



Workers' Rights

A Guide for Full-Time and
Part-Time Workers



Message from Paddy Lillis, Usdaw General Secretary



Usdaw's mission is all about improving workers' lives and winning for members. This guide to your employment and benefit rights contains useful information for all Usdaw members.

It can't cover everything so contact your local Usdaw office for more information.

If you need help, contact:

- Your rep at work.
- Your Area Organiser.
- The Legal Department at Head Office.

The rights contained in this booklet are the basic state minimums and are called 'statutory rights'. You will also have contractual rights in addition to these statutory rights.

These contractual rights may be better than the state minimums and provide better cover because of the agreements Usdaw has negotiated with your employer.

Some information in this booklet will change each year - mostly in April. Make sure you have the latest copy.

Whatever your hours and wherever you work, Usdaw will voice your concerns and stand up for your rights!

A handwritten signature in blue ink that reads "Paddy Lillis". The signature is written in a cursive style and is positioned above a horizontal line.

Paddy Lillis
General Secretary

Contents

| | |
|---|-----------|
| Basic Rights for Everyone | 3 |
| Rights for Part-Time Workers | 11 |
| Discrimination in the Workplace | 12 |
| Maternity and Parental Rights | 14 |
| Family-Friendly Rights | 17 |
| Fixed-Term Contracts | 20 |
| Sunday Working Rights | 21 |
| State Benefits | 23 |
| Usdaw's Legal Plus - Looking after You and Your Family | 24 |



Basic Rights for Everyone

Rights From the Day You Start Work

You are entitled to the following statutory rights and protections from the day you start work - it does not matter how many hours a week you work:

- Equal pay/equal value.
- Sex discrimination/harassment.
- Gender reassignment discrimination.
- Sexual orientation discrimination.
- Discrimination on grounds of religion/belief.
- Age discrimination.
- Discrimination against part-time workers.
- Racial discrimination/harassment.
- Disability discrimination/harassment.
- Victimisation for trade union membership/activity.
- Victimisation for health and safety activity.
- Itemised pay statement.



- Time off for trade union activities/duties.
- Unlawful deductions from wages.
- Dismissal because of pregnancy.
- Written reasons for dismissal during pregnancy/maternity leave.
- Time off for antenatal visits.
- 52 weeks' maternity leave for all women.
- Sunday working rights.
- Dismissal/victimisation for enforcing a statutory right.
- National Minimum Wage (NMW).
- Time off for holidays and breaks.
- Dismissal/victimisation for whistleblowing.
- Pension Trustee victimisation.
- Pregnancy and maternity discrimination.
- Marriage and civil partnership discrimination.
- Time off for family emergencies.

Rights Which Depend on Service

| Right | Service |
|-------------------------------|------------|
| Written statement of terms | Two months |
| Statutory maternity pay | Six months |
| Paternity leave and pay | Six months |
| Shared parental leave and pay | Six months |
| Unpaid parental leave | One year |
| Written reasons for dismissal | Two years |
| Unfair dismissal | Two years |
| Redundancy payment | Two years |
| Guaranteed lay-off pay | One month |
| Medical suspension pay | One month |

Statutory rights to which **you are entitled** fall into two categories:

- Rights which you are entitled to from the day you start work.
- Rights which depend on length of service.

The listed rights depend on the length of service, but it does not matter how many hours per week you work (see table above).

Working Time, Breaks and Holidays

Most people have the following statutory minimum rights to time off rest breaks and paid holiday:

- 5.6 weeks' paid holiday a year (28 days for someone working a five-day week).
- Part-time workers are entitled to the same level of holiday pro-rata (so 5.6 x your normal working week).
- A 20-minute break when the working day is more than six hours.
- A rest period of 11 hours between working days.
- A ceiling of an average of eight hours' night work in every 24 hours.
- Free health assessment for night workers.
- A rest period of 24 hours in a seven-day period.
- A ceiling of 48 hours on the maximum average working week.

Usdaw collective agreements and your contract may give you better rights to holidays and breaks.

If your employment ends for any reason, including dismissal, you are entitled to accrued statutory holiday pay.

Special rules apply to Road Transport. Please refer to the Usdaw Drivers' Handbook.

Trade Union Rights

Everyone has:

- The right to join a trade union.
- The right to take advice from their union.
- The right to participate in a trade union.
- The right to be accompanied by a union rep.

The National Minimum Wage and the Living Wage

Usdaw was one of the main unions that campaigned for the introduction of the National Minimum Wage (NMW) in the 1980s and 1990s. It was introduced by the Labour Government in 1999 and provides a legal safety net for the vast majority of UK workers.

In April 2016, the Government introduced a National Living Wage for workers aged 21 and over, which is currently £11.44 per hour. Like the Minimum Wage, it is illegal to pay any worker over 21 less than this amount, per hour.

EVERYONE has the right to...

Join a trade union, take advice from their trade union, participate in a trade union and to be accompanied by a trade union rep.



