

# Reason for Dismissal

## Some other Substantial Reason (SOSR)



### Overview

Being dismissed from your job is often a distressing experience, but in certain circumstances you may have rights to compensation. You may be entitled to be paid through your notice period, or to compensation if your dismissal was unfair.

### What is 'Some Other Substantial Reason' (SOSR)

There are five potentially fair reasons justifying a dismissal:

- Conduct;
- Capability;
- Redundancy;
- Breach of a statutory restriction; and
- SOSR - "some other substantial reason of a kind as to justify dismissal".

Please see our separate factsheet on '**Unfair Dismissal**' for more information.

SOSR can cover a wide variety of situations and covers dismissals that are not within the scope of the other four potentially fair reasons.

The question of whether or not the reason for dismissal is sufficient to show a fair dismissal will depend on the facts of each case.

It is still necessary that your dismissal, in all the circumstances, is within the range of reasonable responses of a reasonable employer

### Examples of SOSR

Some of the most common examples are set out below.

#### A business reorganisation

A business reorganisation may lead to changes to your job duties or

other terms and conditions, and this may be sufficient to justify dismissal for SOSR.

The following general principles are likely to apply when considering whether dismissal on the grounds of a business reorganisation is fair;

- The employer's reorganisation must be for good business reasons;
- The changes must not be introduced for arbitrary reasons;
- The employer must be able to demonstrate that the reorganisation has clear advantages;
- Whether the employee has acted reasonably in refusing the changes;
- Whether the advantage to the employer outweighs the disadvantage to the employee; and
- The dismissal must be reasonable at the time of dismissal, not just at the time the decision to reorganise the business was made.

#### Refusal to accept new terms

Dismissal may be justified where an employer needs to change contractual terms and conditions of employment and an employee refuses to agree to the change. Dismissal for refusing to agree to unilateral contractual changes may fall within SOSR in appropriate circumstances.

The employer must be able to show that the changes are necessary for sound business reasons and follow a fair procedure which includes consulting with the affected employees and considering their reasons for rejecting the changes.

#### Personality clashes

An employer could rely on circumstances where personality clashes lead to a breakdown in workplace relationships or where there is a fundamental and irretrievable breakdown in work relations between you and your colleagues.

#### Third party pressure to dismiss

An employer may be requested or instructed to dismiss an employee by a third party, such as a customer. It will still be necessary for the employer to show that:

It was reasonable to treat that request as a sufficient reason to dismiss; and

They have considered whether such a dismissal would result in an injustice to the employee, and the extent of that injustice.

#### Breakdown in trust and confidence

A breakdown of the implied term of trust and confidence, due to your actions and not the employer or a third party, may be a sufficient justification for a SOSR dismissal.

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### Expiry of a fixed-term contract

The termination of a fixed-term contract counts as a dismissal. Where such a contract comes to an end, the employer can often rely on redundancy as the reason for dismissal. In some cases SOSR may be more appropriate because the definition of a redundancy does not apply – for example, where the contract was used to cover the absence of a permanent employee so there is no reduction in the need for employees to carry out the work.

### Has your employer followed a fair procedure?

Whilst there is no set procedure for a SOSR dismissal and it is generally thought that the ACAS Code of Practice on Disciplinary and Grievance Procedures does not apply, generally it is best practice for employers to follow some form of fair procedure particularly if the dismissal also involves misconduct or alleged performance issues.

It depends on the facts of each situation, for example the dismissal of an employee responsible for the breakdown of working relationships may in some cases be classed as SOSR rather than misconduct, meaning that the employer is not obliged to follow its disciplinary procedure.

### Unfair Dismissal

If you have at least two years' continuous service, you may be entitled to bring a claim for unfair dismissal. The requirement for two years' continuous service does not apply in a small number of cases, such as where the dismissal is on the grounds of maternity or 'whistleblowing'.

You may have a claim for unfair dismissal if your employer has failed to show that the reason for your dismissal was fair and/or that the procedure followed prior to dismissing was fair. A claim could be brought on the basis that your

dismissal was not within the range of reasonable responses of a reasonable employer and/or that they have not followed a fair procedure.

Please see our separate factsheet on '**Unfair Dismissal**' for more information.

### Your right to notice

If your employer makes the decision to dismiss you for some other substantial reason (SOSR), your employer must either allow you to work your notice period, or make a payment in lieu of the notice period (PILON). Your notice period will depend on your contract but is subject to the statutory minimum of 1 week for each full year of employment, up to a maximum of 12 weeks' continuous service.

### Discrimination

You may also be able to bring a further claim in an Employment Tribunal if your dismissal amounts to less favourable treatment because of your sex, pregnancy or maternity, race (including nationality), religion or philosophical belief, sexual orientation or age. The same applies if the dismissal was related to a disability, or where the employer had failed to make reasonable adjustments to accommodate your disability. Please see our '**Discrimination**' factsheets for further information.

### Mandatory ACAS Early Conciliation

If you are thinking about making an Employment Tribunal claim, you will first need to notify details of your claim to ACAS, who will then offer Early Conciliation to try to resolve the dispute. The conciliation period can be up to one month. If the claim does not settle, ACAS will issue a certificate confirming that the mandatory conciliation process has concluded.



### Bringing a claim

You have three months less one day from the date your employment ends to bring a claim in an Employment Tribunal for unfair dismissal. Lodging a grievance or being in an appeal process does not affect this time limit.

You also have three months from the date of any discriminatory act (which may be the dismissal) to bring a discrimination claim in an Employment Tribunal.

The ACAS Code of Practice on Discipline and Grievance Procedures does not apply to dismissals for SOSR. However, for a discrimination claim you should normally lodge a grievance and follow the ACAS Code (which can be downloaded from the ACAS website). This is aimed at assisting parties to resolve disputes within the workplace.

If your claim is successful but the Tribunal considers that you have unreasonably failed to comply with the Code, your compensation could be reduced by up to 25% (there are also penalties on the employer if they do not comply with the Code).

Starting the ACAS Early Conciliation process may operate to extend the time limit for lodging an employment tribunal claim. The process makes the calculation of time limits in Employment Tribunal cases more complicated. Claimants are advised to be aware of limitation issues and seek legal advice promptly. For further information on the ACAS early conciliation process visit: [www.acas.org.uk](http://www.acas.org.uk).

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