

UNFAIR DISMISSAL

This is only intended to provide a general overview and very basic guide. We hope it helps but if more detailed assistance is required then please contact ASL or your legal advisors.

Employees have the statutory right not to be unfairly dismissed, and statutory right to complain to an Employment Tribunal if they believe their dismissal to be unfair. They need at least 24 months continuous service to bring a claim for unfair dismissal. The number of claims for unfair dismissal has risen steadily in recent years. This may point to a greater awareness amongst employees of their rights and/or an increasing number of ill-judged actions by employers.

No dismissal should ever be undertaken lightly. Employers should ensure proper and effective disciplinary and dismissal procedures are in place to comply with current legislation. The repercussions to either employee or employer can be substantial both in financial and personal terms. If a dismissal is deemed unfair, an Employment Tribunal may make basic, compensatory and (in certain circumstances) additional awards.

Where a claim for discrimination is brought, there is no limit to the compensation that can be awarded. Employers in particular are urged to consider all aspects of the case carefully and if in doubt seek professional advice.

The subject of dismissal is of such importance and complexity that it is impractical to provide a comprehensive guide in this information sheet. We can provide individual assistance and guidance in individual circumstances, but as a general guide the following may prove helpful.

Helpful Hints

1. Ensure relevant procedures exist and are adhered to.
2. Limit and specify those persons who are authorised to warn, suspend or dismiss employees and ensure they are briefed as to correct procedures.
3. Fully investigate and objectively assess circumstances surrounding any incident. Have regard to what may be considered a reasonable course of action by the employer.
4. Attempt reconciliation and certainly consult with employee fully.
5. Ensure employee has opportunity to make use of any company grievance or appeals procedure.
6. Conduct all disciplinary meetings fairly and sensitively. Try to have a third party present and make and keep a written record.
7. Ideally the decision-maker concerning dismissal should not have been involved in the case prior to dismissal to remain objective and avoid accusations of prejudice.
8. Be aware of differences between unfair dismissal, constructive dismissal and wrongful dismissal.
9. Be aware a dismissal may also be discriminatory. The law is complex in this area and there may be additional penalties.
10. Consider impact of a dismissal on other members of the workforce.
11. Consider carefully whether there is any alternative and if in doubt seek professional guidance.