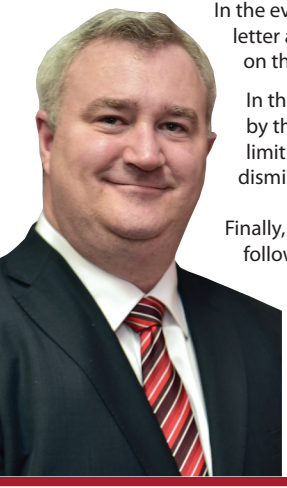
# Avoiding Employment Disputes

*Employers continue to make mistakes when it comes to employment law but this can be easily rectified to avoid any litigation, writes David Higgins, Partner at Berwick Solicitors.*

Employment law disputes can be some of the most destructive disagreements that come before the Workplace Relations Commission or the courts and very often, employers face such suits because they have negated on following some basic steps that are required under employment legislation.

For any employer, it is imperative that your employee/s have a contract of employment. This is a legal necessity under The Terms of Employment (Information) Act 1994. It provides that an employer is obliged to provide an employee with a statement in writing no later than two months after the commencement of employment. The document should be in clear plain language and avoid using legal terminology where possible. The core elements of the contract include the name and address of the employer, the name of the employee, the place of work, the employment start date, the rates of pay, the role, the hours of work, details of sick pay, sick leave, breaks, rest periods, holiday pay, holiday leave, maternity pay and maternity leave.

There should also be a comprehensive grievance procedure and disciplinary procedure that both parties (the employer and employee) should be familiar with and acknowledge that they have been made aware of the procedures.



In the event of a grievance or disciplinary situation arising, the procedures should be followed to the letter and all meetings, conversations or significant events should be recorded in writing and kept on the employment law file. The employee is entitled to view his or her employment law file.

In the event that a relationship does irretrievably break down or there is a legitimate complaint by the employee, this complaint is subject to very strict time limits and details of these time limits can be obtained from the Workplace Relations Commission website. Typically, an unfair dismissal claim must be made within six months from the date of the termination of employment.

Finally, if it can be shown that an employee has been dealt with fairly and that the employer has followed all of the proper and appropriate internal procedures, be they grievance or disciplinary, then the employer should be insulated from a claim for unfair dismissal or other litigation.

The above is to be taken as a general overview of employment law and should not be interpreted as legal advice.

**David Higgins is Head of the Employment Department at Berwick Solicitors, Galway & Dublin.**

berwick
SOLICITORS

16 Eyre Square, Galway,
091 567545 / 086 8152932

Suite 615, The Capel Building,
St. Mary's Abbey, Dublin 7,
01 4883322
www.berwick.ie