

### Welcome to EKemp

Thank you for choosing EKemp to deal with the preparation and submission of Your claim for redundancy payments and other statutory entitlements under the Employment Rights Act 1996.

#### Who can make a claim?

A Director can make a claim if they consider that they were an employee of the company. The following are indicators of employee status:

- You were under subject to control and guidance internally within the company
- You are employed under a contract of service (which can be written or oral)
- You work regular hours and a fixed number of hours each week
- Tax and national insurance were taken from your pay under a PAYE scheme
- You were paid regularly (or there was agreement for you to be paid regularly, whether oral or in writing)
- You received benefits such as pension, sick pay and/or holiday pay; and
- You have a formal job title and duties within the company.

No particular indicator is conclusive in its own right and the relationship must be considered in its entirety.

#### The Claims Process

The process works as follows:

1. The Claimant (or representative) makes an online claim for redundancy via Government portal,
2. The Redundancy Payment Service (RPS) issues Form RP3 (additional information for directors) to the claimant, usually within 7 days of step 1 above or the insolvency date, if later,
3. The RPS issues a request to the claimant for further information
4. The RPS makes a decision on the claim, usually a minimum of 21 days following receipt of the information requested at step 3
5. Claim proceeds received by claimant approximately 4 working days later (if you have opted to receive electronic payments)

Please could you read through the terms of business carefully and if you wish to proceed, please sign where indicated. Before proceeding, however, you should be aware that you can make the claim yourself free of charge. If, however, you wish to use our service, we look forward to receiving your documentation in order to process your claim further.

Should you wish to discuss the below, please do not hesitate to contact us using the above details.

Kind regards,

**The ekemp Team**

## PRE-DISCLOSURE INFORMATION

### Services

Ekemp Redundancy Claims Limited offer a cradle to the grave service in terms of pursuing your claim against the Insolvency Service through the Redundancy Payments Service.

- **We** will investigate your entitlement to your claim to the Insolvency Service for redundancy payments and other statutory entitlements from the National Insurance Fund under the Employment Rights Act 1996;
- **We** review your personal circumstances and ask **You** to provide any documents **You** have in your possession;
- **You** will be required to sign all necessary Insolvency Service forms or any other documents which **We** consider necessary for us to carry out the services on your behalf;
- **We** will assist in the preparation and submission of your claim to the Insolvency Service and will draft a bespoke claim letter on your behalf;
- **We** will ensure that the Insolvency Service has the correct factual information to assess your eligibility to make a claim and the merits of the claim;
- **You** will be kept informed at each stage; and
- **We** will discuss any communication from the Insolvency Service with **You** and where appropriate will challenge the Insolvency Service on your behalf on the basis of your statutory entitlements.

### Fees

Ekemp Redundancy Claims Limited will charge **You** a fee whenever **We** are successful in obtaining a recovery under a claim against the Insolvency Service.

**Our fees are 15% inclusive of VAT**

**£1,000 settlement. Fees= £150 including VAT**

**£3,000 settlement. Fees= £450 including VAT**

**£10,000 settlement. Fees= £1,500 including VAT**

**Please note that these are illustrative examples and not an indication of the value of any claim You may have.**

**A successful claim is a claim where the monies are paid in full and also includes a successful award which is immediately off set in full or part by the Redundancy Payments Service against an outstanding directors loan account. You will still be liable for our fees even if You do not receive a cash settlement.**

**We operate on a No Win No Fee basis but please note a fee is payable if the case is not pursued at your request.**

### Cooling off Period

- **You** have a 14-day cooling off period to change your mind about using our services once **You** have sent your signed agreement to us.
- **You** may also cancel the agreement at any time, without charge. Please see our terms and conditions for more details on how **You** may exercise your right to cancel.

### Shopping Around

**You** have the right to shop around. **You** do not have to use a claims management company. **You** should be aware that **You** may make a claim yourself directly to the Redundancy Payments Service free of charge. Alternatively, **You** may wish to seek advice from other non-fee-paying services such as the Citizens Advice Bureau or free Law Centres.

