

Employment Law 21/22.

Welcome to clear facts



Disciplinary Meeting Checklist

- So far as possible, separate the role of investigator, disciplinary hearing decision maker and appeal hearing decision maker.
- Consider suspension of employee (on full pay) pending investigations.
- Investigate fully and promptly.
- Give employee reasonable notice, in writing, of meeting, full details of complaint, copies of any witness statements/other relevant documentation, advise it is a disciplinary matter and detail all possible outcomes.
- Invite employee in writing to bring fellow employee/trade union representative to meeting.
- Ensure you have someone present to witness the meeting.
- Put allegations in full to employee and provide employee with opportunity to respond.
- Take full minutes of all investigatory and disciplinary meetings.
- Adjourn before giving a decision.
- Confirm decision in writing.
- Always advise employee of right of appeal and how it should be exercised.
- Employee must be invited to appeal hearing if appeal requested.
- Always ensure you follow the ACAS code of practice on disciplinary and grievance procedures.

UNFAIR DISMISSAL AWARDS CAN NOW EXCEED £100,000. ALWAYS ENSURE A FAIR PROCEDURE IS FOLLOWED.



Redundancy Checklist

- Consider whether BEIS requires to be notified (if 20 or more redundancies).
- Follow the collective consultation requirements (if 20 or more redundancies).
- Consider whether employee representatives require to be elected/consulted.
- Consult with employees on business reasons for redundancies.
- Follow any written redundancy procedure.
- Identify a redundancy pool.
- Adopt fair selection criteria.
- Consult with employees regarding avoiding/reducing redundancies and procedure to be adopted.
- Advise employees of their score and how it was arrived at.
- Consider the possibility of 'bumping' and seek the views of the employee.
- Consider alternative employment.
- Follow a fair procedure including a right of appeal.
- Document all of the above.

If you fail to do any of the above then any dismissal may be unfair.

Additional steps may be required depending on the circumstances.

STATUTORY REDUNDANCY PAYMENT

The following is a link to a redundancy payment calculator:

www.gov.uk/calculate-your-redundancy-pay



Tribunal Awards

(For dismissals and claims from 6 April 2021)

UNFAIR DISMISSAL	MAXIMUM AWARD
Basic award	£16,320
Compensatory award*	£89,493
A week's pay	£544
Additional award	26 to 52 weeks' pay
Dismissal for health and safety reasons	No limit
Dismissal for making a protected disclosure (whistleblowing)	No limit

DISCRIMINATION	MAXIMUM AWARD
Sex, race, age, sexual orientation, disability, religion or belief	No limit
Breach of contract	£25,000

* There is also a 12 months' pay cap on the compensatory award for unfair dismissal. The cap on the compensatory award is the lower of £89,493 or 52 weeks' pay (based on the claimant's gross salary prior to the dismissal including employer pension contributions, but excluding benefits-in-kind and discretionary bonuses). Dismissals for whistleblowing or related to certain health and safety reasons remain uncapped as do dismissals where there has been unlawful discrimination.

National Minimum Wage

(from April 2021)

MAXIMUM AWARD	
National living wage rate (23 and over)	£8.91 per hour
Adult rate (21 to 22)	£8.36 per hour
Development rate (18 to 20)	£6.56 per hour
Young workers rate	£4.62 per hour
Apprentice rate	£4.30 per hour

Young workers rate applies to workers aged under 18 but above compulsory school age that are not apprentices.

Apprentice rate applies to apprentices under 19 or 19 and over in the first year of their apprenticeship.

Rates will change in April 2022.

Family-friendly Leave

	MAXIMUM AWARD
Maternity leave	39 weeks paid / 13 weeks unpaid
Paternity leave	2 weeks paid
Adoption leave	39 weeks paid / 13 weeks unpaid
Shared parental leave	37 weeks paid / 13 weeks unpaid
Parental leave	18 weeks unpaid
Bereavement leave	2 weeks paid

- Figures shown are the maximum statutory entitlement.
- Contractual entitlement may be more generous.
- Certain leave is subject to employee meeting qualifying criteria.
- Paid leave is subject to certain statutory rates.
- Shared parental leave (SPL) is available to eligible parents of babies or children placed for adoption.
- If the parent reduces their maternity/adoption leave entitlement then they and/or their partner may take any remaining weeks as SPL.

