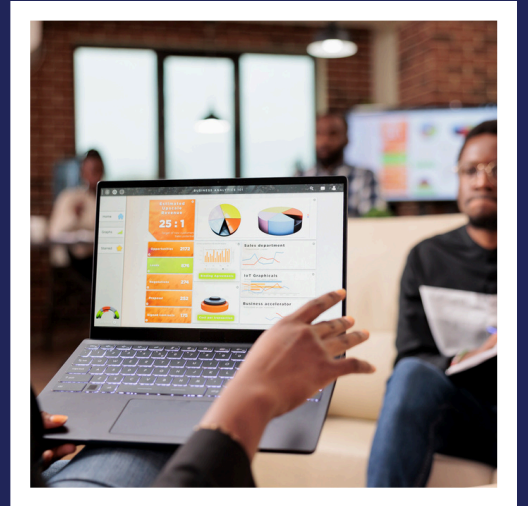




Unfair Dismissal Changes: What Employers Need to Do Now

August 2026

Your People. Our Priority



Overview

The rules around unfair dismissal are changing. From 1st January 2027, employees are expected to gain ordinary unfair dismissal rights after six months' service, compared to the current two-year qualifying period. This means employers will need to be able to demonstrate fair decision-making much earlier in the employment relationship.

For many businesses, this is likely to mean greater reliance on good management practices, effective probation periods and well-documented processes

KeystoneHR have put together this guide to help you through this change.

Let's begin.



What Does Unfair Dismissal Mean?



Put simply, unfair dismissal occurs when an employee is dismissed without:

- A fair reason, or
- A fair process being followed.

Employers may still dismiss employees for legitimate reasons such as:

- Conduct
- Capability or performance
- Redundancy
- Statutory restrictions
- Other substantial business reasons

The key difference is that employers will need to be able to show they have handled concerns fairly and consistently.



KeystoneHR Can Help:

- ✓ Review contracts, policies and procedures
- ✓ Update employee handbooks
- ✓ Assess organisational risk and readiness
- ✓ Practical HR advice before decisions are made
- ✓ Disciplinary, capability and dismissal support
- ✓ Independent investigations
- ✓ Manager coaching and guidance

What Could Become More Challenging?

The guidance highlights situations that many employers currently manage informally, but which may require more structure in future:



Poor Performance

Where an employee is struggling in their role, employers will increasingly need evidence that concerns were discussed, support was offered and opportunities to improve were provided.

Conduct Issues

Where conduct falls below expected standards but does not amount to gross misconduct, a fair disciplinary process is likely to become increasingly important.

Questions Around Suitability or "Fit"

Employers may find it harder to dismiss employees simply because they are not the right fit for the business after they have gained protection. Effective recruitment and probation management will become even more important.

KeystoneHR Can Help:

- ✓ Performance Management Process
- ✓ Review meeting
- ✓ Companywide performance management
- ✓ Investigations, disciplinary processes, hearing support and appeals
- ✓ Recruitment support, onboarding processes, probation reviews and job evaluation.

Four Things Employers Should Be Doing Now...

1. Make Better Use of Probation Periods

Probation periods provide an important opportunity to assess capability, behaviour and suitability before additional employment protections apply. The guidance recommends ensuring probation is managed effectively and completed within the six-month period where possible.

At Keystone HR we suggest moving to a 3 month probation period to allow for any extensions, notice period management and a bit of flex on timings before hitting the 6 month qualifying period.

How KeystoneHR Helps

- ✓ Probation review templates
- ✓ Manager guidance
- ✓ Extension processes
- ✓ Documentation support



2. Strengthen Performance Management

Regular conversations about performance can help prevent larger issues developing later. Documented performance discussions also provide valuable evidence should formal action become necessary.

At Keystone HR we suggest regular feedback is key with a follow up note. We also encourage feedback to be timely and in the moment. Holding on to feedback is useful to no one.

3. Train Managers

Many HR issues start because managers are unsure how to deal with employee concerns. The guidance highlights the importance of equipping managers to recruit effectively, onboard employees and address issues and performance observations confidently.

At Keystone HR we managers may find it help to speak to another line manager, alongside any training, to discuss how to address any concerns.

How KeystoneHR Helps

- ✓ Performance frameworks
- ✓ Performance improvement plans
- ✓ Manager coaching
- ✓ Capability Procedures
- ✓ Exploring reasonable adjustments
- ✓ Management development programmes
- ✓ Recruitment training
- ✓ Difficult conversation workshops
- ✓ Employment law updates



4. Review Recruitment and Onboarding

Good recruitment decisions are likely to become even more important. Clear job descriptions, effective interviews with supporting notes, robust contracts and structured onboarding all help reduce future employment risks.



How KeystoneHR Helps

- ✓ Recruitment support
- ✓ Job descriptions and role profiles
- ✓ Onboarding frameworks
- ✓ Employer Value Proposition support

What Does a Fair Process Look Like?

The accompanying checklist emphasises the importance of:

- Carrying out a thorough investigation
- Gathering relevant evidence
- Giving employees the opportunity to explain their side of events
- Providing evidence before formal hearings
- Allowing employees to be accompanied
- Offering a right of appeal
- Keeping accurate records throughout the process



Employer Action Checklist

Review Your Recruitment Process

- ☐ Ensure job descriptions are accurate and up to date
- ☐ Review interview and selection processes
- ☐ Ensure contracts and offer documentation are current

KeystoneHR can help: Recruitment, job evaluation, onboarding and HR documentation.

Strengthen Probation Management

- ☐ Introduce structured probation reviews
- ☐ Set clear performance expectations from day one
- ☐ Consider extending probation where appropriate

KeystoneHR can help: Probation frameworks, review templates and manager guidance.

Improve Performance Management

- ☐ Hold regular performance discussions
- ☐ Address concerns early
- ☐ Keep clear records of meetings and actions agreed

KeystoneHR can help: Performance management processes, manager coaching and capability procedures.

Train Your Managers

- ☐ Ensure managers understand disciplinary and performance processes
- ☐ Develop confidence in handling difficult conversations
- ☐ Provide regular people management training

KeystoneHR can help: Management development and HR training workshops.

Review Employee Relations Processes

- ☐ Check disciplinary and grievance procedures are up to date
- ☐ Ensure investigations are completed fairly and consistently
- ☐ Keep comprehensive records

KeystoneHR can help: Workplace investigations, disciplinary support, grievance management and workplace resolution.

Assess Your Risk Before January 2027

- ☐ Review employees currently under two years' service
 - ☐ Identify any ongoing performance or conduct concerns
 - ☐ Seek advice before making dismissal decisions

KeystoneHR can help: HR audits, employee relations advice and employment tribunal risk reduction support.

Our Key Message

The proposed changes are not about preventing employers from managing performance or conduct. They are about ensuring employers can demonstrate a fair reason and a fair process much earlier in the employment relationship. Employers who strengthen their people processes now are likely to be best placed to manage the changes confidently.

Need support preparing for the changes? Keystone HR can help review your processes, train your managers and ensure your business is ready for the new unfair dismissal landscape.

KeystoneHR | Helping employers reduce risk, support managers and build robust people practices that work in the real world.

Simply contact our team on



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