



Notice: HR guide

Description

Introduction

This guide is on the topic of **notice**. In the guide I explain what notice employers and employees are required to give to end the employment.

Contractual notice

The **notice** which the employer and employee are required to terminate the employment will usually be governed by the wording of the employment contract.

The **notice** may be the same length on either side but not necessarily.

Notice on either side for a junior employee could, for example, be four weeks or a month. For a more senior employee **notice** on either side could be twelve weeks or three months and for a board member **notice**, for instance, could be six months on either side.

Notice will depend though on what the parties have agreed.

The employment contract will usually permit the employer in certain situations, such as when the employee commits gross misconduct or gross negligence, to terminate the employment contract with immediate effect.

Also if the employer has fundamentally breached the employment contract the employee may resign swiftly as a result of the breach.



Reasonable notice

If the employment contract is silent on what **notice** has to be given to terminate the contract reasonable notice has to be provided.

The Courts would consider what the parties' intentions were when the parties entered into the contract to determine what reasonable **notice** is in the particular case. Factors that might be relevant could include the employee's salary, the employee's length of service, the employee's seniority and what is normal in the industry.



Statutory notice

After an employee has been employed by the employer for one month or more the employee is entitled to statutory minimum **notice** unless the employee is guilty of misconduct entitling the employer to terminate immediately.

If the contract provides for a longer **notice** period than the statutory minimum **notice** then the contractual notice will apply.

The statutory minimum notice that employers must provide is one week's **notice** for employees who have been employed for one month or more but less than two years, one week's **notice** for each year of continuous employment for employees who have been employed for two years or more but less than twelve years and twelve weeks' **notice** for employees who have been employed for twelve years or more.

Employees are obliged to give their employer statutory minimum **notice** of one week if they have been employed for one month or more.

There is nothing, however, to stop the parties agreeing to waive or shorten statutory or contractual **notice**.

Fixed-term employment contracts

Employment contracts for fixed-terms automatically terminate at the end of the fixed-term and there is no need for the parties to give **notice**.

Sometimes though fixed-term contracts allow the parties to give **notice** to end the contract earlier.



Claims

Before terminating an employee's employment employers must be aware of potential claims that employees could bring.

If contractual **notice** has not been adequately served (or payment in lieu of **notice** made) an employee could have a claim for wrongful dismissal. This would normally be the net remuneration for the period of notice that has not been accounted for.

An employee who is dismissed could have a claim for [unfair dismissal](#). Generally employees need to have at least two years' continuous service to bring an unfair dismissal but there are some exceptions, where no minimum length of service is required. Employers are able to dismiss for permitted fair reasons and must follow a fair procedure, too.

An employee could have other claims such as for [discrimination](#).

It is also important to be aware that the non-renewal of a fixed-term contract is a dismissal for the purposes of unfair dismissal and redundancy pay claims.

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

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

Do check mattgingell.com regularly for updated information.