

# EMPLOYMENT LAW 2022/23.

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](https://www.gov.uk/calculate-your-redundancy-pay)



# Tribunal Awards

(For dismissals and claims from 6 April 2022)

EMPLOYMENT RIGHT	MAXIMUM AWARD
<b>Unfair dismissal</b>	
Basic award	£17,130
Compensatory award*	£93,878
A week's pay	£571
Additional award	26 to 52 weeks' pay
Dismissal for health and safety reasons	No limit
Dismissal for making a protected disclosure (whistleblowing)	No limit
<b>Discrimination</b>	
Sex, race, age, sexual orientation, disability, religion or belief	No limit
<b>Breach of contract</b>	£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 £93,878 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 2022)

National living wage rate (23 and over)	£9.50 per hour
Adult rate (21 to 22)	£9.18 per hour
Development rate (18 to 20)	£6.83 per hour
Young workers rate	£4.81 per hour
Apprentice rate	£4.81 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 2023.



# Family Friendly Leave

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.
- Carer's leave and neonatal leave to be introduced in due course.

See: [www.gov.uk/browse/working/time-off](http://www.gov.uk/browse/working/time-off) for further details.

# Statutory Holiday Entitlement

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:-

- 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](mailto:innes.clark@morton-fraser.com) for further details.

# Employment Law Guide & Timelines

For a brief guide to employment law see:-

[www.morton-fraser.com/insights/guide-employment-law-scotland-england-wales](https://www.morton-fraser.com/insights/guide-employment-law-scotland-england-wales)

For a timeline of changes to employment law see:-

[www.morton-fraser.com/insights/employment-law-reform-timeline](https://www.morton-fraser.com/insights/employment-law-reform-timeline)



# Useful Websites

Morton Fraser

[www.morton-fraser.com](http://www.morton-fraser.com)

Employment Tribunal Service

[www.gov.uk/employment-tribunals](http://www.gov.uk/employment-tribunals)

Department For Business, Energy & Industrial Strategy

[www.bis.gov.uk](http://www.bis.gov.uk)

Healthy Working Lives

[www.healthyworkinglives.scot](http://www.healthyworkinglives.scot)

GOV.UK

[www.gov.uk/browse/employing-people](http://www.gov.uk/browse/employing-people)

HM Revenue & Customs

[www.hmrc.gov.uk](http://www.hmrc.gov.uk)

Health & Safety Executive

[www.hse.gov.uk](http://www.hse.gov.uk)

ACAS

[www.acas.org.uk](http://www.acas.org.uk)

Information Commissioner's Office

[www.ico.org.uk](http://www.ico.org.uk)

Equality & Human Rights Commission

[www.equalityhumanrights.com](http://www.equalityhumanrights.com)

CIPD

[www.cipd.co.uk](http://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.

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# Contact Us



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