CP Associates

HR EMPLOYMENT BULLETIN
August 2025

KEY EMPLOYMENT LAW CHANGES AND ADVICE

This is the latest of the series of HR Employment Bulletins which outlines some expected key employment law changes, some guidance on HR issues and a number of interesting Tribunal case outcomes for you to consider.

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1. Job applicants not entitled to whistleblowing protections

Experts have warned that this ruling means concerns over blacklisting and other acts of retaliation will continue to prevent applicants coming forward.

Whistleblowing protections do not extend to external job applicants, the Court of Appeal has held.

The appellant, Ms S, who had applied for positions working for Isle of Wight Council, alleged that she had been subjected to a detriment because she had made a protected disclosure of information.

However, while the Employment Rights Act 1996 protects the whistleblowing rights of workers and was later amended to cover job applicants to the NHS, it does not cover applicants in other sectors.

Ms S sought to argue that the Act is incompatible with the European Convention on Human Rights, which provides for the right to freedom of expression and prohibits discrimination.

But in the case of S v Isle of Wight Council, the Court of Appeal ruled that the legislation was compatible with the Convention, explaining that “the position of someone seeking work is materially different from someone in work”, meaning it did not “give rise to a difference in treatment between persons in materially analogous situations”.

The Judges further stated: “An urgent need for action had been identified and the structure of the NHS as a national service operating through different legal entities called, in the judgment of parliament, for legislation giving protection to applicants for work or posts in the NHS sector.

“To suggest that parliament could not legislate to address that problem without simultaneously addressing the position of job applicants in other sectors would be to constrain the legislature.”

Whistleblowing charity Protect intervened in the case as a third party to argue that whistleblowing protection should be available to all external job applicants. Ms G, Chief Executive of the charity, described the judgment as “disappointing”.

“Job applicants who blew the whistle in a former role will have no remedy if a new employer refuses their application simply because they raised concerns in the past,” she said, adding: “We know of many whistleblowers who have had to change their professions: whistleblowing still comes with a huge personal cost. We continue to operate in a two-tier system with one rule for NHS job applicants and another rule for everyone else.”

Whether whistleblowing protection should extend to job applicants is an important issue of public policy; applicants for NHS roles are already protected, so there is irregularity of protection, with whistleblowers applying for other roles left at risk of being unfairly treated.

With workplaces increasingly focusing on fostering transparency and inclusion, the whistleblowing legislation now feels out of step with developments driving greater transparency and accountability and those considering the personal impact of raising wrongdoing will think carefully before coming forward, particularly in industries where reports of blacklisting and other acts of retaliation are still prevalent.

Although job applicants may not be able to bring whistleblowing claims, employees and workers are, of course, protected so employers should nevertheless be proactive and invest resources in their whistleblowing frameworks.

Regularly reviewing whistleblowing policies and reporting mechanisms is always time well spent and it is also “critical” that managers understand how to respond when a worker raises a concern.

If the Court had ruled differently, potentially onerous new duties could have been placed on employers, meaning widespread redrafts of whistleblowing policies, increased litigation risk and costs, the need to train hiring managers and decision makers, as well as potentially it being an issue that would have required Parliament's attention at a legislative level.

Recruitment processes would have needed to be rigorous with detailed, documented and retained rationale for decision making to show the reasons for rejection were not linked to the protected disclosure. However, the ruling does not mean employers can operate "risk free", explaining. There are substantial ethical and reputational issues in putting a whistleblower to a detriment, and using the 'lack of legal recourse' as a reason for doing so is likely to motivate an applicant to take their issue to a more public forum.

Dealing with matters professionally and engaging with someone who has a complaint, investigating where appropriate and allowing them to feel heard is more likely to mitigate any further fall out and will reinforce a culture where concerns are heard regardless of employment status.

The protection of whistleblowers is a live issue but any substantive changes to the scope of the current protection is a policy matter for Parliament, not the Courts. However, as of yet, there is no legislative protection for job applicants on the horizon, though the Office of the Whistleblower Bill is set to have its second reading in the House of Commons later this month.

