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July 2026 Update

Welcome to this month's update - where we discuss the latest guidance and legislation.

In this Edition we report on:

- Unfair dismissal rules update
- Managing probationary periods
- Uncapped compensation

Unfair dismissal rules update

Under the Employment Rights Act (ERA), the qualifying period to claim unfair dismissal reduces from two years to six months. Even though the law does not take effect until January 1, 2027, it directly impacts hiring on July 1, 2026.

This means that any employee hired on or after 1 July 2026, will accrue six months' service by the start of the new rules.

The role of the line manager will need to evolve given the new reforms, as this drastically raises the stakes for new hires. Line managers now must actively manage probationary periods, rigorously document performance concerns from day one and follow fair procedures, to avoid massive financial liabilities if they dismiss an employee out of the 6 months period.

Bear in mind, when calculating if an employee has hit the six-month mark, their continuous service is notionally extended by adding their statutory minimum notice period. For example,

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dismissing someone without notice just one week shy of the six-month mark will push them into the protected zone.

Employers: mark up the 6 month time frame from a new employee's start date.
Contact us: we can assist with managing new employees.

Managing probationary periods

As the ERA limits your timeline for assessing new hires, manages need to successfully manage probation periods to protect your business.

As you no longer have a two-year "buffer" to assess an employee without them having unfair dismissal rights, managers need to actively manage the probationary period.

1. Make sure you have structured evaluation review meetings, rather than a passive waiting period. Ensure there are regular check-ins with their line manager with frequent, documented performance and capability meetings on a weekly or bi-weekly basis, so that you know well before the six month mark if the hire is the right fit.

2. Documenting everything. Make sure you build a paper trail, as compensation will be uncapped, any dismissal must be completely defensible. Make sure you record performance gaps, training provided, and discussions held.

3. Address issues early - do not wait until month five to address capability or conduct issues. If an employee is not meeting the standards required, the manager must act swiftly. Clearly state the required improvements and timeframe.

4. If you need to dismiss - following a fair procedure
Even within the first six months, managers cannot simply dismiss an employee without following a fair procedure. This involves inviting them to a meeting, allowing them to be accompanied and considering alternatives or appeals.

Key tips:

- Shorten standard probationary periods: we recommend now with the new 6 months timeframe, to have a probationary period not more than 5 months. Ideally 3 or 4 months is best to give your business some time to be able to extend the probationary period if needed.

- Schedule frequent check-ins: do not wait for a formal review at the end of the probation.

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- Set clear performance metrics: be clear on exactly what the employee needs to achieve in their first 90 days. With documentation in place, you will be able to show that the decision to dismiss was based on capability alone and not due to any other reason, such as an underlying medical condition which may allow them to argue discrimination.

4. Always give an employee a chance to improve before letting them go.

Employers: ensure you have a structured review process in place for any new employees.

Contact us: we can assist with reviews and extension of probationary periods.

Uncapped compensation

As well as the two-year qualifying period for unfair dismissal dropping to 6 months on 1 January 2027, the statutory cap on compensation limits will also be abolished.

Historically, compensation for ordinary unfair dismissal was capped at the lower of 52 weeks' gross pay or a maximum monetary limit (currently £123,543).

The new legislation will abolish this statutory cap, if an employee is successful in claiming unfair dismissal in the Employment Tribunal. Essentially this means that the Tribunal will be able to award unlimited compensation for financial losses. This aligns unfair dismissal with discrimination and whistleblowing claims, which are already uncapped.

What stays capped? The 'basic award' for unfair dismissal (a fixed calculation based on age, length of service, and weekly pay) remains subject to a limit. Only the "compensatory award" for actual lost earnings and benefits becomes unlimited.

Employers: make sure you follow fair procedures and document discussions

Contact us: we can assist with disciplinary and grievance procedures.

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Caroline has a wealth of experience supporting business clients with practical hands on HR and Employment Law advice. Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations. She qualified as a Solicitor in 1999 and now acts as a specialist Human Resource / employment Law Consultant to business.

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