

EMPLOYER TOOLKIT

Employee Problem Action Pack™

What to do **before** you take action against an employee.

A practical toolkit to help owner-managed businesses avoid costly mistakes, protect their position, and think clearly before acting on an employee problem.

Read this before you do anything

Most employee problems don't blow up because the owner did the wrong thing on purpose. They blow up because a fair concern was handled in a rush, out of frustration, or without a clear process behind it.

An employee is underperforming, keeps going off sick, has done something you're not happy about, or two people can't work together anymore. You're busy. You want it dealt with. So you have a quiet word, make a decision in the moment, or let it drift because you're not quite sure where you stand.

Why these situations get difficult

Employment situations are rarely just about the facts. They involve the process you followed, what your policies say, how you've treated other people in the same position, and whether anything about the person's circumstances changes your obligations. Get the process wrong and even a completely reasonable decision can become a claim, and one wrong move can cost you thousands.

The risk of leaving it too long

Waiting feels safer. It usually isn't. Problems that are left tend to get more expensive, not less: the behaviour spreads to others, your best people lose patience, evidence disappears, and by the time you act it looks like you've singled someone out. Acting too fast and acting too slow both carry risk. The point of this pack is to help you act at the right speed, in the right order.

What this pack is and isn't.

This is a toolkit to help you organise the problem and avoid the obvious mistakes. It is not legal advice, and it can't tell you whether your specific situation is legally safe. Every situation turns on its own facts. When you're ready for that answer, Section 6 shows you exactly where to go next.

1 SECTION ONE

Is this really misconduct?

Before you treat something as a disciplinary matter, be honest about what you're actually dealing with. The wrong label sends you down the wrong process.

Is the problem about behaviour, or ability?

WON'T • A CHOICE They can do the job but chose not to follow a rule, instruction or standard.

Points towards a **conduct** route. Think: rules broken, warnings, consistency.

CAN'T • CAPABILITY They're trying, but can't meet the standard through skill, health or circumstance.

Points towards a **capability / support** route, not punishment.

THEN ASK Is health, disability or a personal circumstance involved?

If yes, the situation may carry extra legal duties and a straight disciplinary approach could be risky. Pause and get it checked before you act.

Still not sure which route you're on? That uncertainty is exactly the signal to get a second opinion before you start a formal process, not after.

The First 48 Hours Checklist

What you do in the first two days shapes everything that follows. Work through these before you make any decision you can't undo.

**Preserve the evidence**

Save emails, messages, CCTV, rotas, records and notes now, before anything is deleted or overwritten.

**Don't make promises**

No assurances about outcomes, no "you'll be fine", no "you're gone". Stay neutral until you know the facts.

**Don't act in anger**

Never dismiss or discipline in the heat of the moment. A decision made while frustrated is the one that gets challenged.

**Decide whether to suspend, carefully**

Suspension is not a neutral act and not a punishment. Only consider it where genuinely necessary, and take advice first.

**Check your own paperwork**

Find the contract, the relevant policy and any previous warnings before you speak to anyone.

**Get it sense-checked before anything irreversible**

Suspension, dismissal and formal accusations are hard to walk back. Have them reviewed first.

**Keep it confidential**

Talk to who you need to and no one else. Gossip creates fairness and privacy problems of its own.

Investigation Planner

A fair outcome needs a fair look at the facts first. Use this to gather your thinking in one place before you speak to anyone formally.

What actually happened?	
Who knows about it? (witnesses)	
What evidence exists?	
CCTV / access records?	
Emails / messages?	
Which policies apply?	
Impact on the business?	

One rule for investigations: the person deciding the outcome should not be the person who investigated it, wherever you can manage it. Keep the two roles separate to keep the process fair.

Questions to ask yourself

Before you take action, sit with these five questions. If you can't tick every box with confidence, you're not ready to act yet.

☐ **Have I investigated properly?**

Have I actually established the facts, or am I acting on an assumption or one side of the story?

☐ **Have I followed my own policy?**

Does what I'm about to do match what my contract and procedures say I'll do?

☐ **Have I been consistent?**

Have I treated other people who did something similar the same way?

☐ **Have I considered health or disability?**

Could a health condition or disability be part of this, and does that change my duties?

☐ **Could this look like discrimination?**

Could my action be linked, even unintentionally, to age, sex, race, disability, or another protected characteristic?

If you hesitated on any of these, stop.

A "no" or a "not sure" here is where most tribunal claims begin. It doesn't mean you can't act. It means you should get the situation checked before you do.

The five mistakes that cost employers most

Nearly every expensive employment claim traces back to one of these. Knowing them is how you avoid them.

1

Acting on emotion, not process

Making a decision while angry or under pressure, then having to defend it later. The decision might be right, but if the process was wrong it still fails.

2

Skiping or rushing the investigation

Deciding what happened before properly finding out. Once the outcome looks pre-judged, the whole process is undermined.

3

Ignoring their own policies and contracts

Having a procedure written down and then not following it. Your own paperwork becomes the evidence against you.

4

Being inconsistent

Coming down hard on one person for something you overlooked in another. Inconsistency reads as unfairness, and unfairness wins claims.

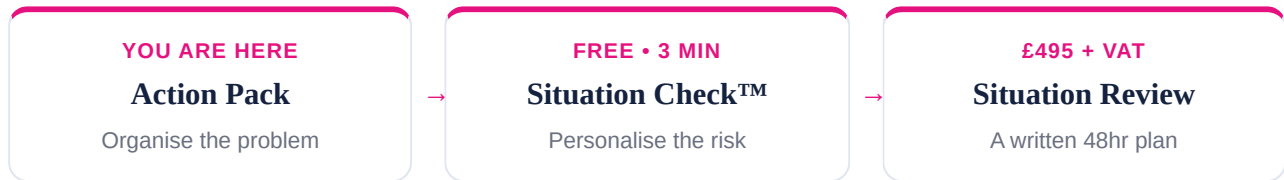
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Leaving it too long

Letting a problem drift until it's a crisis, then acting suddenly. Delay damages your credibility and lets the situation get worse and more costly.

What to do next

This pack helps you organise the problem. The next step tells you whether your specific situation is actually safe to act on, and what to do first.



Start your free Employee Situation Check™

A three-minute assessment built around your situation. No cost, no obligation. At the end you'll get:

- ✓ Your overall risk level
- ✓ The most likely legal issues in your case
- ✓ What I'd be focusing on first
- ✓ Whether you should pause before taking any action

[Start your free Situation Check →](#)



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25+ years in HR and Employee Relations, including senior roles at Williams Racing, Pets at Home and the NHS. When a good employee becomes a problem, I sort it, properly and quietly. The **Employee Situation Review** (£495 + VAT) is a focused one-to-one session where we assess your situation together and you leave with a clear, written 48-hour action plan you can act on with confidence.

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