These Terms of Business explain Our obligations to You and Your obligations to Us and are the basis of the legal agreement between us.

## Definitions

**Agreement** means the agreement between You and Us in relation to the Services, in accordance with these Terms of Business.

**Fees** means the fees to be paid by You to Us in accordance with Clause 4 for the provision of the Services.

**Services** means the employment law consultancy services We agree to provide You with under this Agreement.

**Terms of Business** means these terms and conditions of Business.

**Us/We/Our** means EKemp Redundancy Claims Limited (trading as 'ekemp'), Company Number 11380544, whose registered office address is Hazlemere, 70 Chorley New Road, Bolton, Lancashire, England, BL1 4BY or anyone to whom we transfer Our obligations and rights under this Agreement.

**EKemp Redundancy Claims Limited t/a ekemp is Authorised and Regulated by the Financial Conduct Authority.**

**You/Your** means you, the person whose name and signature appears at the end of these Terms of Business.

### 1. Appointment and Duration

- 1.1 You appoint Us and We agree to provide the Services
- 1.2 This Agreement will, subject to Clause 4.4 below, commence when You confirm Your acceptance of these Terms of Business in writing by returning a signed copy.
- 1.3 This Agreement will continue until ended earlier by You as set out in clauses 1.4 and 5 or by Us as set out in clause 6.
- 1.4 You have the right to cancel this Agreement at any time. You can do this in writing, in person or by telephone.
- 1.5 Please be aware You are able to seek further advice in relation to your claim and you may wish to consider what services might be most appropriate to your claim for compensation. In particular you have the right to shop around and you should be aware that You are entitled to make a free claim yourselves.

### 2. Services

- 2.1 We will assist in the preparation and submission of Your claim to the Insolvency Service for redundancy payments and other statutory entitlements from the National Insurance Fund under the Employment Rights Act 1996.
- 2.2 We will correspond and represent you in any dealings that may be necessary with the Insolvency Service, your insolvency practitioner and the insolvent company's accountant in connection with Your claim, including, if separately agreed in writing between both parties to the agreement, attending any employment tribunals as your agent. We will keep You informed of any settlement reached with the Insolvency Service on Your behalf.
- 2.3 There are no risks to You in terms of losing money, as Our Fee is only made payment in the event of a successful claim being made and there are no cancellation charges in the event that you terminate this agreement.
- 2.4 The Redundancy Payment Service (RPS) will make the decision in the first instance. You will only need to appear at an Employment Tribunal ("ET") if Your claim is rejected and You elect to lodge an appeal. The ET will make the ultimate decision There is presently no cost in making such an application.
- 2.5 Should you have any questions about the service, please do not hesitate to contact us by telephone at: 0161 871 0530 or in writing to: [redundancy@ekemploymentlaw.co.uk](mailto:redundancy@ekemploymentlaw.co.uk) or EKemp Redundancy Claims Limited, Hazlemere, 70 Chorley New Road, Bolton, Lancashire, BL1 4BY.

