



Your Rights at Work

*This factsheet looks at some of the most common questions from workers about their rights at work. Employment law is very complicated so this information is just an overview. Please get specialist advice if you need to know more about a specific issue or are considering taking any action. Further information is also given on A Guide to Time Off Work (factsheet 19). **N.B.** The term 'worker' refers to anyone who works for an employer therefore the information given here does not usually apply to people who are self-employed.*

Working Time Regulations

Current Working Time Regulations have been in force since 1998. Below is a list of the main points and how they affect workers. Your employer may give you more rights than those listed below. Check your contract.

The 48 Hour Rule

This regulation states that actual time worked should not exceed 48 hours per week but hours can be averaged over a 17 week period. These hours include any training or travel done as part of the job but not normal daily travel to work. This rule does not apply to all workers: for example it does not cover doctors, the police and fishermen. Some workers can agree with their employer to opt out of the 48 hour rule. If you have opted out you can opt back in but will have to give your employer up to 3 months notice.

Rest Breaks

If you work for more than 6 hours per day you must be given at least 20 minutes 'rest' that allows you to leave your desk/work area and during which you are not expected to work. Workers are entitled to 11 hours break between working days and one day off per week (or two per fortnight). Exceptions to these rules can be made where the work is in the emergency services (eg. a fire officer), involves 24 hour working (eg. a train driver), has peak or busy times (eg. a shop worker), or involves working from home or in many different places. Workers not taking breaks when they should, because of one of the above reasons, are still entitled to the time off which they should arrange with their manager to take at another time.

Annual Leave and Public Holidays

Please see 'A Guide to Time Off Work' factsheet for details of entitlement.

Sick Leave and Pay

If you are absent from work due to illness, you should follow your employer's sickness policy or procedure. In most cases this means you will be able to have a few days absence from work without a note from your doctor but you will usually need to get a note from your doctor for longer periods of time off. You may have to undergo an Occupational Health Assessment if it is part of your contract.

Even if it is not in your contract your employer can ask you to have one. In this case you would have the right to refuse but refusing may raise suspicion. If your employer suspects that you are taking time off when you are not ill or if the level of absence means that you cannot do your work, then you can be disciplined or dismissed. When calculating sick leave, absence due to pregnancy related illness or appointments, maternity, paternity, parental or dependant's leave should not be taken into account. You should not be discriminated against if you or someone you care for has a disability. Under the Disability Discrimination Act your employer is expected to take reasonable steps to allow you to work. You may be entitled to Statutory Sick Pay (SSP) of £79.15 per week if you were employed for the 8 weeks before being off sick and you earned at least £97(net) per week. Your employer may offer you additional payment if you are off sick so you should always check your contract and/or with your employer. If you are offered better terms SSP is usually included within this. For example if you receive half pay while off sick the half pay you get will include SSP and not be in addition to it.

Night Workers

The definition of a night worker is usually considered to be someone who works at least 3 hours between 11pm and 6am. Night workers can work up to 8 hours per night but this can be averaged out over 17 weeks meaning that some nights workers may work more than 8 hours per night, and some nights, less. If the work is hazardous the maximum work per night cannot be over 8 hours. Night worker, cannot opt out of the 48 hour rule.

Young Workers

Stricter regulations apply to 16 and 17 year old workers. These young workers cannot work more than 8 hours per day and not more than 40 hours per week. They are entitled to 12 hours off between each working day and, if they work more than 4 ½ hours per day, are entitled to 30 minutes rest. Young workers are usually not expected to work between the hours of 10pm and 6am or 11pm and 7am. Any young person asked to break these regulations should seek advice.

Changes to Your Contract

If you are an employee your employer can change the terms of your contract. You may be asked to change the number of hours, when you work or where you work. If you agree with the changes you can go ahead and accept them. If you start to work the new arrangements without comment, it will be assumed that you have accepted them. If however, you do not or cannot agree to the changes, there are a few things you can do.

Firstly you should talk to your employer and try to reach a compromise or come to some alternative arrangement. If this is not possible there are a number of legal arguments you may be able to use to prevent or limit your employer imposing the changes.

If your employer changes your contract without you agreeing you can argue that the new conditions are in Breach of Contract. This is best used if you have a written contract but if you do not it can still be an argument as long as your working pattern was long established or agreed verbally.

Changes should not cause Direct Sexual Discrimination. They should not be designed to force someone out of work because they have children or are pregnant.

Changes should not cause Indirect Sexual Discrimination. The changes should not discriminate by making it impossible for you to fulfil a role predominantly associated with either a woman or a man. For example a change that would make it extremely difficult to work if you had childcare responsibilities could be viewed as indirect discrimination against women as it is generally (although not always) women who care for children.

Disability Discrimination is where someone is put at a disadvantage because they have a disability or care for someone with a disability. Employers have an obligation to make changes to enable people with disabilities to do the same work as everyone else. Proposed changes should not then make it more difficult. For example if an employee needs to work flexi-time so as to meet the needs of their disabled son, proposed changes

to stop flexi-time would discriminate against them.