If passed, the Bill would mean the Government will establish an independent body to monitor and enforce standards for whistleblowing cases. Extending whistleblowing protection to job applicants would encourage individuals to report unethical or illegal activities without fear of retaliation, helping to address issues early. However, there are concerns about the impact such legislation would have on employers and with all the other changes coming down the track this would be a major headache for those recruiting.

Discrimination claims can flow from recruitment exercises and that is right, but whistleblowing might be considered to be a step too far by many and it would have to serve a key policy aim which may not be likely right now. If whistleblowing rights were to be extended to job applicants, then employers would need to review recruitment practices to take account of the additional legal and potential reputational risks and act consistently and fairly to limit risks of detriment related claims and ensure those involved in the recruitment process are aware of how treat those job applicants making disclosures.

2. Navigating the proposed changes to the UK Collective Redundancy Framework

The UK Government's proposed amendments to the Employment Rights Bill (ERB) signal significant shifts in the collective redundancy landscape. These changes aim to bolster employee protections and ensure employers adhere to consultation obligations. The key proposed changes and modifications, their implications for employers, and practical steps to navigate the evolving framework are as follows.

- **Doubling of the protective award**

Under the current regime, employers who fail to comply with collective consultation requirements may face a protective award of up to 90 days' gross pay per affected employee. The ERB proposes to double this maximum to 180 days' pay, significantly increasing the financial repercussions for non-compliance.

- **Introduction of a multi-establishment consultation trigger**

Presently, the obligation to consult collectively is triggered when 20 or more redundancies are proposed at a single establishment within a 90-day period. The ERB introduces an additional trigger, requiring consultation when a specified number or percentage of redundancies occur across multiple establishments. The exact threshold for this new trigger will be defined in forthcoming regulations.

- **Flexibility in consultation processes**

The ERB clarifies that employers are not mandated to consult all employee representatives collectively or reach uniform agreements across different sites. This provision allows for separate consultations tailored to specific establishments, providing flexibility in managing diverse redundancy scenarios.

The implications for employers of the proposed changes underscore the importance of proactive compliance with collective consultation obligations. Employers must be vigilant in monitoring redundancy proposals across all establishments to determine if consultation requirements are triggered. Failure to adhere to these obligations could result in substantial financial penalties and reputational damage.

Key practical steps for employers are to undertake are:-

- **Review and update policies:** Assess current redundancy and consultation policies to ensure alignment with the proposed changes.
- **Enhance monitoring systems:** Implement robust systems to track redundancy proposals across all sites, facilitating timely identification of consultation triggers.
- **Train HR and management teams:** Educate relevant personnel on the new requirements to ensure consistent application across the organisation.
- **Engage with employee representatives:** Establish or strengthen relationships with employee representatives to facilitate effective consultations.
- **Seek legal guidance:** Consult with legal experts to navigate the complexities of the evolving framework and mitigate potential risks.

The proposed amendments to the UK's collective redundancy framework represent a significant shift in employment law, emphasising the government's commitment to enhancing worker protections. Employers must stay informed and adapt their practices to ensure compliance and foster positive employee relations in this changing landscape.

3. IT professional constructively unfairly dismissed

An Employment Judge has decided that appointing a 'biased' investigator and ignoring fairness concerns amounted to fundamental breach that led to claimant's resignation. As a result, a senior IT professional has won a constructive unfair dismissal case after his employer acted unfairly when he chose to work from home to supervise gardening work.

The London South Tribunal awarded Mr W, previously technical director at Akita Systems, £30,692 after the Company's response to a breakdown in workplace relationships – particularly its objection to his remote working – breached the duty of trust and confidence.

The Tribunal heard that Mr W was due to meet Akita Systems founder Mr B face to face to resolve a workplace dispute. However, tensions escalated when Mr W requested to switch the meeting to a Teams call, explaining that he would be working from home for the rest of the week because of scheduled gardening work.

Mr B told the Tribunal he was "very disappointed" with the change, believing it suggested Mr W was not fully committed to the process. Following this, other directors at the Company declared they had "lost trust and confidence" in Mr W, which ultimately led to his resignation.