### 3. Your Responsibilities

- 3.1 You will provide to Us all relevant personal information regarding Your employment situation, which shall be true, accurate and not misleading.
- 3.2 You expressly authorise Us to complete all documents relating to Your claim on Your behalf in whatever manner We deem necessary for the purpose of advancing your claim, to correspond and negotiate with the Insolvency Service (and any other third parties) on Your behalf, and to settle your claim on your behalf.
- 3.3 **IF YOU RECEIVE ANY CORRESPONDENCE WHATSOEVER FROM THE INSOLVENCY SERVICE ABOUT YOUR REDUNDANCY CLAIM, YOU SHOULD CONTACT US PRIOR TO RESPONDING SO THAT WE CAN ADVISE YOU ACCORDINGLY.**
- 3.4 You will sign all necessary Insolvency Service forms or any other documents which We consider necessary for Us to carry out the services on Your behalf. Failure to do so may result in delays and may result in Our terminating this agreement.
- 3.5 **YOU WILL FORWARD US COPIES OF ALL CORRESPONDENCE FROM THE INSOLVENCY SERVICE AND THE REDUNDANCY PAYMENTS SERVICES (INCLUDING WITHOUT LIMITATION ANY PAYMENT SCHEDULES ISSUED BY THEM) AND WILL FORWARD TO US A COPY OF YOUR PAYMENT SCHEDULE RECEIVED BY YOU FROM THE REDUNDANCY PAYMENTS SERVICE STATING THE AMOUNT RECEIVED BY YOU.**
- 3.6 We cannot be held responsible by You or any third parties for any legal action taken as a result of fraudulent or incorrect information given by You to the Insolvency Service, or any information We provide to the Insolvency Service on Your behalf.
- 3.7 We are not retained by You for the purpose of giving legal advice to You, except in relation to your redundancy claim (specifically excluding TUPE and Unfair Dismissal). We will not give legal advice to You, except in relation to your redundancy claim (specifically excluding TUPE and Unfair Dismissal). Any informal advice which may incidentally be given to You during the carrying out of the Services other than in relation to your redundancy claim should not be relied upon by You and We accept no liability whatsoever for any loss caused as a result. Other than in relation to your redundancy claim, it will be Your responsibility to obtain legal advice from a qualified practitioner in the event that You require this and We will not be liable to You in the event that You fail to do so.
- 3.8 You warrant and represent that You are not aware of any issues which under the Transfer of Undertakings (Protection of Employment) Regulations 2006 may relate to Your claim.

### 4. Fees

- 4.1 If You win Your claim, Our fees shall be **15%** (including VAT) of all monies received from the Insolvency Service in respect of your claim.
- 4.2 Success fee representative example table:

<b>Example</b>	
<b>All monies received from The Insolvency Service</b>	
<b>Total Compensation</b>	£1,000.00
<b>Fee Charged at 15%</b>	£150.00
<b>Amount You Receive</b>	£850.00

- 4.3 Our fees shall be based on all amounts received by You whether or not We complete form RP2 (Notice Pay) on Your behalf.**
- 4.4 No fee will be payable for any claim(s) cancelled by You during or after the 14-day cooling off period.**
- 4.5 In the event that Your claim is unsuccessful, there shall be **no fee** payable by You to Us, subject to clause 4.11.
- 4.6 It is a condition precedent to this Agreement that you authorise Us to take payment of our fees from You via GoCardless in accordance with Clause 4.6 below using the bank details You include in your RP1 form (“the Nominated Bank Account”) unless agreed otherwise between us. For the avoidance of doubt, this Agreement will not become effective until and unless such authorisation has been given by You.**
- 4.7 You provide your express consent for Us to charge Your Nominated Bank Account with our fee via GoCardless once 7 days have elapsed following the date of any payment schedule(s) issued to You by The Insolvency Service. It is your sole responsibility to ensure that sufficient funds are available within Your Nominated Bank Account to honour the payment of our fees. We will not be held responsible for any charges you incur or any other losses that arises from there being insufficient funds available at the time of or as a result of the payment request.**
- 4.8 Once all payments due to You have been received by You from The Insolvency Service and all Our fees due in connection with those payments have been paid to Us by You, We will cancel the Direct Debit instruction.**
- 4.9 Our fees shall be payable by You within **14 days** of the date of Our invoice to You. In the event that Our fees are not paid within this period for whatever reason, We reserve the right to refer the matter to Our recoveries department, which will result in further cost to You.
- 4.10 Interest shall be payable on all sums owed by You to Us at a rate of **20%** per annum accruing daily and compounded on the last day of each calendar month. (INTEREST)
- 4.11 In the event that You act contrary to Our advice, fail to do so in the timescale stipulated by Us, or do not provide the payment schedule setting out the sums You are due to receive from the Insolvency Service, You will be liable for all fees and disbursements incurred by Us on Your behalf which shall be calculated by reference to Our assessment of the value of Your claim.
- 4.12 Any additional services in relation to TUPE shall be charged on a separate basis in terms to be agreed between You and Us.
- 4.13 In the event that any fees are not paid by You to Us in accordance with the terms of this Agreement, You shall be liable for any expenses We incur (on a full indemnity basis and with interest) in connection with the recovery of Our fees or Our taking, protecting, enforcing or exercising any of Our rights pursuant to this Agreement.

