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Written Particulars of Employment – to be provided to all workers as of 6 April 2020



Currently, s.1 of the Employment Rights Act 1996 requires employees to receive written particulars of employment (also known as an s.1 statement) within two months of an employee's start date. Prescribed particulars include key terms such as job title, place of work, holiday entitlement and provisions for sick pay and can be provided by a way of supplemental statement or in some cases just by signposting employees to relevant policies.

From 6 April 2020, changes to legislation will require employers to provide new recruits, both employees **and** workers, with a far more comprehensive list of written particulars, including, for example, all benefits and remuneration, all forms of unpaid leave entitlement and all training requirements. Subject to certain exceptions, these details now need to be provided by day one of employment and should be set out in a single document.

As the additional details may have been included in various policies, employers need to take care that they do not create contractual rights where none are intended. This could be avoided by stating clearly that benefits are non-contractual and may be withdrawn, changed from time to time, subject to eligibility criteria, or provided at the sole discretion of the employer.

Care is also required to ensure employee-type rights are not inadvertently extended to workers (who now also have the right to receive written particulars from 6 April 2020). This can be addressed by accurately recording the different terms applying to employees, as compared to other types of worker, and making it clear whether the status of worker/employee applies to each individual. Alternatively, separate templates can be drafted for workers and employees.

A full checklist of written particulars to be provided as of 6 April 2020 is included in the [checklist](#), however it should be noted that the following areas can involve considerable internal coordination and thought:

Any other remuneration or benefits

- The new catch-all provision means that by day one of employment, workers should receive details of all remuneration and benefit entitlements within their s.1 statement. What constitutes a 'benefit' for the purposes of the legislation is slightly ambiguous and could easily result in a rather long list. As a minimum, employers should collate and include details of any substantive benefits and remuneration within the body of the statement (e.g. share plans, health insurance, life insurance, childcare vouchers).
- As mentioned, a risk of listing benefit details within the s.1 statement is inadvertently creating contractual benefits (which were only ever intended to be provided at the employer's discretion). In addition to the carve outs suggested above, another way to mitigate this risk is to include only the headline terms of benefits within the statement – signposting to other (continually updated) documents which contain full details.

Training

- Employers will need to provide written details of all training requirements and entitlements within **two months** of a worker's start date. We would suggest that mandatory training is referred to generically in the employment contract, and the remainder is referred to on an intranet page which can be updated as and when required.

Revised employment statements for existing staff

- New requirements for s.1 statements only apply directly to members of the workforce starting from 6 April 2020. However, pre-6 April employees will be able to request an updated written statement in the new format. Employers should therefore be ready to turn around these requests within one month (as required by the legislation).
- Even if an existing employee has not exercised their right to an updated statement, if there is a change to any of the new provisions (which would not have been included in pre-6 April statements), employers should notify all employees of the change, irrespective of start date. The extent to which this requirement applies to any change in the list of benefits provided by employers is unclear – it would be very time-consuming and confusing to notify workers of all minor amendments.

Acas Guidance

We are still awaiting guidance from Acas to flesh out the detail. This will be particularly welcome in relation to the application of the new rules to workers and the requirement to provide details of “*any other remuneration or benefits*” (to see if the ‘headline terms of benefits’ approach is endorsed by Acas).

Enforcement

While penalties remain fairly low for breach of the new rules, it's still worth getting right from the outset as employees and workers become increasingly knowledgeable about their rights. Servicing questions and requests for further information on benefits and other policies can be labour intensive and expensive if responding on a case-by-case basis.

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