



Checklist: Unfair dismissal law changes



Produced in partnership with [Jemma Fairclough-Haynes](#), CEO and Employment Law Specialist from Orchard Employment Law, this checklist is designed to help small and medium-sized employers get ready for the January 2027 unfair dismissal law changes,

You can use this checklist as a practical starting point, but remember it's always sensible to take HR or legal advice on your own circumstances, especially if you are reviewing dismissals, probation periods, contracts or performance processes. Jemma and the team at [Orchard Employment Law](#) are happy to help.

Inform the business

- ☐ Make sure senior leaders, managers and HR understand that from 1 January 2027, ordinary unfair dismissal rights will apply after six months' service rather than two years.
- ☐ Explain that the cap on unfair dismissal compensation is being removed, so the financial risk attached to getting a dismissal wrong may be much higher, especially for higher earners or employees with bonuses, pensions and benefits.
- ☐ Remind the business that employees can still bring other claims before six months, including discrimination or automatically unfair dismissal claims, so the early months of employment are not risk-free.



Audit who will qualify on 1 January 2027

- ☐ Review your workforce now and identify who will have six months' service by 1 January 2027, because existing employees can benefit from the new unfair dismissal threshold too.
- ☐ Pay particular attention to employees in probation, employees on fixed-term contracts and anyone whose role is already under review.

Review your probation periods

- ☐ If you currently use a six-month probation period, review whether that still works for your business.
- ☐ Consider moving to a shorter probation period, such as three months, with the option to extend if needed.
- ☐ If you keep a six-month probation period, build in clear review points before the end, for example at three months and five months, so you are not waiting until the last minute to decide what to do.

Tighten performance from day one

- ☐ Set expectations clearly at the start of employment and make sure managers know what "good" looks like for the role.
- ☐ Address concerns early instead of letting them drift.
- ☐ Hold regular one-to-ones, supervision meetings and review conversations during the first six months, and make sure they are documented properly in a secure system like an HR software e.g. Breathe.
- ☐ Keep evidence showing both the concern and the support you gave, including feedback, coaching, supervision notes and follow-up emails.

Train managers to follow a fair procedure

- ☐ Make sure managers understand that you can still dismiss after six months, but the shortcut is gone. If someone has six months' service or more, you'll need a fair reason and a fair procedure.
- ☐ Train managers on how to handle probation reviews, performance concerns, difficult conversations and dismissal meetings consistently and fairly. Breathe offers free training for line managers on the Breathe Growth Academy.
- ☐ Give managers guidance on checkpoints, escalation, written reasons, evidence gathering and when to seek outside HR or legal advice.
- ☐ For misconduct and capability cases, make sure everyone follows your company policy and the Acas Code of Practice on disciplinary and grievance procedures. For other dismissals, you should still follow a fair procedure, even if the Code does not strictly apply in the same way.



Review policies, contracts, notice periods and dismissal wording

- ☐ Update your dismissal, disciplinary, capability, grievance and probation policies, especially wording around the Acas Code not being followed until someone has two years' service, because that wording will no longer reflect the new laws.
- ☐ Review your employment contract templates, especially probation clauses and notice period wording.
- ☐ Be especially careful with dismissals close to the six-month mark, because notice can push the effective date of termination over the threshold and trigger an unfair dismissal claim.
- ☐ If someone asks for written reasons for dismissal after six months' service, you will need to be ready to provide them.

Do not overlook fixed-term and casual arrangements

- ☐ If you rely on fixed or short-term contracts, casual arrangements, family leave cover or project roles, make sure the purpose of these roles are clearly defined and that your process at the end of the contract is thought through in advance.

Be clear on fair reasons for dismissal

- ☐ Refresh your understanding of ordinary unfair dismissal, automatically unfair dismissal, constructive dismissal and wrongful dismissal. Make sure leaders and managers know too.
- ☐ Remind yourself, leaders and managers of the the potentially fair reasons for dismissal: capability or qualifications, conduct, redundancy, statutory restriction, or some other substantial reason.
- ☐ Make sure you and your team capture and can show reasons, evidence and process for all dismissals. Saying someone is "not the right fit" isn't enough on its own.

Keep accurate records

- ☐ Keep accurate records of probation reviews, performance concerns, supervision, support offered, warnings, dismissal meetings and written reasons.
- ☐ Store those records securely and consistently, so they are easy to find if a decision is challenged months later. Again, an HR software (like Breathe) is the best place for this.



“Employers now have a lot less time to think about whether an employee is fit for work, capable, and whether their performance is matching expectations.

Performance processes need to be more formal. You need to keep documentation and be able to evidence all support provided.”



Jemma Fairclough-Haynes, CEO & Employment Law Specialist,
Orchard Employment Law

Need a hand putting all this into action?

Ordinary unfair dismissal risk is going to arise much earlier in the employment relationship, so the best preparation is simpler and earlier action: clearer probation processes, better manager conversations, stronger documentation and more joined-up HR systems.

Breathe can help by bringing together onboarding workflows, performance management, training, and document storage and acknowledgements, in one place. This makes it easier to spot issues early, evidence decisions and keep your processes more consistent.

→ Explore Breathe

For expert HR and employment law support, contact Jemma and the team at Orchard Employment Law at info@orchardemploymentlaw.co.uk, or visit the [Orchard Employment Law website](#).

You can also find more free employment law resources on the [Breathe Employment Law Hub](#).