



Compromise Agreements – Your Questions Answered

At Steeles Law we are seeing a rise in the number of clients that are seeking advice in relation to compromise agreements.

Employment Solicitor **Sam Greenhalgh** has answered some of the most frequent questions clients ask about compromise agreements. Please note that the answers given may not apply to your situation and we would advise you to contact Sam or another member of the Steeles Law employment team for specific advice on your own circumstances.

What is a compromise agreement?

A compromise agreement is a legally binding document in which the employee agrees not to commence or continue with any legal proceedings (whether in the employment tribunal or the county court) against the employer. In return, the employee will usually receive a payment of compensation, normally an amount above and beyond what the employee is contractually entitled to receive.

When is a compromise agreement used?

Compromise agreements are most commonly used when an employment relationship is terminated, but in some circumstances they are used to deal with potential claims that arise while the employee is still employed (for example, a discrimination claim). Employers use them to avoid the risk of an employee bringing a potentially costly claim against them.

Compromise agreements can also be used when proceedings have already been commenced in the employment tribunal to record the terms of an agreed settlement between the parties. In this situation an employer will usually insist that a term of the compromise agreement is that the employee agrees to withdraw their claim in the employment tribunal.

What terms are usually included in a compromise agreement?

A compromise agreement will usually include the date on which the individual's employment terminates and sometimes (but not always) the reason for the termination.

Compromise agreements will contain terms relating to the payment of any compensation, as well as any other payments due to be made to the employee. Such payments may include untaken holiday pay, payment in lieu of any benefits the employee will lose, redundancy pay and notice pay.

It is common for the employer to insist on a confidentiality clause which will prevent the employee informing anyone (with some exceptions) about the terms of the compromise agreement. Depending on the seniority of the employee, there may be post termination covenants in the employment contract, to restrict the activities after employment ends. In this situation, it would be typical to find these terms set out in the compromise agreement.

What is the tax position for any payments that are made under a compromise agreement?

The compromise agreement will set out all the payments that are to be made to the employee. Those payments that the employee is contractually entitled to receive will be subject to deductions for tax, for example payment in respect of any accrued but untaken holiday.

Payments that are deemed to be compensation for loss of employment (including redundancy payments) can usually be paid without deduction of tax up to the first £30,000.

Payments in lieu of notice may or may not be taxable and this is something we would need to advise you on.

When will the employee receive their money?

The employee will receive their money after the compromise agreement has been signed by the employee and their legal advisor and has been returned to the employer. Where termination has or will take place, payment will usually be made between 14 and 28 days after the date of termination or the employer receiving back the signed compromise agreement.

Will the employee get a reference?

There is no requirement for an employer to include a reference in a compromise agreement. Sometimes the employer and the employee will agree a reference as part of the settlement negotiations.

Why does the employee need to see a solicitor?

For a compromise agreement to be binding on the parties, it is a legal requirement that the employee obtains independent legal advice and is advised on the implications of signing the agreement. An independent qualified legal advisor with a certificate of indemnity insurance has to sign the compromise agreement to show that the employee has been provided with the necessary advice.

Compromise agreements can be written in complex legalistic language that is not always easily understood by someone who has not got a legal background and they often refer to specific legislation that an employee may never have heard of.

How much will it cost for the employee to see a solicitor?

The employer will usually contribute a fixed amount towards the cost of the employee obtaining legal advice in relation to the compromise agreement. Provided the compromise agreement is straightforward and/or the employee agrees in principle to the terms offered, this amount will usually cover all the costs of obtaining advice. If the situation is more complex and the terms are disputed, the cost may exceed the amount offered by the employer. In such situations, when advising individuals, we will always provide an estimate of any additional costs before incurring them.

Please contact us for further information.

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This guide is intended for general guidance only and should not be relied upon without detailed legal advice on your specific circumstances, which we will be pleased to provide.

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