



Introduction

Many employees are not aware of the many rights they have that regulate the relationship between them and their employer. To help you identify whether your employer may have acted unlawfully, we have summarised some of the most common employment law claims in this guide.

This guide is intended to help you identify whether any of your legal rights may have been infringed and is not legal advice. You should seek specific legal advice if you have any concerns about whether your rights have been infringed.

If you believe your employer has acted unlawfully you may consider submitting a claim to an employment tribunal to protect your rights. It is important to act quickly when considering whether to bring an employment tribunal claim as there are deadlines for making such complaints usually of no longer than three months.

Before issuing a claim at the tribunal, it is a pre-requisite that the claim is registered with the Advisory, Conciliation and Arbitration Service (ACAS) under their free early conciliation scheme. Once ACAS have been notified, the time limit for bringing a claim will be paused to allow time for the parties to try and resolve their dispute. You can contact ACAS online to find out more at <https://www.acas.org.uk>.

You should note that in order to be eligible to bring some claims you must have been employed for a minimum period of time. We have included details of the qualifying service below.

Unfair Dismissal

If you have been dismissed and provided you have the qualifying period of service, you have a right to challenge your dismissal on the basis that the reason for your dismissal was unlawful or that the procedure followed by the employer was unreasonable in the circumstances.

If your employer has dismissed you for a specific reason which is protected by legislation such as because you took a period of family related leave, or because you made a protected disclosure (also known as blowing the whistle) then your dismissal may be automatically unfair.

Qualifying length of service: 2 years

Constructive Dismissal

A constructive dismissal occurs where, rather than your employer dismissing you, you resign because of the way you have been treated by your employer. In order to be constructively dismissed though, your employer must have done something seriously wrong without reasonable cause.

Qualifying length of service: 2 years

National Minimum Wage

You have the right to be paid the National Minimum Wage or National Living Wage. The current National Minimum Wage and National Living Wage rates can be found at www.gov.uk/national-minimum-wage-rates.

Qualifying length of service: None

Written Statement of Particulars of Employment

When you start a new job, you have the right to be given a written statement of employment particulars setting out the key terms of your employment such as your holiday entitlement and your rate of pay. Most information about your employment terms must be provided on or before the first day of your employment but some information can be provided within the first two months. Employers can make some information available to you in a staff handbook or on an intranet website.

If you are already employed and have not received a written statement then you can request one and your employer must provide it within one month of your request.

Your employer is also required to provide you with written confirmation of any changes to your employment particulars throughout your employment.

Qualifying length of service: None

Unlawful Deductions

If your employer has failed to pay you, or paid you less than you are entitled to, you may have a claim for an unlawful deduction from your wages. The deduction is likely to be unlawful if it is not required or authorised by legislation, it was not authorised in your contract of employment or you did not consent in writing before the deduction was made.

Qualifying length of service: None

Discrimination

You have the right not to be discriminated against for reasons relating to age, gender, disability, gender reassignment, marriage or civil partnership, pregnancy or maternity, race, religion or belief, sex or sexual orientation. These are known as protected characteristics.

Discrimination can take many different forms in the workplace but includes where you have been treated less favourably than someone else, where a policy has a disproportionate effect on you, or where you have been harassed.

You may also be protected from discrimination if you are associated with someone who has a protected characteristic, for example a family member, or you have complained about discrimination experienced by someone else or supported that person to raise a discrimination claim.

Whistleblowing

If you make a protected disclosure (also known as 'whistleblowing') you are protected from being treated detrimentally if the reason for that treatment is because you made the protected disclosure.

Examples of detriment may include the refusal of a pay increase, denying a promotion or disciplining you for raising the concern.

Qualifying length of service: None

Equal Pay

You have the right to receive equal pay and other terms of employment to a person of the opposite sex if you are both doing equal work for the same employer.

Qualifying length of service: None

Failure to Consult on Redundancies

Employers who propose to make 20 or more employees redundant at one establishment over a period of 90 days or less (known as 'collective redundancies'), must consult a recognised independent trade union or elected employee representatives. The consultation must last for a minimum period of time depending on how many employees may be dismissed (either 30 or 45 days).

Qualifying length of service: None

Redundancy Pay

You have the right to receive a statutory redundancy payment if you are made redundant. Your minimum payment will be based on your age, weekly pay and length of service. You can calculate your statutory redundancy payment online at www.gov.uk/calculate-your-redundancy-pay.

Qualifying length of service: 2 years

Working Time

You have the right to a minimum of a 20 minute rest break if you work for 6 or more hours a day. There are also limits to the number of hours your employer can make you work daily and weekly. You are entitled to a minimum amount of paid annual leave each year and, if your employment is terminated with annual leave owed to you, you are entitled to pay in lieu of that holiday entitlement.

Qualifying length of service: None

Families and Pregnancy

You have the right not to suffer detriment by your employer in relation to pregnancy, childbirth, maternity, compulsory, additional and ordinary maternity leave, shared parental leave, ordinary adoption leave, additional adoption leave, paternity leave, parental leave or because you require time off for dependants.

Qualifying length of service: None

Right to Paid Time Off for Antenatal Care

If you are pregnant, you have the right to time off for antenatal care and you should receive your normal rate of pay for this time off. The father or pregnant woman's partner has the right to unpaid time off work to go to two antenatal appointments. 'Antenatal care' can also include antenatal or parenting classes if they have been recommended by a doctor or midwife.

Qualifying length of service: None

Right to Unpaid Time Off to Care for Dependents

You are entitled to a reasonable amount of unpaid time off work to deal with an emergency involving a dependant. A dependant could be a spouse, partner, child, grandchild, parent, or someone who depends on you for care.

Qualifying length of service: None

Leave for Parents

Parents have a right to take specific amounts of time off work (some paid and some unpaid) such as maternity, paternity and shared parental leave. Details of the various entitlements are available on the Government website - <https://www.gov.uk/browse/childcare-parenting>.

Qualifying length of service: 2 years

Atypical working

You have the right to not suffer any detriment or less favourable treatment as a result of working a part-time or fixed-term contract

Qualifying length of service: None

Flexible Working

If you submit a request for flexible working your employer must deal with the application in a reasonable manner and notify you of the decision on your application usually within a three month period.

Qualifying length of service: Only employees with at least 26 weeks' continuous employment can make a request for flexible working.

Useful Links

Employments Rights - <https://www.gov.uk/employment-status/worker>

National Minimum Wage Rates - www.gov.uk/national-minimum-wage-rates

Redundancy - www.gov.uk/calculate-your-redundancy-pay

Parental Leave - <https://www.gov.uk/browse/childcare-parenting>

ACAS - <https://www.acas.org.uk/>

If you believe you may have an employment claim against your employer and would like to discuss this, please contact the Machins' Employment Team on 01582 514000.

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