

Is it time to review your probation periods?



From January 2027, the qualifying period for unfair dismissal claims is reducing from two years to six months. Employers should be reviewing their probation arrangements now rather than waiting for the legislation to take effect.

The Employment Rights Act 2025 introduces one of the most significant changes to employment law in recent years. From **January 2027**, employees will gain the right to claim unfair dismissal after **six months' continuous service**, rather than the current two-year qualifying period.

Although the change comes into force next year, it will affect employees who begin employment **from 1 July 2026**. This means employers recruiting now should already be reviewing their recruitment, probation and performance management processes.

Why this matters

Many organisations currently operate a **six-month probation period**. Under the new legislation, this could leave little or no opportunity to:

- extend a probation period where appropriate;
- support an employee through an improvement plan;
- complete a fair review process; or
- lawfully end employment before unfair dismissal rights arise.

If concerns are only identified towards the end of probation, employers may find themselves working against increasingly tight timescales.

What should employers be doing now?

1. Review your probation periods

Consider whether your current probation period remains appropriate.

Many organisations may wish to reduce probation periods to **three months**, with the option to extend where contracts allow. This creates additional time to:

- monitor improvement;
- provide further support and training;
- make reasonable adjustments where required;
- hold review meetings; and
- reach a well-evidenced decision before the six-month qualifying period.

The right approach will depend on the nature of the role and your organisation's operational needs.

2. Review employment contracts

Check that your employment contracts include clear and legally robust probation clauses, including:

- the length of the probation period;
- the organisation's right to extend probation;
- review arrangements;
- notice provisions during probation; and
- expectations regarding performance and conduct.

Employees should understand from the outset how probation will be managed and assessed.

3. Check notice periods

Notice periods should also be reviewed.

Long contractual notice periods during probation may reduce the time available to complete a dismissal process before unfair dismissal protection applies. Employers should ensure notice provisions remain appropriate and legally compliant.

4. Strengthen performance management

Probation should never consist of a single meeting at the end of the period.

Managers should be recording performance from day one, including:

- agreed objectives;
- regular one-to-one discussions;
- training provided;
- feedback given;
- support offered;
- reasonable adjustments where applicable; and
- any concerns identified and actions agreed.

Regular conversations create better outcomes for employees and provide a clear audit trail should decisions later be challenged.

5. Keep accurate records

Good record keeping has always been important—but it will become even more critical.

Maintain documentation for:

- probation review meetings;
- performance discussions;
- training and development;
- support provided;
- improvement plans;
- reasonable adjustments;
- correspondence; and
- final probation outcomes.

Clear evidence helps demonstrate that decisions have been fair, reasonable and consistent.

What about existing employees?

For employees who started **before 1 July 2026**, the current qualifying period continues to apply until the legislative changes take effect.

However, from **January 2027**, employees recruited since February 2025 who have between six months, and two years' service may gain unfair dismissal protection under the transitional arrangements. Employers should therefore review any ongoing performance or conduct issues now rather than waiting until the legislation is in force.

Equality, fairness and consistency matter

Probation management should always be fair, objective and inclusive.

Managers should ensure they:

- apply probation procedures consistently;
- avoid unconscious bias in decision-making;
- consider whether performance concerns may relate to disability or other protected characteristics;
- explore reasonable adjustments where appropriate; and
- maintain clear evidence of the support offered.

A well-managed probation process protects both the organisation and its employees while promoting an inclusive workplace culture.

How EDUK can support your organisation

Preparing now will help organisations avoid unnecessary risk later.

At EDUK, we support employers to:

- review probation policies and procedures;
- update employment documentation;
- develop legally compliant performance management processes;
- train managers to conduct effective probation reviews;
- embed equality, diversity and inclusion throughout employee management; and
- ensure organisational practices remain compliant with changing employment legislation.

The upcoming changes present an opportunity not simply to update paperwork, but to strengthen people management and create fairer, more consistent employment practices.

If you would like support reviewing your probation arrangements or preparing your managers for these changes, our team is here to help.