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Handling Unfair Dismissal Claims

The time to take advice when faced with a potential claim is well before the matter gets to an Employment Tribunal. The sooner you take advice, the better placed you will be to bring or defend Employment Tribunal proceedings.

Miller Hendry's employment team has many years experience in presenting and defending Tribunal claims and can assist with all aspects of preparing for and taking cases to Employment Tribunals.

The best way to minimise the risk of successful claims is to deal with employee issues appropriately from the start. When dealing with disciplinary matters or dismissing an employee correct procedures must be followed. If they are not, a claim for unfair dismissal to an Employment Tribunal may follow and eventual compensation awarded may be increased by up to 25%. This can result in:

- Financial penalty – the compensatory award limit is now £72,300
- Adverse publicity
- Unnecessary time wasted

Even where action for gross misconduct is required, the following should be observed:

- DO NOT SACK
- Suspend on full pay
- Follow the written disciplinary code to the letter
- Take legal advice

If there is no written disciplinary code, the following must be followed:

- Fix a disciplinary hearing and give written notice to the employee
- Warn the employee, if appropriate, that dismissal may be an outcome of the procedure
- Allow representation for the employee
- Fully investigate the circumstances (where possible, this should be by a party who will not be conducting the disciplinary hearing)
- Provide witness statements, where appropriate
- Consider alternatives to dismissal, for example, written warning, demotion if permitted in the contract etc.
- Advise the employee in writing of the decision
- Give the employee a right of appeal
- Take legal action

For more information or to discuss your requirements, contact:

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Always take legal advice!

These comments are provided for guidance only. Each situation has to be examined on its own merits and you should not, therefore, rely upon the above without taking specific legal advice in relation to any particular matter.