

Pay during the notice period

Anyone [legally classed as an employee](#) must be paid as normal for any time they work during their notice period.

If an employee is off work during their notice period, the amount they're paid will depend on the type of notice they have.

An employee could be entitled to get 'payment in lieu of notice' (PILON). This means they stop work straight away but still get paid for their notice period. The employer might have written this into the employee's contract or agreed it with them verbally. If it's a verbal agreement, everyone should also keep a written record.

Checking the notice period

It's important to check the employment contract to confirm if the employee has either:

- 'statutory notice period' – this is the legal minimum notice period
- 'contractual notice period' – this is a notice period that's longer and is written in the contract

This might help when calculating the final pay for the employee's notice period.

If an employee is dismissed, made redundant or resigns

How much notice and notice pay an employee gets depends on if they are:

- dismissed for gross misconduct
- made redundant
- resigning because 'constructive unfair dismissal' – this means they think their employer has seriously breached their employment contract
- choosing to resign because they want to

The employee is not entitled to any notice period if they are dismissed for gross misconduct.

If the employee resigns because of constructive unfair dismissal they do not have to give notice to their employer.

If an employee resigns just because they want to, they must give the legal minimum notice period or the period written in their contract.

The employer might give more notice than the statutory minimum, but they cannot give the employee less.

[Find out more about notice periods](#)

Notice pay when the employee is working

Employees must get their full normal pay for any time they work during their notice period.

If someone's pay is different each week, the employer should use the person's average weekly pay to work out their notice pay.

Example of how to work out average weekly pay

Work out weekly pay by using the 12 weeks leading up to the first day of the notice period. Add up the total amount of pay during the 12 weeks and divide it by 12 to get their average weekly pay. Exclude any weeks not worked and unpaid. This is the minimum amount they must receive during their notice period.

Weekly pay should also include:

- 'guaranteed overtime' agreed in an employee's contract – this is overtime the employer must offer and the employee must work
- any bonuses or commission – depending on the terms agreed in the employee's contract

For example, Sam is an estate agent and their pay varies depending on the number of properties sold. Their contract clearly states that they're not entitled to any commission during or after their notice period. Sam's notice pay would not include commission.

[Find out how to work out average pay for bonuses and commission on GOV.UK](#)

Notice pay if the employee is off work

An employee's notice pay might be affected if they do not work during their notice period because they're:

- off sick
- on holiday
- on maternity, paternity or adoption leave or shared parental leave
- willing to work but the employer has asked them not to because of lay-offs or short-time working

The amount of notice pay they're entitled to depends on their contractual or statutory notice period and whether they're:

- being dismissed or made redundant
- resigning

If an employee has been dismissed or made redundant

An employee is entitled to their full normal pay if their contractual notice is:

- less than 1 week longer than statutory notice
- the same as statutory notice

For example, Alex has been made redundant. They've worked for their employer for 7 years and have a contractual notice period of 7 weeks. They're off sick during the notice period. They get their full normal pay for the whole 7 weeks.

An employee will not be entitled to their full normal pay if their contractual notice is longer than statutory notice by 1 week or more. They are only entitled to the appropriate pay for the reason they're off.

For example, Riley has been dismissed. They've worked for their employer for 7 years and have a contractual notice period of 8 weeks. They're off sick during the notice period and their contract only gives statutory sick pay. They will only be entitled to that.

An employee who's off work might have already been paid all their statutory entitlement. For example if:

- they've been off sick longer than the statutory allowance of 28 weeks
- they're now on the unpaid part of their maternity leave

This could mean they're not entitled to any pay during their notice period if their contractual notice period is longer than statutory by a week or more.

If an employee has resigned and they're off work during their notice period

When an employee resigns, they should check their contract to see what their notice period for dismissal would be. Even though they are resigning, their notice pay rights depend on whether their dismissal notice period is statutory or contractual.

If the dismissal notice period is less than a week longer than the statutory notice period

They're entitled to 1 week's full normal pay if they're off work during their notice period.

For any remaining weeks they're off work, they're only entitled to the type of pay for the reason they're off. For example, if they're off on maternity leave they would only be entitled to any maternity pay due to them.

If the dismissal notice period is at least 1 week longer than the statutory notice period

They're only entitled to be paid for the reason they're off during their notice period, for example statutory sick pay if they're off sick.

Contact the Acas helpline

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

Related content

[Work out your employee's redundancy pay](#)

[Redundancy pay – advice for employees](#)