Managing Workplace Misconduct and Short-Service Dismissals

Conduct concerns require a fair response, including when an employee has relatively little service. The risk may differ according to the claim, but short service is not permission to ignore discrimination, automatically unfair dismissal, contractual notice or basic investigation.

1. Separate conduct from capability

Misconduct concerns behaviour, such as refusing a reasonable instruction. Capability concerns the ability to meet required standards. The distinction matters because support, training and a performance improvement approach may be more appropriate than a misconduct warning.

Concern	Starting point
Minor conduct lapse	Clarify expected behaviour and consider informal resolution.
Repeated or significant misconduct	Investigate and consider the disciplinary procedure.
Possible gross misconduct	Investigate promptly and fairly; do not assume summary dismissal is automatic.
Employee struggling with a task	Check training, resources, supervision and any possible disability-related adjustments.

2. Investigate before choosing the outcome

Confirm the allegation, gather proportionate evidence, give enough information for a meaningful response, hold a fair hearing where formal action is contemplated and explain the decision. Offer an appeal. Consider whether suspension is genuinely necessary; it should not be treated as a default penalty.

Example A | A new starter repeatedly misses a required check

An employee with three months' service has twice failed to complete a safety check. Their initial training record is incomplete.

Employer response: Check whether the employee received the correct instruction and tools, establish the actual risk, provide suitable training where warranted and apply a proportionate process.

3. The short-service rules are changing

As at November 2026, the ordinary qualifying period for unfair-dismissal protection is generally two years, subject to important exceptions. Under the published Employment Rights Act timetable, this will reduce to six months for dismissals from 1 January 2027. Discrimination, whistleblowing and other automatically unfair reasons can create liability without that ordinary service threshold. Verify the operative rules on the dismissal date.

4. Notice, records and communication still matter

Check contractual and statutory notice, accrued holiday and final pay. Keep investigation notes, evidence, decisions and any appeal in an appropriately restricted HR case record. A consistent written explanation reduces the likelihood of confusion or perceived arbitrary treatment.

How Assyst helps employers manage disciplinary cases

Assyst allows authorised HR personnel to maintain disciplinary and grievance cases with allegations, investigations, statements, hearing documents, decisions and outcomes linked to the employee HR file. Relevant letters and communications can be issued through the platform, with sensitive case access controlled by permissions.

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 find out more or discuss how Assyst could support your business, visit www.assyst.uk and contact us through the website.

Useful official sources

Acas — Disciplinary procedure
https://www.acas.org.uk/disciplinary-procedure-step-by-step

Acas — Dismissal during probation
https://www.acas.org.uk/probation-periods/dismissal

GOV.UK — Employment Rights Act implementation timetable
https://www.gov.uk/government/publications/implementing-the-plan-to-make-work-pay-and-employment-rights-act/plan-to-make-work-pay-and-employment-rights-act-timeline-update

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