## **5. Your Right to Terminate**

- 5.1 You have the right to terminate this Agreement under clause 1.4
- 5.2 In addition to Your right to terminate under clause 1.4, You may also end this Agreement at any time, without charge.

## **6. Our Right to Terminate**

- 6.1 We may terminate this Agreement at any time by giving You two Weeks prior written notice if any of the following happens:
- 6.1.1 You are in material breach of this Agreement or have persistently committed a series of minor breaches (even if one individual breach would not necessarily be regarded as a Serious breach on its own); or
- 6.1.2 You are declared bankrupt, petition or make an arrangement or make a separate agreement with Your creditors generally, or make an application to a Court of competent jurisdiction for protection from Your creditors generally.
- 6.1.3 You are in breach of the warranty set out at clause 3.8.

## **7. Effects of Termination**

When this Agreement ends:

- 7.1 Our duties and obligations to You under this Agreement will come to an end;
- 7.2 You may, within 30 days of the end of this Agreement, and on payment of an administration fee of £10, request Us to return all paperwork received from You or the Insolvency Service that has been retained by Us.

## **8. Confidentiality and Data Protection**

- 8.1 Subject to paragraphs 8.2 and 8.4 to 8.5, all information disclosed by You to Us is and shall remain confidential, however You agree that We may discuss personal and financial information directly with the Insolvency Service, any insolvency practitioner appointed in relation to your/your company's affairs, the insolvent company's accountant, if necessary, and process Your personal information in providing the Services to You.
- 8.2 It should be noted that following discussion with the Insolvency Service or any insolvency practitioner appointed in relation to your/your company's affairs, some agencies may retain the right to share financial information regarding Your file (for example, to the Redundancy Payments Service for the purpose of assessing your claim).
- 8.3 You have a right to examine all information that We obtain upon Your behalf in accordance with the Data Protection Act 2018, and You may request this in writing.
- 8.4 We may use information held about You in the following ways:
  - 8.4.1 To notify You about changes to our service.

## **9. Liability**

- 9.1 Nothing in these terms and conditions shall exclude or restrict Our liability for death or personal injury resulting from negligence, liability for fraudulent misrepresentation or any other liability which cannot be excluded or limited under applicable law. Subject to this:
  - 9.1.1 Our total liability to You in contract law or in tort or otherwise howsoever arising in relation to this Agreement is limited to the Fees;
  - 9.1.2 We shall not be liable in any way in respect of any failure, delay or defect in the Services caused by the supply or information by You; and
  - 9.1.3 We will not be liable to You for economic loss including loss of profits, Business, contracts, revenues, goodwill, production and anticipated savings of any description howsoever caused and even if foreseeable by Us.
- 9.2 All warranties, conditions and other terms implied by statute, common law or otherwise are hereby excluded from this Agreement to the fullest extent permitted by law.
- 9.3 Our Services may include providing (at our discretion) informal advice in relation to TUPE. Such informal advice shall not be construed or relied on by You as legal advice

## **10. General**

- 10.1 We reserve the right to assign any or all of Our rights and obligations under this Agreement with your prior consent. You may not without Our prior written consent assign or dispose of any rights or obligations under the Agreement.
- 10.2 We reserve the right to subcontract any or all of Our rights and obligations under this Agreement.
- 10.3 This Agreement contains the entire agreement and understanding between You and Us relating to the Services, and supersedes any and all prior agreements, arrangements, statements and understandings, and You acknowledge that You have not relied on any representations, statements or

warranties except as set out in these Terms of Business, and We accept no liability for any such statement made prior to the commencement of the Agreement (save in the case of fraud).

