EMPLOYMENT LAWYER

LEGAL COMMENTATOR

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Making sense of employment law

Dealing with being managed out: A guide for employees

In many cases employers have genuine performance concerns that need to be addressed. However, this is not always so. Occasionally, particularly when a new manager arrives with his old team in tow, you could be forgiven for thinking that your job is in jeopardy. And if your worst fears are true and the knives are out, what are your options?

EMPLOYER TACTICS

Your employer may, for example, try and use a "below expectations" rating as a catalyst for instigating a formal performance process against you. The process could include inviting you to disciplinary meetings, issuing warnings, and providing you with an opportunity to "improve." It might take some time but, unless you're superhuman, if your employer really wants to find some fault with your work, they can probably do so.

Alternatively, your employer could try and suggest that there is a business need to either restructure the business or simply reduce headcount. Suppose you are doing a specific/unique role, your position might conveniently cease to exist within the new structure. Should, for example, your role be broadly the same as others, and your employer intends to reduce numbers, you may find yourself selected for redundancy against your peers. Your employer would need to consult with you and search for reasonable alternative roles.

REACHING A DEAL

Sometimes it's possible to have an off-the-record chat and thrash out a deal. Your employer may agree to pay you off on condition that you leave and don't bring any employment claims. The parties would then normally enter into a settlement agreement – and it is a requirement that you obtain legal advice before entering into such an agreement. This allows you to assess your options carefully, and to obtain important information. For example, you need to be aware that the first £30,000 of a termination or compensation payment can sometimes, depending on the circumstances, be paid tax-free.

CLAIMS

If you are shown the exit you could consider whether you have a claim for unfair dismissal. Generally, you would need to have had at least two years' service to be able to bring the claim. You would be required to follow the Advisory Conciliation and Arbitration Service's (Acas) early conciliation process prior to issuing a claim. Any such claim must usually be filed (with the requisite fee) within three months (less a day) from when the employment ends - and that's subject to the rules for extending time for early conciliation. The maximum compensation award is the lower of 52 weeks' pay or £80,541.

There may be other potential claims to consider too.

This guide is intended for guidance only and should not be relied upon for specific advice.
The law is also subject to frequent change.

For Employment Law Advice Contact

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