

Leading employment law firm Gannons Solicitors offers advice to employees facing redundancy on the pitfalls of compromise agreements and issues to look out for.

With redundancies continuing to make headlines across the City, employees faced with this situation should be fully informed when it comes to negotiating the best package possible. The offer of a compromise agreement as financial compensation can be very attractive but what does it entail and does it provide full and fair settlement following dismissal?

Deborah Casale, a partner at Gannons Solicitors, which specialises in employment law, for City financial sector workers answers some commonly asked questions and gives some top tips.

1 What is a compromise agreement?

The basis of a compromise agreement is that the employer offers the employee financial compensation and, in turn, by signing the agreement, the employee gives up virtually all employment related rights.

2 What will I be compensated for?

Usually the employee will be compensated for notice pay and an additional sum on top. There is a tax free band of £30,000 provided the redundancy payment is a genuine one for compensation of loss of employment. Notice pay is usually taxed, depending on the circumstances. All employee benefits should be considered in negotiating the agreement including bonuses, accrued holiday, car allowance, medical insurance, pension and share options. Taxation advice regarding any payment made under a compromise agreement should also be sought to maximise its tax efficiency.

3 Is my redundancy selection fair?

Your employer must usually place you in a selection pool and undertake an individual consultation process. Depending on the numbers of redundancies there may be further collective consultation with trade unions or employee representatives (which must be elected) of either 30 or 90 days. Key areas to look out for are whether the selection criteria are fair and objective and whether it can be argued the redundancy was based on sex, age, race, pregnancy/maternity, disability or any other type of discrimination, as this could lead to potential claims against the employer. Any potential claims which can be argued by a solicitor may lead to an increase in the settlement.

4 How do I know that the financial compensation I am being offered is appropriate?

The employee must have received advice from a relevant independent adviser (usually a solicitor) as to the terms and effect of the proposed compromise agreement, and, in particular, its effect on the individual's ability to pursue his or her rights before an Employment Tribunal. Through a legal and commercial analysis of the agreement, a solicitor may be in a position to improve the settlement through negotiation.

5 Should I sign a compromise agreement?

Be clear about your objectives before signing a compromise agreement and consider whether the amount being offered will compensate you for any period of unemployment. However, the sum offered is often calculated by what the employer thinks it may be liable for, not what the employee feels he or she needs or deserves. The agreement must always be in writing and must relate to the specific employment claims. It must also state and comply with all the employment law conditions otherwise the agreement will be invalid. A qualified adviser such as a solicitor specialising in this area of employment law will be able to provide the best possible legal advice.

Editor's notes

This article is designed to provide a summary of the issues addressed. Therefore, it is not intended as a detailed commentary on the relevant law and any comments made should not be acted upon without first taking specific legal advice.

With over 100 collective years of experience in advising individual clients and businesses, Gannons Solicitors is a niche firm specialising in employment law, company law, partnerships and LLPs. Business people in their own right, who are expertly trained and experienced in their respective fields, the partners are highly entrepreneurial and aim to find the quickest route to enhance clients' financial position and secure their legal rights.

Solicitors at Gannons advise on all aspects of employment law, including unfair employment dismissal, redundancy, discrimination and compromise agreements. They counsel senior executives and directors from various sectors such as financial services, commerce and industry on areas of UK employment law pertinent to the individual.