

All employees who have been employed for one month or more are entitled to a **written statement of their main terms and conditions of employment**. This should be given to employees **not later than two months after they start work** and could be contained in a letter offering them the job.

This statement is one of the foundations of any employment relationship. It clarifies the main terms of the contract, and in the event of a disagreement can be used as evidence in an Employment Tribunal.

What must the statement contain?

The following information should be contained in the statement:

- the names of employee and employer;
- the place or places of work and employer's address;
- the job title or a brief description of the work which the employee is employed to do;
- the date the employment began, and any previous period of employment which counts as continuous employment;
- the rate of pay or the method of calculating it, together with the intervals at which it is to be paid;
- the hours of work (including any terms relating to normal working hours);
- holiday entitlement, including public holidays and holiday pay (giving sufficient information to enable calculation of an employee's entitlement to holiday pay on termination of employment). See ERAS leaflet "Your Right to Paid Holidays."
- items relating to sickness or injury, including any entitlement to sick pay. If none, the employer should say so.
- terms relating to pensions and pension schemes. If none, the employer should say so.
- the period of notice needed to bring the contract to an end (the amount of notice which an employee should give if he/she resigns; and should receive, if dismissed).
- the length of the contract, if it is a temporary one; or, if it is a fixed term contract, the date when the contract is due to end;
- details of any collective agreement which directly affects the terms and conditions of employment, including where the employer is not a party, the persons by whom they were made;
- if an employee will be working abroad, outside the UK, for more than one month, s/he must be given additional written particulars detailing:
 - i the period of work abroad;
 - ii the currency in which s/he will be paid while working abroad;

- iii any additional pay/benefits provided as a result of being required to work abroad;
- iv terms/conditions relating to return to the UK.
- disciplinary rules (where there are more than 20 employees) which must specify:
 - i a person the employee can see if he/she is unhappy about a disciplinary decision which has been taken;
 - ii a person whom the employee can approach to make a complaint ("grievance") about problems which he/she is experiencing at work;
 - iii the steps or procedures to be followed in either case.

N.B. As a result of the Employment Act 2002 there will be major changes to the law on disciplinary and grievance procedures in 2003. The exemption for employers with less than 20 employees will be abolished. A new system of statutory disciplinary and grievance procedures will be introduced and there will be penalties for employers and employees who fail to follow/make use of the relevant disciplinary and grievance procedures. These changes are very important and it is important that you seek advice on how they might affect your case.

Reference to other documents

While most of the above information should be contained in the written statement itself, employers may refer employees to other documents for details on sickness arrangements, pension schemes, collective agreements, disciplinary rules and notice periods. Such documents should be reasonably accessible to the employee.

N.B. Further changes to the law in this area will be implemented in 2003 as a result of the Employment Act 2002.

Written Statements and Contracts of Employment

A written statement is not necessarily the same as a contract of employment, even though it summarises some of the main terms and conditions. A contract can include other agreed terms, whether or not these terms are in writing. Terms can be implied by law (for example the right to statutory minimum notice) or through "Custom and Practice".

A written statement is evidence of some of the main terms and conditions. If you sign a written statement saying you agree with the terms, you are likely to be bound by them. If you simply sign to acknowledge receipt the situation is less clear. A lot may depend on whether you have shown that you disagree with any of the terms. Generally it is a good idea to make it clear where you disagree, and put this in writing, as a contract needs the agreement of both parties. However you should be aware that you can also give your agreement by your actions – i.e. by continuing to work under the terms in question.

Changes to a Written Statement

An existing contract of employment can only be varied with the agreement of both parties, whether this done verbally or in writing. If you agree with the changes proposed, the employer must notify you individually, and a written statement giving details of the change should be issued within one month.

Employment Tribunals

If you disagree with the terms contained in your written statement, or your employer fails to give you a statement at all, you can apply to an Employment Tribunal for help in deciding the terms and conditions of your employment.

However, Employment Tribunals do not currently have power to award compensation where an employer fails to provide a written statement of terms and conditions (although, under changes introduced by the Employment Act 2002, they will in future be able to increase the level of compensation awarded under separate claims brought by an employee).

Because no compensation is currently available, it is rare in practice for employees to complain to an employment tribunal solely about the employer's failure to provide a written statement. Usually the issue only arises where an employee brings another claim. This means that many employers get away with failing to provide a written statement and employees are left vulnerable when problems arise.

If you do decide to make a complaint to an Employment Tribunal because you have not received a written statement, or you are unhappy with the one which you have received, you should fill in Form ET1 (available from your

local Citizens Advice Bureau or the Jobcentre Plus network). It is always best to obtain advice before starting a tribunal claim.

There are strict time limits for bringing claims to an Employment Tribunal. Any application relating to an employer's failure to provide a written statement of terms and conditions, must be made either while the worker is still employed or within 3 months of the date of dismissal.

At the hearing, the tribunal will listen to both sides' arguments and then decide what the terms of the contract were. However it is important to stress that the tribunal will generally only decide what has been agreed in practice; it will not say what should have been included in the contract (except where this is required by law).

Possible Claims

For the reasons described above it is rare for people to bring claims solely in connection with a failure to provide written statement of terms and conditions.

However where an employer changes a contract without agreement, this can give rise to a claim of **Breach of Contract**, and/or **Unfair Dismissal** – see ERAS leaflet "Variation of Terms and Conditions"

Unfair dismissal for Asserting a Statutory Right

Normally you need to have worked for your employer continuously for over one year before you can make a complaint of Unfair Dismissal to an Employment Tribunal.

However where you are dismissed for "asserting a statutory right", you can claim Unfair Dismissal from the first day of your employment.

If you are dismissed in connection with requesting a written statement of terms and conditions, that will count as "asserting a statutory right". If you can prove that was the reason for your dismissal, the dismissal will be automatically unfair and you will be entitled to compensation.

If you think you have a claim relating to your terms and conditions of employment, you should contact your trade union or see a solicitor; alternatively you can get advice from your local Law Centre, Citizens Advice Bureau or other independent advice centre.

For further details contact:

Employment Rights Advice Service (ERAS)
Low Pay Unit
10 Dukes Road
London WC1H 9AD

Advice line: 020 7387 2522

www.lowpayunit.org.uk

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