

Countdown to contract changes for employers from April 2020

March 2020

For a change, something in employment law unrelated to the Coronavirus pandemic!

From April 2020, the statutory requirements around statements of particulars are changing and being extended to include all workers, not just employees.

This means that anyone starting work on or after 6 April 2020 will be entitled to a written statement of employment particulars in the required format by day one, even where the work will last for less than one month, and those already working for an organisation have the right to the same information.

With everyone focused on managing the Coronavirus crisis, employment experts are reminding companies that they must not miss important deadlines to implement new legislation such as this.

From April the statement must be provided to all new recruits on or before their first day of work and set out in a single document, with only certain exceptions.

On top of all previous information, it must include all benefits and remuneration, all forms of unpaid leave entitlement and all training requirements to provide far more comprehensive information than previously required, specifically:

- details of the hours and days of the week they are required to work
- if hours may be varied, how and when
- if a recruit is subject to a probationary period, how long and under what conditions
- details of entitlement to paid leave, including maternity and paternity leave

- any training which must be completed, and whether it will be paid for by the employer
- any additional remuneration or benefits provided by the employer

Within two months of the start date, confirmation must be provided for pensions, collective agreements, disciplinary procedures and any training entitlement where completion is not a requirement of the job, all of which can be in separate documents.

Employment lawyer, [Karen Cole](#) said:

"It's important for employers to make sure they are providing statements to all workers, as well as employees. There is often confusion over the distinction between an employee, a worker and a contractor, as highlighted by many high-profile cases relating to those working in the gig economy, such as Uber drivers.

Although someone may not be an employee, they may still be categorised as a 'worker' and entitled to certain rights such as the national minimum wage and paid holiday and now a section 1 statement of particulars. Employees are also 'workers', but they have extra employment rights and responsibilities."

The definition of a worker in the [Working Time Regulations 1998](#) is someone who works under a contract of employment, or any other express or implied contract, to provide work or services personally for a reward and who cannot send someone else to carry out the task. The definition is broad and means that many casual, freelance or self-employed individuals may be treated as workers.

There are some exceptions on sub-contracting of work, and where services are provided by an individual through a limited company. To help in determining status, the

Government has an [online tool](#) to help employers and individuals.

Karen added:

“Previously, a written statement could be made up of multiple documents, and different sections might have been distributed at different times. It’s a potential minefield when trying to create one document from all these different sections, particularly in relation to discretionary benefits and distinguishing worker rights from those of employees.”

Employers need to make sure they do not inadvertently create a contractual right for anything that may be subject to circumstances, withdrawn or altered, so such items should be clearly marked as non-contractual, that they may be withdrawn or changed and are subject to the employer’s discretion at all times. One way to make this clear is to create an annexe to cover such items. Similarly, setting up a separate template for workers can help avoid inadvertently extending employee rights to workers.”

Get it right and call [Karen Cole](#) today.

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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

