

# Employment rights

## A brief overview

Employment Law is very complicated!

However, as an **employee** you have certain employment rights, which must be adhered to by the **employer**.

If you started your employment after 5 April 2012 you would need to have TWO years' continuous employment to claim Unfair Dismissal. If you started with your employer prior to 5 April 2012 then you would only have to have ONE year of continuous employment to claim Unfair Dismissal.

## Disability discrimination

A cancer diagnosis would be considered a disability under the Equality Act 2010. This means that an employer cannot discriminate against you BECAUSE of your cancer. This includes dismissing you or subjecting to any other detrimental treatment. Disability is a "protected characteristic" as defined by the Equality Act; this means that you have the right to claim Unfair Dismissal, regardless of your length of service. This does not, however, mean that your employer cannot terminate your employment, but they are required to follow a fair procedure to do so.

If you are diagnosed with a serious illness such as Cancer most employers are very supportive and helpful..... but, unfortunately, not all are. An employer must abide by the law but that does not mean that they have to give you anything more than your basic rights, although most will do.

## Sickness absence

All employers should have a "**Sickness/Absence Policy**" in place, which should be freely available to all employees. If you need to take time off because of ill-health they should be able to provide you with a copy of that policy immediately if it is not widely available. **ASK FOR IT!**

The amount of sickness absence that an employer will provide at full pay differs greatly and depends entirely on the sickness policy that they have in place. All employees (who earn at least the Lower Earnings Limit) are entitled to Statutory Sick Pay for a period of up to 28 weeks, even if they are not entitled to any "paid sick leave". Periods of less than 28 weeks may be "linked"; depending upon how long there is between the absences. More information is available on the HMRC website.

<https://www.gov.uk/government/collections/statutory-pay>

**Keep in touch** with your employer regularly. It is very important that an employer understands your diagnosis and that you keep them in touch with likely timescales of absences. For example, if you are admitted to hospital for an operation let your employer know that you are likely to be off for XX number of weeks etc. If you are feeling unwell and are unable to attend work, then you must also follow the sickness policy and inform your employer as directed by that policy!

## Termination of employment

If an employer decides that they wish to terminate your employment, even if you do not

have two years' service you have the right to claim unfair dismissal if the dismissal is directly because of your disability. Your employer must therefore carry out a fair procedure, obtain medical information and consider any reasonable adjustments they could make to your job and/or the workplace before making this decision. They must also give you the relevant notice (this may be paid at full pay, at SSP or unpaid, depending on the circumstances), and pay accrued holiday pay owed. Remember: If you are absent through ill health, you still "accrue" your holiday entitlement.

Again, the **disciplinary/dismissal procedure** should be set down in a formal policy, which you should be able to freely access from your employer. If you are in that situation, ask for a copy of their policy to be provided to you.

### **Please help other patients:**

Please keep us updated with useful information that will help other cancer patients. You can email us with your tips so we can regularly add to this resource. Please email us at: [support@actionkidneycancer.org](mailto:support@actionkidneycancer.org) or visit our website [www.actionkidneycancer.org](http://www.actionkidneycancer.org)

This Help Sheet was written by Sharon, a kidney cancer patient, in May 2016.

Thanks to our community for their input, and especially to Sharon for her patience and willingness to collate this information to help and support others.

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