



Moonlighting: HR guide

Description

Introduction

In this guide I explain whether employees are permitted to carry out **moonlighting** i.e. able to work for other organisations.

The employment contract

Whether an employee is able to work for another organisation will very much depend on the wording of the employment contract.

A clause in the employment contract might for example prohibit an employee, without consent from the employer, from being involved in any capacity with a business which is in competition with the employer. This could cover being an employee, partner, contractor or owner.

A clause could be wider though. It could preclude an employee from having any outside interests, unless agreed by the employer, regardless of whether or not the employee would be competing.



Unfair dismissal

Generally employees with at least two years' continuous service with their employer have the right not to be [unfairly dismissed](#). Employers can dismiss for a fair reason and conduct is one of the potentially fair reasons for dismissal.

A dismissal for **moonlighting** could potentially be fair, particularly if there has been dishonesty and the employee has been untruthful. There does not have to be dishonesty though. Where an employee, for instance, works for a competitor in breach of their obligations this could also result in a fair dismissal. Likewise doing a second job while on sick leave could in certain circumstances justify dismissal. Each case though will depend on the situation and for the dismissal to be fair the employer must follow a fair process.

Even where an employee is permitted to work elsewhere in certain cases the employer may have justification in dismissing fairly. Damage to reputation or potential damage to reputation could be a fair reason to dismiss.

A school might argue that a teacher doing certain kinds of modelling may damage the reputation of the school or there could be pressure to dismiss from third parties, such as parents. The employer would still have to carry out a fair process which should include considering alternatives to dismissal.



Discrimination

Employees must not be treated less favourably because of [protected characteristics](#) such as sex, age, race, sexual orientation, disability or religion or belief.

As an illustration, if a female teacher was dismissed for modelling but a male teacher in comparable circumstances would not have been dismissed this could be sex discriminatory.

There is no length of service requirement to bring a discrimination claim.

This guide is intended for guidance only and should not be relied upon for specific advice.

If you need advice on **moonlighting** or have other employment law queries please do not hesitate to [contact](#) me on: [020 3797 1264](tel:02037971264).

Do check mattgingell.com regularly for updated information.