

Employment Law Fact Sheet

020 3159 5160 | www.goldenleaver.co.uk

Time Limits

Continuous service requirement for an unfair dismissal claim	1 year
To bring a claim for unfair dismissal	3 months from effective date of termination
Continuous service requirement for a statutory redundancy claim	2 years
To bring a claim for a statutory redundancy payment	6 months from date of termination of employment
Continuous service requirement for a discrimination claim	Nil
To bring a claim of discrimination	3 months from the act of discrimination
To bring a claim for equal pay	6 months from date of termination of employment
To file a response to a claim	28 days from the date the Employment Tribunal sends out the Notice of Claim

Statutory Minimum Notice Periods

Employer must give:

- 1 week's notice after 1 month's continuous employment;
- 2 weeks' notice after 2 years' continuous employment; and
- thereafter 1 week's notice for each year of continuous service to a maximum of 12 weeks.

Employee must give:

- 1 week's notice after 1 month's continuous employment.

Dismissal

Unfair Dismissal

Every eligible employee has a right not to be unfairly dismissed. To be eligible an employee must:

- have been dismissed;
- have been continuously employed for at least 1 year; and
- not be within an excluded class e.g. the police or armed forces.

Potentially fair reasons for dismissal include:

- capability or qualification
- conduct
- redundancy
- to avoid contravention of a statutory provision
- some other substantial reason

Compensation Limits

Unfair Dismissal

Basic Award	Depends on employee's age, length of service and weekly pay capped at £400 per week (as at 1 February 2011). The maximum basic award is 30 weeks' pay, £12,000
Compensatory Award	Maximum of £68,400 (as at 1 February 2011)

Redundancy

A statutory redundancy payment will depend on age, number of years' continuous service (up to a maximum of 20 years) and employee's weekly pay (currently capped at £400).

Consultation

Failure to consult or elect employee representatives when proposing to dismiss 20 or more employees in one establishment within a 90 day period	Up to 90 days' pay based on each employee's actual salary.
Failure to inform/consult employees of the transfer of the business	Up to 13 weeks' pay based on each employee's actual salary

Discrimination

Race	No upper limit
Sex	No upper limit
Disability	No upper limit
Equal pay	Difference between applicant and comparator rates
Sexual orientation	No upper limit
Religion and/or belief	No upper limit
Age	No upper limit

Statutory Sick Pay

First 3 days of illness	No pay
4 or more days in a row up to a maximum of 28 weeks	As from April 2011 a flat rate of £81.60 per week

National Minimum Wage

From 1 October 2011, for workers aged 21 and over	£6.08 an hour
From 1 October 2011, for workers aged 18-20	£4.98 an hour
From 1 October 2011, for workers aged 16 and 17	£3.68 an hour
From 1 October 2011, apprentices aged under 19, or 19 or over and in the first year of their apprenticeship.	£2.60 an hour

Discrimination

On 1 October 2010 the Equality Act 2010 (the "Act") came into force. The Act consolidates and harmonises discrimination law previously found in various Acts, Regulations and Statutory Instruments into one statute and introduces some new developments.

The 'Protected Characteristics' of those who will enjoy protection under the Act are:

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion or Belief
- Sex
- Sexual Orientation

Some important points for an employer to note are:

- Direct discrimination affects all Protected Characteristics and occurs when "*someone is treated less favourably than another because of a protected characteristic*".
- Employees can complain of harassment even when it is not directed at them, if they can show that the behaviour creates an offensive or intimidating environment;
- Associative discrimination, being discrimination of an individual because of their 'association' with someone who has a Protected Characteristic, covers all Protected Characteristics except for Marriage and Civil Partnership, Pregnancy and Maternity;
- The Act covers claims of discrimination arising from disability which occur if a disabled person is treated unfavourably because of any perceived (rather than actual) disability or something arising in consequence of their disability;
- Employers may not ask questions about an applicant's health before a job offer is made to them except in very particular and limited circumstances.

Retirement

The default retirement age of 65 years no longer exists (although it will remain the state pension age until November 2018) and it will no longer be possible to give notice of retirement unless such a decision can be objectively justified.

Maternity, Paternity & Parental Rights

Maternity Pay

Statutory maternity pay (SMP) is payable by an employer for up to 39 weeks to women who:

- have at least 26 weeks' service by the end of the fifteenth week before the baby is due; and
- have given their employer proper notification.

First 6 weeks	90% of employee's average weekly earnings
Remaining 33 weeks	As from April 2011 a flat rate of £128.73 per week

Statutory Maternity Leave

All employees regardless of length of service	52 weeks' statutory maternity leave (minimum of 2 weeks' compulsory leave after week in which birth occurs)
---	---

Paternity Leave

Employees who have at least 26 weeks' service by the end of the week immediately preceding the 14th week before the expected week of the child's birth are entitled to 2 weeks' paid paternity leave within 56 days of the birth, capped at £128.73 per week as of 6 April 2011 or 90% of average weekly earnings whichever is the lower.

Additional Paternity Leave

Employees whose child is due on or after 3 April 2011 (or in cases of adoption, where notice of a match is given on or after this date) will be able to take up to 26 weeks' additional paternity leave on at least the same statutory terms as the mother where the mother has returned to work without taking her full entitlement to statutory maternity leave.

Parental Leave

All employees, male and female, with over one year's continuous employment, are entitled to a period of 13 weeks' unpaid leave which may be taken at any time within 5 years of the birth of the child. For female employees this may be added to maternity leave. No more than 4 weeks' parental leave may be taken in any one year.

Working Time Regulations

The basic rights and protections that the Regulations provide are:

- A limit of an average of 48 hours a week which a worker can be required to work (though workers can choose to work more if they want to).
- A limit of an average of 8 hours' work in a 24 hour period which night workers can be required to work.
- Night workers to receive free health assessments.
- 11 hours of rest a day.
- A day off each week or 2 days off every other week.
- In-work rest breaks (of 20 minutes) if the working day is longer than 6 hours.
- 5.6 weeks' paid leave per year.