



How to make sure dismissals are fair

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PRESENTER

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TITLE

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ABOUT:

Wendy joined Howarths in October 2018 as part of the HR advisory team. Wendy has recently completed her Level 7 qualification in HRM, with 6 years' experience in the HR field within both the public and private sector

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Fair reasons for dismissal

- Capability
- Conduct
- Redundancy
- Statutory illegality
- Some other substantial reason (SOSR)



The burden of proof is on the employer to show that one of the five permitted reasons was the true reason for the dismissal.



Automatically unfair dismissal

- Taking action on health and safety grounds
- Asserting statutory rights
- Reasons related to pregnancy or maternity leave
- Refusal to work over 48 hours a week - WTR
- Making a protected disclosure (whistleblowing)
- Making a request for flexible working arrangements

There are others....

Selection for redundancy for any of the above reasons will also be automatically unfair



Tribunal Claims

- **Timeframe – 6 to 18 months**
- **Inform ACAS normally within 3 months**
- **Common steps to virtually all tribunal cases...**
 1. **Claim form to tribunal**
 2. **Respond with defence within 28 days**
 3. **Evidence and documents in a joint bundle**
 4. **Witness statements**
- **Compensation made up of basic award (redundancy payment) and compensatory award (capped at lower of 1 years' salary or £88,519)**



Discrimination

- Age
- Disability
- Gender Reassignment
- Marriage and Civil Partnership
- Pregnancy and Maternity
- Race
- Religion and Belief
- Sex
- Sexual Orientation





Constructive dismissal

Employee resigns due to Employer conduct –
Breach of Contract

Cannot claim constructive dismissal without
qualifying service



Contractual Procedures

- Breach of Contract
- Subject Access Requests





Best practice within and after probation

- Probationary Period
- Following successful Probation

