



Ashdown Human Resources

**Fair reason for  
Dismissal**

**Some other  
substantial  
reason (SOSR)**



## Some Other Substantial Reason dismissals (SOSR)

### What is an SOSR dismissal?

An SOSR dismissal is one of the **potentially** fair reason for dismissal. It is only potentially fair if the correct procedure is followed. An SOSR reason is a “catch all” category to cover dismissals which do not fall under any of the other four categories of potentially fair dismissal. Each case would be considered by an Employment Tribunal if a claim is lodged, taking into account the particular circumstances of the dismissal and the size and resources of the employer.

### TYPES OF DISMISSAL FALLING UNDER SOSR

The following are typical examples of when SOSR could be used to effect a fair dismissal.

#### **Business reorganisations**

Where an employer needs to make business changes and the employee does not agree to those changes and is dismissed because of this, this could be a fair SOSR dismissal. Examples could be changes to working patterns, opening hours or new technology which employees do not agree with. Dismissal should take place following adequate consultation and immediately after dismissal an offer of re-engagement on different terms and conditions must be made. Without this offer of re-engagement the dismissal is likely to be unfair.



### **Protecting employer's interests**

Employers are entitled to protect themselves against unfair competition. An example would be if an employer found that an employee was setting themselves up in business and soliciting customers. If new restrictive covenants are not agreed, then an SOSR dismissal could be fair. However, this does not give employers the right to impose new restrictive covenants on existing employees. A tribunal would look at the fairness of the dismissal and how reasonably the employer had dealt with the situation.

### **Third party pressure to dismiss**

Sometimes a valued customer or client threatens to withdraw their business unless an employee is dismissed. The employer has to protect their commercial interests and may dismiss, having carried out a full investigation into the reasons behind the client's insistence.

Alternatives should be considered, for example disciplining the employee because of poor workmanship or moving the employee to work for a different client. The employer does not have to agree with the client, but needs to demonstrate the commercial reason for agreeing with the dismissal. Personality clashes and relationship issues are common causes for this type of dismissal.

### **Relationship issues**

Where an employee refuses to work with another employee, often because of personality clashes or personal prejudices, the employer could consider an SOSR dismissal. If bullying or harassment is part of the problem then disciplinary action could be considered. Care should be taken where there is potential for a discrimination claim (eg on the grounds of health, sexuality, etc).

### **Statutory bans**

Statutory bans are the safest type of SOSR dismissal. They take place when an employee cannot continue to work in the position they were employed for without contravention of a statutory duty or restriction. Examples would be where the employee does not have or loses the right to work in the UK, or a driver losing their driving licence.

### **Reasonableness of the dismissal**

In all cases a Tribunal would explore the procedure that the employer followed and what steps short of dismissal were considered. Factors to be taken into account include the employee's length of service, their performance and how fairly the employer acted.