

Lesson 12: Employment Law

Script:

When talking about employment (or **labour law**, in UK), I would like to focus on two most important stages in this area and that would be the creation of an employment contract and termination of employment.

Generally, there are certain statutory requirements set out in Employment Acts that govern different jurisdictions dealing with both **hiring practices** as well as entering into an employment contract.

Employment contracts must set out certain items. Some of these include: a **probationary period** (meaning whether there will be a certain period of time during which an employee will be under probation, which means that their performance would be tested and evaluated to make sure that he or she meets all the job requirements); a **salary** (which in many places of employment is paid on bi-weekly or monthly basis); **benefits** (meaning things like employer-sponsored private health plan or employer-managed special pension fund; transportation subsidy, etc.); **Leave days** (a concept which encompasses annual **holiday entitlement**, which ranges anywhere between two weeks to a month depending on the jurisdiction); **sick leave** (designed for situations where the employee cannot attend work due to an illness which often must be justified with a medical note); or **parental leave** (which once used to be called maternal leave but has now been extended also to new fathers); **non-disclosure** provisions if the job involves or gives access to any confidential data, As well as **grievance procedures** (meaning a predetermined process to be followed in a case of dispute between the employer and the employee).

Now, in addition to all of the above, the employer must also ensure that the place of employment itself meets certain minimum **health and safety standards**, in other words that the employees are working in secure conditions, something that is governed by national legislation. The employer also has the statutory obligation not to discriminate against employees on the basis of their decision to unionize. In many places of employment, especially large companies and public institutions, employees may want to unionize in order to improve their **bargaining** (meaning negotiating) position for better wages, working conditions and so on. These **Trade Unions** represent all the employees in the place of employment or in the particular economic sector and they enter into **Collective Agreements** with the employers or the government which both parties must later respect.

Now, going back to the grievance process which I mentioned previously, this most often arises in cases of termination of employment also known as dismissal. There are various types of dismissals on the basis of which these grievance processes can be based. The most common type of a dismissal is a **just cause dismissal** for **gross misconduct** on the part of the employee such as stealing from the employer or releasing confidential information; in those cases the employer is justified in dismissing the employee without any compensation.

There is also what we know as **constructive dismissal**. This, in fact, is not an actual dismissal but rather an invitation to leave on the part of the employer through his or her behavior, for example, being extremely unpleasant to the employee for a prolonged period of time or reducing the employee's salary as well as **demoting** them to a lesser position. The employee can interpret those actions, as I said before, as an invitation to leave.

There is also the concept or **redundancy**, or being made redundant, in situations where the employer simply does not have enough work for the employee in order for him/her to continue with their job. This often happens in situations of recession or economic crisis and it is common that many employees are made redundant at the same time. In such cases, the employer is normally required to offer the dismissed employee **severance pay**, meaning special compensation for the dismissal, or adequate **notice of dismissal**, so that the employee has sufficient time to seek new employment. The amount of the severance pay or the length of the notice of dismissal varies in each jurisdiction.

Finally, we must talk about two types of dismissals that are often confused and these are wrongful and unfair dismissal. One of them, namely **unfair dismissal**, deals with the manner in which the employee is dismissed, which normally means not following the proper procedure, such as not providing the adequate notice, not engaging in any disciplinary actions prior to dismissal and so on. The other type of dismissal, namely **wrongful dismissal**, deals more with the causes for the termination, usually the protected grounds of discrimination such as gender, age, participation in a trade union, political opinion, religion and so on. Once again, severance pay is the most typical remedy offered in cases of unfair or wrongful dismissal.

There has also been a lot of discussion lately about the gender **pay gap**, referring to the difference in salary which men and women may receive for **like-work** (meaning for substantially the same type of work). Many countries have now introduced specific legislation in order to address this problem.