LAWEXPRESS
Greater legal clarity

Please Note:
The Employment Rights Act 2025 is now law but the changes are planned to roll out gradually throughout 2026 and 2027. Changes will be incorporated into our documents and contracts as and when they are implemented and more detail is available. The documents reflect the law as it currently stands.

EMPLOYMENT BASIC RIGHTS

This factsheet aims to clearly set out employees basic statutory rights and the employers legal obligations when engaging staff. It does not cover family-friendly statutory rights - these are explained in another factsheet: Employment Law - family-friendly rights.

Terms and conditions of employment

Whether employed full-time, part-time or on a fixed-term contract, an employee must be given a written statement of their terms and conditions - also known as a written statement of particulars or a section 1 statement – the day they start work. This applies to all workers who started work after 6th April 2020. As a minimum this document, should include:

- their name and job title or description of duties
- the date the employment begins and, if it isn't permanent, when it will end
- any period of continuous service – how long they have been employed, including any time with another employer that counts towards the continuous service
- their pay or how it is to be calculated and when they will be paid (e.g. monthly)
- hours of work
- holiday entitlement, including public holidays
- the notice you or they must give to terminate the contract
- details of where they will be working
- information on disciplinary and grievance procedures and conditions relating to holiday and sick pay and pension schemes
- details of pay and allowances and other conditions if they are to work outside the UK for more than one month
- any collective (union) agreements that apply to the work

Failure to provide the above details could result in a successful claim for not being given a written statement of particulars. If a claim is successful, an employee can be awarded between two and four weeks' pay.

This written statement may be the only evidence of a contract between the employer and employee. Other things may, however, provide additional evidence of a contractual agreement, such as:

- job description
- correspondence
- company policies
- custom habit and practice

There are also implied terms in any employer/ employee relationship, such as:

- an obligation for the employer to provide a safe place to work
- a mutual obligation not to undermine the trust or confidence of either party
- an obligation for the employee to serve their employer honestly and faithfully, to obey any instructions and to work with diligence, skill and care
- an obligation for the employee not to undermine their employer's business or act in a manner which may undermine that business

An employee is also entitled to receive an itemised pay statement from their employer containing certain basic elements. This typically includes gross pay (including overtime and bonuses if applicable), tax and national insurance deductions, pension contributions and rolled-up holiday pay (if applicable).

Statutory notice periods

In the event of dismissal, an employee who has been employed between one month and two years is entitled to receive minimum notice of one week. For employees who have been employed for two years or more, notice of one week for each year of completed service (up to a maximum of 12 weeks) is required. Under a month, no notice is required unless stipulated as part of a contract.

An employee wishing to leave and having worked for their employer for at least a month, is required to give at least one week's notice unless the contract provides for a longer period. Failure by an employee to work their notice may amount to a breach of contract - unless an alternative notice period is agreed with the employer.

Wrongful dismissal

Before dealing with the statutory rights of unfair dismissal, it is also important to be familiar with the term wrongful dismissal. Wrongful dismissal generally refers to a situation where an employee is dismissed in a way that is in breach of their contract. If they are not given the correct notice period or pay, for example, or an incorrect procedure is followed.

Wrongful dismissal is particularly relevant where an employee has been employed for less than two years. In this case, breach of contract may be the only option they have to bring a claim.

Unfair dismissal

When an employee has worked for their employer for the qualifying period, they have the right not to be unfairly dismissed. Recent changes to employment law have resulted in significant amendments to this qualifying period. From 1 January the relevant period will be 6 months. This means that for anyone starting employment in 2026, before 30 June, will reach the qualifying period on 1 January 2027. Anyone employed after that date will reach the qualifying period once 6 months employment has been reached. For anyone with two years service before 1 January 2027, they will have satisfied the qualifying period.

For a dismissal to be fair it must be for one of these statutory reasons:

- misconduct
- capability
- redundancy
- statute bar/illegality i.e. where the employee is prevented from working due to some regulatory reason, such as a driver who has been banned from driving

Lastly, a fair dismissal can be made for 'some other substantial reason', which includes such things as a breakdown in the working relationship - often referred to as a breach of mutual trust and confidence. This category is not exhaustive.

Although the right not to be unfairly dismissed generally arises after two years' continuous employment, it also arises automatically within that period in certain circumstances. If an employee is dismissed for one of the reasons listed below it may be automatically unfair and may form the basis of a claim:

- taking leave for family reasons, including pregnancy, maternity leave and pay, paternity leave and pay, adoption leave and pay, childbirth and parental leave
- taking leave for family emergencies or to care for dependants (even if, as in a case in 2008, the employee knew she would need to take time off to look after her child two weeks in advance and failed to organise alternative arrangements)
- a discriminatory reason relating to age, sex, race, religion/ belief, gender assignment, sexual orientation or disability
- performing certain health and safety activities
- refusing to work in a shop or betting business on a Sunday

