

What is Wrongful Dismissal?

In employment law, wrongful dismissal is essentially a **breach of contract claim**

Breach of Contract

Wrongful dismissal claims are not concerned with the fairness of any dismissal (unlike Unfair Dismissal claims), but more about breach of any **contractual terms** by the employer.

The contract breach is generally for pay and other benefits that were due, or accrued, e.g. during any notice period. Contractual benefits usually claimed are for notice pay, pension contributions, company car payments, bonus payments or other similar benefits.

Fundamental Breach

Where a dismissal is due to gross misconduct, employers will argue that no payments are due to the employee from the dismissal date. Employers will argue they were entitled to accept a fundamental breach of the implied term of trust and confidence or other parts of the contract terms, resulting in the employer accepting summary termination of the contract, and no contractual notice pay being paid.

No Qualifying Period Needed

Wrongful dismissal claims **do not require a qualifying period of service**, such as the 2 year employment rule.

3 Months Less 1 Day Time Limit

If a claim is brought in the ET (instead of the Courts where higher damages apply, which may benefit higher earners), the usual **ET time limit of 3 months less 1 day** still applies, plus any Acas extension of time following Early Conciliation (EC), if any EC has been initiated by the Claimant.

Employment Tribunal (ET) or County Court/High Court?

Wrongful dismissal claims are **capped at £25,000 in the ET**. In the Courts, amounts are uncapped, which may be an appropriate forum for higher earners who have longer notice periods and other valuable contractual benefits. However, there are downsides, claims in the County Court/High Court are more expensive to bring. If you lose, you may have to pay the other side's legal costs.

In the County Court/High Court, the time limit is **6 years from the date of breach**.

Costs in the Employment Tribunal

In the ET, **costs are the exception rather than the norm, even if you lose**.

Costs against a party are not applied **punitively**, but they are sometimes made.

Costs may apply where a party (or a party's representative) is considered by the ET to have acted **vexatiously, abusively, disruptively or otherwise unreasonably** in either the bringing of the claims (or part) or the way that the proceedings (or part) **have been conducted** or if the claim (or response) have **no reasonable prospect of success**.

If the tribunal **exercises its discretion to award costs** against a party, they may, but are not obliged to, have regard to that **party's ability to pay**.

We hope you found this information helpful.
Contact us today if you feel you have a claim for wrongful dismissal.

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