See: www.gov.uk/browse/working/time-off for further details.

STATUTORY REDUNDANCY PAYMENT

- Minimum holiday entitlement for a full-time employee is 28 days (inclusive of public holidays).

STATUTORY NOTICE

- Employee entitled to 1 week's notice for each year of service up to a maximum of 12 weeks. If contractual notice is more generous then it prevails.
- Employer entitled to only 1 week's notice of termination by employee unless contract specifies a longer period.

Employment Law Training

We offer a series of practical employment law courses covering key employment law and related HR issues including:-

Our services include:-

- Disciplinary & grievance issues
- Managing employees (performance & sickness absence)
- Discrimination & harassment
- Employment Tribunal procedure & witness familiarisation
- Immigration & employment
- GDPR: the practical day to day skills you
- Need to know in the workplace
- Employment law essentials

Our courses are designed for business owners, HR professionals, line managers, in-house lawyers, finance team members, charity trustees and board appointees.

All of our courses have a very practical focus, drawing on our many years of experience of advising both employers and employees.

Our courses can be delivered face to face or via a live webinar.

Contact innes.clark@morton-fraser.com for further details.

Employment Law Guide & Timelines

For a brief guide to employment law see ¹

For a timeline of changes to employment law see ²

1

<https://www.morton-fraser.com/insights/guide-employment-law-scotland-england-wales>

2

<https://www.morton-fraser.com/insights>



Useful Websites

Morton Fraser

www.morton-fraser.com

Employment Tribunal Service

www.gov.uk/employment-tribunals

Department For Business, Energy & Industrial Strategy

www.bis.gov.uk

Healthy Working Lives

www.healthyworkinglives.scot/

www.fitforwork.org

GOV.UK

www.gov.uk/browse/employing-people

HM Revenue & Customs

www.hmrc.gov.uk

Health & Safety Executive

www.hse.gov.uk

ACAS

www.acas.org.uk

Information Commissioner's Office

www.ico.org.uk

Equality & Human Rights Commission

www.equalityhumanrights.com

CIPD

www.cipd.co.uk

Keep up to date

Are you up to date on employment issues?

Our email updates provide practical information highlighting changes in employment procedures and law as well as details of employment webinars which we offer throughout the year.

Email us at employment@morton-fraser.com to subscribe to our monthly email updates.

Our weekly employment law podcasts are available on Spotify and on the Podcasts app on iPhone. For topical tweets on employment law follow [@innes_clark](https://twitter.com/innes_clark) on twitter.

For topical tweets on employment follow [@innes_clark](https://twitter.com/innes_clark) on twitter

Our employment law app can be downloaded free at Google play and the App Store by searching 'MFHRMobile'

Meet the team



INNES CLARK
Partner, Head of Litigation
0131 247 1181
innes.clark@morton-fraser.com



LINDSEY CARTWRIGHT
Partner, Employment
0141 274 1141
lindsey.cartwright@morton-fraser.com

** The contents of this document are for information only and are not intended to be construed as legal advice and should not be treated as a substitute for specific advice. Morton Fraser accepts no responsibility for the content of any third party website to which this document refers. Morton Fraser LLP is authorised and regulated by the Financial Conduct Authority.*

THANK YOU.

OUR EMPLOYMENT LAW APP CAN BE DOWNLOADED FREE
AT GOOGLE PLAY AND THE APP STORE BY SEARCHING
'MFHRMOBILE'

The contents of this document are for information only and are not intended to be construed as legal advice and should not be treated as a substitute for specific advice. Morton Fraser accepts no responsibility for the content of any third party website to which this document refers. Morton Fraser LLP is authorised and regulated by the Financial Conduct Authority.

Morton Fraser is a thriving, top ten Scottish law firm, delivering clear advice to businesses, the public sector, individuals and families.

For any of these services please contact us.

EDINBURGH
0131 247 1000

GLASGOW
0141 274 1100

INFO@MORTON-FRASER.COM

EMPLOYMENT TEAM CONTACTS

INNES CLARK
Partner, Edinburgh
0131 247 1181
innes.clark@morton-fraser.com

LINDSEY CARTWRIGHT
Partner, Edinburgh
0131 247 1141
lindsey.cartwright@morton-fraser.com

www.morton-fraser.com