April 2024

- Aged 21 and over £11.44
- Aged 18-20 £8.60
- Under 18 £6.40
- Apprentices under 19 (or 19 and over who are in the first year of apprenticeship) £6.40
- Apprentices 19+ who are in the second year of apprenticeship will be paid the rate for their age group.

The legal National Living Wage is not the same as the real Living Wage, as set by the Living Wage Foundation. This currently stands at £13.85 per hour in London and £12.60 per hour across the rest of the UK.

The real Living Wage is independently calculated, and is based on the amount needed for a decent standard of living.

The real Living Wage is voluntary, and employers who agree to pay it can become accredited by the Living Wage Foundation.

However, the National Minimum Wage is legally enforceable and employees can report their employer to the Pay and Work Rights Helpline if they think they are being underpaid. Employers face a fine if they are found to be underpaying, and employees can claim back pay too. This applies equally to the statutory National Living Wage.

Usdaw members who have a query about their pay rates should contact their union rep.

Contract of Employment

Every worker has a contract of employment. It is not always written down in one document. Sometimes it is not written down at all.

Contract Terms

The terms and conditions of your employment may be changed by negotiation. Many employees have better rights under their contracts than the statutory minimums because of the agreements which Usdaw has negotiated. Make sure you tell your Usdaw rep and negotiators what you want and give them your full support.

Statement of Written Terms

Every worker has the right to have their main contract terms written down in a statement of terms and conditions within two months of starting work.

The statement must include particulars of:

1. Name of employer and employee.
2. Date employment began or when continuous employment began.
3. Rate of pay.
4. Payment intervals.
5. Hours of work.
6. Holidays and holiday pay.
7. Sickness and sick pay.
8. Notice entitlement.
9. Pension rights.
10. Collective agreements.
11. Job title/brief job description.
12. Period of employment, if temporary.
13. A note specifying disciplinary and grievance procedure.
14. Place of work.

Your employer can only change your contract terms if you agree...

Changes which you have not agreed to may be a breach of contract, and any such changes that result in a cut in pay may mean an unlawful deduction from wages.

Changing Contract Terms

Your employer can only change your contract terms if you agree.

If your employer tries to force new terms upon you which you do not accept, you must take immediate steps to protect your interests by lodging a grievance with the employer and notifying your Usdaw rep. Changes which you have not agreed to and that result in a cut in pay may mean an unlawful deduction from wages. Changes in hours or shift patterns, which are particularly hard for women with families to manage, may be indirect sex discrimination. Changes which you have not agreed may be a breach of contract.

Statement of Change in Terms

When any of these main terms are changed, your employer must provide you with a written statement of the change within a month. Check any such statement carefully.

Minimum Period of Notice

If your employment is terminated, you are entitled to the following period of paid notice from your employer, depending on your length of service.

| Service | Notice |
|--------------------|----------|
| 4 weeks to 2 years | 1 week |
| 2-3 years | 2 weeks |
| 3-4 years | 3 weeks |
| 4-5 years | 4 weeks |
| 5-6 years | 5 weeks |
| 6-7 years | 6 weeks |
| 7-8 years | 7 weeks |
| 8-9 years | 8 weeks |
| 9-10 years | 9 weeks |
| 10-11 years | 10 weeks |
| 11-12 years | 11 weeks |
| Over 12 years | 12 weeks |

You are entitled to full pay for the statutory notice period, even if you are off sick or on maternity leave.

These are the minimum periods. Your contract may give you the right to longer notice.

What to Do in Cases of Dismissal, Discrimination or Redundancy

Whatever your hours or your length of service, these are the steps you should follow:

- 1. Act fast**
 Both employment tribunal procedures and company procedures have strict time limits.
- 2. Contact Usdaw**
 Your Usdaw rep or Area Organiser will help and advise you throughout. You have a statutory right to have an Usdaw rep with you.
- 3. Written reasons**
 Immediately ask your employer for written reasons if you're dismissed.
- 4. Get Usdaw legal assistance**
 Contact your local office and ask for a Member Pack.
- 5. Follow company procedure**
 If you have a grievance about your treatment or working conditions, you should send a written grievance to your employer. You must also follow the company grievance procedure and attend all hearings.

 If you are disciplined or dismissed, you should appeal under the company procedure.

 If you do not follow the procedures, the tribunal can cut your compensation.

6. Notify Acas/LRA of intention to make a claim

Contact Acas or the LRA (NI) to notify them of your intention to make a claim and to obtain an Early Conciliation Certificate reference number for your ET1. Please refer to our Early Conciliation Factsheet for further information.

Acas: **0300 123 1100**

LRA: **03300 552 224**

7. Get Form ET1

This is the Employment Tribunal Claim Form. You can get one from your local Jobcentre Plus Office or download one from the website:

www.gov.uk/employment-tribunals/make-a-claim

Or in Northern Ireland:

www.employmenttribunalsni.co.uk

You can also make an online application through the website.