- performing certain working time activities
- performing certain functions as a trustee of an occupational pension scheme
- performing certain functions as an employee
- representative under the TUPE or collective redundancies legislation
- making a protected disclosure (i.e. whistleblowing)
- asserting a statutory right, such as submitting a grievance
- seeking to exercise the right to be accompanied at a disciplinary or grievance hearing • taking certain steps under the National Minimum Wage Act 1998
- seeking to exercise the right to flexible working
- being a part-time worker
- participating in industrial action
- performing certain functions in relation to trade union recognition
- participation in trade union membership or activities
- exercising rights under the Fixed-term Employees (Prevention of Less Favourable Treatment) Regulations 2002
- undertaking jury service

From February 2026 the Employment Rights Act 2025 will remove the 12 week limit for claiming automatic unfair dismissal in relation to an employee taking part in industrial action. This means that dismissing an employee for taking part in industrial action will become 'automatically unfair'.

Whistleblowing

An employee cannot be dismissed, or subjected to a detriment or disadvantage (for example, not getting a pay rise or a promotion) if the reason (or, if more than one reason, the principal reason) is that they made a protected interest disclosure.

To qualify for protection, the disclosure must be a 'qualifying disclosure' of which there are six categories. These include:

- that a criminal offence has been committed, is being committed, or is likely to be committed
- that the employer has failed, is failing, or is likely to fail to comply with a legal obligation
- that the health or safety of any individual has been, is being, or is likely to be endangered
- that a miscarriage of justice has occurred, is occurring, or is likely to occur
- that the environment has been, is being, or is likely to be damaged
- that information tending to show any matter falling within any one of these categories has been, is being, or is likely to be deliberately concealed
- the employee making a sexual harassment disclosure.

In addition to falling into one of these six categories, the disclosure should be in the public interest, or at least the employee should genuinely believe it to be in the public interest. A disclosure can be verbal or written.

For a qualifying disclosure to be 'protected', it will usually be made to the employer. In certain circumstances (for example, if the employee feels that the employer covered up the issue or if it has been reported already and nothing has been done about it) they may make a protected disclosure to another organisation e.g. the Health and Safety Executive. If the employee needs to make a disclosure to an organisation which is not their employer, it should be to a 'prescribed body'. A full list of these organisations here.

Discrimination and the Equality Act 2010

The Equality Act 2010 was designed to incorporate all aspects of discrimination law. The Act is a large and complex piece of legislation and was designed to incorporate previous legislation and put it all in one place.

The Act identifies protected characteristics which the law protects in individuals both in and out of work.

The protected characteristics are based on:

- gender
- sexual orientation
- gender reassignment
- race or ethnic origin
- disability
- religious or philosophical belief or lack of belief

- age
- marriage or civil partnership
- pregnancy or maternity

Types of discrimination

Generally, if an employee suffers a detriment in the workplace based on one of these characteristics, it may be due to discrimination. There are several different types of discrimination and in some circumstances the law allows the discriminatory behaviour to be justified where it achieves a certain outcome i.e. a legitimate aim for the business. Direct discrimination occurs if an employee is treated less favourably than another employee because of a protected characteristic. The only type of direct discrimination that can ever be justified is on the grounds of age. An action in this category can be justified if it is a proportionate means of achieving a legitimate aim. This means if the action is necessary or appropriate for the business needs or efficiency then it can be justified. However, in practice this can only be justified in a very limited range of circumstances.

Indirect discrimination occurs if an employer applies a provision, criterion or practice to the employees working terms or arrangements that has a less favourable effect on them because they belong to a class of people with a protected characteristic. Where there is a working practice which affects that group more than others and it relates to a protected characteristic it may be indirectly discriminatory. An example of this would be someone treated differently due to pregnancy-related illness.

An employer may be able to justify indirect discrimination if it achieves a legitimate aim for the business in an appropriate and proportionate way. In other words, if there is a good enough business reason why the employer is introducing the provision, criterion or practice then it may be acceptable.

Victimisation occurs if an employer subjects an employee to a detriment because they have complained about discrimination or have helped someone else who has been the victim of discrimination. A detriment can be anything that isn't in their best interests e.g. not promoting the employee or putting you on performance review.

Harassment occurs when there is unwanted behaviour that has the purpose or effect of violating your dignity or causing a degrading, hostile, humiliating, intimidating or offensive environment e.g. telling offensive jokes aimed at people with a particular protected characteristic.

Discrimination by association or perception occurs where you don't have a protected characteristic but are associated with someone who does. For example, an employee shouldn't be treated less favourably because she has a disabled child or parent.

An employer can't discriminate against an employee because they think they have a protected characteristic, even if they don't have that characteristic. For example, they will be protected if they are treated badly because their employer thinks they are gay, but they are not.

Reasonable adjustments for disabled employees

An employer has a duty to make reasonable adjustments for an employee who is disabled. To be disabled under the Equality Act the employee needs to suffer with a long-term physical or mental condition or illness which substantially affects their day-to-day life. In this situation, long-term means anything which has lasted, or could last, for a year.

