

Dealing with notice periods before becoming a contractor

If you're ready to take the first step to independence and to **making more money**—that is, **becoming a contractor**—then you need first to tell your employer that you're leaving. This can be a delicate step, as often employee contracts, especially in engineering and IT, involve long periods for termination. Your contract could oblige you to put in any length of time at all before you can actually leave the company, and you have to respect it, although you may be able to negotiate a solution that's better for you.

"Legally, there is almost nothing you can do to challenge a long notice period. But you do have two options, and both of these depend on your relationship with your employer," says David Royden, a lawyer specialising in contract law with Laytons Solicitors in Manchester.

Dangerous to Breach

As Royden points out, you put yourself at risk if you breach your contract by leaving without sufficient notice. A long notice period is usually included in a contract where the employer stands to lose money, or even to fail to complete a project, should the employee leave without sufficient notice. If you breach the contract by leaving before the notice period is up, you risk being liable for the employer's losses. "Employers need to assure their skills base on projects. If you drop out, they may have to hire a contractor to replace you. If that costs the employer money, you will have to compensate that company."

Worse still, if the project you were working on goes pear-shaped, you could have to compensate the employer for all of the losses that the failure of the project cost the employer. This could be very expensive.

A Better Solution—Negotiate

If you have a good relationship with your employer, it is a much better idea to negotiate an earlier departure date. The employer may be willing to do this for several reasons.

Some employers who are good managers don't want personnel who are about to leave working on their projects. Management experts say that this employee is the most liable to be careless, or at least not to be motivated to provide the best work. And departing employees can be security risks. So your employer may be sorry to see you go, but may wish to see you go without delay.

It may also be possible to offer your employer a deal involving remuneration or benefits that will allow you to depart early. Knowing that you are about to depart, employers may be happy to save a little money on your perquisites, since they won't be useful in motivating you to work anymore.

When You Don't Get Along

If you have a bad relationship with your employer, there may be other possibilities for leaving your job early.

An employer who doesn't like you may, of course, be glad to see you leave. "In this case," Royden says, "make sure that all the formal details involving your termination have been respected, so that the firm can never come back to you with demands or liabilities in respect of your early departure."

But often your unfriendly employer wants to keep you, because replacing you is a nuisance, even though the employer has made it clear that you're not liked. "In this case, ask yourself if there is any way in which your employer has not respected the terms of your contract," Royden explains. "Have all of your holiday benefits been paid? Have the conditions in terms of the workplace been respected? Is there any area in which the employer has been remiss? If so, you could claim breach of contract, and terminate the contract immediately. You could even sue for constructive dismissal eventually if the breach is a serious one."

This happens more often than one might expect. It is probably wise to take professional advice if you choose to pursue the breach of contract route, for, as we've pointed out, leaving early without justification could cost you a great deal.

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