8. Submit Form ET1

It is your responsibility to submit the ET1 claim form within the time limits.

You **must** have an Acas certificate in order to submit your ET1.

If we receive your completed Member Pack in good time and assistance is granted, the Union may be able to assist in drafting your ET1.

If time is running out, do it yourself and send it off (keep a copy if possible). The form can be changed later but not

put in late. **Make sure it goes in within the time limits (usually three months less one day from date of dismissal or cause of complaint).**

There are three ways you can issue your claim:

i. Complete the ET1 form through the **gov.uk** website.

ii. By post, to the Central Tribunal Office for England and Wales:

Employment Tribunal
Customer Contact Centre,
PO Box 10218, Leicester
LE1 8EG.

Tel: **0300 123 1024**

There is a different address for Scotland: Employment Tribunals Customer Contact Centre, Central Office, PO Box 27105, Glasgow G2 9JR.

Tel: **0300 790 6234**

Textphone: Add 18001 to the start of the phone number.

There is a different address for Northern Ireland: Office of the Industrial Tribunals and the Fair Employment Tribunal, Killymeal House, 2 Cromac Way, Belfast BT7 2JD.

Tel: **(028) 9032 7666**

iii. By handing in your ET1 in person at one of the designated regional offices.

9. Keep Usdaw informed

Always tell your Usdaw rep what you're doing. Usdaw will help at each stage.

Grievance and Disciplinary Procedures

We'll try to settle the problems using your usual company procedures. By law, your employer must allow your Usdaw rep to come with you to all disciplinary and grievance hearings.

If we can't sort out the problem this way, your Usdaw team will advise you about taking the case further.

Our full-time officials (Area Organisers) and the Usdaw Legal Department also provide advice and representation in employment tribunal cases.

Tribunal claims must be lodged within strict time limits – normally three months less one day from the date of dismissal or cause of complaint. You are responsible for making your claim in time, so speak to your Usdaw rep as soon as you know you have a problem. Make sure you always follow the company grievance and appeal procedures.

For help and advice about any employment problem, you can either contact your Union rep, call the Usdaw Helpline on **0800 030 80 30** or visit the Usdaw website: www.usdaw.org.uk

Keep Usdaw Informed

Always tell your Usdaw rep what you're doing and Usdaw will help at each stage. We'll try to settle the problems using your usual company procedures. By law, your employer must allow your Usdaw rep to come with you to all disciplinary and grievance hearings.

If we can't sort out the problem this way, your Usdaw team will advise you about taking the case further.

Our full-time officials (Area Organisers) and the Usdaw Legal Department also provide advice and representation in employment tribunal cases. Tribunal claims must be lodged within strict time limits, so speak to your Usdaw rep as soon as you know you have a problem.

Rights for Part-Time Workers

The Part-time Workers' Regulations prohibit discrimination against part-time workers.

Part-time workers must be treated no less favourably (on a pro-rata basis) than full-time workers in all matters, including:

- Rates of pay.
- Overtime.
- Contractual sick pay.
- Contractual maternity pay.
- Company pensions.
- Access to training.
- Holidays and parental leave.
- Redundancy.

Contact Usdaw for further details on the above rights.

Auditing Contract Terms

Now is the time to look at your contract of employment and works' rules.

Part-time workers should not be treated less favourably than full-time workers.

Less favourable treatment could be a breach of the Part-time Workers' Regulations and/or sex discrimination.

Take up any concerns through your Usdaw reps. You may be able to put changes on the negotiating agenda, raise a grievance, or take a case to an employment tribunal.

Part-Time Workers and Pensions

Access to a Pension Scheme

You cannot be refused entry to your Company Pension Scheme because of the hours you work.

If you are, or have been in the past, you should contact the Pensions Section in Usdaw's Legal Department on **0161 249 2440**.

The Part-time Workers' Regulations prohibit discrimination against part-time workers...

Part-time workers should not be treated less favourably than full-time workers.

Take up any concerns through your Usdaw reps. You may be able to put changes on the negotiating agenda, raise a grievance, or take a case to an employment tribunal.

Discrimination in the Workplace

The Equality Act came into force on 1 October 2010 in England, Scotland and Wales.

1. In October 2010, all nine major pieces of equality law, including the Disability Discrimination Act and the Sex Discrimination Act, were replaced by a law called the Equality Act. Almost all of what the previous laws said about protection from discrimination and rights to fair and equal treatment stay the same. This section outlines the main ways in which the Equality Act has changed and improved the old law.
2. The Equality Act covers the same groups of people that were protected by equality law before. It stops people being unfairly treated on the following grounds:
 - Age.
 - Disability.
 - Gender reassignment (protecting transgender members from discrimination).
 - Race.
 - Religion or belief.
 - Sex.
 - Sexual orientation.
 - Marriage and civil partnership.
 - Pregnancy and maternity.
3. As well as bringing all equality laws into one place and making the law more consistent, the Equality Act also strengthens rights, particularly for disabled workers. See Usdaw's leaflet *Supporting Disabled Members (Leaflet 383)* for more information about how the Equality Act improves rights for disabled members:
www.usdaw.org.uk/383
4. The Equality Act protects you from being unfairly treated because you associate with a person who fits into one of the protected groups. For example, a parent who is harassed because his/her son is gay will be protected by the Equality Act. This is called 'associative discrimination'.
5. This also gives greater protection for carers, such as someone caring for a disabled child or relative.



