

Constructive dismissal

If an employee feels they have no choice but to resign because of something their employer has done, they might be able to claim for 'constructive dismissal'.

The legal term is 'constructive unfair dismissal'.

What constructive dismissal is

An employee can make a constructive dismissal claim if they resign because they think their employer has seriously breached their employment contract.

Examples could include:

- regularly not being paid the agreed amount without a good reason
- being bullied or discriminated against
- raising a grievance that the employer refuses to look into
- making unreasonable changes to working patterns or place of work without agreement

It could be because of one serious incident or a series of things.

If you're in this situation

Resigning is a big step to take, and a constructive dismissal claim can be difficult to win at an employment tribunal.

You can raise a problem informally by [talking to your employer](#).

If you've already tried to resolve things informally you can [raise a grievance](#). This is where you make a formal complaint to your employer.

If you're going to resign, you should [get legal advice](#) first.

Settlement agreements

A settlement agreement is sometimes used to end an employment relationship when both sides agree it's no longer working. This can include some dismissal situations.

If you sign a settlement agreement, you cannot make a constructive dismissal claim to an employment tribunal.

[Find out more about settlement agreements](#)

If you resign

In your resignation letter you should explain clearly your reasons for leaving.

If there's been a serious breach of contract you may want to leave your job straight away instead of working your notice period.

Doing this could be a breach of your employment contract but it can be justified sometimes. You should [get legal advice](#).

Making a constructive dismissal claim

You usually have the right to make a constructive dismissal claim to an employment tribunal if you have:

- the [legal status of employee](#)
- worked for your employer for 2 years

In some situations, you might be able to claim constructive dismissal with less than 2 years' service. These include when the reason for resigning was related to:

- pregnancy, childbirth or maternity leave
- health and safety
- whistleblowing
- asserting your rights under the [Working Time Regulations](#)
- asserting your right to the [National Minimum Wage](#)

There are strict time limits for making a claim to an employment tribunal. In most cases, you have 3 months minus 1 day from either:

- the last day of your notice period
- the day you resigned, if you did not give your employer notice

Find out more about:

- making a claim to an [employment tribunal](#)
- [employment tribunal time limits](#)