Unfair Dismissal: Employer Responsibilities and Legal Risks

A dismissal may be challenged if the employer lacks a fair reason, fails to follow a fair procedure or treats an employee unlawfully. Significant changes to qualifying service and compensation are due to take effect on 1 January 2027 in Great Britain.

1. Identify a potentially fair reason

Potentially fair reasons for dismissal include conduct, capability, redundancy, statutory restrictions and some other substantial reasons. The reason alone is not enough: employers should assess evidence, alternatives, procedural fairness and whether dismissal is reasonable in the circumstances.

Special protections may arise from discrimination, whistleblowing, family leave or other automatically unfair reasons regardless of ordinary qualifying service.

2. Apply the qualifying period in force at dismissal

For an effective dismissal date before 1 January 2027, ordinary unfair dismissal protection generally requires two years of continuous employment in Great Britain. From 1 January 2027, the qualifying period will reduce to six months. Different rules apply in Northern Ireland.

The statutory cap on compensatory awards for unfair dismissal is also scheduled to be removed from 1 January 2027. Review probation and dismissal practices in preparation; a contractual probation period does not replace a fair process.

> **Example | Dismissal after seven months**
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> An employee reaches seven months' service in February 2027 and faces dismissal for poor performance. They will generally have passed the new six-month ordinary unfair dismissal qualifying period. The employer should have documented expectations, provided proportionate support and followed a fair decision process.

3. Investigate, consult, communicate and offer appeal

Where appropriate, gather relevant evidence, tell the employee the concern, hold a fair meeting, consider their response and any reasonable adjustments, and confirm the decision in writing. Follow the Acas Code where it applies, particularly for disciplinary and capability dismissals.

Make sure managers distinguish a capability issue from misconduct and treat redundancy as a genuine business situation rather than a label for individual performance.

4. Retain a complete decision trail

Keep concerns, investigation notes, performance support, meeting invitations, employee representations, the decision, notice, holiday and final pay, together with any appeal. Restrict access appropriately.

Common errors employers should avoid

- Relying on a contractual probation clause as if it removes statutory unfair-dismissal rights.
- Failing to distinguish the law applying before and after 1 January 2027.

How Assyst helps employers document dismissal decisions

Assyst supports a formal record of employee communications, HR cases, investigation material, written decisions and letters in the employee file. Its probation feature records the probation period, notes, recommendations and outcomes. Working patterns, attendance and related records can be consulted when assessing performance or final-pay matters. Sensitive case records remain accessible only to authorised HR users.

Discuss your workforce requirements with Assyst

Assyst Workforce Management is a workforce management platform for multi-site employers, bringing together HR and paperless onboarding, time and attendance, workforce scheduling, payroll calculations, task management and a mobile staff app. To discuss how Assyst could support your business, visit www.assyst.uk and contact us through the website.

Useful official sources

GOV.UK — Eligibility to claim unfair dismissal
https://www.gov.uk/dismiss-staff/eligibility-to-claim-unfair-dismissal

Business.gov.uk — Unfair dismissal rights from January 2027
https://www.business.gov.uk/campaign/employment-changes/employers/unfair-dismissal-rights/

Acas — Dismissals
https://www.acas.org.uk/dismissals

General guidance for employers in Great Britain, reviewed November 2026. Contract terms and individual circumstances may require professional advice.