

NEWSLETTER

AUGUST 2026

The Dismissals Edition



Welcome from Jane



Managing dismissals has always required careful planning, but with major changes to unfair dismissal rights and employment legislation now being introduced, the risks for employers are increasing significantly. Businesses that continue to rely on outdated processes could find themselves facing costly claims, lengthy disputes and unnecessary disruption.

In this edition, we focus on what every employer needs to know about managing dismissals in the changing legal landscape.

Inside this issue you'll find:

- The five fair grounds for dismissal
- How to operate now if you're hiring new employees
- Your six-month unfair dismissal checklist
- The true cost of getting a dismissal wrong
- Understanding SOSR dismissals
- The changes you need to make now to protect your business

Whether you're reviewing your current policies, updating contracts and procedures, or simply ensuring your managers are prepared for the new legislation, these articles will help you reduce legal risk, make informed decisions, and manage dismissals fairly and confidently.



5 grounds for dismissal (and what they mean)

If you're thinking about letting someone go, you need to ask yourself if it's legally defensible.

Unfair dismissal claims are rising quickly. The new employment law changes have shifted the goalposts on how quickly employees can bring a claim.

And, if you can't show a fair reason for the dismissal, you're already on the back foot before a tribunal has even looked at the process.

There are five fair grounds for dismissal under UK employment law. Learn them so you know where you stand when it comes to firing employees.

1. Conduct

This is the most commonly used ground and the most commonly mishandled. Conduct covers things like repeated lateness, insubordination, dishonesty or a single act serious enough to warrant dismissal.

The key word is evidence. You need a clear paper trail, a proper investigation and a fair hearing before you dismiss.

2. Capability

This applies when someone genuinely can't do their job, whether that's because of performance or a long-term health issue.

You'll need to show that you gave them a fair chance to improve, with support, clear targets and enough time.

Skipping that process can easily land you in hot water.

3. Redundancy

Redundancy is a fair reason, but only if the role is genuinely disappearing and the selection process is fair.

Picking someone because they're difficult, expensive or off sick doesn't make it redundancy.

4. Statutory bar

This one applies when continuing to employ someone would break the law.

The most common example is a driver losing their licence. If the job can't be done legally without it, you may have grounds to dismiss.

You still need to follow a fair process and you should check whether redeployment is an option first.

5. Some other substantial reason (SOSR)

SOSR is the catch-all ground for situations that don't fit neatly into the other four.

Breakdown of trust, end of a fixed-term business need or a significant conflict of interest are all examples.

The reason has to be genuine, significant and objectively capable of justifying dismissal. It can't be trivial, minor or constructed after the fact.

If dismissal is on the card for you and you're unsure if you've handled things right, get in touch for a confidential chat.



How to operate now if you're hiring

There's a big employment law change being enforced on 1 January 2027 that will affect every hire you make on and after 1 July this year.

Anyone you hire on or after 1 July 2026 could gain the right to claim unfair dismissal after just six months of service (down from two years).

What this actually changes

You no longer have two years as a buffer and the risk of dismissing someone and getting sued for unfair dismissal has dramatically increased.

If something goes wrong early, you need to be able to show:

- What expectations were set
- What concerns were raised
- What support was given
- And how the situation was handled

Hiring now carries more weight

Every hire you make from July is a potential claim within six months if things aren't handled properly.

That means the way you hire needs to change.

- Structured interviews
- Consistent questions
- Clear job requirements
- Proper references followed up

Onboarding is your first line of defence

If your onboarding is informal, that's where problems start.

From day one, new starters need:

- Clear written expectations
- A structured induction
- Evidence it actually happened

Because if things escalate later, the first question is always: What were they told and how do you know? If you can't answer that, you're exposed.

Performance management starts immediately

Most problems aren't surprises.

They're things that were noticed early and left too long.

If you wait until month five to raise concerns, you'll have:

- No paper trail
- No record of feedback
- No evidence of support

That's a very difficult position to defend.

Regular one-to-ones. Short written notes. Clear, early feedback.

That's what protects you.

You can still dismiss within six months

But you can't do it informally. A quick "it's not working out" with nothing documented won't hold up. If you're ending employment, you need:

- Documented concerns
- Evidence of support
- A fair process

That applies even in the early months.

Your managers are where the risk sits

You can have strong contracts and policies.

But if your managers:

- Avoid difficult conversations
- Don't document issues
- Delay raising concerns

That's where problems come from. The risk isn't your documents. It's how your business operates day to day.

The reality

If you're hiring from July, the clock is already running.

By the time these rules are enforced in January 2027, some of your employees will already be within scope.

So, this isn't about preparing for the future.

It's about whether what you're doing today would stand up in six months.

If you're not sure where you stand

That's the place to start.

We can look at:

- How you're hiring
- How you're onboarding
- How performance is managed early
- And whether it would hold up if challenged.

If not, it's much easier to fix now than when there's a claim attached to it.

6-month unfair dismissal checklist

What you need to decide, fix and do in the right order

1

Set your probation strategy

Set to 3 months, decide when to review and who's responsible.

2

Update your contracts

Make sure that they reflect how you actually manage probation.

3

Tighten up how you hire

Define the role clearly and use a consistent process.

4

Set clear expectations from day one

Explain what good looks like and set early targets.

5

Manage performance properly during probation

Hold regular check-ins, document issues early, keep records.

6

Make a decision before month 6

Review at month 5 and make a clear call: keep, extend or exit.

We can help you to review and set your hiring, onboarding and performance processes so they hold up against the new rules.