Mr W joined Akita Systems in March 2014 as a Junior Network Manager and was later promoted to Technical Director.

The dispute began in March 2022, when Mr W and Mr B clashed over arrangements for holiday cover. After witnessing the row, external HR adviser Ms C proposed mediation sessions to help resolve the tensions between the two directors.

Initial mediation attempts were reportedly successful, with the pair holding regular follow-up sessions. The Tribunal found that the initial mediation meeting was productive and positive where both sides were able to discuss their frustrations with the other side and that there was hope for an improved working relationship moving forward.

The next mediation meeting was due to take place on 3 May 2022, but "the hearing was told that Mr W called Mr B and asked if they could move the meeting to a Teams meeting and change the time to 11 am as he needed to work from home for the rest of the week because he had work being done in the garden and so he would need to be there.

The Tribunal accepted the evidence of Mr B that he was very disappointed about this and told Mr W that it appeared he was not taking the process seriously. Mr W did then attend the office. During the session, Mr W reportedly felt “attacked” and later became tearful after a private conversation with Mr B.

He was instructed to create an improvement plan to help mend ties with Mr B, but he dismissed the task as a “sham”. He later filed a grievance that was shut down after concerns were raised over the impartiality of the external HR consultant, who had a longstanding friendship with Mr B.

The Tribunal heard that Mr B had appointed Mr C – an external HR consultant and personal friend – to investigate the grievance. Mr W raised objections, arguing that Mr C’s closeness to Mr B would compromise his impartiality. Despite these concerns, the Company insisted Mr C would remain in charge of the process.

The Tribunal also noted that Mr C had no previous experience conducting internal investigations for the employer and dismissed his claim that his role was merely administrative.

Having been on sick leave for two months, Mr W viewed this as the final straw and resigned from his role at Akita Systems on 28 June.

Mr W said his resignation was the result of the behaviour he experienced since February, the perceived insincerity of the improvement plan and the decision to appoint a “biased” consultant to handle his grievance.

The Tribunal determined that Mr W had been constructively dismissed, pointing to key issues such as Ms C’s remarks about lost trust, the engagement of the HR consultant and the closure of his grievance.

The Judge accepted that while Mr W admitted choosing his gardener over the meeting was a “mistake”, it did not amount to misconduct. The Tribunal concluded that he did not contribute to his dismissal but Mr W admitted his decision to prioritise arrangements with his gardener over attendance at a one-to-one mediation follow-up meeting was a mistake and that he refused to co-operate with the grievance investigation. However, these actions, in the context of the facts found and detailed above, did not constitute 'culpable or blameworthy' conduct.

The Company’s handling of the breakdown in relations was a fundamental breach of the employment contract by the employer. It was likely to destroy or seriously damage the relationship of confidence and trust between employer and employee. The respondent no longer had trust and confidence in the claimant and there was no prospect of the claimant altering that decision.

The case showed how home working was “increasingly likely to feature in Employment Tribunal cases in the future”.

Commonly, employers that wish to bring back their employees from [home working] are concerned to manage any risks that by doing so they may face indirect discrimination claims. This could be on the basis that, for example, employees who are women, those who have child caring responsibilities or employees who have disabilities may find it disproportionately harder to comply with such requirements than others. But this case shows that insisting on someone coming into the office rather than working from home may constitute behaviour entitling an employee to resign and claim constructive dismissal.

The real takeaway for employers was the need to fully consider any challenges the employee may face in returning, before enforcing office attendance. They should take care with their verbal and electronic communications so as not to give their employees the opportunity of claiming they have been constructively dismissed.

4. Employment Rights Bill reforms set to start this year as Government unveils roadmap

There will be a phased introduction of Employment Rights Bill which will see some key measures – including a ban on zero-hours contracts – pushed back to 2027.

The UK Government has released a roadmap for implementing the Employment Rights Bill, setting out a phased timetable for delivering what it claims will be the most significant upgrade to worker protections in decades. The Government plans to immediately remove the minimum service requirements for striking staff and improve protections for workers taking part in industrial action once the Bill is passed, which is likely to happen later this year.

