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Unfair Dismissal Reforms

As the implementation of the UK's Employment Rights Act 2025 continues, employers with employees in the UK will be subject to significant changes in relation to unfair dismissal. From 1 January 2027, employees will gain unfair dismissal rights after six months of continuous service, a reduction from the current qualifying period of two years.

Additionally, for dismissals taking effect on or after 1 January 2027, the statutory cap on compensation for ordinary unfair dismissal claims will be removed, such that tribunals will be able to make uncapped awards to compensate those individuals who are found to have been unfairly dismissed.

Reduction of the Qualifying Period From Two Years to Six Months

Under the UK's Employment Rights Act 2025, the qualifying period of service required for an employee to claim unfair dismissal is set to reduce from two years to six months of continuous service.

This means that any employee who has more than six months' service on 1 January 2027 will gain unfair dismissal protection immediately, and an employer will be required to have a fair reason for, and follow a fair process in respect of, any dismissal in order to mitigate the risk of an unfair dismissal claim.

Employers should therefore consider:



Accelerating any plans to restructure the workforce or dealing with poorly performing employees so that their employment terminates before 1 January 2027.



Reviewing their onboarding, probation, training and performance management procedures to ensure that new hires receive any required training promptly following the commencement of their employment.



Ensuring that procedures are in place so that suitability, conduct and performance are properly evaluated within the first four months of employment and in any event before the employee gains unfair dismissal protection.



Reviewing probationary periods in template employment agreements to ensure that they are less than six months in length (and potentially only three or four months with an option to extend if there are issues with the employee's conduct or performance during that period).

Unfair Dismissal Reforms

Removal of the Cap on the Value of Compensatory Awards for Unfair Dismissal

Today, the value of a compensatory award for unfair dismissal is capped at the lower of one year's gross salary and a statutory cap of £123,543. For dismissals which take effect on or after 1 January 2027, this cap is removed. Any compensatory award shall continue to be determined by the Employment Tribunal in the usual way, reflecting just and equitable compensation for the actual losses suffered by an employee as a result of the dismissal.

While the average unfair dismissal claim was worth approximately £14,000 in 2023 and 2024 ([the most recently available data](#) from the UK Ministry of Justice), we expect that this change will result in significantly higher unfair dismissal awards for high earners, particularly in relation to senior executive terminations.

Employees will be incentivised to include the value of future bonus and incentive payments and the value of equity awards (including future increases in value of awards) in their unfair dismissal claims. The nature of settlement negotiations is likely to become more protracted since the parties will no longer be able to align on the maximum compensation which would be awarded by an Employment Tribunal if they proceeded to litigation.

Employers should therefore consider:



Reviewing their policies and practices relating to performance management, redundancies and disciplinaries to ensure that they are able to run fair dismissal processes where appropriate.



The unfair dismissal risk in the context of negotiation of terms and conditions with senior executives.



Whether pre-agreed severance, or other termination benefits, provided on condition of a waiver of claims may be useful in setting expectations with employees to reduce the risk of litigation.