

# ARE YOU BEING MADE REDUNDANT?

COMPROMISE AGREEMENTS - QUESTIONS ANSWERED



GARNER & HANCOCK



## Q. Why are my employers asking me to sign a compromise agreement?

A. In short, it is to protect the employer, but it also provides transparency in any redundancy situation or severance package. You are agreeing not to pursue any claim you may against your employers in either a court or an employment tribunal.

Compromise agreements are recognised by statute and are the only way a claim can be validly resolved without tribunal proceedings having been initiated.

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## Q. Why am I asked to see a solicitor?

A. Again it is to protect the Employers and to have this looked over by an independent solicitor gives more protection to the employer as it becomes a binding.

The solicitor giving the advice must also sign the agreement and certify that the appropriate advice has been given. One of the conditions under the compromise agreement is that the Solicitor needs to be insured to give advice. All solicitors are covered by an indemnity insurance covering any negligent advice. But check their note paper it will say “regulated by the Solicitors Regulation Authority”.

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## Q. "I don't need advice, I just want to sign the agreement"

A. You have probably already negotiated a settlement figure directly with your employers but that is one part of many other issues which could crop up and which you had not thought about. The experienced solicitor will be able to explain the Compromise agreement which can be written in very legalistic language and can refer to sections of Acts and Regulations which you may never have heard of. You might also not have realised about issues like tax, pensions, benefits, and the possibility of negotiating an increase in your settlement figure.

It is also a legal requirement that your adviser signs the agreement to confirm that advice has been given and the advisor will have to make sure that he has got all the pertinent information to able to advise you properly

### Introduction

### The Employment Law Service at

### Garner & Hancock LLP

We are members of the Employment Lawyers Association and have a Quality Standard awarded by the Legal Services Commission.



Member of the Employment  
Lawyers Association

[www.ela.org](http://www.ela.org)

We are Solicitors specialising in  
Employment Law including redundancy,  
wrongful and unfair dismissal.

Acting for Employers reviewing and  
drafting contract of employments.  
Assisting in the termination process.

## Q. Do I have to pay tax on the money I receive?

**A.** No, if the compensation package is less than £30,000. But you do have to pay tax on, notice in lieu, holiday pay, bonuses, perks etc. You should also keep your compromise agreement safe in case the tax man asks about what these payments are for. You will be asked to give an indemnity but most cases, as long the compensation is correctly calculated and it is pure compensation rather than for example notice in lieu or other taxable benefits then it is very unlikely that the tax man will go behind the compromise agreement. So the indemnity is just an extra protection for the employer and should be to onerous for you.

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## Q. Why do I need to bring my contract of employment with me at the meeting?

**A.** There may be provisions in the contract which will need to be checked by the solicitor, for example, the notice period, any enhanced redundancy payments, termination clauses, post termination restrictions and bonuses. Why do I need to bring my contract of employment with me at the meeting?

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## Q. How long will it all take?

**A.** If the agreement is agreeable to you and there are no amendments and the advice is understood by you and you do not need to time to read over the letter of advice confirming your meeting, we could have it executed in some cases there and then. But sometimes, the employers would prefer to have the solicitor name inserted in the agreement. This can be done by email and even sent to you for final approval in this way. Some agreements need to have it witnessed others do not and may even look like letter rather than agreements. Most will have an “advisors certificate” this is where the solicitor as the certificate on their headed paper , signed and dated, other types of certificates only require the solicitors signature, date and stamp.

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### Other Advice

We can offer other specialism which may be of assistance

- Have you reviewed you Will recently?
- Property advice
- New Contract of Employment for a new position
- Divorce or Seperation

What service do you expect from Garner & Hancock?

- We shall give you initial advice over the phone
- Arrange a convenient appointment
- Go through all the aspects of your employment and possible claims you may have. Please bring with you your contract of employment
- Advise you whether you may be entitled to more compensation
- We can see you on short notice, evenings and weekends. We can communicate with you by Email, in person, by video conference call (skype and windows net meeting) and phone.

