
NOTICE PERIODS: A SURVEY OF POLICY AND PRACTICE IN BRITISH BUSINESS

EXECUTIVE SUMMARY

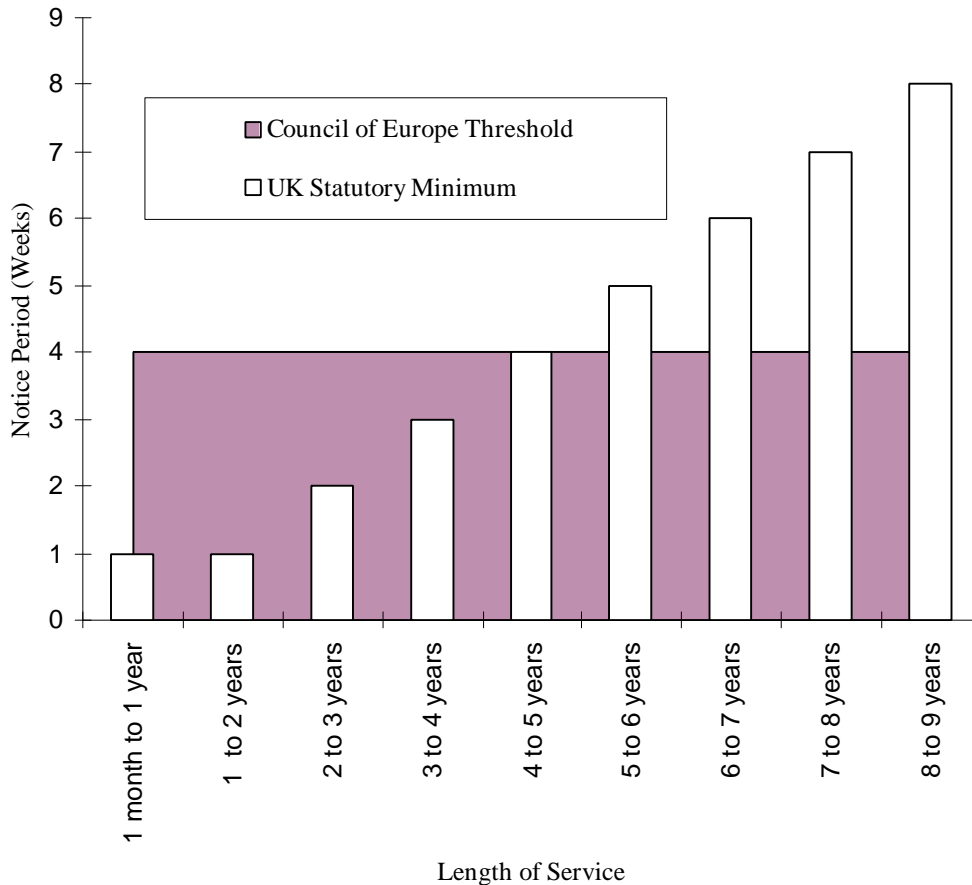
- The aim of this project was to gather information on the notice periods to which employees are entitled when contracts are terminated.
- The UK has come under public censure from the Council of Europe about statutory notice periods for people with less than four years' service. The Council of Europe recommends that **all** employees with between 1 month's and 4 years' service be entitled to four weeks' notice on termination of their contract.
- Information was gathered through the inclusion of a set of questions in a regular 'omnibus' survey of private sector employers.
- The first part of the survey dealt with the number of employees who are given four weeks' notice. The results suggested that outside the public sector only **35%** or **6.3 million** employees work in organisations that meet the Council of Europe's minimum recommendation. However, it must be remembered that, at present, there is no obligation on employers to meet these standards.
- The second part of the survey dealt with the qualification periods people are entitled to. These results suggested that 46% of employers stipulate that their employees must work for four years or more to qualify for the Council of Europe's minimum standard of four weeks.
- The final part of the survey dealt with operational issues. The evidence strongly suggested that notice period provision was not a major human resources issue. Only 4% of employers noted recent disputes over notice periods, and many more were unable to outline current policy or practice.
- In terms of the Council of Europe's recommendation, these are very disappointing figures. They suggest that a large number of UK employers would have to change their policy on notice periods to comply with the European code. However the survey did confirm that notice period provision is not a major human resources issue. It was clear that a large proportion of employers could not give answers. Many also clearly misunderstood the questions. While these problems could have been related to the questionnaire design, they also imply that employers had not previously thought about the issues involved.