Some illnesses are automatically treated as disability. These are:

- cancer
- HIV infection
- multiple sclerosis
- severe disfigurement (not including tattoos and piercings)
- being certified as severely sight impaired, sight impaired or partially sighted

If an employee suffers from a condition that fulfils these criteria, and they are at a substantial disadvantage compared to people who are not disabled, an employer is required to make

reasonable adjustments in the workplace e.g. an employer may need to provide specialist equipment or allow flexible working hours. Whether or not an adjustment is reasonable depends on several factors, including the size of the employer's business.

Sexual Harassment

An employer has a duty to take reasonable steps to prevent sexual harassment in the workplace. Employers should deliver training on sexual harassment so that all employees are clear on what is acceptable workplace conduct. There should also be up to date policies, reviewed regularly, that consider harassment in the workplace and what an employee can do to raise any concerns they have. It is imperative an employer has processes in place to investigate and deal with such complaints impartially. Sexual harassment is also a "Qualifying Disclosure" under whistleblowing.

Working time

The amount of time an employee can be required to work, their holiday entitlement and rest breaks are all detailed in the Working Time Regulations (WTR). There are different rules for young employees (under 18 years old) and night staff, but the basic minimum rights the Regulations provide are:

- a limit of an average of 48 hours working time each week measured over a 17 week reference period
- a right to 11 hours rest per day
- a right to at least one day off (24 hours) each week or two days (48 hours) every fortnight
- a right to an in-work rest break (unpaid) of at least 20 minutes if you work more than six hours in one stretch
- a right to 5.6 weeks paid leave (which can include Public and Bank holidays)

When calculating working time, it should be noted that:

- lunch breaks are generally excluded from working time and are not paid
- training usually counts as working time and should also be paid
- emergency time at work counts as working time and will need to be paid
- on-call time spent in the workplace will generally count as working time and also be paid
- travelling to work is not working time and is not paid but travelling for work, such as between appointments, should be paid

A full-time employee is entitled to 28 days holiday in total, which must be apportioned if they work part-time. It is not an automatic right to have bank holidays off work and this may depend on the type of business. A useful interactive tool to calculate holiday is available here. For employees working irregular hours the total amount of paid holiday has to be calculated with reference to average hours worked over the previous 12 months. If an employee works irregular hours there has been a change to how holiday pay may now be calculated. If the employee has been employed for less than a year holiday is calculated on the average weekly hours worked during that time.

Holiday entitlement continues to accrue during long-term sickness absence and maternity leave. If an employee is off work for either of these reasons they are entitled to the same amount of holiday as when present in the workplace. Overtime payments (some of which may be voluntary), commission and other contractual payments may also be taken into account when calculating holiday pay.

National Minimum Wage

The rate for pay periods starting on or after 1 April 2026 will be:

- £12.71 per hour for employees over the age of 21 (known as the 'National Living Wage')
- £10.85 per hour 18-20 years old
- £8.00 per hour for employees under 18
- £8.00 per hour apprentices under 19 and all apprentices in the first year of their apprenticeship

The WTR and minimum wage rates are connected and can be the subject of some debate in some employment sectors. An employee should receive the minimum wage for every hour worked, which is not the same as receiving contractual pay for each

hour worked. If there is some working time for which the employee does not receive their contractual rate of pay this is not unlawful provided, they receive at least the minimum wage for each hour worked overall. It could, however, be a breach of contract depending on the wording of the agreement with the employer.

Statutory sick pay (SSP)

If an employee earns more than an average (over eight weeks) of £125 per week they are entitled to statutory sick pay (SSP) if they are off work due to illness. SSP is paid from the first day of sickness if there is an appropriate medical note, usually a fit note from a GP (see below). SSP is currently paid at £123.25 per week from April 2026).

SSP is the minimum pay an employee will receive if they are absent from work due to illness. The employees contract may provide for a greater rate of pay than SPP (contractual company/sick pay) for a period of time.

Fit notes

Doctors produce a 'statement of fitness to work', referred to as a fit note. This statement indicates either that the employee is not fit to work, or that they may be fit to work if certain changes are made in the workplace. These changes can include a phased return to work, amended duties, altered hours or some workplace adaptations.

If an employer cannot make the changes recommended by the doctor, for example there are no lighter duties available, the employee will be treated as though they are not fit for work and will receive SSP, or contractual sick pay, for that period. If an employee is absent for more than four weeks at any one time the employer may treat the absence as long term. They may want to obtain a report from the employees doctor as to the reason for their absence and to find out when they are likely to be able to return. In order to do this a signed form of consent is required from the employee. You will find a suitable template in the Document Center.

Fair work agency

The Fair Work Agency was established on the 6th April 2026. Their purpose will be to:

- bring together existing enforcement bodies
- deal with enforcement of some employment rights. Like Holiday and Statutory Sick Pay (SSP).

Please see more info as well as how to contact them here.