Constructive Dismissal

Changes made to your contract and working conditions may not suit your personal circumstances and you have no choice but to leave. You may also feel you have to resign because of what you consider to be unacceptable behaviour by your employer. This is called constructive dismissal even though it has been your choice to give up work. If you believe the changes to be unfair, for example the changes made were discriminatory or designed to force you to leave work, you can take action leading to an Employment Tribunal (see below). If the tribunal finds that the constructive dismissal was unfair, then you may be entitled to compensation. If, however, the tribunal finds that it was reasonable for your employer to make the changes then you may be offered redundancy. This depends on how long you have worked for the employer.

Redundancy

If the work you do is no longer required, changes to your working conditions mean you can no longer do the job or your workplace closes, then you will be dismissed. Dismissal in these circumstances is called redundancy.

For the redundancy to be fair your employer has to follow certain procedures and take steps to see if it can be avoided. You should be informed as soon as possible that a redundancy situation may arise. The possibility of other work with the same employer should be considered and, if everyone is not being made redundant, the selection process should be conducted correctly. If you feel that the appropriate procedure is not being followed you should get expert advice especially if you are pregnant or on maternity leave as there are separate rules that apply to you.

If you are to be made redundant you are entitled to one week's paid notice for every full year you have been with your employer (up to a maximum of 12 weeks) and you should be paid for any outstanding annual leave you have. If you have been with your employer for at least 2 years you are also entitled to Statutory Redundancy Pay. The amount you get depends on how long you have been with the employer and how much you are paid. These are legal requirements. Your contract may give you better entitlements but cannot give you fewer.

Discipline and Dismissal Procedures

If your employer is unhappy with your behaviour or performance at work there are certain procedures that have to be followed in order to inform you of and deal with the situation. You will be told, informally at first, why your behaviour or performance is a problem. You can be told verbally or in writing. Your employer should arrange a meeting with you to discuss the issue and to hear what you have to say. This meeting

should be carried out as soon as possible but allow enough time for you to gather any information you need. You can take someone with you to this meeting and should be informed of this.

Your employer will decide after this meeting what action, if any, should be taken and inform you in writing. If it is decided that you have been guilty of misconduct you will be informed and given a written warning. If after this warning the situation does not improve you will be given a second written warning. If there is no change in your conduct after the second written warning this usually leads to dismissal.

If you have been found guilty of gross misconduct you can be dismissed without warning.

If you do not agree with any disciplinary action or dismissal you have a right to appeal. You can be accompanied to the appeal, which should be heard by someone not involved in your case.

Sorting Out Problems

If you are unhappy about something at work (changes to your contract or why you have been dismissed) there are steps you can take.

The first step is to talk to your manager or, if the problem is with your manager, someone else in authority for example the Personnel or HR manager. This first step should be informal and if the situation can be rectified at this stage no other action is required. If however, the problem can't be resolved at this stage a formal grievance should be made.

A formal grievance should be made in writing to your employer or manager. Every workplace should have a grievance procedure and a copy should be given to you on request. If you have problems getting this get expert advice. The procedure will explain what to do next and what you can expect to happen. Grievance procedures can vary but generally once the grievance has been raised in writing your employer should arrange to meet with you to resolve the problem. If you are unhappy with the outcome you can appeal. If you are still unhappy after this, you could take your employer to an Employment Tribunal.

You can take your employer to an Employment Tribunal for a number of reasons. You can ask to be re-instated if you have been dismissed, you can ask that the employer changes some of the working practises within the workplace but usually tribunals deal with money issues such as wages, holiday pay, compensation etc. The rules regarding Employment Tribunals are diverse and dependant on your circumstances so it is always important to get advice and support. Generally, in order to proceed with an Employment Tribunal, you must have completed your employer's grievance procedure and you must not be outside the time limits for submitting your claim to the Tribunal Service - normally 3 months. Your claim must be made on form ET1 available from Jobcentre Plus,

a Citizens Advice Bureau, your Trade Union or a Tribunal Service Office. You will need to gather information and evidence in order to complete this form which is a legal document and needs to be treated with care.

Where to Find Help

Employer

If you are having problems at work the first step should always be to talk to your employer. This may lead to an informal solution and avoid further action. You can also check your contract and work policies for information.

Trade Union

If you are a member of a union they will be able to offer support, information and advice.

Working Families

1-3 Berry Street,
London,
EC1V 0AA

Helpline: 0800 013 0313

Web: www.workingfamilies.org.uk

Offers free advice and information to families on employment law. Of particular use to women who are pregnant or on maternity leave and to parents of disabled children. They have a freephone Helpline and produce factsheets that can be posted out to you or downloaded from their website.

ACAS

Tel: 0845 747 4747

Web: www.acas.org.uk

Gives information to workers and employers on employment law. Produces useful guides and factsheets.

Citizens Advice Bureau

Your local CAB will be able to give you information and support on employment law issues or be able to direct you to someone who can.

Check local directories for contact details.

Law Centres

Information on your employment rights and what to do if you are unhappy at work.

Check local directories for contact details.

Employment Tribunal Enquiry Line

Tel: 0845 795 9775

Web: www.ets.gov.uk

Pay & Workers' Rights Helpline

A Government service giving information on employment rights in 100 different languages.

Tel: 0800 917 2368

Text Phone: 0800 121 4042