

Exit strategies: Employee guide

Introduction

There are different **exit strategies** for leaving employers. The appropriate strategy will depend on the individual's circumstances.

In some cases an employee may simply wish to resign from their employer to pursue other opportunities.

In other instances though an employee could have a falling out with their boss. They might wish to leave, but at the same time protect their interests. There could be bullying, harassment, an overlooked promotion or unfair performance ratings. In such situations what are the **exit strategy** choices?

Lodging a grievance

As an **exit strategy**, in some situations you may wish to raise a [grievance](#). It is important to read your employer's grievance procedure to make sure that you understand the correct process.

Usually you would, first, be required to try and resolve your concerns, informally. This could mean having informal discussions with HR involvement. If, however, matters are not resolved to your satisfaction pursuing a **grievance** might be the next step.

You should normally have raised a **grievance** before bringing a claim. While it is not a requirement for you to have lodged a grievance, compensation could be reduced by up to 25% if you have acted unreasonably in not submitting one.

Making a deal

In some situations, including when your being [managed out](#), it may be possible to reach an **exit deal** with your employer. You could have an off-the-record (without prejudice) conversation to see whether a deal could be thrashed out. Often it is sensible to see, first, what the business is prepared to offer. Alternatively, as an **exit strategy**, you could put forward a figure which is higher than what you would expect as there is likely to be some negotiation. It is a thin line though because you do not want to be pitching in with a sum that puts the business off negotiating at all. Each case will be different and you should consider obtaining legal advice before having discussions.

Usually if a deal is reached the parties would enter into a [settlement agreement](#). An employer will be keen for the employee to sign such an agreement so that the employee waives their right to bring any employment claims. It is a requirement for settlement agreements that the employee obtains independent advice. The adviser must advise on the terms of the agreement and the inability to pursue claims in the employment tribunal.

It is important to know that sometimes the first £30,000 of a termination payment can be tax-free.

There may be other things to consider too such as bonuses, restrictive covenants, confidentiality and references.

Pursuing a claim

Depending on the circumstances you could consider bringing a constructive [unfair dismissal](#) claim.

Generally, employees need to have at least two years' continuous service with the employer can bring the claim.

For constructive unfair dismissal, you need to have resigned swiftly as a result of a fundamental breach of contract by your employer. The fundamental breach could be a breach of the implied term of trust and confidence (which is implied into employment contracts). Alternatively, it could be a breach of an express term, such as a term relating to pay or duties.

It is not easy to bring a claim for constructive unfair dismissal as the onus is on the employee to prove the fundamental breach. It is therefore sensible to obtain legal advice at the earliest opportunity and certainly in advance of resigning.

Before bringing a claim you are required to follow the Advisory Conciliation and Arbitration Service's ([Acas](#)) early conciliation process.

The claim must be filed at the employment tribunal within three months (less a day) from when the employment ends – and that's subject to the rules for extending time for early conciliation.

The maximum compensation award which you are able to receive is the lower of 52 weeks' pay or £89,493.

There may be other claims to consider too.

This guide is intended for guidance only and should not be relied upon for specific advice.

If you need any advice on **exit strategies** or have queries relating to other employment law issues please do not hesitate to [contact](#) me on [020 3797 1264](tel:02037971264).