However, some key measures, such as day-one protections against unfair dismissal and a ban on zero-hours contracts, will not take effect until 2027, as the Government continues to consult with businesses. Deputy prime minister Angela Rayner has said that "We're working fast to deliver our promise of better living standards and more money in the pockets of working people as part of our Plan for Change. These landmark reforms will kick in within months, demonstrating our commitment to making work pay for millions of workers across the country and delivering real change."

The first steps are to restore union rights and worker protections in 2025. The Bill's initial changes – due immediately after its passage – will repeal the Strikes (Minimum Service Levels) Act 2023 and the majority of the Trade Union Act 2016, restoring collective bargaining rights, which were curtailed under previous Conservative governments. Labour will also introduce legal protection for workers who take part in industrial action, making it unlawful for employers to dismiss staff for striking.

The TUC has welcomed the move as overdue stating that "After the failed era of insecure work and squeezed living standards, the Employment Rights Bill is badly needed." The proposed measures – including bans on exploitative contracts and fire and rehire – have been described as "common sense and popular reforms".

Employers should use this window to conduct impact assessments, update training for managers and seek legal advice where needed. Clear internal communication and early engagement with staff will be key to managing expectations and ensuring a smooth transition.

The next phase from April 2026 covers family support, sick pay and a new enforcement agency with a wave of reforms focused on family-friendly policies and financial security. All workers will gain day-one rights to unpaid parental and paternity leave, removing minimum service thresholds that previously delayed eligibility. At the same time, the lower earnings limit and waiting period for statutory sick pay will be abolished, extending coverage to more than 1.3 million low-paid workers.

Whilst the roadmap's clarity is welcomed, it should be understood that employers only have nine months to prepare for changes to the statutory sick pay regime, including removing the lower earnings limit and ending the three-day waiting period.

Organisations are already struggling with rising employment costs following increases to the national living wage and employers' national insurance contributions this year and it had been hoped that they would be given more time to prepare for this significant change.

A new enforcement body – the Fair Work Agency – will also be launched to ensure compliance and deter bad employers.

Later next year in October 2026, harassment, insecure work and sector pay will be addressed with more reforms which will target workplace dignity and job security. A ban on "fire and rehire" tactics will be enforced, while a fair pay agreement negotiating body will be introduced for the adult social care sector to address low wages and workforce shortages. Employers will also be required to take 'all reasonable steps' to prevent sexual harassment, including from third parties such as customers, and new tipping laws will ensure transparency and fairness in gratuity distribution.

The roadmap includes stronger protections for union reps and expands access to workplaces for union activity.

The Government is convinced that treating employees well promotes productivity and helps employers recruit, develop and retain the talent they need.

The final phase in 2027 tackles equality, stability and flexible work. Some of these more complex reforms are not scheduled to come into place until 2027, after further consultations between the Government, business groups and trade unions. These changes include the introduction of statutory bereavement leave, protection from unfair dismissal from day one, stronger rights for pregnant employees and ending the exploitative use of zero-hours contracts. Under the reforms, workers will gain greater predictability over their working hours.

The Government will also encourage gender pay gap and menopause action plans – which will initially be introduced on a voluntary basis – alongside enhanced guidance for preventing workplace harassment and improving access to flexible working.

The roadmap is intended to give employers the ability to adapt while preserving flexibility and the clear timeline on the Employment Rights Bill gives room for full and frank consultation on how the new rules will be structured. Ongoing and meaningful engagement will be critical to ensuring new regulations allow the flexibility workers and companies value to remain.

Finally, the Government has confirmed that consultations with employers, unions and other stakeholders will continue into 2026, building on more than 190 discussions that have already shaped its workplace reform roadmap. To support businesses through the changes, independent public body Acas will issue guidance for employers ahead of each stage of implementation. However, concerns have been raised about whether it will have the capacity to do so effectively.