6. If you are unfairly treated at work because someone thinks you fall into one of the protected groups of workers (even if you don't), you are covered by the Equality Act. For example, if you are called names by a colleague because they think you are disabled (even though you aren't) or because they think you are a Muslim (even though you aren't) then you may be able to take action against them under the Equality Act. This is called 'perceptive discrimination'.
7. The Act is good news for transgender members (a person who identifies with a different gender from their sex registered at birth). Transgender members no longer need to be under medical supervision to be protected from discrimination. People who are proposing to undergo/are undergoing or have undergone a process to reassign their sex are protected by the Act.
8. The Act restricts the kinds of questions employers can ask about a job applicant's health or disability before offering them a job.
9. Employers are still allowed to ask health- or disability-related questions before inviting someone to an interview, where they relate to making reasonable adjustments to the recruitment or interview procedure, for example, or where they directly relate to a person's ability to carry out essential job duties. So, for example, if an employer were advertising for an HGV driver, questions concerning an ability to be able to sit for long periods or about any visual or hearing impairment are still likely to be OK.
10. Similar protection against discrimination exists in Northern Ireland (but under different pieces of legislation, as the Equality Act does not apply there).

For more information and publications on discrimination, see Usdaw's website: www.usdaw.org.uk

Maternity and Parental Rights

Any Usdaw member who becomes pregnant should obtain a copy of *Maternity and Parental Rights – An Advice Guide for Usdaw Members*.

It contains essential information about your rights, and is available from your local Usdaw office.

The rules are complex and it is important that you follow them carefully.

This section outlines the main points but you will need *Maternity and Parental Rights – An Advice Guide for Usdaw Members* to get the complete picture. Visit:

www.usdaw.org.uk/matpatrightsguide

Your contract of employment may give you better maternity leave arrangements than the statutory ones set out below. Always check your contract terms.

Your employer should acknowledge your notification of pregnancy in writing, telling you:

- How much leave you will get.
- When it starts.
- When you should return.
- What maternity pay you will receive.

You should keep this letter safe. If you disagree with any part of it, contact your Usdaw rep.

Qualifying Service

| Right | Service |
|----------------------------|------------------|
| Ordinary Adoption Leave | None |
| Statutory Maternity Pay | 26 weeks at EWC* |
| Additional Maternity Leave | None |
| Paternity Leave | 26 weeks at EWC* |
| Unpaid Parental Leave | One year |

*EWC = Expected Week of Childbirth

Ordinary Maternity Leave

All women are entitled to Ordinary Maternity Leave (OML) of 26 weeks and Additional Maternity Leave (AML) of 26 weeks. It does not matter how many hours you work or what length of service you have.

- To take advantage of OML and AML, you must notify your employer of the following, no later than the end of the 15th week before the week your baby is due (the notification week):
 - That you are pregnant.



- When the expected week of childbirth will be (your employer can request a medical certificate).
- When you intend to start your maternity leave (in writing, if your employer requests).
- The start of your maternity leave must be no earlier than the 11th week before the expected week of childbirth.
- You can change the starting or finishing dates of your leave, as long as you give eight weeks' notice.
- Your employer must notify you of the end date of your leave within 28 days of receiving your notification.
- If you cannot return on the notified date because of illness, you will be considered to have ended your maternity leave but then gone on to contractual sick leave.

Rights When You Return After Maternity Leave

If you take only 26 weeks' maternity leave, you are entitled to return to the same job on the same terms and conditions as if you had not been absent.

If you return to work after taking AML and there is some reason why it is not reasonably practical for your employer to take you back in your original job, you are entitled to be offered suitable alternative work.

If you wish to vary your working pattern on return from maternity leave, you have the right to request a flexible working pattern (see page 18).

Additional Maternity Leave

All women are entitled to 26 weeks' OML and 26 weeks' AML.

- AML begins when ordinary maternity leave ends, and it runs for a further 26 weeks (giving 52 weeks' maternity leave altogether).
- You can return to work before the end of AML, but you must give eight weeks' notice.

Dismissal

You cannot be dismissed or selected for redundancy because of pregnancy or maternity leave, or unlawfully denied the right to return. In such circumstances, you may claim unfair dismissal, sex

discrimination or breach of specific maternity rights.

If you are made redundant during maternity leave, your employer should give you first refusal of any vacancy/alternative jobs.

Dismissal for exercising any of the family-friendly rights is automatically unfair.

