

A photograph of three business professionals (two men and one woman) sitting around a table in a modern office setting at night. They are engaged in a discussion, with laptops open in front of them. The scene is lit with warm, ambient lighting, and the background shows a cityscape through large windows. The overall mood is professional and collaborative.

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HR Power Hour

A guide to exiting employees

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Employment HR Power Hour

- Welcome to the first Employment HR Power Hour of 2022
- Information sharing
- Network building
- Interactive
- Workshop style

Agenda

- Why and how businesses exit employees
- Is there an alternative?
- Pre-termination negotiation – protected conversations
- The benefits of protected conversations
- The potential pitfalls of protected conversations
- Mock protected conversation
- Achieve HR

Why and how businesses exit employees

Why businesses exit employees

- Misconduct
- Poor performance
- Restructures
- Redundancy
- Personality clashes

How businesses exit employees

- Process is key and it can be lengthy
- Time critical exits
- Exits which pose increased risks
- Exits that do not sit neatly into a process

Is there an alternative?

Pre-termination negotiation

Is there an alternative?

- Pre-termination negotiation
- Protected conversations
- Section 111A of the Employment Rights Act 1996
- Without prejudice
- Settlement agreements
- Can be done alongside the 'on the record' process

Pre-termination negotiation – Protected conversations

What is a protected conversation and how does it work?

What is a protected conversation?

- A useful alternative
- An 'off the record' conversation
- An opportunity to leave on agreed terms
- An agreed waiver of claims
- Settlement agreement

How does a protected conversation work?

- Invitation to a meeting
- The meeting itself
- The written offer
- Time to consider the offer
- Settlement agreement

How to conduct a protected conversation

- Be prepared for the meeting
- Be alert to the sensitivity of the matter
- Be clear in what it is you are offering
- Ensure that the employee freely consents
- Provide the employee with sufficient time to consider the offer
- Provide the employee with a contact and clear timescales

Protected conversations - The benefits

Protected conversations – The benefits

- No requirement for there to be an active dispute
- Often more amicable
- Termination on mutually agreed terms
- Time saving – nip issues in the bud
- Waiver of claims
- Confidential and off the record with regards to any future unfair dismissal claim (when done correctly)

Protected conversations - The potential pitfalls

Protected conversations – The potential pitfalls

- Improper behaviour and undue influence
- Potential to undermine ‘on the record’ process
- An employee may not always agree
- Not confidential if discrimination is alleged
- Employee should be given at least 10 days to consider the offer
- The Employee must take legal advice

Mock protected conversation

Summary

- Exiting employees can be a time consuming, stressful and difficult task
- Protected conversations are a useful tool in your armory
- The potential to bypass an 'on the record' process
- Can agree an exit with an employee
- Can secure a waiver of claims
- However, they must be used correctly

Achieve HR

- Package of hours
- Reduced hourly rates
- Exclusive access to template documents on the Achieve HR website

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Thank You

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