## Q. What sort of things does a Compromise agreement include?

**Full and Final?** The compromise agreement will state the full breakdown of the payments you are receiving and the extent to which the sums will be paid free of tax.

**Tax free or not?** Usually, up to £30,000 compensation can be paid without deduction, but you will have to give a tax indemnity to your employer within the agreement. This is entirely usual.

**Keep it hush.** The compromise agreement will also provide for confidentiality both in terms of your employers trade secrets and business affairs and also of the terms of the agreement. You will be paid a small additional sum for agreeing to this-usually a few hundred pounds.

**Don't talk bad about us.** You will also usually be required not to make any derogatory comments against your employer. Some employees prefer such agreements to be mutual, and employers are often receptive to such request.

**Am I free to work anywhere?** The compromise agreement may confirm the existing post-termination restrictive covenants that you are already bound by under your contract of employment. In some cases, the covenants are new, having appeared in the compromise agreement for the first time. In either case, you need to take specific advice on this as your ability to work for a competitor and/or service old clients and customers could be hampered after you leave.

**What do the list of Acts of Parliament mean?** There will be a long list of statutes in the compromise agreement (such as the Race Discrimination Act, Sex Discrimination Act, Employment Rights Act) and many more, under which you will agree not to bring a claim. You should not be concerned by this. As the compromise agreement is intended to be in full and final settlement of all claims the employer needs to list these to be able to enforce the agreement.

**Reference, why so basic?** Most employers will attach a reference to the actual compromise agreement. Some will only give basic information such as when you started, your position, days off sick and when you left. The reason for this, is consistency with all other employers or to avoid a situation where something is said which could be detrimental to you and expose the employers to being sued. So most employers will play it safe and provide a basic reference.



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## Q. What if I don't sign the agreement?

**A.** There is no legal or other obligation on you to sign a compromise agreement if you are not happy with it. However, just as you need to understand and get advice on what signing means, you should also understand and get advice on what will happen if you do not sign.

At its simplest, refusing to sign means that there is no agreement between you and your employer, and you are free to make a claim to the employment tribunal (which must be within 3 months of your termination date). Do not forget that you might have an opportunity to appeal any termination, you should exhaust any such remedies before commencing tribunal proceedings.

In redundancy cases, however, it could mean that your employer would refuse to pay you the full redundancy package and will instead pay the minimum state entitlement. There is almost certainly nothing unlawful in them doing this and you need to consider carefully based on our advice. on whether it is likely that your complaint to a tribunal or other legal action is likely to compensate you for what you may have lost by refusing to sign the compromise agreement. This is a decision, which should never be taken lightly.

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## Q. How to Save on Tax

Recent Case of Lynne Cornell –v- Capita Symonds Limited. Check your contract. If it says employers chose to make a PILON (payment in lieu of notice) then the employers are left a more leeway whether to use it. So on termination they can make a payment for redundancy or other compensation for loss of employment rather than a PILON which is taxable saving them tax and making you more likely to benefit from an enhanced redundancy.

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## Q. What are your costs? How will my employers pay you and why is the bill in my name?

**A.** Usually we keep to those fees paid by your employer. Remember, you are our client although the payment is made by your employers. The bill is therefore in your name but “payable” by your employers. We shall obtain payment directly from your employers so there is one less thing to worry about. If we are undertaking additional work for you then we shall agree this with you in advance.

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“Garner & Hancock negotiated a really good settlement for me “

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You can find us in the Good Lawyer Guide

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We are insured to give you advice on your compromise agreement



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## Q. What happens to my pension?

A. Your occupational pension will simply be frozen. But we suggest you speak to your employers pension provider about, transferring the pension, or continuing to pay in via another employer.

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## Q. What should I do after I have signed the compromise agreement?

A. Once a compromise agreement has been signed by all parties, any agreed compensation will usually be paid in a within 7 or 14 days. Sometimes, it goes through in the next company pay run. The payment date will be specified in the agreement.

You should also register for benefits, even if you are not entitled to them, because your national insurance will then be paid by the government. You should check any insurance policies which may kick in due to your unemployment.



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### Where are we?

Locate us on Google Maps  
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We have an out of hours  
service