Without extra funding, Acas may struggle to meet employers' needs – particularly those of smaller firms. It is crucial that Acas receives additional resources to provide advice and guidance to help employers – particularly micro and small firms – comply with new legislation. Adequate investment here and obtaining professional advice will help employers avoid costly and time-consuming Employment Tribunal claims and reduce pressure on the Tribunal system, where waiting times are already at record levels. There is a need for a coordinated enforcement strategy across agencies and additional labour market inspectors and proactive strategies to prevent unfair treatment and improve HR practices will be particularly needed in sectors where there's greatest risk of non-compliance.

Whilst the roadmap has been welcomed as it "gives employers some more clarity to prepare for the biggest set of workplace reforms in decades" and is a significant step, it should be noted that much of the detail is still to be decided.

5. Parental leave and pay for new parents to be reviewed

The amount of time off and pay new parents can get after the birth of a child will be looked at in a "landmark" review, the Government says. Ministers said they want to modernise the system across paternity, maternity and shared parental leave, which campaigners said had been "overlooked for years". The review will be the "best chance in a generation to improve the system and make sure it actually works for working families. The review - which is expected to take 18 months - is needed because the parental leave system has not been reformed in decades, during which time both working habits and families have changed.

The Government's review will look at statutory leave, which is the minimum amount employers have to provide by law and is funded by the Government. Some companies choose to top this up for their employees.

Currently, statutory maternity leave allows most new mums and birthing parents to take up to 52 weeks off work. Statutory maternity pay is paid for up to 39 weeks, providing 90% of a person's average weekly earnings - before tax - for the first six weeks. The following 33 weeks pays either £187.18 per week, or 90% of their average weekly earnings again - whichever is lower. Mums are ineligible for statutory maternity pay if they are self-employed or earn less than £125 a week.

Statutory paternity leave, which was introduced in 2003, allows most new fathers and second parents in the UK to take up to two weeks off work. It applies to all partners, regardless of gender, after the birth, surrogacy or adoption of a baby. Like with maternity leave, those who are eligible receive £187.18 a week or 90% of their average earnings, whichever is lower, for those two weeks. That works out as less than 50% of the National Living Wage - the minimum amount that employers are legally required to pay anyone aged 21 and over. Fathers cannot receive statutory paternity leave and pay if they are self-employed or earn less than £125 a week.

Shared parental leave was introduced in 2014 and allows parents to share up to 50 weeks of leave and up to 37 weeks of pay after the birth or adoption of a child.

Announcing its review of the whole parental leave system, the Government acknowledged that take-up of shared parental leave was very low, as well as the fact that one in three dads do not take paternity leave because they cannot afford to.

6. Bereavement leave to be extended to miscarriages before 24 weeks

Parents who experience a miscarriage before 24 weeks of pregnancy will be entitled to bereavement leave under a planned law change.

The Government is set to amend the Employment Rights Bill to give parents the legal right to take time off work to grieve if they experience pregnancy loss at any stage.

As it stands, bereavement leave is only available to parents who lose an unborn child after 24 weeks of pregnancy.

The Government believes that the change will give "people time away from work to grieve and no one who is going through the heartbreak of pregnancy loss should have to go back to work before they are ready.

Parents are currently entitled to a fortnight's leave if they suffer pregnancy loss after 24 weeks, or if a child younger than 18 dies. The extended right to leave will be for "at least" one week, though the exact length is still being consulted on as is who will be eligible and whether a doctor's note would be required.

The Employment Rights Bill, which includes further measures to protect in law the right of employees to have time off to grieve the loss of a loved one, is already making its way through Parliament.

7. Administrative Officer wins £29k at Tribunal after Ministry of Justice refuses work from home request

An Employment Judge has ruled that a claimant's requests to work remotely because of menstrual health issues were not consistently granted and subsequent attendance warnings amounted to disability discrimination

An Administrative Officer at the Ministry of Justice has been awarded £29,065 in compensation after her requests to work from home on consecutive days because of menstrual health issues were refused by her employer.

The Central London Tribunal heard that Ms P, who worked in the Secretary of State for Justice's office, suffered from debilitating menstrual symptoms including migraines, intense pain and vomiting. Although her manager had previously agreed to adjustments that allowed her to work from home when she could not attend the office, this arrangement was later withdrawn.

