

EMPLOYMENT NEWSLETTER



Welcome to the April edition of our employment law newsletter and Happy Easter!

In this edition we provide a quick recap on the legal changes effective 6th April. We also look at the future of unfair dismissal claims, a key risk for employers, with some linked guidance and case law when it comes to ensuring a fair disciplinary process. So grab yourself some chocolate or a hot cross bun, or both, and enjoy the read!



EMPLOYMENT RIGHTS ACT 2025 – APRIL CHANGES

As announced in our [January newsletter](#) we now officially have the Employment Rights Act 2025. Over the course of 2026 and 2027 this will bring in a number of significant employment law changes.

From the 6th April 2026 these include:

- Changes to the payment of Statutory Sick Pay (SSP), which will now be payable from the first day of absence.
- Paternity leave becomes a day one right (but not statutory paternity pay).
- Unpaid parental leave also becomes a day one right.
- All employers are under an obligation to keep certain minimum records regarding holiday entitlement and pay for six years including evidence workers have been given the correct holiday entitlement, paid correctly when taking leave and received any accrued untaken holiday due on termination. Failure to comply will constitute an offence punishable with a fine.
- For employers failing to comply with their collective consultation obligations the protective award will increase from 90 to up to 180 days pay.

If you are unsure whether your current policies and practices comply with these changes get in touch for a no-obligation chat.



UNFAIR DISMISSAL – ARE YOU READY FOR THE CHANGES AHEAD?

Subject to some limited exceptions employees are not currently eligible to claim unfair dismissal until they reach two years continuous service. Many employers take comfort in this knowing that if issues arise early in the relationship, they can end it with low risk.

This is going to change on the 1 January 2027 when any employee with six or more months service will be eligible to claim unfair dismissal. This will extend to your existing workforce, not just new joiners on or after that date.

Adding further risk to employers, the current cap on compensation awarded to an unfairly dismissed employee is being removed at the same time. Presently there is a cap on compensation of one year's gross salary or £123,543 (from 6 April 2026), whichever is lower.

Whilst employees have a duty to limit their losses and seek alternative work, there will be occasions where market or other factors make this difficult and losses exceed the current financial cap, especially when it comes to high earners.



Many employers are not currently prepared for this change and, if not, need to be acting now. In particular employers should be reviewing the following:

- Current recruitment processes. Could these be improved in any way to limit the risk of taking on a “bad hire”.
- Probationary periods and processes. If current probationary periods are six months, would a shorter timescale work if actively managed allowing you to pick up and address performance issues early on.
- Current performance management processes. Are they fit for purpose or leave you at risk of claims? You should not let genuine performance concerns stagnate, ensuring staff are aware early on of any issues, with a clear understanding of the improvements required. If informal discussions do not work, invoke a formal process and support the employee to reach the standards required.
- Current disciplinary processes. Are they ACAS compliant and protect you from claims? We set out below our recommendations on the contents of a fair disciplinary procedure.

The closer we get to January 2027 the more important it will become for employers to seek legal advice before terminating an individual’s employment, especially for those employees close to or with more than six months service. Through either our HR Support Service or employment team we can provide guidance and support as needed to help you avoid potentially costly claims.

ENSURING A FAIR DISCIPLINARY PROCEDURE

Handling disciplinary issues can be challenging for any organisation, but following a clear and fair process protects both your business and employees. A well-managed disciplinary procedure reduces legal risk, supports consistency, and helps maintain a positive workplace culture.

Throughout the rest of this year our newsletters will provide our top tips for employers covering every stage of the disciplinary process. In this edition we look first at the contents of your disciplinary procedure.



The importance of having a clear and accessible disciplinary policy

A strong disciplinary process starts with a well-written policy that is easy for all employees to access whether in a staff handbook, induction pack, or intranet.

Your policy should clearly explain:

- **Definitions of misconduct and gross misconduct**

Why it matters: Employees need to understand what is considered unacceptable behaviour, and clear definitions help avoid disputes later.

- **The stages of the disciplinary process**

Why it matters: Transparency ensures staff know what to expect at each stage, which reinforces fairness and trust.

- **Rights of accompaniment**

Why it matters: Allowing employees to bring a colleague or trade union representative helps them feel supported. It is also a legal requirement!

- **Timeframes, where relevant**

Why it matters: Setting expectations helps prevent delays and ensures a process that both feels and is fair and efficient.

- **Possible outcomes**

Why it matters: Employees should be aware of the potential consequences of a disciplinary issue, which promotes consistency and prevents claims of unfair treatment.

- **Give a right of appeal**

Why it matters: It gives you the opportunity to correct any defects in the disciplinary process to this point, as well as ensuring your disciplinary procedure is ACAS compliant.

Tip: Always apply the policy consistently across the organisation to avoid claims of discrimination or unfairness. It will also be important to ensure your procedures comply with ACAS' Code of Practice on disciplinary and grievance procedures. Any failure to follow an ACAS compliant process risks an uplift of up to 25% in the event of a successful unfair dismissal claim!

If you require help with any disciplinary process or would like a tailored checklist, or policy review, please contact our HR Support Service today.

