

RAINEY COLLINS LAWYERS

Employment Agreements

We can also draft or review employment agreements (permanent, fixed term, casual or part time) as well as contractor agreements, and give you guidance on whether you should be using an employment agreement or a contractor agreement. Getting that wrong can have very serious consequences.

Every employee must have a written employment agreement. Employers can be fined for failing to supply a written agreement, and many terms, such as 90-day trial periods, will be invalid if they are not in writing.

The agreement should be signed by both parties before the employee commences work.

Ensure you keep a copy of all employment agreements. You must also keep copies of any draft agreement given to an employee to consider (even if it is changed in the agreed version).

When drafting an employment agreement there are many things that must be included, and some things which it is a good idea to include.

The Must Haves...

- The correct names of the employer and employee (their correct legal name).
- Their role (not job description).
- Their pay rate.
- Where they will work.
- Their hours of work.
- What happens if they work on a public holiday.
- The required wording for consultation during a restructure/redundancy.
- Resolving disputes, and the 90-day personal grievance time limit (12 months for sexual harassment personal grievances).

The Good to Haves...

- They must follow all policies and procedures.
- The ability to suspend while investigating serious misconduct.
- The ability to deduct money owing.
- Ownership of Intellectual Property.
- Restraints of trade- no competition, no taking clients or other staff.

Do not put your policies and procedures in the employment agreement.

If you do they cannot be changed unless the employee agrees. Have them in separate documents that can be changed when you want to.

90-Day Trial Periods...

- These can only be used if you have under 20 employees.
- They must be in writing.
- They must include particular wording.
- The employee must never have been employed by you before.

Fixed Term Agreements...

Must be for a genuine and reasonable reason e.g., a one-off project or parental care leave cover. Your funding is not regarded as a reasonable reason for a fixed term.

Getting your agreements right is vital to avoiding problems down the track.

Alan Knowsley

Partner