1. Introduction

1.1 Background - The Statutory Right to Notice

When an employer terminates an employee’s contract of employment, the employee is entitled to be given notice. This notice period is either set by statute (Section 86 of the Employment Rights Act) or defined in the employment contract, whichever is the longer. To qualify for minimum statutory notice rights an employee must have worked continuously for at least one month.¹ The employee is entitled to one week’s notice for each completed year of continuous service up to a maximum of twelve weeks’ notice. In other words, employees with service of between one month and two years have entitlement to one week’s notice. Those with continuous service of between two and three years are entitled to two weeks’ notice and so on (**Figure 1.1**).

Figure 1.1 UK Statutory Notice Period Entitlement



The UK has come under public censure from the Council of Europe about statutory notice periods for people with less than four years’ service.² The Council suggests that

¹ These regulations do not apply to dismissals for gross misconduct.

² Council of Europe Social Charter - 14th Supervision Cycle (1998), *Experts Conclusions on the 18th Report* (reference period 1992-1996), pp. 773-774.

all employees with up to five years' service should be entitled to one month's notice, while those with over five years should be entitled to an unspecified period more than one month. The statutory minimum in most countries is between two weeks and a month from the day an employee starts. The UK statutory minimum for those with less than four years service therefore falls short of the suggested common European formula. However, after four years, the UK statutory notice period is fairly generous compared with statutory requirements in other countries.

1.2 Project Objectives

The DTI receives very few complaints from individuals about notice periods, but there is, in fact, very little information about current business practice. It is likely that a large number of people are entitled to more than the statutory minimum notice period. However, a literature survey did not find any research to substantiate this view.

The aim of this project was to gather information on the notice periods to which employees are entitled when contracts are terminated. The focus was on those with less than 4 years' service, the main concern of the Council of Europe, but some information was collected on notice periods for those with longer service. The amount of detail that could be collected was limited (by the methodology adopted), although we were able to gather some data on the problems arising from notice periods and whether people work their notice or are given pay in lieu.

1.3 Methodology

Having reviewed the literature and existing data sources, it was clear that some sort of survey was required to provide quantitative data. Approaching employees would not be useful because they are probably unaware of the notice period relating to dismissal. The research clearly needed a survey of employers, but the level of analysis did not warrant a costly stand-alone project.

It was decided to buy space in an omnibus business survey - the most appropriate medium available. Since these surveys run on a monthly basis, the time and costs involved in establishing an enquiry are minimised. This option provided the possibility of contacting a large number of organisations over a relatively short period of time.

The monthly business omnibus run by Continental Research was chosen for the task. Eleven questions were included in the January 1999 omnibus and these are set out in Annex 2. For their omnibus survey, Continental Research interviewed 300 small businesses and 200 medium and large enterprises in the private sector. The design of the questions and analysis of the data were undertaken by the DTI.

Questions proved rather complex for a telephone survey, which probably contributed to the high proportion of respondents that appeared to misunderstand some questions. The sample was structured by size of turnover, not number of employees. However, information on the number of employees was also collected. Continental Research defined small firms as having a turnover of between £50k and £1m. The sample of small firms was drawn from the BT business database. Medium and large firms were

regarded as organisations with a turnover of over £1m and these were drawn from Dunn and Bradstreet.

Quotas were set by Continental Research in terms of turnover, industry sector and region. The results were then re-weighted by turnover, region and industry type to make the sample representative of all businesses with a turnover of over £50,000. According to statistics on small and medium businesses, the sample therefore represents approximately 1.3 million enterprises, employing approximately 18.8 million people.