The price you'll pay for dismissing an employee the wrong way

Dismissing employees is getting much more risky for business owners in the UK.

Recent changes in the law mean that you can't just let someone go and assume that everything will be okay. It's easier (and therefore more likely) that an employee will claim that they were let go unfairly and the amount they can claim will be uncapped from January 2027.

Let's look at what's changing, how it affects you and what you need to do to keep your business safe.

What's changing

Right now there's a limit on what a tribunal can award in most unfair dismissal cases.

But, from January, there will be no compensation cap. The qualifying period for unfair dismissal is also dropping to six months. If you hired someone on or after 1 July 2026, they'll be able to claim for unfair dismissal once the rules change in January.

This rule change directly affects how you hire, how you run probation and how you handle any performance or conduct issues in the first 6 months of employment.

On top of that, The Fair Work Agency launched in April this year. This gives employees another avenue to make a complaint and seek protection. The agency can also audit your records and processes without waiting for a worker complaint.

How the changes affect you

For small business owners, these changes mean that dismissal can no longer be a quick operational decision. Before, the two-year qualifying period gave businesses a long runway for hiring and firing and made it easier to let someone go informally.

But with employees now gaining unfair dismissal protection after six months, even relatively new employees may be able to challenge how and why they were dismissed.

This directly impacts how you hire and onboard, how you handle probation and, of course, how you fire people and it matters now, since the 6-month qualifying period takes effect from 1 July 2026.

Because compensation will no longer be capped, the financial risk also becomes much higher. That doesn't mean you can never dismiss someone. But you will need to show that you acted reasonably and followed a fair process. Tribunals do not just look at what decision you made. They look closely at how you made it. Common mistakes that create risk include:

- No clear probation process
- Poor or inconsistent performance documentation
- Vague feedback instead of direct conversations
- Dismissing someone suddenly after issues were never formally raised
- Different employees being treated differently for similar behaviour
- Managers making emotional or rushed decisions
- No written records of meetings or warnings

The real cost if you dismiss someone unfairly

You might only think about the legal payout when you think of costs involved, but a poorly handled dismissal can also lead to:

- Legal fees and HR consultancy costs
- Large amounts of management time spent gathering evidence and attending hearings
- Stress and disruption for managers and teams
- Lower morale among remaining employees
- Damage to your reputation as an employer
- Difficulty hiring and retaining good staff

In some cases, employers end up settling claims simply because they don't have the documentation needed to defend themselves properly, even when they believe the dismissal was reasonable.

What you need to do now

The businesses most exposed to these changes are usually the ones with informal processes that have grown quickly. Now is the time to tighten up the basics.

At minimum, you should review:

- Employment contracts and probation clauses
- Your disciplinary and grievance procedures
- How managers document performance concerns
- Whether probation reviews are actually happening
- How warnings and feedback are recorded
- Whether managers understand what a fair dismissal process looks like

You should also think carefully about how you handle the first six months of employment. That period matters far more now with anyone you hire from 1 July 2026.

Final thought

A good HR consultant reviews your dismissal process before you need it, not after. That means looking at your documentation, your investigation steps and your decision-making to identify where things would fail under scrutiny.

If you're already in a situation, they help you to handle it without making it worse.

If you've dismissed someone recently, or are planning to, get in touch. We'll tell you quickly whether your process is defensible and what to do if it isn't.



SOSR dismissal:

What you need to evidence

1

The reason

- Is it genuinely substantial, not trivial?
- Is it documented in writing?
- Is it the real reason (not a cover for conduct or capability)?

2

The investigation

- Have you investigated properly before deciding?
- Have you considered alternatives to dismissal?
- If third-party pressure: is it in writing, not just verbal?

3

The process

- Formal meeting held
- Employee given opportunity to respond
- Right of accompaniment offered
- Outcome confirmed in writing
- Right of appeal given

4

The documentation

- Written record of the reason
- Notes from the investigation
- Notes from the meeting
- Outcome letter
- Appeal outcome (if applicable)

**Not sure that your process will hold up?
Let's check it before you proceed.**

The unfair dismissal rules are changing

What you need to decide, fix and do in the right order

1. Review your probation strategy

- Set probation at 3 months so you have time to assess and act
- Build in the ability to extend where needed
- Set a fixed decision point, ideally month 5
- Decide who's responsible for reviews and final decisions
- Agree how quickly issues will be acted on

2. Update your contracts

- Add a probation extension clause
- Shorten notice periods during probation
- Make sure that your contracts match how you actually manage people
- Align your policies with what your managers actually do

3. Tighten up how you hire

- Define roles and what good performance looks like before hiring
- Use a structured interview process with set questions and scoring
- Record why you hired someone

4. Set clear expectations from day one

- Explain what's expected from the start
- Set 30, 60 and 90 day targets
- Provide proper training and support

5. Manage performance properly during probation

- Hold regular check-ins and document everything
- Address issues early and in writing
- Give specific feedback with a clear timeframe for improvement
- Set formal review points at month 1, month 3 and month 5

6. Make a decision before month 6

- Review performance at month 5 before time runs out
- Make a clear call: keep, extend or exit
- Make sure that your decision is based on documented evidence
- If exiting, follow a basic fair process and record everything

Need a confidential chat?

If you have a problem brewing in your business, you're worried about something or you simply need some expert HR support then please get in touch with us for a confidential chat.

A quick conversation could save you from a very costly mistake and we could give you the clarity you need to decide your next steps with confidence.

Whether you're a new or existing client, we offer a free 30 min chat (without any obligation to buy from us in the future).

Get in touch to arrange.