She was subsequently informed that she must attend the office or take sick leave, even during the three to five consecutive days per month when her symptoms were most acute. As a result of these health-related absences, she was subjected to discrimination arising from disability after receiving "unsatisfactory" attendance warnings, the Tribunal ruled.

In its judgment, the Tribunal concluded that Ms P had suffered significant injury to feelings including severe and sustained stress, anxiety, loss of self worth and strain on personal relationships over a period of around 17 months, which the tribunal found was down to the discriminatory actions of her employer.

Ms P's £29,065 award included £24,000 for injury to feelings and £5,065 in interest.

Ms P was employed as an administrative officer at the Ministry of Justice and brought a tribunal claim alleging disability discrimination and a failure to make reasonable adjustments under the Equality Act 2010. She argued that the organisation failed to allow her to work from home when experiencing menstrual symptoms, contrary to occupational health advice.

The Tribunal was told that she experienced a range of debilitating symptoms linked to her disability, including menstrually associated migraines, severe abdominal pain, vomiting, loss of consciousness, heavy bleeding, severe constipation, excessive gas, bloating and piles.

These symptoms often prevented her from commuting to the office for around five days each month. However, she maintained she was able to work from home during these episodes.

Initially, Ms P 's managers permitted her to work from home as an adjustment but, in March 2022, this arrangement was withdrawn, with the claimant being informed by email on 4 March that, starting the following week, she would be required to attend the office in person five days a week.

From that point, she was required to attend the office full time unless she received same-day approval from her line manager, who would access requests based on business needs. If remote work was not authorised, she had to take sick leave.

Although Ms P did not specify exact dates in her claim, the tribunal identified multiple instances when her requests to work from home as a result of symptoms were either denied or only partially granted.

For example, on 7 November 2022, her request to work from home because of an impending migraine was refused, with the respondent citing a lack of suitable remote tasks. On 28 February 2023, another request was initially denied on business grounds but was later approved, allowing her to work from home the following day. On 19 September 2023, Ms P made a request via WhatsApp to work from home the next day, which was approved, and she attended the office for the remainder of that week.

The Tribunal heard that her employer accepted issuing Ms P with attendance warnings on 18 January and 9 October 2023. The second written warning was rescinded following her appeal, effective 10 April 2024.

These warnings were issued because of several recorded sickness absences between 8 April 2022 and 19 September 2023.

The Tribunal found that most of the absences were linked to her disabilities or treatment she was receiving. The respondent conceded it could not discharge the burden of proof necessary to justify its actions under the Equality Act 2010.

Ms P’s evidence that she was effectively forced to take sick leave or attend work in a vulnerable and sometimes semi-conscious state was not challenged. Nor was her testimony regarding the emotional and physical toll of her condition and treatment.

The Tribunal accepted her account, finding that she experienced “severe and sustained stress anxiety and loss of self-worth”, including episodes of depression, tearfulness and social withdrawal, serious strain on her marriage and relationships, stress-induced hair loss and loss of confidence, sleep disturbances and difficulty recovering because of the need to prepare for formal meetings.

Although she did not provide medical evidence of a clinical diagnosis of depression or treatment for low mood, the tribunal accepted that she felt “depressed”.

Mr B, Operations Manager at the Secretary of State for Justice’s Office, apologised to Ms P during the proceedings, acknowledging the distress caused by the failure to apply the recommended adjustment and the imposition of attendance warnings.

While home working was not always denied after March 2022, it was inconsistently granted. Mr B explained that her employer had misunderstood the occupational health advice, mistakenly believing that remote working could only be considered if it was compatible with business needs. The Tribunal accepted this explanation as credible and consistent with the organisation's conduct.

Ms P also alleged that the attendance warnings harmed her internal promotion prospects. She referred to five roles of interest, including two executive officer positions. However, the Tribunal found no evidence that she was rejected because of the warnings.

The Tribunal found that Ms P had experienced “significant injury to feelings” as a result of the failure to make reasonable adjustments and the imposition of attendance warnings. The emotional impact of this discrimination was sustained over a period of 17 months, from 7 November 2022 to 20 April 2024.

