

Discussing and negotiating an offer

If an employer or worker is considering a settlement agreement, they should meet to discuss it.

[Settlement discussions are confidential](#) and are sometimes called 'protected conversations'.

Having an initial meeting

In the first meeting, you should:

- explain the reasons for offering a settlement agreement
- answer any questions

As an employer, you should make it clear that:

- a settlement agreement is voluntary – the worker does not have to agree to it
- the worker can negotiate and make a counter offer
- discussions are confidential – this means they cannot usually be used as evidence when making a claim at an employment tribunal or another court
- discussions should not affect any performance management or disciplinary procedures

[Use our template letters to start settlement discussions](#)

Bringing a companion to a meeting

There's no legal right to be accompanied to a settlement agreement meeting.

But it's good practice to allow a worker to bring one of the following to the meeting:

- someone they work with
- a workplace trade union representative who's certified by their union to act as a companion
- an official employed by a trade union

Under discrimination law, employers must make [reasonable adjustments](#) for disabled workers. This might mean allowing someone to be their companion. For example, a support worker or someone with knowledge of the disability and its effects.

Protection from detriment for trade union companions

An employer cannot cause 'detriment' to a trade union representative or official for accompanying someone as part of their trade union duties.

Detriment means someone experiences one or both of the following:

- being treated worse than before

- having their situation made worse

Examples of detriment could be:

- they experience [bullying](#)
- they experience [harassment](#)
- their employer turns down their training requests without good reason
- they are overlooked for promotions or development opportunities
- their employer reduces their hours without good reason

Other companions are not protected against detriment.

For example, if a worker experiences detriment for accompanying someone to a settlement meeting, they could not make a claim to an employment tribunal.

Protection from dismissal for other companions

Someone could make a claim to an employment tribunal for unfair dismissal if they are:

- dismissed for accompanying someone to a settlement agreement meeting
- [legally classed as an employee](#)

Someone is not likely to be an employee if they're:

- an agency worker
- a casual worker
- on a zero-hours contract

If a companion is not an employee, they do not have the right to make a claim to an employment tribunal for unfair dismissal.

Financial payments

The employer and worker should agree on the financial payment.

Payments might include money for different things.

For example:

- compensation – an amount of money for agreeing not to make an employment tribunal claim
- a payment for any holiday entitlement not taken

The settlement agreement should say when and how payments will be made.

It's good practice to agree to make payments as soon as possible after signing a settlement agreement.

Tax and National Insurance (NI)

The settlement agreement should show:

- a breakdown of the payments and amounts
- any deductions for tax and National Insurance

Tax and National Insurance are usually deducted from:

- wages or salary
- bonuses
- commission
- holiday pay
- payment in lieu of notice (PILON)

You do not usually pay tax or National Insurance on the first combined £30,000 of:

- compensation for giving up your right to make a claim at a tribunal
- redundancy pay

[Read more about tax on termination payments on GOV.UK](#)

This is a complex area of law. If you're not sure whether tax applies, you should contact a tax adviser or [HM Revenue and Customs \(HMRC\)](#).

Ending the employment relationship

An employment relationship could end because of a dismissal or by mutual agreement.

A settlement agreement does not have to give the reason for ending an employment relationship.

The reason for ending employment can affect someone's entitlement to payments and financial support.

For example:

- Universal Credit
- Jobseeker's Allowance
- payments under some insurance policies

Redundancy

If an employer offers someone voluntary redundancy and they sign a settlement agreement, this still counts as a redundancy.

If the employer is proposing multiple redundancies, voluntary redundancies must be included when checking whether collective consultation is needed.

[Find out more about collective consultation for redundancy](#)

Employment end date

A settlement agreement could end the employment relationship:

- at the end of the [notice period](#)
- on an agreed date

Job references

Employers do not have to supply a job reference.

But if they do agree to provide one, the wording should be agreed as part of the settlement agreement.

When someone asks for a written or verbal reference, the employer should use the wording in the agreed reference.

[Find out more about what employers can say in a job reference](#)