



# UNFAIR DISMISSAL

## What Is Unfair Dismissal?

An employee employed for 1 year or more can make a claim for unfair dismissal in certain circumstances.

It is usually obvious to both employer and employee when an employee has been dismissed but an employee may also claim unfair dismissal where a fixed term contract expires but is not renewed or where an employee has reason to resign because of the conduct of the employer (constructive dismissal).



## Fair Or Unfair?

For an employer to dismiss an employee fairly the employer must show that he had a valid reason for dismissing the employee and that he acted reasonably in treating that reason as a sufficient reason for dismissing the employee.

## Potentially Fair Reasons

A number of reasons are potentially fair and enable the employer to dismiss the employee, these are:-

- Conduct
- Capability
- Redundancy
- Legal Requirement
- Some other substantial reason

However if the employer does not follow a reasonable procedure the dismissal will be unfair.



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## Automatically Unfair Dismissals

In some circumstances a dismissal is unquestionably unfair:-

- Trade Union participation
- Dismissal on the grounds of pregnancy or maternity
- Dismissal on the transfer of an undertaking
- Dismissal relating to various other conduct protected by the law.

## Reasonable Procedure

An employer must act reasonably in all the circumstances in treating the reason for dismissing the employee as a sufficient reason for the dismissals. Employers have to follow statutory dismissal and disciplinary procedures (see facts sheet Disciplinary and Grievance procedures). If an employer does not follow procedure then there will be a finding of automatic unfair dismissal.

## Compensation

A successful employee will be able to claim a basic award which is based on the number of years of employment. They will also be able to claim a compensatory award made up of loss of earnings, future loss of earnings, pension loss and reasonable expenses incurred by the employee as a result of the dismissal.

A Tribunal may also order an employee to be reinstated or re-engaged i.e. taken back on by the employer either in the same job or in a different job.

## Our Costs

We will advise you as to the best way to fund your advice including no win no fee, fixed fees, hourly charges or legal expense insurance.

**For advice on Employment Matters or any other area of  
Watson Esam's expertise, telephone 0114 275 3350**

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