In the next edition, we will be focusing on how to conduct a fair investigation.

THE IMPORTANCE OF GETTING APPEALS RIGHT - MILRINE V DHL SERVICES LIMITED

As set out above one key element of a fair disciplinary, or capability, procedure is ensuring your employees are given the right to appeal. This requirement is clearly set out in ACAS' Code of Practice and whether or not it is offered and how it is handled can determine whether or not a dismissal is unfair.

A prime example of this can be seen in the case of Milrine v DHL Services Ltd.

The facts

Mr Milrine had been off work for more than two years due to various medical conditions, before being dismissed for medical incapability. Up to this point Mr Milrine had been treated fairly and it has since been accepted that his dismissal was a reasonable decision for DHL to make.

Mr Milrine appealed. The manager appointed by DHL under their internal policy to hear the appeal refused to do so. Another manager was appointed and an appeal hearing scheduled. Unfortunately the new appeal manager became unwell resulting in the appeal hearing being aborted late and only after Mr Milrine and his trade union representative had already arrived.

HR suggested at that point that a third manager could be appointed to deal with the matter that day, although this was not pursued. HR then suggested to Mr Milrine that he should decide who will hear his appeal and when it should take place. In the confusion Mr Milrine expected to hear further from DHL, whilst DHL expected to hear further from Mr Milrine!

Conscious of time limits to start proceedings Mr Milrine contacted ACAS to commence the Early Conciliation process. He mistakenly believed this then prevented him from pursuing his appeal further, with DHL not contacting him further regarding the appeal either. Ultimately, this meant Mr Milrine's appeal was never heard!

The Tribunal and EAT's decision

The Employment Tribunal was very critical of how DHL had handled the appeals process. The procedural defects were substantial. However, Mr Milrine's claim for unfair dismissal was initially rejected on the basis that, ignoring the appeal, his dismissal was otherwise fair.

This decision was overturned by the EAT who issued a stark reminder that when determining the fairness of a dismissal tribunals need to consider the fairness of the whole process. A flawed appeal process can render what may have otherwise been a fair dismissal, unfair. Even if the outcome of a fair appeal would have resulted in the dismissal being upheld this is, save in exceptional circumstances, irrelevant when asking the question was the overall dismissal process fair or not?

The fact it would have made no difference to the final outcome is relevant only to the amount of compensation the tribunal should award.

Key takeaway for employers

It remains important that when following a disciplinary or capability process the entire process is conducted fairly from investigation all the way through to appeal. All stages will be taken into account by a tribunal when deciding whether the decision to dismiss was fair in all the circumstances. If there are any failings earlier in the process ensuring a fair appeal can also help correct them.

The fact flaws in the process may not alter the outcome, does not avoid the risk of a tribunal holding the dismissal unfair, with their judgment becoming a matter of public record. By their nature having to defend a tribunal claim, no matter its merits or value, will entail management time and expense that could be better utilised. Avoiding such claims, where you can, has clear commercial benefits.

Where there is a risk of a potential claim for unfair dismissal taking early legal advice at the start of the process is therefore always going to be key. Our employment team are here to support as and when needed.



ITS THAT TIME OF THE YEAR AGAIN - A REMINDER OF INCREASES TO NATIONAL MINIMUM WAGE AND OTHER STATUTORY PAYMENTS

With it being April, this newsletter would not be complete without a summary of the annual increases made to the following statutory rates.

<p>National Minimum Wage:</p>	<p>£12.71 for those aged 21 and above (national living wage), £10.85 for 18-20 years, £8 for those under 18, and apprentices under 19 or during first year of their apprenticeship.</p>
<p>Statutory maternity, paternity, adoption pay, shared parental pay and parental bereavement pay:</p>	<p>£194.32 per week* or 90% of employee's average earnings, whichever is lower.</p> <p>* Employee entitled to 90% of their average earnings for the first six weeks of any period of statutory maternity or adoption leave.</p>
<p>Statutory Sick Pay (SSP):</p>	<p>£123.25 per week or 80% of normal weekly earnings, if lower.** An online statutory sick pay calculator can be found here.</p> <p>**It will be important to remember that the current 3 day waiting period also no longer applies from 6 April.</p>
<p>Week's pay for statutory redundancy pay calculations:</p>	<p>£751 per week, increasing from £719. An online statutory redundancy calculator can be found here.</p>



HOW CAN WE HELP?

Our HR Support Service and Employment Team are on hand to provide expert tailored support as and when you need it. We can help you with any employment law needs, but we thought it would be useful to summarise how we can help you if you come across any issues or needs relating to the content of this newsletter so please do get in touch with us if that's the case (contact details below):

- We can review existing employment contracts and internal policies to ensure they are fit for purpose and comply with the latest legal changes. If updates are needed we can provide new ones tailored to your needs;
- Having to conduct a complex disciplinary or performance management process? We can provide guidance and support limiting your risk of costly claims; and
- We offer a full legal representation service if tribunal proceedings need to be issued or defended, providing straight forward pragmatic advice on your options.

You should seek legal advice before relying on the content of this newsletter as every situation is different and the law in employment is ever changing.



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