2 Findings

2.1 Introduction

Given the Council of Europe's concern over notice periods for people with short-term service (less than four years), the survey focused on three broad areas:

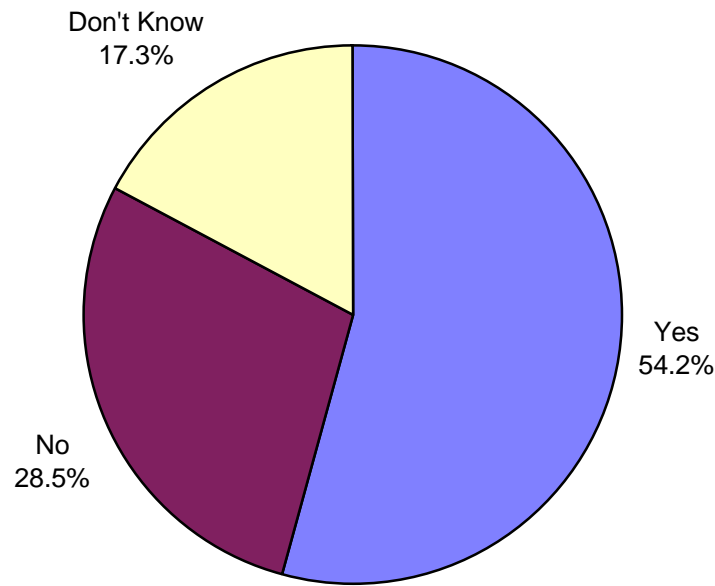
- (a) (i) the number of employees with less than four years' service who are given four weeks' notice (§ 2.2.1)
- (ii) the average notice period provision for the remaining short service workers (§2.2.2)
- (b) the length and nature of qualifying periods (§ 2.3)
- (c) how notice periods operated (§ 2.4).

The survey was designed to take three independent approaches to the notice period question. Each group of questions provides a self-contained measure of current business policy and practice.

2.2.1 Short Service Workers: how many get four weeks?

The first set of questions attempted to establish what the average notice period was for these employees. Respondents were initially asked whether any of their employees with less than four years' continuous service received four weeks' notice. They were clearly instructed not to include the notice periods given by an employee when they resign or dismissals for gross misconduct. They were also asked to answer only in relation to permanent employees and not those on fixed term contracts. The employers that answered 'yes' to question 1, were then asked to specify the proportion of short-term service employees who were given four weeks' notice.

Figure 2.1 Do you offer four weeks' notice to any employees with less than four years' service?



All respondents (n=504)

Of **all** the respondents to the survey, 54 per cent said that some of their employees with short-term service were entitled to four weeks' notice (**Figure 2.1**). Twenty nine per cent said none were entitled to four weeks whilst just under a fifth did not know. A much larger proportion of small firms than large answered 'Don't Know'. This could reflect the fact that they had not recently terminated a contract and did not keep accurate records.

Of the 54% who that said **some** employees with less than four years' service were entitled to four weeks' notice, we asked what proportion of their employees received this entitlement. Over half of the respondents said all their employees were entitled to four weeks' notice. A further two percent indicated that this applied to over 90 per cent of employees. Thus, for a large number of employers, if they give four weeks' notice to employees with less than four years' service, they give it to all employees rather than having different regimes for different groups of workers.

These results can be combined with the initial question to provide a picture of the whole sample. Details are given in **Table 2.1** below, which also analyses the results by firm size, defined by numbers employed. Overall, 27 per cent of all employers indicated that all of their employees were entitled to four weeks' notice. A further nine per cent said that over 50 per cent were entitled to four weeks. However, 28 per cent said that none of their employees with less than four years' service were entitled to four weeks' notice. Eighteen per cent of respondents did not know their employee's entitlement, while a further seven percent indicated that some of their short service employees were entitled to four weeks' notice, but were unable to specify the percentage. Generally, smaller firms provided less information and had a lower proportion of employees entitled to four weeks' notice.

Table 2.1 Employers who offer four weeks' notice to employees with less than four years service

Percentage of employers with less than four years service who are entitled to 4 weeks' notice	% of all employers ¹	By employer size ² (%)		
		Total	1-25	26-100
100%	27.4	26.5	24.7	33
99-90%	2.0	0.7	3.4	4.9
89-50%	7.1	3.6	13.5	12.7
49-20%	5.5	3.9	6.7	8.8
19-1%	5.2	4.6	6.7	5.9
Unspecified proportion above 1%	6.7	4.2	9.0	9.8
None	28.5	36	23.6	9.8
Don't Know	17.7	20.6	23.6	11.8

Base: ¹ All respondents (unweighted n=504)

² All respondents supplying employee information (n=498)

2.2.2 Typical notice if less than four weeks

The first set of responses indicated that for a fairly sizeable proportion of employers (73%), their employees with less than four years' service were not entitled to four weeks' notice on termination of their contract. The survey went on to ask about the typical notice period for these employees.

