

Written statement of employment particulars



Section 1 of the Employment Rights Act 1996 requires employers to provide employees with a written statement of employment particulars including certain basic information about their employment. From 6 April 2020 this right will extend to all workers, with further important changes coming into effect, impacting all employers.

Headlines

Following recommendations from the Taylor Review and the Government's subsequent Good Work Plan, a number of changes are coming into effect on 6 April 2020:

- The written statement must be provided on day one of employment (rather than within the first two months of employment).
- Additional information must be included within the written statement (please see below).
- The statement must be given to workers, not just employees.



What additional information must be included?

Hours of work – What days of the week the worker is required to work and whether or not such hours or days may be variable and, if they may be, how they vary or how that variation is to be determined.

Other paid leave – Excluding holiday and sick leave (which are already covered), details of other terms and conditions relating to paid leave. For example, maternity leave, paternity leave and paid bereavement leave. The statement may refer the worker to another reasonably accessible document for the full details of the paid leave.

Other benefits – Details of other benefits provided to the worker. Strictly speaking, full details of the benefits should be provided within the written statement, however this may prove difficult for employers when a number of fluctuating benefits are provided. A pragmatic approach may have to be taken as to how the details of the benefits are documented. Care should be taken to make it clear what is contractual and what is non-contractual.

Probationary period – Including any conditions and its duration.

Training – Details of any training entitlement – whether paid for by the employer or not and whether compulsory or not.

What about existing employees and workers?

Existing employees – In brief anyone already working on 6 April 2020* can request an updated written statement and the employer must comply within one month of the request. If there is a change to an employee's particulars after 6 April 2020 the employer must provide the employee with a statement of the relevant changes at the earliest opportunity and in any event within one month.

Existing workers – Broadly, workers already engaged as at 6 April 2020 do not have the right to request a written statement. The right for workers to receive a written statement applies to workers engaged on or after 6 April 2020. It is important to remember that where a contract is terminated on or after 6 April 2020 and the worker is re-engaged, the worker would have the right to a written statement.

* Please note different arrangements apply to employees employed before 30 November 1993

Remedy

A failure to provide a written statement of particulars could lead to an employee making a reference to an Employment Tribunal seeking a declaration of the particulars. Compensation may also be provided of between two and four weeks capped pay where the claim is brought together with certain other Employment Tribunal claims. Compensation is not available in relation to freestanding claims.

Action points

Audit your workforce - We can work with you to assess your workforce and the employment status of the different categories of individual. Identifying the different categories is no easy task. Wider commercial ramifications must be considered, such as the impact on tax payments or other employment law issues.

Audit your benefits and training requirements – What benefits and training is available to which employees and workers? It is important to identify the benefits and training provision in the written particulars. Certain training information can be contained in a reasonably accessible document.

Documentation – Prepare your documentation for the forthcoming changes. We can help review and update your existing contracts to ensure they are compliant. Alternatively we can provide new, up-to-date employee / worker employment particulars, providing your business with maximum protection.



We would advise employers to use separate contracts for employees and workers, helping to clarify the employment status point.

Process – Employers should have a process in place should they receive requests for written particulars or should the change of particulars obligation be triggered. Strict timelines need to be adhered to.

We can help with all of the above.

The legislation is incredibly prescriptive and remaining compliant is challenging.

Contacts

If we can be of any assistance with regard to the issues raised please get in touch with your **usual contact** in the employment team or [click here](#) to contact one of our **employment experts**

Or alternatively please drop an email to the following members of the employment team who would be happy to help:

Email

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