Statutory Maternity Pay

You are entitled to a maximum 39 weeks' Statutory Maternity Pay (SMP) if:

- You have worked for your employer for a continuous period of at least 26 weeks, ending with the qualifying week – that is, the 15th week before the expected week of childbirth.
- Your average pay in the eight weeks up to and including the qualifying week has been not less than the lower earnings limit for National Insurance Contributions, which is £123 from April 2024.
- You have properly notified your employer of the start date of your maternity leave, with medical evidence of pregnancy (for example, a medical certificate).

If you qualify, the first six weeks of SMP are paid at 90% of your average weekly earnings; the remaining weeks are paid at 90% of your average weekly earnings or the 'standard rate' (currently £184.03 per week), whichever is lower.

Maternity Allowance

If you do not qualify for SMP, you may get Maternity Allowance (MA) for a maximum of 39 weeks.

In order to qualify, you need to have worked for 26 of the 66 weeks before your baby is due (this is known as the 'test period'). The weeks do not need to be consecutive or for the same employer. You do not need to work full-time as long as you have earned an average of £30 per week.

MA is paid at 90% of your average weekly earnings or the 'standard rate' (£184.03 in April 2024), whichever is lower.

Any Usdaw member who becomes pregnant should obtain a copy of *Maternity and Parental Rights – An Advice Guide for Usdaw Members...*

It contains essential information about your rights, and is available from your local Usdaw office or online at: www.usdaw.org.uk/matpatrightsguide

All women are entitled to Ordinary Maternity Leave (OML) of 26 weeks and Additional Maternity Leave (AML) of 26 weeks. It does not matter how many hours you work or what length of service you have.



Family-Friendly Rights

Ordinary Paternity Leave

If you are a new father or the partner of the mother of a new baby, and have worked for the same employer for 26 weeks (by the 15th week before your baby is due), you have the right to two weeks' paternity leave. This right is called Ordinary Paternity Leave (OPL) and is also available to same-sex parents. You may also be entitled to Statutory Paternity Pay. This includes those adopting a child.

- You can take paternity leave at any time in the 52 weeks after birth.
- You are able to take your two-week paternity leave as two separate blocks of one week.

Statutory Paternity Pay

Ordinary Statutory Paternity Pay is paid for two weeks at a flat rate of £184.03 from April 2024. If you earn less than the flat rate, you will be paid 90% of your average earnings instead.

- To qualify, you must have worked for the same employer for 26 weeks by the 15th week before the baby is due (or if adopting, by the week you are matched with the child); and
- Have average earnings of £123 before tax from April 2024.

Shared Parental Leave

Under a system introduced in 2014, eligible parents can choose how they share care of their child in the first year after birth. Mothers have to take at least the initial two weeks of leave following the birth. Following that, they can choose to end maternity leave and the parents can opt to share the remaining leave.

Adoption Leave

| | |
|---------------------------|-------------------------------------|
| Ordinary Adoption Leave | 26 weeks' paid |
| Additional Adoption Leave | 13 weeks' paid/ 13 weeks' unpaid |
| Paternity Leave | 2 weeks' paid |
| Unpaid Parental Leave | 18 weeks' unpaid |

When a couple adopts, only one parent has the option of ordinary and additional adoption leave. The other parent may take paternity leave. Both may take parental leave. Both have employment protection rights.

Adoption pay is 90% of average weekly earnings for the first six weeks, and the remaining 33 weeks are paid at a flat rate of £184.03 from April 2024. To qualify, you must earn not less than the lower earnings limit for National Insurance Contributions: £123 from April 2024.

Parental Leave

Both mothers and fathers of young children have the right to take unpaid leave to look after them. You must have at least one year's service.

You can take four weeks a year, up to a total of 18 weeks, per child.

You must give your employer 21 days' notice before the intended start date.

- Parents must take their leave by their child's 18th birthday.

Dependants Leave

All employees are entitled to take a reasonable amount of unpaid time off to look after dependants in an emergency. The Carer's Leave Regulations 2024 came into force on 6 April 2024.

- From Day 1, employees can apply for up to one week of unpaid carer's leave in any 12-month period to provide or arrange care for a dependant with a long-term care need.

- Requests can be in consecutive or non-consecutive half-days or full days.
- Employees are protected from detriment and dismissal because they take or seek to take carer's leave, or the employer believes they are likely to do so.
- You cannot apply to work flexibly if you are an agency worker, but you can ask for a change in your hours of work.
- If your employer agrees to the request for flexible working, the new working arrangement becomes a permanent change to your contract. If you wish to make the flexible arrangement temporary, you must make that clear and specifically agree to revert to the original or other terms.

The Right to Flexible Working

From 6 April 2024, employees in the UK will have the right to request flexible working from their first day in a new job.

From the start of employment, you can make a statutory application to change aspects of your work arrangements, such as number of hours you work, start or finish times, or where you work.