- 10.4 If any part of the Terms of Business shall be held to be invalid or unenforceable, it shall not affect the enforceability of any of the remaining provisions.
- 10.5 Unless otherwise expressly stated in these Terms of Business, all notices from You to Us must be in writing and sent to Our address as set out above.
- 10.6 Failure or delay by Us enforcing an obligation or exercising a right under this Agreement does not constitute a waiver of that obligation or right.
- 10.7 We shall not be liable to You nor in breach of the Agreement as a result of Our failing to perform Our obligations to You as a result of any matters outside Our reasonable control.
- 10.8 This Agreement does not confer any rights on any person or party (other than You or Us) pursuant to the Contracts (Rights of Third Parties) Act 1999.
- 10.9 This Agreement shall be governed by and in accordance with English law and subject to the exclusive jurisdiction of the English Courts.

## **11. Complaints**

- 11.1 We strive to ensure that all complaints are handled promptly, fairly and effectively in accordance with it.
- 11.2 Complaints may be made in writing, by email, by telephone or in any other form in respect of a claims management service provided and that is regulated under the Compensation Act 2006.  
In writing to: EKemp, Hazlemere, 70 Chorley New Road, Bolton, Lancashire, BL1 4BY  
Via email to: [redundancy@ekemploymentlaw.co.uk](mailto:redundancy@ekemploymentlaw.co.uk)  
By telephone on: 0161 871 0530
- 11.3 We strive to ensure that there should be no time that you should have any cause for complaint in relation to the service we provide to you. In the unlikely event that you wish to raise a complaint or have any other concerns with regard to any service we have provided you may submit a formal complaint. This procedure sets out the process which should be followed.
- 11.4 Complaints may be made in writing, by e-mail, by telephone or in any other form in respect of a claims management service that we have provided and that is regulated under the Compensation Act 2006. You should address your complaint to The Complaints Department.
- 11.5 We will send you a written or electronic acknowledgement of a complaint within five business days of receipt, identifying the person who will be handling the complaint for the business together with a copy of this complaints handling procedure. Wherever possible, that person will not have been directly involved in the matter which is the subject of the complaint and will have authority to settle the complaint.
- 11.6 Within eight weeks of receiving a complaint we will send you either:
  - a) a final response which adequately addresses the complaint (including contact details for the Financial Ombudsman Service should you wish to make a complaint to them); or,
  - b) a response which:
    - i. explains why we are still not in a position to make a final response, giving reasons for the further delay and indicating when we expect to be able to provide a final response;
    - ii. Informs you that you may refer the handling of the complaint to the Financial Ombudsman Service if you are dissatisfied with the response, the timeframe for doing so and full contact details.
- 11.7 Where we decide that redress is appropriate, we will provide you with fair compensation for any acts or omissions for which we are responsible and will comply with any offer of redress which you accept. Appropriate redress will not always involve financial redress.

- 11.8 In the event you remain unhappy with our final response or we do not provide a final response within eight weeks of your initial complaint, you are entitled to refer your complaint to the Financial Ombudsman Service at any time within six months of the date of any final response we provide.

The Financial Ombudsman Service will only act once all steps of our complaints handling procedures above have been followed.

Further details on the Financial Ombudsman Service are available at <https://www.financial-ombudsman.org.uk/consumer/complaints.htm>

The Financial Ombudsman Service can be contacted in different ways as follows.

If you would like to complain to the Financial Ombudsman Service in writing, their address is:

Financial Ombudsman Service  
Exchange Tower  
Harbour Exchange  
London  
E14 9SR

The Financial Ombudsman Service advises you do not send original documents as they scan any documents sent them and then destroy the originals.

Alternatively, if you would like to complain to the Financial Ombudsman Service by email complete the Financial Ombudsman Service's complaints form available on their website and email it to the Financial Ombudsman Service at [complaint.info@financial-ombudsman.org.uk](mailto:complaint.info@financial-ombudsman.org.uk)

Alternatively telephone the Financial Ombudsman Service on 0800 023 4 567. They are available between 8.00am and 08.00pm Monday to Friday and Saturday 09.00am to 1.00pm to answer your calls. All calls are recorded for training and monitoring purposes.

**If you do not understand or have any questions regarding our terms of business, please do not hesitate to contact us via the contact details shown above.**

**I acknowledge receipt of and agree to be bound by these Terms of Business.**