

Understanding the changes to contracts of employment

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Understanding the changes to contracts of employment coming into force on 6 April 2020

The rules governing statements of employment particulars (sometimes referred to as section 1 statements) are changing on 6 April 2020. The wider category of “workers” will become entitled to receive a statement and statements must be provided earlier and contain more information. Typically,

employers comply with the requirement to provide a written statement by providing an employment contract. Accordingly, employers will need to update template employment contracts and prepare an appropriate template to be given to workers.

In this briefing, we explain what is changing and the steps employers need to take in response.

1. Who is entitled to receive a statement of particulars?

Before 6 April 2020, employers had to provide statements of employment particulars (**statements**) to all employees who had one month's service. There was no obligation to provide statements to employees who worked for periods shorter than a month.

From 6 April 2020, employers must provide statements to employees and workers regardless of length of service. This means employers will need to consider whether someone they wish to engage might be categorised as a worker. As a reminder, a worker is an individual who:

- works under a contract;
- provides personal service to the other party; and
- is not in business on their own account.

This also means that employers will need to be ready to give statements to those who are employed or engaged even for very short periods of time.

2. When must the statement be provided?

Before 6 April 2020, employers had to provide statements within two months of starting work.

From 6 April 2020, employers must provide the vast majority of the required information by no later than the first day of work. A limited amount of information can be provided after the first day of work, provided it is given within two months of starting work.

3. What information must be included in the statement?

Full details of the new requirements are set out at (i) – (iii) below. All of the items marked with an asterisk are new particulars which must be provided for the first time from 6 April 2020.

(i) Information to be provided by the first day of work in a single document

The following particulars must be provided to the employee/worker by their first day of work and in a single document, which will usually be the contract of employment.

- Names of the employer and employee/worker
- The date the employment/engagement started
- The date continuous employment began (employees only)
- Job title and brief description of work
- Place/s of work and employer's address
- Details of any probationary period including conditions and duration *
- If the job is not intended to permanent, how long the job is expected to last or the end date of a fixed-term contract
- Length of notice required to terminate the contract
- Normal hours of work
- Days of the week that the employee/worker must work (and where hours/days are variable how this determined) *
- Details of rate of pay or method of calculating pay
- Intervals of pay (i.e. weekly, monthly or other)
- Holiday entitlement and pay
- Details of any other benefits (including non-contractual benefits) *
- Details of any mandatory training requirements (whether or not the cost is born by the employer) *
- An outline of how to appeal a disciplinary decision and how to raise a grievance
- If the employee or worker is required to work outside

the UK for over a month, the arrangements that will apply (including period of time and pay and benefits)

(ii) Information to be provided by the first day of work but which may be given in a separate and readily accessible document

The following particulars must also be provided to the employee/worker by their first day of work, but may, if desired, be set out in a separate and readily accessible document such as a staff handbook. Alternatively, for ease, the employer may prefer to include this information within the main statement.

- Details of eligibility for sick leave and pay
- Details of any type of paid leave (including non-contractual entitlements) *

(iii) Information to be provided within two months of starting work in a supplementary document

The following particulars must be provided to the employee/worker within two months of starting work and may be set out in a separate supplementary statement (as opposed to updating the main statement). Alternatively, for ease, the employer may simply prefer to include this information within the main statement given on the first day of work.

- Details of pension entitlement
- Details of any collective agreements affecting the employment/engagement
- Details of any disciplinary rules and the disciplinary and grievance procedures
- Details of any other training entitlement *

4. Do employers need to revise contracts for existing employees?

There is no obligation to amend existing employment contracts or statements for existing employees or to provide statements

to existing workers. The obligation is to ensure all new statements issued from 6 April 2020 comply with the new rules.

However, if an existing employee or worker requests an updated employment contract or statement, then the updated version should be amended to comply with the new rules.

5. What are the consequences if an employer fails to comply with the new requirements?

An employee or worker will only be able claim compensation for a failure to provide a compliant statement where they have succeeded in a separate substantive claim before an Employment Tribunal. The complaint about the failure to provide the statement is then able to piggy-back on the successful claim. If they are able to do this, they may be awarded additional compensation of between 2 to 4 weeks' pay, which is capped at £538 per week from 6 April 2020. This means the maximum compensation available for a breach will be £2,152.

If the employee or worker does not have a separate claim then they are entitled to seek a declaration from the Employment Tribunal, which has the power to amend the particulars.

6. What steps should employers be taking now?

Employers should take the following steps to prepare for this imminent change:

- Audit the status of future recruits to assess whether they have employee or worker status. Employers should already have a system in place to identify whether new recruits will have worker status because, from April 2019, workers became entitled to receive itemised pay slips.
- Gather information needed to populate certain of the new particulars (such as paid leave, benefits and training entitlements). This information could be compiled into a schedule of entitlements across the workforce, which

should help to streamline the preparation of contracts in future.

- Update relevant template documents before 6 April 2020. This may include anything from simple statements and contracts of employment to more complex service agreements. Ideally, there should be a separate template document for workers to avoid blurring the distinction between workers and employees.
- When updating template documents, employers should take care not to accidentally convert a non-contractual benefit (e.g. enhanced maternity pay or a discretionary bonus) into a contractual benefit.
- Ensure the recruitment process is adjusted to provide the necessary document/s to the employee or worker by no later than their first day at work. Where an employer elects to provide certain information within two months of starting work, there needs to be a system in place to remind HR to provide the information to the employee/worker in time.

Should you require any further advice on these changes please contact [Amanda Steadman](mailto:amandasteadman@bdbf.co.uk) (amandasteadman@bdbf.co.uk) or your usual [BDBF contact](#).

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