- Employees are allowed to make two flexible-working requests in a year.
- Employees will no longer have to set out the impact of their request on their employer.
- Employers are required to deal with requests in a reasonable manner, assessing the application and offering an appeals process. Employees will be fully consulted before their request is rejected.
- Employers must make their decision regarding a flexible-working request within two months.
- You should discuss your request, and the reasons for it, with your Usdaw rep before asking for a change, or if there is a refusal.
- A tribunal cannot normally investigate the rights and wrongs of a refusal; only whether the procedure has been properly followed.
- If an employer fails to handle the request reasonably, the employee has the option to take the matter to an employment tribunal, whereby the maximum compensation for failure to comply would be 'eight' weeks' pay.
- Flexible-working rules are different in Northern Ireland (speak to your Area Organiser).

Fixed-Term Contracts

The Fixed-term Contract Regulations apply to company employees. They do not apply to contracted-out or agency workers used by the company.

Fixed-term contract staff have the right to equal treatment with permanent staff in:

- Terms and conditions.
- Training.
- Opportunities to seek a permanent post.

You have the right to ask your employer for written reasons explaining the differences between a fixed-term and a permanent contract. Your employer has 21 days to reply.

Employers can only defend differences if:

- They are necessary for a very particular reason, or
- The overall package is comparable.

You cannot be kept on a fixed-term contract forever. After four years, you have the right to ask to be made permanent. If the employer cannot justify the continuation of a fixed-term contract for special reasons, you should be made permanent.

Failure to renew a fixed-term contract is classed as a dismissal and may be unfair.





Sunday Working Rights

All UK shopworkers have the right to opt out of Sunday working, unless they only work on Sundays.

Your Legal Rights

All shopworkers (except Sunday-only workers), irrespective of their age or length of service, have the right:

- Not to be dismissed for refusing to do shopwork on Sundays.
- Not to be selected for redundancy for refusing to do shopwork on Sundays.
- Not to suffer any other detriment for refusing to do shopwork on Sundays (for example, denial of overtime, promotion or training opportunities).

You Must Give Your Employer Three Months' Notice in Order to 'Opt Out'

This is the case unless you have been employed continuously as a shopworker by your current employer since before 26 August 1994. In that case, you need to read the section entitled 'Protected shopworkers' on page 22.

How to Opt Out of Sunday Shopwork

If you want to opt out of Sunday working, for any reason, you must give your employer a signed and dated written notice saying that you no longer wish to work on Sunday. You do not have to give any reason.

You must, if required by your employer, continue to work on Sundays for three months, unless your Usdaw rep is able to negotiate a shorter notice period.

Shopworkers are entitled not to be dismissed or suffer any detriment by their employer during the notice period.

Once the notice period has ended, you have the right not to do Sunday shopwork. You are protected as an 'opted out' shopworker.

Hours of Work

If you opt out of Sunday working, your employer is under no obligation to provide you with alternative hours of work on different days. Opting out may therefore result in a decrease in your weekly wage.

Ask your Usdaw rep if they will help you to negotiate different hours.

After Opting Out

If you have opted out of Sunday working, you are able to opt back in at any time. However, your employer is not obliged to give you Sunday work.

You still retain the right to opt out of Sunday working again at any time that you wish, although you will need to give up to three months' notice again.

Protected Shopworkers

If you have been employed continuously as a shopworker in England or Wales by your current employer since before 26 August 1994 (or in Scotland since 6 April 2004), you are automatically 'protected' from being required to work Sundays.

If you have not signed an Opting In Notice, saying that you wish to do Sunday work, you have the following rights:

- You can refuse to do Sunday work, whatever your contract says and whether or not you have done Sunday work in the past.
- You cannot be dismissed, disciplined or treated less favourably because you refuse to work on Sunday.
- If you are dismissed, disciplined or treated less favourably, you can bring a case to an Employment Tribunal.

For further information see *Sunday Working For Shop And Betting Workers - Advice Guide for Usdaw Members (Leaflet 278)*: www.usdaw.org.uk/278

The former Conservative Government's plans to change the law on Sunday Trading were dropped following a strong campaign by Usdaw.

State Benefits

Sick Pay

Statutory Sick Pay (SSP) is administered and paid by your employer.

Your contract of employment may mean that your employer also has to pay company sick pay in addition to SSP. However, SSP is the legal minimum sickness payment, and your employer cannot pay you less.

To qualify for SSP, you must normally earn not less than the lower earnings limit for National Insurance Contributions, which is £123 per week from April 2024.

SSP is paid at the rate of £116.75 per week, from April 2024. You can claim up to 28 weeks' SSP. When it stops, you should claim other state benefits such as Employment and Support Allowance.

Universal Credit

Universal Credit has replaced the following benefits:

- Child Tax Credit.
- Housing Benefit.
- Income Support.
- Income-based Jobseeker's Allowance (JSA).
- Income-related Employment and Support Allowance (ESA).
- Working Tax Credit.

If you currently receive any of these benefits, you cannot claim Universal Credit at the same time.



