee must be notified of the decision

The procedure applies irrespective of the employee's length of service or the reason for dismissal. It is the minimum requirement and it does not negate the need to follow the other normal procedures as required under the ACAS Codes of Practice, and, the need to establish the reasonableness of the decision to dismiss.

Following the procedure will not make any dismissal Fair, however, a failure to follow the procedure will result in the dismissal being Automatically Unfair and entitle the Employment Tribunal to uplift any compensation by between 10-50%.



Statutory Retirement Procedure

In order to lawfully dismiss an employee on the grounds of retirement (which can only be done in most cases after the employees is aged 65 or over), the following procedure must be followed: -

- Step 1: Between 6 and 12 month before the intended retirement date, the employer must give the employee written notice of the intended retirement date and must advise the employee of their right to request a continuation of employment beyond the retirement date.
- Step 2: Where the employee makes a request to continue working, a meeting must be held to consider the issue and the employee must be notified in writing of the decision afterwards.
- Step 3: Where the decision is to refuse the request, the employee has the right to appeal against the decision and a meeting must be held to consider the appeal

A failure to follow the procedure will make any retirement dismissal Automatically Unfair.

Part Time and Fixed Term Employees

A part time employee is defined as anyone who works less hours than other employee who is regarded as full time within the employers business. A fixed term employee is defined as anyone whose employment is for a fixed time or for the duration of a fixed event.

Current Equality Regulations oblige employers to provide part time employees with the same pay and employment benefits (on a pro rata basis) as a comparable full time employee. On a similar basis, employers must provide a fixed term employees with equal pay and benefits as comparable permanently employed employees.

The Regulations also provide employees with protection against any detrimental treatment on the grounds of their part time or fixed term status.

The above summary information is intended to illustrate the extent and complexity of current employment rules and it should not be relied on by itself in the context of any particular employment dispute. Advice and assistance on any particular employment issue can be sought from Sally.Morris@mfgsolicitors.com (0845 5555321)