During this time, the Tribunal accepted that Ms P experienced ongoing emotional distress, including anxiety, depression, social withdrawal, loss of self worth and motivation and sleep disturbance. She also attended work on days when she was unwell because of the policy shift.

The Tribunal considered but rejected her claim for aggravated damages. While it found that the respondent had failed in its duties, its action stemmed from policy misinterpretations rather than malice, or high-handed conduct. It noted the respondent’s responsible behaviour during proceedings, including acknowledging liability and offering an apology.

The Employment Judge concluded that Ms P’s injury to feelings fell within the middle band of the Vento guidelines – which are used by Employment Tribunal judges to determine compensation for injury to feelings – reflecting the sustained but not extreme nature of the emotional harm.

However, the Judge also noted that Ms P remained employed and had not experienced “any damage to her career”.

This case illustrated the importance of organisations handling adjustments requests from potentially disabled employees with care. The employer took several positive steps, including consulting occupational health and, in the broader sense, following absence management procedures. However, they failed to fully understand and implement recommended adjustments.

Occupational health advised allowing the employee to work from home when symptomatic. Instead of implementing this as a reasonable adjustment, the employer treated it as a request subject to business needs. This case underscored the need for employers to clearly understand and apply recommended adjustments, and that a practical approach would be to meet with the employee to discuss and agree on reasonable adjustments. Once agreed these should be clearly communicated to relevant managers and reviewed regularly to ensure their continued effectiveness.

8. Pharmacy manager sacked for watching Netflix and tutoring daughter at work

An Employment Tribunal Panel has ruled that an employer failed to conduct a thorough investigation and assessed evidence without keeping an 'open mind' in this case.

A Pharmacist Manager who was sacked for allegedly watching Netflix, bullying staff members and home-tutoring his daughter during work hours was unfairly dismissed, a Tribunal has ruled.

Dr A was sacked from Westfield Pharmacy over claims that he failed to fully engage in his role, potentially putting patient safety at risk, and for bullying staff members, including two who resigned as a result.

However, the Bristol Employment Tribunal found the pharmacy's investigation into the allegations was flawed and the decision to dismiss him was unreasonable, as complaints were "insufficiently precise" to support the allegations. This led the Tribunal to conclude the organisation failed to "keep an open mind" when assessing the evidence.

Dr A was employed as a Pharmacy Manager at Westfield Pharmacy, part of Avicenna Retail, from 1 April 2004. On 10 September 2023 Ms C, Dr A's line manager, visited the pharmacy, while he was on annual leave. During her visit, several employees complained about the "bad atmosphere" in the workplace, with two members of staff accusing Dr A of bullying.

These concerns prompted Caravona to begin an investigation. During interviews, one of the pharmacy's employees said Dr A was "always doing non-work related stuff at work". Meanwhile, another said Dr A was using the work phone to call his family and tutor his daughter, who was home-schooled, during work hours. They also added that he watched Netflix and played on his phone. Four other staff members complained about him tutoring his daughter and watching Netflix and YouTube.

There were also concerns raised around patient safety, which the Tribunal found arose from him not being attentive to matters as he was spending time on non-work related matters.

Accusations of bullying also resurfaced, with one employee, who claims she left due to Dr A's behaviour, saying: "I felt like he was being a bully and I couldn't do anything right. I just couldn't face him every day."

Another member of staff said there was a "bad atmosphere" in the workplace when Dr A had a bad day. "I have seen the way he treats people and the things he says to them and it is often rude or just not acceptable to come from a manager."

One of Dr A’s colleagues also provided a photograph of his iPad with a maths paper on it, which they claimed was evidence he was helping his daughter during working hours.

On 25 September, Caravona suspended Dr A. She did not prepare an investigation report, and the tribunal heard there was no structure to the meeting.

During the hearing, chaired by disciplinary hearing manager Mr S, Dr A claimed he had never watched Netflix or any video on his iPad at work, and that he wasn’t completing maths questions when the picture was taken. He claimed that when he was tutoring his daughter he was on a break but, due to the tight layout of the shop, staff could see what he was doing.

