

Firing Employees And Disciplinary Action

An employee has the right not to be unfairly dismissed by his/her employer. However there are a number of grounds where the dismissal would be considered fair. These are as follows:-

1. Capability or Qualification of the Employee
2. Conduct
3. Retirement
4. Redundancy
5. Breach of Law
6. Some other Substantial Reason

It is also crucial that employers follow proper procedures when dismissing an employee. Part 1 Schedule 2 of Employment Act 2002 provides statutory procedures for dismissal and disciplinary actions.

If an employer fails to comply with the procedures and/or is unable to justify one of the fair grounds for dismissal, the consequences are extremely serious.

The Department for Business Enterprise and Regulatory Reform (BERR) and ACAS provides model policies, help and assistance regarding all employment issues.

The majority of employers have a Human Resources Department to deal with employment issues. Unfortunately small employers without any assistance from Human Resources Departments are extremely vulnerable when considering disciplinary action and/or dismissal.

It is essential that employers provide a standard statement of terms and conditions of employment and/or contract of employment to all employees. It is also essential to have detailed disciplinary and grievance procedures.

Employment Law is a minefield for small businesses. It is better to seek advice prior to disciplinary action or dismissal. BERR and ACAS produce a number of useful guidance publications to deal with almost all employment issues.

It is always better to resolve disputes rather than engage in a protracted employment action. Dispute Resolution is another way to resolve employment disputes. It is confidential, cheaper and quicker than protracted employment action. It is also better for employment relations and productivity if you are able to nip the problem in the bud and stop it escalating into a protracted employment action. It is better for both the employer and employees.

For further information please contact Ram Saroop, partner in the practice and also head of the Employment department. Ram specialises in contentious and non-contentious Employee matters and speaks Hindi, Urdu and Punjabi.

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