Usdaw's Legal Plus – Looking After You and Your Family

Injury Assist – Free Accident and Injury Claim Service

Injury Assist covers you for:

- Any accident, anywhere in the UK, including accidents at work or outside of work.
- Accidents/injuries whilst outside the UK on a package holiday.*
- Road traffic accidents.
- Injuries caused by violent crime or armed robbery (CICA claims).

Plus:

- Family members living with you are covered for any non-work related accident anywhere, anytime in the UK, and also if they are injured whilst outside the UK on a package holiday.*

To register a new accident, injury or disease claim, complete the form on the Usdaw website:

www.usdaw.org.uk/ia

You'll need you:

- Name and address.
- Phone and email contact details.
- Date of birth.
- Date of the incident.

We will log your claim and check your membership details. You will also get a specific case number which relates to this matter.

If you are eligible for legal assistance, your details will be submitted to the Union's solicitors, who will assist you further.



*Claims covered under package holiday regulations.

Employment Problems

Usdaw reps and officials are ready to help you resolve any type of employment problem, including:

- Redundancy.
- Dismissal.
- Discrimination.
- Contract claims.
- Equal pay.
- Family-friendly rights.
- Part-time workers' rights.
- Unlawful deductions.
- Minimum wage.

We'll try to settle the problem(s) using your usual company procedures. By law, your employer must allow your Usdaw rep to come with you to all disciplinary and grievance hearings.

If we can't sort out the problem this way, your Usdaw team will advise you about taking the case further.

For help and advice about any employment problem, you can either contact your Union rep, call the Usdaw Helpline on **0800 030 80 30** or visit the Usdaw website: www.usdaw.org.uk

Do not use Injury Assist for employment matters.

Where assistance is granted in employment cases, members will be sent the *Employment Cases Member Handbook*. This also contains the rules on Legal Plus.

Once legal assistance has been granted, we'll investigate your case and regularly review it to ensure you continue to comply with the rules and that your case still has reasonable prospects of success.

Free Wills

It's important for your family and your own peace of mind that your affairs are in order before you die. If you want your property/estate to pass to the people you choose, it's essential to make a Will. Every Usdaw member, and his or her partner, can make a Will free of charge through Usdaw solicitors.

New members benefit from our free Will writing service as soon as they join Usdaw - saving up to £200.

If your affairs are especially complex, the solicitors may need to charge, but they'll discuss this with you beforehand.

To take advantage of our free Will writing service, complete our online BL4 Form at: www.usdaw.org.uk/BL4form or phone the Legal Department clerical team on **0161 249 2477**.

Conveyancing

Buying a property may be one of the most important steps in your life. Our Usdaw solicitors will deal with all stages of your property transaction at favourable rates for Usdaw members. You'll receive a written quotation at the outset, so you won't have any unwelcome surprises.

Free Advice Scheme

Usdaw's Legal Plus service doesn't stop when you clock off work. You're entitled to free advice about any non-work related legal problem. For example, you may have:

- To sort out probate matters when someone dies, our Usdaw solicitors can provide you with sympathetic and professional advice.
- Bought a car or a washing machine that simply isn't up to standard, and the salesperson refuses to do anything about it.
- A dispute with your landlord, the council, or with nuisance neighbours.
- A matrimonial or other family problem at home, or want advice about debts.

If there's more legal work required after you've received the solicitors' advice, they'll offer you special terms.

To benefit from these services, complete our online BL3 Form at: www.usdaw.org.uk/BL3 or phone the Legal Department clerical team on **0161 249 2477**.

Members are fully covered for...

- Any accident, anywhere in the UK, and now also for accidents/injuries outside of the UK whilst on a package holiday.*
- Family members living with you are covered for any non-work related accidents, and injuries and illnesses whilst on a package holiday outside the UK.*
- To register a new accident, injury or disease claim, complete the form on the Usdaw website: www.usdaw.org.uk/ia

*Claims covered under package holiday regulations.

 USDAW InjuryAssist IA

FREE Accident and Injury Claim Service

usdaw.org.uk/ia

Usdaw Rules of Legal Assistance

1. Usdaw has complete discretion on whether to grant or to continue legal assistance to its members or their families. We will exercise that discretion fairly and consistently in accordance with these rules.
2. To be eligible for legal assistance:
 - You must be a fully paid up member at the time of the event or incident giving rise to your claim.
 - In employment cases, you are not entitled to legal assistance if the issues relating to your claim arose before you joined the Union.
 - You must remain a fully paid up member.
 - You must comply with the Rules of Legal Assistance.
3. Cases will be supported only if they have reasonable prospects of success, they are proportionate in value to the cost of pursuing the claim, they are not an abuse of process or fundamentally dishonest, and no reasonable offer of settlement has been made.
4. Once legal assistance is granted, the case will be kept under review to ensure that the rules are complied with and the case continues to enjoy reasonable prospects.
5. Legal assistance may be refused or withdrawn in any of the following circumstances (the list is not exhaustive):
 - If you cease to be a member.
 - If you are in arrears of membership contributions.
 - If you are in breach of the Union's rules.
 - If your claim brings you into conflict with the Union, its policies, its ethos, or officers.
 - If you have instructed or taken legal advice outside the Union.
 - If you instruct or take advice from any other legal representative.
 - If you have been dealing with a claim yourself or through another representative and you ask us to take over conduct of it.
 - If you reject the reasonable advice of the Union's appointed representative as to the conduct and/or settlement of your claim.
 - If you fail to provide reasonable instructions (or fail to provide instructions at all).
 - If you appear to have no cause of action and/or your claim does not enjoy reasonable prospects of success, and/or it is an abuse of process.

