UK Employment Rights Act

(4) UK Employment Rights Act – Unfair Dismissal “Double Whammy”: How Should Employers Prepare?

On 1 January 2027, the qualifying period for ordinary unfair dismissal will reduce to six months, down from the current two years, and the statutory cap on the compensatory award, currently £123,543, will be removed. Taken together, these changes will bring a much larger group of employees within the scope of ordinary unfair dismissal protection far earlier in their employment. In particular, recently hired, highly paid execs could start bringing multi-million dollar claims from 1 January 2027, even from a simple performance dismissal or redundancy For employers, this is not simply a New Year issue. A tapering effect has already started: employees hired on or after 1 July 2026 will have, or will quickly acquire, the six months’ service needed to benefit from the new regime once it takes effect. This means employers need to be making preparations now.

In practice: an employee hired on 1 July 2026 will reach six months’ service on 1 January 2027. An employee hired on 1 September 2026 will reach that point on 1 March 2027. The practical runway for resolving concerns before ordinary unfair dismissal rights bite is already shortening.

What is changing?

Earlier protection.

Ordinary unfair dismissal rights will arise after six months’ service instead of two years. This is likely to affect probationary dismissals, early performance concerns, issues of “fit”, and reorganisations or recruitment reversals shortly after commencement.

Uncapped compensation.

The statutory cap on the compensatory award will be removed. For many routine claims this may not dramatically alter the outcome, but it could materially change the economics of higher-value disputes, particularly where remuneration includes bonus, incentive or deferred elements. Previously, such claims were often framed as whistleblowing or discrimination because those claims had uncapped damages awards. This will no longer be necessary due to the removal of the unfair dismissal damages cap.

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More time to bring claims.
From October 2026, the normal time limit for bringing employment tribunal claims will increase to six months. This gives employees longer to take advice, gather documents and decide whether to bring proceedings.

Why does it matter?

Under the current regime, many employers have been accustomed to dealing with first or second year exits on the basis that ordinary unfair dismissal risk does not usually arise. That assumption will fall away. More dismissals will be capable of challenge and earlier employment decisions, such as whether to extend probation or how performance concerns are handled and documented, are likely to come under closer scrutiny because of their proximity to a dismissal that must be for a fair reason.

The combined effect is a three-way shift: more employees protected earlier, more time to bring claims, and more financial exposure in higher-value cases. Recently hired senior employees may be a particular focus, as dismissals arising from performance concerns, failed hires or reorganisations could carry more significant unfair dismissal risk than employers have historically assumed.

What should employers do now?

Employers should use the remaining lead-in period to tighten early-stage decision-making and ensure that managers are not sleepwalking into first-year unfair dismissal risk. In particular, employers should:

- review probation structures and timing, including whether key decision points arise early enough in the employment relationship;
- train managers to spot, raise and document concerns sooner, especially where issues relate to performance, conduct or cultural fit;
- tighten early performance and capability processes, including review meetings, written feedback and evidence of support given;
- audit contracts, handbooks and onboarding materials, including probation clauses, notice provisions and templates used for probation reviews or extensions;
- plan for longer-running and potentially higher-value disputes, including settlement strategy for employees approaching or just over the six-month mark; and
- stress-test senior hire arrangements and senior exits, particularly where remuneration is heavily weighted towards bonus or long-term incentives.

Key takeaways

- The qualifying period reduction is already relevant because of the tapering effect for 2026 hires.
- The removal of the compensatory award cap will increase exposure in higher-value claims.
- The extension of tribunal time limits means disputes may remain live for longer after termination.
- Employers should tighten probation periods, contractual documentation and early-stage dismissal processes now.

We can help employers audit their current approach to probation and early exits, update contracts and policies, stress-test dismissal processes for higher-risk and senior hires, and deliver targeted manager training ahead of these changes taking effect.

If you have questions about the Employment Rights Act 2025, the unfair dismissal reforms, or any other employment matters, we are happy to assist.