

Employment rights 2: Leaving work



Leaving work

There are some benefits to staying employed whilst you are ill. Leukaemia Care have covered this topic in the toolkit "[Employment rights 1: Being/ becoming employed](#)".

In short, work has social and financial benefits that may contribute towards your recovery. There are several ways you could maintain the different aspects of work:

- Change jobs to something you feel you are more able to do
- Reduce your hours or ask for the flexibility to change your hours when you need to
- Work from home
- Volunteer

However, giving up work may be the best option for your health, especially if you are likely to be too ill to work long term. However, deciding to leave work is a big decision that effects not only your current finances but also those in the future. Therefore, it is advisable to take financial and legal advice alongside the advice of your doctor before you make the decision and give yourself enough time to do so after diagnosis.

It is important to remember that under the Equality Act (2010) or the Disability Discrimination Act (1995), you are protected from discrimination because of your leukaemia diagnosis. This means you cannot be advised by your employer to leave work for

health reasons, especially within the first 12 months of you being ill and rarely without another reason to ask or suggest you leave unrelated to your illness. Our toolkit called "[Discrimination and Cancer](#)" outlines what to do if you feel you are being treated unfairly at work due to your leukaemia.

This toolkit is designed to highlight potential issues when leaving work and signpost you to organisations who can help with these issues. Leukaemia Care are not able to offer legal or detailed financial advice.

Giving up work

There are several ways you could leave a job once you find out you are ill:

1. Resigning:

This will give the same rights as any other worker who resigns (for example, if leaving for another job). You will be required to work your notice period, although you can be off sick during this if you aren't able to work it either. If you are off sick, you will be paid your normal rate of sick pay stated in your contract (which might be your normal pay, a specific level of pay or statutory sick pay (SSP) if you have not already used your allowance for the year).

Resigning will mean you automatically lose any benefits of

employment, such as:

- Death in service benefit – it is particularly important to plan for the future when you are seriously ill, even though it may seem a difficult topic
- Pension rights
- Any health insurance or related benefits like gym memberships

Therefore, you might want to consider remaining employed but signed off sick, especially initially, so you have time to consider your options whilst remaining covered by your employer in the ways described above. With the emotional and physical issues associated with a leukaemia diagnosis, it is best to ensure you are not also left in financial difficulty before any decisions are made.

If you stop paying into a private pension because you are no longer employed, the amount you have saved to live on when you retire will be less. You will also stop paying national insurance contributions if you stop earning, which might stop you being able to claim your full State Pension. You can get the full State Pension amount after 35 years of paying National Insurance and can get a portion of it after paying 10 years. It is strongly advised that you speak to a financial advisor or an organisation such as Pension Wise before making any decisions that relate to your pension, as the rules can be complicated and vary a lot.

2. Resigning with a compromise agreement:

This is a common way to leave work, especially if you have been employed for a long time. You can negotiate your resignation terms, perhaps asking to keep some of your employment benefits until you are well or able to find alternative work. Arranging to leave in this way can be mutually beneficial for you and your employer; you can negotiate some support short term without the pressure to return, whilst the employer is free to cover the role you have left.

However, the negotiation process can be tiring and stressful, and it's important to know what can be negotiated the process and what cannot. Some examples of things you could negotiate are access to your pension, continuing to get occupational sick pay and being paid while you find another role. It is strongly advised that you take advice too; help could include from your union, HR, Citizen's Advice Bureau, charities with trained advisors or an employment lawyer.

3. Voluntary redundancy:

As mentioned above, you are protected from being asked to leave work, including during a mandatory redundancy programme, due to your leukaemia diagnosis under discrimination laws. However, should your company be asking for voluntary redundancies whilst you are considering leaving work, you may wish to consider this option. This may be advantageous as you will be paid a final salary and you can negotiate other things you may like to be included in the package. You will likely be entitled to or better able to negotiate if you have been at a place of work for a long period of time. Ensure you consider how long the redundancy payment will support you for and make plans for how you will support yourself after this period. Take advice to ensure you know your rights: Citizens Advice can advise you throughout the redundancy process: <https://www.citizensadvice.org.uk/work/leaving-a-job/resigning/deciding-whether-to-resign/>.

4. Early retirement:

This option is often considered by those close to their retirement age. Retiring early is a complicated process as different pension types (defined

contribution or defined benefit) and different pension providers will specify different rules about when you can start taking the pension. Again, make sure you take advice from trained people, such as Citizen's Advice Bureau or a financial advisor, who will talk you through how your decisions will affect your exact circumstances (e.g. how much tax you will pay, how much money you will get, when you can start working again if you want to).

Set out below are common scenarios based on different pension types and personal circumstances:

- Defined contribution schemes are where you pay a certain amount towards your savings over the course of your employment, and your employer then contributes to make a pot of money to last you through retirement.
- These schemes changed in 2015 so you could start accessing your pension from 55, in a lump sum, buying a product called an annuity that pays you a regular income, like a salary, or investing the money that then pays you a regular income and lets you take lump sums when you want. These options mean you could retire early if you fall ill between the

ages of 55 and state pension age. However, each option for accessing the money early has implications, such as on the tax you pay and the potential for investments to lose money as well as gain money. It is also important to realise that taking your saving early means you will have to spread the money over a longer retirement, should you live a long time afterwards.

Pension Wise is the government-run service set up to assist people with defined contribution schemes since the changes came into force in 2015. For more information, visit the website: <https://www.pensionwise.gov.uk/en> or phone: 0800 138 3944.

