

EMPLOYMENT DATA

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The information contained in this leaflet is correct as at February 2008. It is intended as a useful check list only and is not intended to provide specific legal advice to you or your business.

The firm is not authorised under the Financial Services and Markets Act 2000 but is able in certain circumstances to offer a limited range of investment services to clients because we are members of the Law Society. We can provide these investment services if they are an incidental part of the professional services we have been engaged to provide.

EMPLOYMENT RIGHTS

Qualifying Period	Entitlement
Day 1	<ul style="list-style-type: none">● Protection from unfair dismissal in certain specific circumstances, for example, if the main reason involves:<ul style="list-style-type: none">- Maternity.- Health and safety.- Making a protected disclosure.- Asserting statutory rights, including asserting the right to be accompanied at a disciplinary or grievance meeting.● Protection from discrimination on the grounds of sex, race, religion or belief, sexual orientation, age and disability.● 52 weeks' maternity leave.
1 month	<ul style="list-style-type: none">● At least one week's notice of termination of contract.● Guarantee payments in case of lack of work.● Payment of salary during suspension on medical grounds under health and safety regulations.
2 months	A written statement of the particulars of employment as contained in Section 1 Employment Rights Act 1996.
3 months	Option to join stakeholder pension scheme.
26 weeks	<ul style="list-style-type: none">● Two weeks' paid paternity leave.● 39 weeks' maternity pay.● 39 weeks' adoption pay.● Make a flexible working request.
1 year	<ul style="list-style-type: none">● Protection from unfair dismissal.● 13 weeks' parental leave.
2 years	Statutory redundancy payment.

NOTICE

- Not less than 1 week if continuous employment is less than 2 years.
- Not less than 1 week's notice for each year of continuous employment between 2 and 12 years.
- Not less than 12 weeks' notice if the period of continuous employment is 12 years or more.

A contract of employment can provide for greater periods of notice but cannot reduce them.

WORKING PARENTS

- All female employees are entitled to time off for ante-natal care and at normal rates of pay regardless of length of service.
- All female employees are entitled to at least 26 weeks' ordinary maternity leave (OML) and 26 weeks' additional maternity leave (AML) regardless of length of service.

Paternity leave Up to 2 weeks' paid leave at £112.75 per week.

Parental leave 13 weeks' unpaid leave to care for a child up to 5 years from date of birth (18 years in the case of disabled children).

Adoption leave Up to 39 weeks' paid leave at £112.75 per week or 90% of normal weekly earnings if lower.

Time off for dependents A 'reasonable amount' of unpaid time off to deal with an unexpected emergency and make necessary long term arrangements involving a dependent.

Flexible working Both father & mother and employees who care for an adult can request flexible working patterns, on the basis that he or she:

- Is an employee.
- Has a child under 6 (18 if the child is disabled) or has responsibility for caring for an adult.
- Is the child's parent or the partner, spouse or civil partner of the parent.
- Is making the application in order to care for the child or adult.
- Has worked for 26 continuous weeks at date of application.
- Has not made an application to work flexibly in the last 12 months.

The employer must:

- Meet to discuss the request within 28 days.
- Notify the employee of their decision in writing within 14 days after the meeting.
- Allow the employee 14 days to appeal.
- Hold the appeal hearing within 14 days of receipt of appeal..
- Notify the employee of the outcome of the appeal within 14 days of appeal hearing.
- Allow the employee to be accompanied at the meeting.

The employer can only refuse on limited grounds:

- Burden of additional costs.
- Detrimental effect on ability to meet customer demand.
- Inability to reorganise work among existing staff.
- Inability to recruit additional staff.
- Detrimental impact on quality or performance.
- Insufficiency of work during the periods the employee proposes to work.
- Planned structural changes.

MATERNITY LEAVE & PAY

Statutory maternity pay

Qualifying employees are entitled to 39 weeks' Statutory Maternity Pay (SMP). Rate of SMP is:

- 90% of normal weekly earnings for first 6 weeks.
- Lesser of £112.75 or 90% of normal weekly earnings for remaining 33 weeks.
- Employers are reimbursed 92% of SMP (100% for small employers).

Qualifying for SMP

- The employee must have 26 weeks' continuous employment ending on the 15th week before EWC.
- Her normal weekly earnings in the 8 weeks up to the 15th week before EWC not less than the lower earnings limit for NIC, currently £87.
- The employee must notify the employer no later than the 15th week before EWC:
 - That she is pregnant.
 - When the EWC will be.
 - When she intends her maternity leave to start.
 - When she expects SMP to start (28 days notice required). Employer has 28 days to confirm expected return date.

Maternity leave Starts no earlier than 11th week before EWC.

- Compulsory maternity leave**
- 2 weeks from date of childbirth.
 - 4 weeks if employee works in a factory.
 - A later date in certain cases by statutory requirement.

Up to 10 keeping in touch days may be worked during OML or AML without bringing leave to an end or losing SMP.

- Return after maternity leave**
- The employee must give 8 weeks notice to return before the end of full maternity leave entitlement.
 - The employee does not have to give notice of her intention to return at the end of her maternity leave.
 - The employee must give contractual notice if she does not intend to return after maternity leave.
 - Return date is the 1st working day after the end of maternity leave.

