

Types of dismissal

By law (Employment Rights Act 1996), the following are potential reasons to dismiss someone fairly:

- misconduct – when the employee has done something that's inappropriate or not acceptable
- capability – when the employee is not able to do the job or does not have the right qualifications
- redundancy – when the job is no longer needed
- a legal reason – when the employee cannot do their job legally, for example a lorry driver who's banned from driving
- 'some other substantial reason' – a term used for a wide variety of other situations

Examples of other substantial reasons are:

- a fixed-term contract ending
- third party pressure, for example if a client refuses to work with an employee
- an employee refusing to agree to new terms and conditions of employment

Gross misconduct

Gross misconduct is when an employee has done something that's very serious or has very serious effects.

Examples could include:

- fraud
- physical violence
- 'gross negligence' – when there's a serious lack of care to their duties or other people
- serious insubordination – for example refusing to take reasonable orders from a supervisor

An organisation might have its own policy or rules with other examples of gross misconduct.

Gross misconduct will usually only be relevant in dismissals related to conduct (an employee's behaviour at work).

An employer should follow a fair and reasonable procedure if someone is accused of gross misconduct. The procedure should be in line with the [Acas Code of Practice on disciplinary and grievance procedures](#).

Redundancy

Redundancy is usually a type of dismissal when a role is no longer needed. Employers should only consider making redundancies if part or all of the organisation is:

- closing, or has already closed
- changing the types or number of roles needed to do certain work
- changing location

In this case, the employer must follow a full redundancy process.

If an employer has concerns about an employee's conduct or capability, they should:

- take steps to [improve the employee's performance problems](#) first, if it's a capability issue
- follow a [disciplinary procedure](#) if these steps do not work or if it's a conduct issue

Find out more about:

- [checking whether redundancies are needed – for employers](#)
- [redundancy rights for employees](#)

Dismissal because of long-term illness

Dismissal should be a last resort. The employer should firstly support the employee and help them get back to work. This could include making any [reasonable adjustments](#) if they have a disability (this includes some long-term health conditions).

For example, an employer may be able to dismiss someone fairly if:

- they have considered all other options
- it's not possible for the employee to do their job
- the employee's inability to work has a significant impact on the business

Dismissal because of long-term illness would usually be a capability issue. This means it would depend on whether or not the employee is able to do their job.

Employers should investigate fully and must have a valid reason for dismissal. The employee could make a claim to an employment tribunal if they think they've been unfairly dismissed.

Dismissing someone because they're disabled, including some long-term health conditions, could be discrimination.

[Find out more about disability discrimination](#)