All of the respondents except those who said 100 per cent of employees were entitled to four weeks (n=366), were asked for the typical or average notice period for those not entitled to four weeks. This question also proved to be difficult for respondents, with 33 per cent indicating that they did not know the average. A number also indicated that the average was 4 weeks or over. At first sight this seems to contradict earlier responses. However, this group is made up of those who indicated that over 50 per cent of employees received four weeks' leave but not 100 per cent. This suggests that respondents may not have interpreted the question correctly. Another complicating factor was that although we asked about typical notice periods we did not ask about the typical length of service. This is especially important for smaller firms who may not have had any employees with fewer than 4 years' service.

Details of the responses are given in **Table 2.2** below. The largest proportion, 31 per cent, indicated that for this group of employees, the average notice period was **one week**. Twenty three per cent said it was two weeks. The mean response across all respondents asked the question was 2.2 weeks.

Table 2.2 Typical notice period for employees with less than four years' service who are not entitled to four weeks notice

Average notice period for those not receiving four weeks	% of employers
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4 weeks and over	10.4
3 weeks	2.4
2 weeks	23.4
1 week	31.1
Don't know	32.5

Base: Respondents where less than 100% are entitled to four weeks' notice (unweighted n=366)

There were a number of cases where respondents appeared not to understand the question. There were a number of respondents who indicated earlier that 90 to 99 per cent of employees were entitled to four weeks' notice. However they later indicated that the average notice was one or two weeks. Conversely, there was a number who earlier said none of their employees with less than four years' service were entitled to four weeks' notice but then said the average notice for the same group was four weeks or more. In both cases it may be that for one or other question, it was interpreted as referring to the whole workforce, not just those with less than four years' service. These anomalies accounted for 20 respondents.

Again, we can combine these answers to responses with our earlier analysis to provide some overview of notice periods provided to all employees. Overall, as we saw earlier, 27.4 per cent of the 504 respondents said that all employees are entitled to 4 weeks' notice. A further 7.5 per cent said that although not all get four weeks, this was the typical notice period for those with less than four years' service. A very small number said that the typical period was three weeks, under a fifth said it was two weeks and just over a fifth said the average was one week. Once again, a large proportion (23.6 per cent) said they did not know. This is shown in **Table 2.3**. The breakdown by employer size indicates that larger firms *seem* to be more generous with notice period entitlement, although a significant proportion of larger employers (18.6%) were still unable to answer the question. However, these observations assume that large and small employers have the same pattern of employee tenure.

Table 2.3 Notice periods for employees with less than four years' service

Average notice period	% of all employers ¹	By employer size ² (%)		
		Total	1-25	26-100
4 Weeks	27.4	26.3	24.7	33
4 Weeks +	7.5	5.9	12.3	8.8
3	1.8	1.6	1.1	2.9
2	17	18.6	18	11.8
1	22.6	20.2	30.3	24.5
Don't Know/Not Stated	23.6	27.3	13.5	18.6

Base: ¹ All respondents (unweighted n=504)

² All respondents supplying employee information (unweighted n=498)

2.3 Length and nature of qualification periods

Employers were then asked about workers who were not entitled to 4 weeks. The first question established whether notice periods lengthened with service. 164 respondents, said notice periods did extend with service, 202 were either unable to confirm this or reported that notice periods did not increase with service. The 164 employers were then asked how notice increased with length of service. This was an open ended question, which accounts for the apparently self-contradictory nature of the replies (see below).

Table 2.4 How does notice increase for those not entitled to four weeks' notice

How does notice Increase	% of all employers
1 week per year	45.1
2 weeks per year	3.7
3 weeks per year	0.6
4 weeks per year	1.2
1 week per 2 years	0.6
1 week per 3 years	0.6
Max 12 weeks	3.7
Increases with years	2.4
Depends on role in company	3.7
Other	7.9
Don't know	30.5

Base: ^{1R}respondents (unweighted n=164)

Forty-five per cent indicated that employees accrued one week for each year worked. Nearly a third (31%) said they did not know and the remainder gave a range of answers.

