

Employment Fact Sheet: Notice of dismissal from work

Should you get notice if you're dismissed from your job?

If you're dismissed from your job, you will usually have the right to a period of notice. This is the length of time between being told you have to leave your job and the day that you actually leave (the date of your dismissal). This rule doesn't apply if you've been dismissed for gross misconduct. Gross misconduct includes things like stealing from your employer or being drunk or violent at work.

Some people don't have a right to a minimum period of notice. They are people who have worked for an employer for less than a month, civil servants and some seamen. These people have to rely on their contract of employment for notice, but even if their contracts don't mention notice, they still have the right to 'reasonable notice'.

If you're dismissed from your job without notice, you should get help from an experienced adviser straight away (see under heading further help).

How much notice should you get?

The legal minimum period of notice you should get is:

- one week, if you've worked for your employer for one month but less than two years
- two weeks, if you've worked for your employer for two whole years
- two weeks plus an extra week for each full year's employment over two years. For example, if you've worked for three and a half years, you have the right to three weeks' notice. You can have a maximum of twelve weeks' notice in total.

If you're due to retire, your employer has to give you at least six months' notice of your intended retirement date.

You should never get less notice than the legal minimum, but your contract of employment might give you more notice than the legal minimum.

How should you get your notice?

In most cases, if your employer wants to dismiss you, they must follow proper legal dismissal procedures. They must send you a written statement, telling you why they want to dismiss you. They must also hold a meeting with you to discuss the matter and hold an appeal meeting with you, if you want to appeal against their decision. They must make it clear to you when the dismissal is to take place, and therefore how much notice they are giving you. If you have worked for your employer for at least one year, and they do not follow the correct procedures, an industrial tribunal will automatically find that you've been unfairly dismissed.

What you can do if you don't get the right amount of notice?

If you've been dismissed without the right amount of notice and not offered pay instead of notice (**pay in lieu of notice** - see below), you may be able to take your employer to the industrial tribunal for breaking your employment contract (wrongful dismissal). You have to use the correct procedure to appeal against your dismissal first. Get help from an experienced employment adviser (see under heading further help).

Pay in lieu of notice

If your employer has dismissed you without giving you the correct notice, you may be offered pay for this notice period instead. This is known as pay in lieu of notice or severance pay. You should be given pay in lieu for the correct number of weeks at the rate of your normal wages although it shouldn't have tax or national insurance deducted from it.

If the amount of pay in lieu is correct, you can't force your employer to let you work the period of notice instead of getting pay in lieu.

If your employer doesn't give you the right amount of pay in lieu of notice, you may be able to go to an industrial tribunal for **wrongful dismissal**. Before you do this you should complain to your employer first. This is called **raising a grievance**. If you need help to do this, get advice from an experienced employment adviser.

What can you do if you're not given the right amount of notice

If you've been dismissed without the right amount of notice and haven't been offered pay instead of notice, pay in lieu of notice, you may want to make a claim to an industrial tribunal. You should raise a grievance first. If you need help to do this, get advice from an experienced employment adviser.

Terms and conditions during your notice period

During the notice period, your normal terms and conditions of work apply.

Pay

In most cases, if you work your usual hours, you should be paid your normal weekly or monthly wage during your notice period.

If your pay is made up according to how much piece work you have done, or if you earn commission-only pay, you should get an average of your usual pay.

You still have the right to your normal wage during the notice period if:

- there is no work available for you to do
- you're off sick
- you're on holiday
- you're off work because of pregnancy and childbirth
- you're on paternity, parental or adoption leave

If your employer doesn't give you your correct pay during your notice period this is unlawful deduction of your wages. You can make a claim to an industrial tribunal to get your correct notice pay paid.

Holidays

If you're entitled to holidays and your employer agrees, you can take them during the notice period.

Sick pay

If your contract of employment gives you at least one week's notice more than the legal minimum, your right to any pay if you're off sick during the notice period depends entirely on what your contract says.

If your contract of employment gives you the right to a notice period that is the same as or less than the legal minimum, you have the right to be paid your usual wage during the notice period.

Maternity leave and notice

If you've been on maternity leave, you have the right to return to work when your maternity leave comes to an end. If your employer gives you notice while you are on maternity leave, you may be able to make a claim to an industrial tribunal for unfair dismissal or sex discrimination or possibly both. You should raise a grievance first. If you need help to do this, get advice from an experienced employment adviser.

Fixed-term contracts and early notice

If you are on a fixed-term contract, you may have either:

- a contract which has start and end dates, or
- a contract which runs for the length of time it takes to complete a particular task.

If you are on a contract that has start and end dates, this means that your job will end on the date your contract says. You will not get any extra notice of when the contract runs out. Your contract may say that your employer is allowed to end the contract earlier than this date (an **early termination clause**). If this is the case, the usual rules about notice periods apply. For example, you have the right to one week's notice if you've worked for your employer for one month but less than two years. Your contract may give you the right to more notice than this.

If you're on a contract which runs for the length of a particular task, and the work is expected to last for at least three months, but it ends early, the usual rules apply. For example, you have the right to one week's notice if you've worked for your employer for one month but less than two years. Your contract may give you the right to more notice than this.

If your employer wants to end your contract early without your agreement, and your contract doesn't have an early termination clause, your employer will be breaking your contract. Your employer may be legally responsible for paying you all the wages you would have received until the date the contract should have ended. This is not the case if your employer ended the contract because of your gross misconduct.

If you want to make a claim for **breach of contract (wrongful dismissal)**, you have to go to an industrial tribunal. You have to use the correct procedure to appeal against your dismissal first. Get help from an experienced employment adviser (see under heading further help). There are strict time limits for complaining to an industrial tribunal - make sure that you don't miss them.

Making a claim to an industrial tribunal

There's a strict time limit for making a claim to an industrial tribunal. This is usually within three months from the date when the thing you're complaining about happened. Get help from an experienced employment adviser to make sure you don't miss the deadline.

Further help

Citizens Advice Bureau

Citizens Advice Bureaux give free, confidential, impartial and independent advice to help you solve problems. To find your nearest CAB visit www.citizensadvice.co.uk or look in your local telephone directory.

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