- Defined benefit schemes are where your employer pays you an agreed amount on retirement, rather than helping you to save slowly time. The amount is usually based on your final salary, or what you earn over your careers. These are now rarely offered to new employees and are more complicated if you want to switch between jobs, or switch to a defined contribution scheme.

These are also less flexible in how you access them. Most

restrict you to access them until you are 60-65, similar to state pension age. You may be able to access all the money early from 55 if your pension is worth less than £30000.

- The State Pension cannot be accessed early, but it is important to consider whether you have paid enough national insurance to get it, as mentioned in the resigning section above. If you take a private pension as your sole income, you still pay income tax, if applicable, but you will not pay any national insurance contributions. It is possible to pay voluntary, missing contributions of national insurance if you would like the full State Pension amount once you reach the appropriate age. For more information on the State Pension, please see the government website: <https://www.pensionwise.gov.uk/en/state-pension>.
- Ill health retirement is a special case of early retirement. The rules around the type of illness you must have to claim ill health retirement vary between pension providers and can be as vague as something that "has a long-term impact on your current or future employment". It can also vary

as to whether you can retire because you can no longer do your particular job, or whether you have to be unable to work at all.

Your pension provider will be able to give you full details as to whether you are eligible and how much of the pension you can get based on the severity of your condition. Be prepared to provide evidence for your application from all your healthcare professionals and to talk in detail about how your condition affects you. You should also be given the chance to appeal a decision and a full explanation of final decisions.

If you are terminally ill and given 12 months or less to live, you are likely to be able to access your full pension as a lump sum under the ill health retirement rules. The amount of tax you will pay will depend on your age. The Pension Advisory Service explains more about ill health retirement here: <https://www.pensionsadvisoryservice.org.uk/about-pensions/when-things-change/ill-health>.

Retiring early one of the most important times to seek financial advice. A financial adviser, whilst an additional cost, can be an especially good option if

you want investment advice or recommendations on specific companies. Organisations that can help more generally with pensions for free are listed at the bottom of this toolkit.

Dismissal

As previously mentioned, you are protected from dismissal by your employer for any reason related to your leukaemia diagnosis; for example, for taking lots of time off or not performing as well as an equivalent employee who is not ill. You are still eligible for dismissal due to gross misconduct, as long as this is the only reason. You could also be dismissed for performance reasons if the employer can show that your performance should not have been affected by your diagnosis, but this is extremely unlikely. You are able to appeal any dismissal at an employment tribunal if you feel you have been discriminated against.

Finally, your employer can initiate dismissal due to medical incapacity, usually after a minimum of 12 months since the employee became ill. This may happen should all reasonable adjustments have been considered and the employee is still unable to return to work in the foreseeable future. While this is called a dismissal, it is not

intended to be a punishment as it would be for misconduct, but to assess whether the employer and employee would benefit from terminating the contract of employment. There is a procedure to be followed; the employer will gather evidence from medical professionals and then invite you to a formal hearing. Whilst this may sound like a frightening experience, you could use the opportunity to negotiate circumstances of leaving, in a similar way to resigning or redundancy described above. At the end, you will still have the chance to appeal if you feel you have been discriminated against.

For further advice about discrimination and dismissal, please see the Citizens Advice Website: <https://www.citizensadvice.org.uk/work/discrimination-at-work/common-situations/termination-of-employment-and-disability-discrimination/>.

Carers/parents:

If you are carer of someone with cancer, or you have someone caring for you during your cancer journey, [we have made a separate toolkit](#) which explains your rights. It covers both support if you are working whilst caring and if you are not.

If you are a parent of a child

with leukaemia, [we have made a separate toolkit](#) that explains your rights at your own place of work.

Self-employment:

If you are self employed and would like advice on how to deal with your business after a cancer diagnosis, please see the toolkit 'Employment rights 3: Self Employment'.

Further questions:

Here are some additional resources if you feel you need some more information:

- <https://www.workingwithcancer.co.uk/> - Working with Cancer train and provide support for employees, employers and cancer charities.
- <https://www.macmillan.org.uk/information-and-support/organising/work-and-cancer> - Macmillan have a range of leaflets covering all situations. They also have specially trained financial guides for advice specific to your situation.
- www.acas.org.uk, helpline 0300 123 1100: Advisory, Conciliation and Arbitration Service (ACAS) can provide advice if you are in a dispute with your employer, including if you have been discriminated against.

- <https://www.citizensadvice.org.uk/>: Citizens Advice can advise on any aspect of employment or finances, via their webpages, live chat or in person.
- <https://www.pensionsadvisoryservice.org.uk/>, helpline: 0800 011 3797: The Pensions Advisory Service gives free and impartial information on pensions of any type, including the State Pension.
- www.findanadviser.org: The Personal Finance Society runs a "find an adviser" service to help you find qualified financial advisors near you.

If you have any further questions about leaving employment during your cancer journey, you can contact our Campaigns and Advocacy team. They are available Monday to Friday from 9:00am – 5:30pm. If you would like to speak to them, you can:

- Call our office line on 01905 755977
- Send them an email at advocacy@leukaemiacare.org.uk

You can also call the help line, free of charge on 08088 010 444. The team will pass your enquiry onto the Campaigns and Advocacy team.

Please note that our Campaigns

and Advocacy team are unable to provide:

- Detailed medical advice or recommendations
- Legal advice
- Advocacy for a course of action which is contrary to the aims and objectives of Leukaemia Care

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