The 202 employers who said notice did not increase with length of service, were then asked how many months or years continuous service does an employee have to work to qualify for four weeks' notice. This question was included as a check on previous answers, and produced some curious results

Table 2.4 'Four week notice' qualification periods

When do employees qualify for four weeks' notice?	% of all employers ¹	Cumulative %
	Total	
1 to 6 months	0.5	
After 1 year	14.4	15
After 2 years	32.2	47
After 3 years	7.4	54
After 4 years	28.7	83
Over 4 years	16.8	100

Base: ¹ Respondents who indicated that short service workers were not entitled four weeks' notice, and that notice did not increase with length of service (unweighted n=202)

The table shows that 47 per cent of employers who said that notice periods did not increase with length of service, indicated that employees were entitled to four weeks' notice after two years' or less continuous service. This rose to 54 per cent for 3 years' service, and 83 per cent for four years' service. This seems to contradict earlier answers which suggested that notice did not increase with length of service. However, the pattern in **Table 2.4** may be linked to factors other than tenure. Unfortunately, the questionnaire's limited scope did not enable us to probe these issues.

The survey then asked about notice period rules for all employees. Just under three-quarters of respondents, 73 per cent, said the same rules for notice periods applied to employees irrespective of grade or job. Only 13 per cent said it varied, and of them, over half said it varied by grade. Again a fifth said they did not know.

2.4 Notice periods: operational issues

2.4.1 Notice or pay in lieu

The questionnaire went on to ask about people's conditions during their notice. The survey asked employers whether, in most cases, people worked their notice or were given pay in lieu. In this question 21 per cent did not know. Just over a third said they worked their notice, a fifth said it varied and 18 per cent said they were given pay in lieu.

2.4.2 Disputes over notice

Finally, respondents were asked whether there had been any disputes and if so, what was the nature of that dispute. Only 4 per cent of employers said there had been any disputes with employees relating to notice periods. Seven per cent of respondents indicated that they did not know, while 89 per cent asserted that there had been no disputes. Of those who had had disputes a number of reasons were given. These answers again indicated that employers had misunderstood the focus of the survey. A number talked about when employees had resigned, despite being repeatedly told that this was not about resignation notice. In their defence, the wording of this particular question did not contain this caveat and may account for their wider response. Answers seemed to suggest that both managers and employees are unaware of their mutual responsibilities under both the Employment Rights Act and their contracts of employment. Only two such comments directly related to the length of notice periods. Responses included:

- ‘When a manager gave a week's notice it was considered as not being long enough and this caused a dispute.’
- ‘Disputes over redundancy [...] Person handed in their notice, having been offered alternative employment within the company after redundancy - resigned so a dispute arose.’
- ‘It was a tribunal on a breach of contract.’
- ‘Any company is going to have disputes. People are terminated for a whole variety of reasons. It's a very emotional issue so most disputes come out of emotion. Some are disputes over commission due.’
- ‘Someone on a part-time contract [...] More to do with length of contract.’
- ‘Where people have given notice [...] In cases where employees were supposed to give two weeks’ notice they only give one week [...] They did not say anything and did not show up for work the following Monday.’
- ‘The employee concerned had been dishonest with the company and was not satisfied with the way he was dismissed.’
- ‘I think one of them was over insufficient warning of dismissal.’
- ‘The employee in question walked off site during notice period.’

3 Conclusions

The responses to the survey indicated that notice period provision is not a high profile issue. A large proportion of employers could not give answers. Many also clearly misunderstood the questions. While these problems could have been related to the questionnaire design, they also imply that employers had not previously thought about the issues involved.

Of the respondents that were able to give an answer, 33% of employers said that they gave **all** of their short-term service employees a four week notice period. Among firms with over 100 employees, this figure rose to nearly 38%. In smaller companies, the figure was 32%. We can combine the results of our survey with other sources to estimate the number of employees who work for employers which comply with the Council of Europe's recommendation that **all** short service employees are granted four weeks' notice.³ These calculations suggest that only **35%** or **6.3 million** employees with under four years' service in the private sector benefit from European-style notice period provision.