STATUTORY REDUNDANCY PAYMENTS

- Minimum continuous service: 2 years.
- Maximum continuous service: 20 years.
- Service is calculated by counting backwards from the end of the notice period for each complete year of continuous service.
- Payments are as follows for each complete year of service:

Under 22 years old	= Half a week's pay*
Between 22-40 years old	= One week's pay
More than 41 years old	= One and a half weeks' pay

*Limit on week's pay = £330

COLLECTIVE REDUNDANCY - consultation obligations

- Applies when 20 or more employees are to be made redundant at one establishment within a period of 90 days or less.
- Consultation must start "in good time" but:
 - at least 30 days before the first dismissal takes effect for between 20-99 redundancies.
 - 90 days before the first dismissal takes effect for 100 or more redundancies.
- Failure to consult properly may result in a protective award of up to 90 days pay per employee.

INFORMATION & CONSULTATION

From 6 April 2007 employees in organisations with 100 or more employees have a right to be informed and consulted. (From 6 April 2008 reduces to 50)

- Not automatic**
- Requested by 10% of employees (with a minimum of 15 and a maximum of 2,500 employees required to make the request).
 - If there is a valid pre-existing information and consultation agreement and less than 40% request a new arrangement, the employer may choose to commence negotiations or ballot the workforce for endorsement of the request.
 - If 40% or more request a new arrangement the employer is obliged to negotiate.
 - Pre-existing arrangements are valid if they:
 - Are in writing
 - State how employees or representatives are to be informed and consulted.
 - Cover all employees
 - Have been approved by employees.

Fallback provisions

If no agreement is reached the employer must inform employee representatives of:

- Recent and probable developments of the undertakings activities and economic situation.
- Situation, structure and probable developments of employment within the undertaking.
- Anticipatory measures (especially if there is a threat to employment).
- A decision likely to lead to substantial changes in:
 - Work organisation, or
 - Contractual relations, including decisions on collective redundancies & business transfers (with a view to reaching agreement).

Penalty for breach

Complaint to Central Arbitration Committee (CAC) which will take steps to correct any breach and can apply to Employment Appeal Tribunal to impose a financial penalty of up to £25,000.

WORKING TIME REGULATIONS

Working Time Regulations apply to all workers.

Hours

- 48 hour maximum working week averaged over a 17 week period (can be extended by agreement to 52 weeks).
- Opt out by written agreement signed by the worker which can be cancelled on 7 days notice, or longer (up to 3 months) if agreed.
- Does not apply to workers who can decide how long they work.

Rest breaks

- 11 hours uninterrupted rest each day.
- 1 whole day off a week (averaged over 2 weeks).
- 20 minute rest break during every 6 hour stretch.
- Special rules apply to young workers and night workers.

Holidays

- 4.8 weeks paid annual leave (a week = a working week e.g. a 3 day week equals 12 days leave).
- Leave includes Bank Holidays (unless they are allowed as extra by the contract of employment or custom and practice).
- Leave accrues at the rate of 1/12 each month (rounded up to the next half day).
- Workers must give notice of intention to take leave.

NATIONAL MINIMUM WAGE

Adult rate Presently £5.52 per hour

Development rate (worker aged 18-21)
Presently £4.60 per hour

Young workers rate (16 & 17 year olds)
Presently £3.40 per hour

SICKNESS PAYMENTS

Statutory sick pay £72.55 per week for up to 28 weeks in any 3 years.

COMPENSATION LIMITS

Employment right

Maximum award

Unfair dismissal

Basic award	£9,900
Compensatory award	£63,000
Additional award	£8,580 - £17,160 i.e. 26 - 52 weeks' pay

Redundancy pay	£9,900
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Discrimination	No limit
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Dismissal for health and safety reasons

Basic award	£9,900
Compensatory award	No limit

Dismissal for making a protected disclosure

Basic award	£9,900
Compensatory award	No limit

Guarantee pay	£102.00 (5 days in any period of 3 months) (£20.40 per day)*
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Contract claims in a Tribunal	£25,000
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Limit on a week's pay	£330(where applicable)*
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Failure to give statement of employment particulars

£1,320

RETIREMENT DISMISSAL

At least six months (but not more than 12 months) before intended retirement date the employer must notify the employee in writing of:

- Intended retirement date: and
- Advise employee of right to request not to retire on that date.

Where a request to work beyond retirement is received, employers must:

- Hold a meeting to discuss request.
- Give employee written and dated notice of decision.
- Advise employee of right to appeal.
- Conduct an appeal meeting.
- Give employee written notice of appeal decision: and
- Allow employee to be accompanied at meetings.

FORTHCOMING LEGISLATION - 2008

- Employment Bill 2007-2008 will repeal the statutory dismissal and grievance procedures.
- Corporate Manslaughter and Corporate Homicide Act 2007.
- The Information and Consultation of Employees Regulations 2004 will cover employers with 50 or more employees.
- Working Time (Amendment) Reg's 2007 - increases annual leave from 24 to 28 days on 1 April 2009.

* The Secretary of State will increase these figures annually in line with the retail prices index every year.