

UNFAIR DISMISSAL



This sheet gives you FACTS and TIPS about your rights to claim unfair dismissal when your employer has terminated your contract of employment.

**PREGNANT
THEN SCREWED**

FACT :

You can ask that your employer gives you the reasons for your dismissal in writing.

TIPS:

You normally need 2 years' service to request this, but if you're dismissed while pregnant or on statutory maternity or adoption leave, your employer must give you written reasons regardless of your length of service. Your employer must normally give you the reasons within 14 days of your request. If they fail to give you written reasons for your dismissal without a good reason, you can complain to an Employment Tribunal who can award you compensation of up to two weeks' pay.

FACT :

You can claim 'automatic unfair dismissal' even if you don't have 2 years' service

Normally, you need 2 years' service to bring a claim for unfair dismissal.

BUT - you can bring a claim for 'automatic unfair dismissal', regardless of your period of service, if your dismissal can be linked to the following:

- Time taken off because of pregnancy (appointments and illness related to your pregnancy)
- Parental leave
- Maternity, adoption or paternity leave
- Time off for dependants
- Making a flexible working request

TIPS:

It is extremely important to keep notes of everything, e.g. any events that happened in the lead-up to your dismissal, any discussions outside of a formal meeting setting. These notes will help you to put together a claim for unfair dismissal if you decide to bring a claim, but will also help in any discussions you have with your employer if you try to negotiate with them before bringing a claim.

Always try to communicate in writing with your employer so that you have proof of communication.

For any meetings that may result in dismissal, you are entitled to take someone in with you to witness the meetings. They must be a colleague from your company or your trade union rep (if you have one)

You are entitled to request a copy of minutes from meetings, which should be signed as correct by you before they are finalised. Do not be afraid to insist that you see a copy of the minutes for checking before they are confirmed as correct.

FACT :

If your dismissal is not classed as automatically unfair, it may still be classed as unfair

You can bring a claim for 'normal' unfair dismissal if:

- ➔ there was no fair reason for your dismissal; and/or
- ➔ there was a potentially fair reason, but it was not enough to justify dismissing you; and/or
- ➔ the employer did not follow a fair procedure

You must have worked for your employer for at least two years to bring a claim for 'normal' unfair dismissal.

TIP:

There must be a justified reason for your dismissal, for example, you can't do your job or you have committed some form of misconduct.

Your employer should follow their own dismissal procedure, which is usually found in the company handbook or in a standalone policy. You are entitled to see a copy of this so do not be shy to ask for it.

If the company does not have a written dismissal procedure, they should follow the ACAS procedure which can be found here:
<https://www.acas.org.uk/acas-code-of-practice-on-disciplinary-and-grievance-procedures>

FACT :

If you think your dismissal was unfair, you can challenge this through your employer's appeal process

TIP:

Your employer must tell you how to appeal your dismissal: you will probably find this in your employee handbook or employment contract.

If you are a member of a trade union they can help you do this.

If your employer doesn't provide a fair appeals process, this can make the dismissal unfair (even if the employer has a fair reason for dismissing you).

FACT :

If your appeal is not successful you can access free advice and support which can help you take your employer to tribunal and/or to negotiate with them without going to tribunal.

- ➔ You can access advice through the Pregnant Then Screwed advice line.
- ➔ You can ask your local Citizens Advice Bureau.
- ➔ You can ask your trade union (if you have one).
- ➔ You can check the LawWorks website (<https://www.lawworks.org.uk/legal-advice-individuals>) for providers of free advice and representation in employment tribunal matters in England & Wales.

TIP:

If you have personal or home insurance this may cover the costs of seeking legal advice: you should contact your provider to check.

FACT :

If you decide to make a claim against your employer for unfair dismissal you must tell ACAS (the Advisory, Conciliation & Arbitration Service) before you do anything else.

ACAS will offer you a service known as 'early conciliation'. This is a free service undertaken with an independent ACAS adviser and is designed to help you and your employer come to a resolution before your claim goes to a tribunal.

TIP:

You can access ACAS services here: <https://tell.acas.org.uk/>

Tribunals are time consuming and stressful for everyone involved. If possible, it is advisable to try to find a resolution during the early conciliation process.

Produced for Pregnant Then Screwed by law students at the University of Chester



CCLP

Chester Community Law Project

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