The figure of 35% is likely to be an upper bound estimate. This is because of two factors. First, it is derived from employers **who were able to answer** the survey questions. Eighty nine respondents - some 18% of the original sample frame - were unable to outline their current practice. It is likely that some of these employers will fail to meet the Council's minimum standard. Second, evidence from the Labour Force Survey suggests that **smaller establishments have a higher concentration of short service workers**. According to the May 1999 Labour Force Survey, just over one half of employees in private establishments had under 48 months' service. In larger establishments, the corresponding figure was just 42%. This means that small establishments have a proclivity to grant less generous notice periods *and* to have higher labour turnover. This combination means that calculations based on total employment share may overestimate the extent and scope of notice period provision.

In terms of the Council of Europe recommendation, these are very disappointing figures. They suggest that a large number of UK employers would have to change their policy on notice periods to comply with the European code. Nevertheless, the survey's qualitative evidence supports our *a priori* assumption that notice period provision is not a major human resources issue. Only 4% of employers noted recent disputes, and many were unable to outline even current practice.

³24% of employees work for large companies that give four weeks' notice to short service staff and 11.4% of employees work for small companies that offer the same arrangement (based on those able to give an answer).

Annex 1

Table 1.1 shows the breakdown by size in terms of turnover and number of employees. Information is also provided on sector. This indicates that once re-weighted the sample reflects the overall structure of industry as a whole.

Table 1.1 Sample breakdown by size, employees and industrial sector

Turnover	%
£50,000 - £100,000	33.3
£101,000 - £250,000	33.0
£251,000 - £500,000	14.7
£501,000 - £1m	8.7
£1m - £5m	7.2
£5m - £20m	2.2
Over £20m	0.8
(Unweighted N= 504)	

Number of employees	%
1 – 2	21.9
3 – 4	17.0
5 – 10	34.0
11 – 25	14.4
26 – 100	8.7
Over 100	4.0
(Unweighted N= 498)	

Industrial sector	%
Agriculture	7.7
Mining/Construction	11.3
Manufacturing	5.9
Metal/Manufacturing	6.0
Transport	4.7
Wholesale	8.8
Retail	17.4
Finance	1.9
Services	36.4
(Unweighted N= 504)	

Annex 2

Questions for Business Omnibus

We would now like to ask some questions about the notice periods permanent employees are given on termination of their employment by their employer. These are NOT the notice periods given by an employee when they resign. Please do not include dismissals for gross misconduct, for which there is no requirement for notice. Permanent employees do not include people on Fixed Term Contracts.

1. Thinking of your permanent employees with **LESS THAN** four years' service, are any of them entitled to four weeks' notice on termination of their employment by your company? Do not take into account dismissals for gross misconduct where no notice is necessary.

Yes
No
Don't Know

If yes, go to Q. 2, if no or don't know, go to Q. 3.

2. What proportion of your permanent employees with **LESS THAN** four years' service are entitled to four weeks' notice?

..... per cent

If 100% go to Q. 7

3. **ASK ALL THOSE SAYING 100% OF Q2**
For those not entitled to four weeks' notice, what is the **typical** or **average** notice period given on termination of employment (again ignoring dismissal for gross misconduct)?

..... weeks

4. For those not entitled to four weeks' notice, does their notice period increase with length of service?

Yes	Go to question 5
No	Go to question 6
Don't Know	Go to question 6

5. **ASK IF YES AT QUESTION 4. OTHERS GO TO QUESTION 6.**

How does notice increase with length of service? For example, how many additional weeks notice are given for each year worked?

Open ended

6. May I just check, how many months or years continuous service does an employee have to work to qualify for four weeks' notice?

..... months or years

7. ASK ALL

Do the same rules about notice periods apply to all permanent employees irrespective of job grade?

Yes
No
Don't Know

If yes or don't know, got to Q9, if no go to Q.8.

8. ASK IF NO AT QUESTION 7. OTHERS TO GO TO QUESTION 9.

How do these rules vary?

Open ended

9. ASK ALL

In most cases, do people work their notice or are they given pay in lieu?

Work notice
Pay in lieu
Varies
Don't know

10. ASK ALL

Have there been any disputes with employees or problems relating to notice periods?

Yes
No
Don't Know

11. ASK IF YES AT Q10

If yes, what problems arose?

Open ended