- If you behave in a manner which has or is likely to destroy trust and confidence between you and your representative.
 - If you require the Union or its solicitors to act improperly.
 - If you deliberately mislead the Union or its solicitors or provide false information, or if all or any part of the claim is fundamentally dishonest.
 - If the necessity for legal advice has been caused by drunkenness, drug use, wilful neglect of duty or other misconduct, or by any criminal act on your part.
 - If you fail to co-operate.
 - If you insist upon dealing with the claim in a way that is significantly disproportionate to the amount or issues involved.
 - A claim made against the Union, its employees, Executive Council, officers and representatives.
- 6.** You must co-operate with the Union and its solicitors, your representative and any experts appointed on your behalf:
- You must use the solicitors appointed by Usdaw.
 - You must keep appointments.
 - You must provide any information or instructions requested by the deadline set.
- You must behave reasonably and provide reasonable instructions to your case representative.
 - You must provide honest and accurate information.
 - You must remain in contact with Usdaw and your case representative and respond promptly to letters, email and calls.
 - You must deal with your representative politely and treat them with respect.
- 7.** You must authorise Usdaw and/or its solicitors to:
- Disclose to the court, tribunal and opponents all relevant information in respect of the claim and/or recovery of costs.
 - Disclose to Usdaw Legal Department and/or the Executive Council and/or the Central Officials of the Union their advice and any information relating to your claim.
- 8.** You are entitled to reject the advice of Usdaw and/or the solicitors and instruct another representative, but Usdaw will not be responsible for their charges and disbursements, nor any costs awarded against you.
- 9.** If Usdaw legal assistance is refused or withdrawn, the Union will not be liable for any legal costs or expenses you subsequently incur.

- 10.** Usdaw can refuse to pay your legal bills and those of other parties, and can require you to pay to the Union any sums it has paid out on your behalf if costs are awarded against you or are not recovered because:
- Of your own false statements.
 - There is a finding that part, or all, of the claim is fundamentally dishonest.
 - You have deliberately concealed or failed to disclose important information.
 - Of your unreasonable actions or failure to act after legal proceedings have been commenced.
 - Of a settlement being made by you without the knowledge and/or approval of the Union.
- 11.** In an employment tribunal claim, Usdaw will not meet any costs awarded against you when:
- You have been given a costs warning by the tribunal and/or ordered to pay a deposit.
 - You have been advised by the Union that the prospects of success are poor and there is a risk of costs being awarded against you.
 - The tribunal has awarded costs because of your dishonesty or unreasonable conduct.
- 12.** In prosecution cases, solicitors will be instructed to give preliminary advice to assess whether there is a defence to the charge.
- Legal assistance will only be continued if the solicitors advise that there are reasonable prospects of a defence to the charge.
 - Members are required to apply for State Legal Aid at the earliest opportunity.
- 13.** You must co-operate with your solicitors in recovering legal costs, including any success fee or additional amount from your opponent.
- 14.** If you settle the claim outside the terms of this Agreement then you agree that you will pay the costs and any additional amount due to Usdaw and its solicitors for the work done by them - if necessary, from your compensation or your new solicitors' costs.
- 15.** By accepting Usdaw legal assistance, you agree that should there be any arrears of Union contributions at the date compensation is agreed in your favour, the Union and/or its solicitors may deduct the amount of the arrears from the compensation.
- 16.** Family members must also comply with these rules, and the member must maintain their Union membership and remain up-to-date with contributions.
- 17.** Assistance will not be granted to a family member if they are employed in a company where Usdaw is recognised for any purpose and they should have been in membership.



More Information

Usdaw Nationwide

Wherever you work, an Usdaw rep or official (Area Organiser) is not far away. For further information or assistance, contact your Usdaw rep or local Usdaw office. Alternatively, you can phone our Freephone Helpline **0800 030 80 30** to connect you to your regional office or visit our website: www.usdaw.org.uk

You can also write to the Union's Head Office. Just write **FREEPOST USDAW** on the envelope and put it in the post.

Join Usdaw

You can join online at:
www.usdaw.org.uk/JoinUs



Scan to
join today

What happens next

Once we process your application, you will receive a membership card with our Helpline telephone number and a New Member's Pack giving details of all the benefits and professional services available to you.



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