

## A GUIDE TO COMPROMISE AGREEMENTS

### 1. What is a Compromise Agreement?

- A Compromise Agreement is a legally-binding contract between an employer and an employee to settle claims the employee may have without the need for an Employment Tribunal claim
- Sometimes Compromise Agreements are used to settle Employment Tribunal claims before there is a hearing but usually this is done via ACAS
- Generally, the Agreement will exclude all the claims of the employee except for personal injury claims he/she does not know about, for example an industrial disease that appears at a later date (unless specifically allowed in the Agreement) and accrued pension rights
- Terms of the Agreement include clarification of the claims being excluded, the sums of money on offer, clauses requiring the Agreement to be kept confidential and sometimes a clause providing for a reference

### 2. What is the procedure for getting the Agreement signed?

- It is a legal requirement that the employee is advised by a qualified independent legal adviser, such as a solicitor
- At Pickworths, we treat each case on its own merits. We will discuss with you why and how your employment is being/has been terminated and then take you through the Agreement clause by clause to ensure you understand what you are signing
- If the terms of the Agreement are agreed, the employee and employer sign the Agreement and as your solicitors, Pickworths has to sign an Adviser's Certificate
- We will advise you as to the tax efficiency of the agreement and if we can improve the terms

### 3. Do I have to accept the offer?

- After we have details of the circumstances relating to your employment and how the parties are considering entering into an agreement, we will advise whether or not we consider the offer is acceptable
- If we consider the offer is acceptable we will tell you and you can decide whether or not to accept the offer
- If we consider the offer is too low, we will tell you and if you want us to, we can seek to negotiate an increase on your behalf (please note that this often means that the fees being paid by the employer are not enough to cover our

legal fees). If you want to accept the offer anyway, you are fully entitled to do so

- If settlement cannot be reached, you can either accept the employer's offer or reject it and take the employer to the Employment Tribunal

#### **4. What about legal fees?**

- In almost all cases, the employer will pay a contribution towards the legal fees incurred. Mostly this will be enough to cover our legal fees. There are some occasions when the contribution by the employer will not be enough, for example if we have to enter into negotiations with the employer to increase the offer.
- If our fees are likely to be more than the employer's contribution, we will give you an estimate of the likely fees in advance, before they are incurred, so that you can decide how much you want us to do on your behalf

#### **5. What happens after the Agreement is signed?**

- We send the signed Agreement to the employer and we invoice the employer directly. If the employer's contribution towards our fees is not sufficient, we will invoice you for the excess
- You are required to disclose the Agreement as part of your annual tax return
- If the employer does not pay the money due under the Agreement, it is unlikely that you will be able to claim in the Employment Tribunal. We can however assist with Court proceedings for recovery of the money due under the Agreement