

Unfair dismissal

It's important to understand what unfair dismissal is by law. This is because different rights might apply depending on the circumstances.

It might be unfair dismissal if an employee worked for their employer for at least 2 years and any of the following apply:

- there was no [fair reason](#) for the dismissal
- the reason was not enough to justify dismissing them
- the employer did not follow a fair procedure

The fair procedure should follow the [Acas Code of Practice on disciplinary and grievance procedures](#), if it's to do with:

- 'misconduct' – when the employee has done something that's inappropriate or not acceptable
- 'capability' – when the employee is not able to do the job or does not have the right qualifications

If the dismissal is for another reason, the employer should still follow a fair procedure.

Important: Protection from unfair dismissal will become a right after 6 months of being in a job. This is part of the government's [Employment Rights Act 2025](#). This change will happen in January 2027 and is not yet law.

Dismissal before someone has worked 2 years

If someone is dismissed before they have worked for their employer for 2 years, they will need to check what rights are available to them. This is sometimes known as 'short service dismissal'.

Depending on the reason for the dismissal, one of the following might apply:

- automatically unfair dismissal
- wrongful dismissal

Appealing a dismissal

If an employee thinks their dismissal was unfair and wants to challenge it, they can appeal through their employer's appeal process. The employer should tell them how to appeal.

Being able to appeal a dismissal is also part of the Acas Code of Practice.

The employee may want to speak to their trade union if they have one or [get legal advice](#).

[Find out more about appealing a dismissal](#)

Automatically unfair reasons

Some things are 'automatically unfair' if they're the main reason for dismissing an employee.

These include:

- [making a flexible working request](#)
- being pregnant or on maternity leave
- wanting to take family leave, for example parental, paternity or adoption leave
- taking [time off for dependants](#)
- being a trade union member or representative
- taking part in official industrial action – for example [going on strike](#)
- asking for a legal right – for example to be paid the National Minimum Wage
- doing jury service
- being involved in [whistleblowing](#)
- taking action, or proposing to take action, over a health and safety issue

An employee does not need 2 years' service to claim automatically unfair dismissal.

Unfair dismissal because of a health and safety issue

If someone is dismissed or experiences detriment related to health and safety, they should [raise it with their employer](#).

If this does not resolve the problem, they could consider making a claim to an employment tribunal.

[Find out more about protection from dismissal and detriment](#)

Unfair dismissal because of industrial action

Employees cannot be dismissed for taking part in industrial action if:

- it's called as a result of a properly organised ballot
- it's about a dispute between them and their employer – for example about terms and conditions
- the employer receives a legally required, detailed notice about the industrial action at least 7 days before it begins

Non-union members have the same rights as union members not to be dismissed if they take part in legal, official industrial action.

Constructive dismissal

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

The legal term is 'constructive unfair dismissal'.

[Find out more about constructive dismissal](#)

Making a claim to an employment tribunal

If the employee has tried to appeal and wants to take it further, they might want to make a claim to an employment tribunal.

An employee usually has the right to make an unfair dismissal claim to an employment tribunal if they have:

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

An employee does not need 2 years' service to claim automatically unfair dismissal. They might have the right to make a claim if they've been dismissed for 'automatically unfair' reasons.

In some cases, an employee can apply for [interim relief](#) alongside their main employment tribunal claim. This applies in specific situations involving automatically unfair dismissal.

If someone thinks they've been discriminated against

If someone thinks they've been unfairly dismissed because of race, sex or another 'protected characteristic', this could be discrimination. They could make a claim to an employment tribunal for both discrimination and unfair dismissal.

For the discrimination claim, they do not need to have worked for their employer for 2 years.

[Find out more about discrimination and the law](#)

Dismissal due to political opinion

If an employee is dismissed because of their political opinion or affiliation, they might be able to claim unfair dismissal. They do not need to have worked for their employer for 2 years.

Employees dismissed due to political opinion cannot make a claim for discrimination. This is because political opinion is not a protected characteristic under the Equality Act 2010.

When to make a claim

There are strict time limits for making a claim to an employment tribunal. Someone has 3 months minus 1 day from the date their employment ended.

In almost all cases, the date someone's employment ends is either:

- the last day of their notice period
- the day they were dismissed if the employer did not give notice

Find out more about:

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

Wrongful dismissal

A 'wrongful dismissal' is when an employer has breached an employee's contract. It's usually to do with notice or notice pay.

Examples of wrongful dismissal can include:

- dismissing an employee without giving them a notice period or notice pay
- not giving someone the full notice period they're entitled to
- failing to follow a contractually binding disciplinary or redundancy procedure

If an employee wants to make a claim for wrongful dismissal, it does not matter how long they've worked for their employer.

Contact the Acas helpline

If you have any questions about unfair dismissal, you can [contact the Acas helpline](#).

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