

Avoid workplace claims with these golden rules



Following the abolition of Employment Tribunal Fees in July 2017, there has been a [90% increase](#) being brought to Employment Tribunals against Employers. The increase, in the region of 90% in the last quarter of 2017, is admittedly from a small base as claim numbers plummeted in 2013 when fees were introduced.

From years of experience working alongside HR Directors and solving thousands of HR problems, we have compiled these golden rules to help you put the business in the strongest position to defend and avoid costly and time-consuming claims.

Avoid workplace claims by having good employment contracts and keep them up to date

This is a legal requirement. The penalty is up to 4 weeks pay awarded by an Employment Tribunal. Tailor the employment contracts for different staff, for example CEOs and Senior Sales Directors need Restrictive Covenants so they do not poach customers once they leave.

Tailor your staff handbook to your business

Include all the policies you need to show to staff what is good and bad behaviour. Include for example a [Data Protection Policy](#) and Data Protection Policy (or Privacy Standard) in your handbook to show what is acceptable and unacceptable use of Social Media and personal data. Set out examples of misconduct in your disciplinary policy. For more information on this, read our article on [Tailoring your staff handbook](#)

Follow all UK Visa and Immigration rules

This is so important for the current Tier 2 visa programme to avoid fines of up to £20,000.

Communicate the New Employment Laws fast and first

Communicate new employment laws to your team before they happen and before your team learn of them from other sources. It is of course easy for Staff to be right up to speed on their rights. So be proactive, it demonstrates that your business is thinking about its people. A typical example would be introducing and explaining the new GDPR Privacy Notices or Flexible Working policies as they become available. Here is a [typical example](#)

In this article we outline

Employers can take advantage of these changes to prepare policies, communicate and explain these changes to their Staff.

We can keep you and your teams abreast all the new laws on the horizon and what they mean for your

business before they come into force. You can subscribe to our newsletter: just click [here](#), or in the footer below.

Follow your formal procedures (e.g disciplinary/ grievance/ redundancy), Follow what the business states in the staff handbook and employment contracts

Employment Tribunals generally take a dim view of Employers who don't follow their own policies. Policies are there to be used. Often an employer who simply starts without planning will get into difficulty. Most employees will obtain their own legal advice and will challenge the policy when possible. It's critically important to get the process right. If you don't start the process correctly from the beginning, it is very difficult to go back and start it again. Employers can and do earn respect from other staff who see them dealing with an issue properly and fairly in accordance with the policy in the handbook and with employment law.

If employers fail to follow a valid disciplinary or grievance process, an Employment Tribunal can increase the Award by upto 25%.

Don't be afraid to use Settlement Offers

At any time employers can make a settlement offer to an employee to leave and receive a reasonable settlement. The employee cannot refer to the settlement offer or any conversations regarding it at an Employment Tribunal. These "protected conversations" and are confidential. There is more know-how in this article which outlines

Avoid workplace claims by using Mediation to resolve staff problems and grievances early

Mediation is a voluntary and informal process where a trained mediator helps the employer and member of staff resolve a dispute.

Long established in family law and in commercial dispute resolution, employers are turning to Workplace Mediation as a cost effective and fast way to resolve issues between colleagues. If unresolved these disputes can seriously undermine their own and the employer's performance and staff morale.

Workplace Mediation can resolve:

- personality clashes and employees at loggerheads, including issues between Senior directors and at Board level
- communication breakdowns
- relationship breakdown within a team
- bullying and harassment
- cultural misunderstandings due to different nationalities working in the same workplace.



The HR Director is not involved so remains neutral. Here is more detail explaining [mediation](#) at work and which UK companies already use it extensively.

We offer a fixed price Mediation service, at prices ranging from £950 plus VAT to £2,000 plus VAT

depending upon the complexity of the situation. In our experience, effective resolution can usually be gained within a day, albeit an intensive day for those involved. Some follow up support is included and available if this becomes necessary. Mediation is much more cost effective when compared to the expense of an Employment Tribunal Case. The average legal fees of an ET case for the employer are between £15,000 and £20,000.

Establish a transparent pay, promotion, bonus and share option structure to help avoid equal pay claims and to reward those employees who contribute

Once again, take the opportunity to outline and explain the benefits of these schemes to your teams. Explain the changes to your teams as they occur e.g in overtime and holiday pay, so employers can plan.

Establish enterprise management incentive (EMI) share schemes to share the value creation with key staff.

although the Gender Pay Gap laws only apply to employers with 250 or more staff this principle will influence any employer's staff when they consider their future prospects.

Bring an HR specialist onboard and ask us for legal advice

Hire or consult with an HR Director. Experienced HR specialists see it as their role to help run the business run more effectively. Give your HR Director authority for all HR issues and make sure he/she is responsible for this area. He/she should update the CEO/CFO and Operational Directors on law changes and the action to take on HR problems so that the business acts consistently and knowledge is shared. We work closely all the time with our HR Directors to make their roles as efficient as possible and together solve HR disputes

Make it a habit to communicate with Staff in order to avoid workplace claims

It may sound straightforward, but this practice is so often overlooked by employers. When you see a problem developing, talk with your employee(s) on an informal basis at the earliest opportunity. This stops the dispute escalating into a situation which could result in complicated and time consuming grievance, worse still an Employment Tribunal claim. Remember to keep detailed notes of every conversation however informal.

Even more golden rules to avoid workplace claims

- They may go in and out of fashion, but its good practice to have regular appraisals. Agree with the employer how regularly they take place. There are a number of elements to cover on appraisal forms and in appraisal meetings that will help protect your business from workplace claims. For more details: get in touch with me [or](#) [.](#)
- If an employee has raised a grievance, at the first grievance meeting take the opportunity to ask the employee what is the solution that he/she wants and listen. The clue to a speedier, cleaner resolution is often revealed in the responses to this simple question. You may not be able or willing to meet the solution an employee requires, but don't let that stop you asking. This sets a solution orientated framework and can fast track to the underlying issue and ultimately resolving the problem better. It may be the employer can propose a modified solution back to the employee which solves the grievance.
- In Stress Cases: offer confidential counselling with a trained expert.

- Know when to use an Informal Meeting and when to use a Formal Meeting.

These are some of the most important ways in which an employer can protect itself and avoid workplace claims. It is not an exhaustive list of course or legal advice. If this article has raised more questions in your mind about workplace claims, please get in contact with us by email or call us on 0203 755 5288.

There are many more articles covering these topics in more detail and many others besides, aimed at demystifying [workplace claims](#) on this section of this web site.

Remember to sign up to the newsletter for new law updates and legal know-how to keep you and your company out of trouble: complete the sign up form in the footer below.