

Settlement Agreement FAQ

What is the purpose of the agreement?

Qualifying settlement agreements enable employment rights which arise under statute to be waived and any related claims to be settled. Such claims include, for example: unfair dismissal, discrimination and whistleblowing detriment.

Why must I take legal advice?

A settlement agreement will not be valid unless, before signing it, the employee has received legal advice from a relevant independent adviser on the terms and effect of the agreement, including its effect on the employee's ability to pursue the statutory rights in question before an employment tribunal.

How long should I have to consider the agreement?

The law does not prescribe a specific period for the consideration of a settlement agreement. ACAS, the conciliatory service, says that best practice should allow 10 days' consideration time.

Must my employer contribute towards the associated costs?

Employers are not required to offer a contribution towards the associated costs, but they usually do so as they want the advice to be taken.

The contribution may be relatively small as the employer will seldom want to pay the total cost which may vary to include employment protection rights and negotiations. The employer may therefore seek to limit their contribution to advice on the terms and effect of the agreement, but it may be possible to negotiate for a larger contribution.

Such contributions are variable but are not subject to PAYE.

Can I discuss the agreement with my colleagues or my partner?

The agreement may preclude related discussions with colleagues but may allow for discussions with a partner.

What does "without prejudice" mean?

This label means the draft agreement and associated discussions will likely be 'off the record' and may not be used as evidence in support of a claim, providing the employer has acted properly in those discussions.

Our specialists can provide the necessary legal advice on the terms and effect of a settlement agreement. They also routinely provide additional advice, based on the specific requirements of the individual, and cater for all related needs including in respect of directorships, partnerships, financial services and shares.