Dr A also claimed the allegations of bullying were “exaggerations and half truths” and accused his team of misandry in their treatment of him, suggesting staff had colluded against him.

Dr A was fired on November 3rd 2023 for “gross insubordination”. Mr S cited Dr A’s lack of engagement with his managerial role, which she claimed endangered patient safety, and accusations of bullying as reasons for his dismissal. He appealed the decision on November 9, citing a lack of a proper investigation.

The appeal hearing manager, chaired the appeal meeting on 6 December. He showed Dr A photographs showing physics and chemistry papers on his iPad, which were taken in the morning. Dr A claimed that he had not seen them before and failed to adequately explain why he was working on the science papers during working hours, the tribunal found.

Dr A accused one of his colleagues of racism, stating that they didn’t like the fact he was “black and of a level of authority”. He also questioned the fact staff made allegations of bullying against him without providing specific examples of his behaviour. However, his appeal was rejected.

The Employment Judge and the Tribunal Panel ruled that the Company’s investigation was not “sufficiently thorough”. It found that the employer had failed to conduct an investigation interview with Dr A to test his responses to their allegations. This should have been expected due to the “imprecise nature” of the allegations, the Tribunal said. This should have been expected due to the size of the business, the number of pharmacies it operated and the fact it had a dedicated HR team.

Dr A also claimed direct race discrimination but this was dismissed.

Clearly, the organisation should have carried out a formal investigation and properly conducted individual interviews with the accused and any witnesses. The Investigator should have actively sought evidence which contradicted the allegations, not just evidence in support of them, to ensure a balanced and fair process and an investigation report should have been prepared with all evidence and findings.

Employers are advised to take into account the size and capacity of their organisation and to appoint an external investigator when resources are stretched.
It is essential that employers maintain an open mind from the outset of an investigation to ensure that allegations are substantiated and decisions are based solely on the outcome of an unbiased and thorough investigation.

9. 'Workaholic' director wins £190k at Tribunal for unfair dismissal after cardiac arrest

An Employment Judge has ruled that an employer discriminated against a claimant, as legal experts warn of the risks of treating disabled employees as 'inconveniences'.

An Operations Director at a recruitment company has been awarded nearly £190,000 at Tribunal after being sacked because of his "ill health" following a cardiac arrest.

The incident left Mr B, who described himself as a "workaholic", with a hypoxic brain injury affecting his mobility, speech, memory and cognitive skills. The Cambridge Tribunal heard he was not supported and "left to his own devices" after the attack, before eventually being dismissed over alleged incapacity.

The Employment Judge ruled Mr B was discriminated against for having a disability and unfairly dismissed as a result. The Tribunal found that his employer, Mach Recruitment, viewed him as an "inconvenience to the business" and that "stereotypical assumptions" were made around his ability to perform his role and contribute.

Mr B had been working for Mach Recruitment as a Regional Operations Director, although his exact start date was not given.

On 7 February 2020, he suffered a cardiac arrest, which led to lasting health impairments, including memory loss and cognitive difficulties. He made his initial return to work in October 2020, which proved difficult because of his ongoing health problems.

Ms S, an Occupational Therapist, completed a report dated 21 January 2021, referring to several meetings with Ms B, the company's Head of HR, and recommending 16 specific adjustments for Mr B as a result of his disability.

After a period of furlough, Mr B resumed work in May 2021. However, he was reportedly left to manage alone with "no clear direction or even guidance in terms of what was expected of him".

In August 2021, he was transferred to a Boohoo site, where he reportedly lacked direction and found that a Site Manager was already present, leaving his role undefined. Mr B described feeling “deeply unhappy” and said he felt “abandoned” by the company, which had not made efforts to support him with his disability. The Tribunal heard that during the Boohoo placement he experienced a particularly busy and noisy working environment.

Ms B suggested to Mr B in February 2022 that he might be referred for an occupational health assessment by the Company’s nominated specialist but the Tribunal heard this did not materialise.

Ms B also One-to-one meetings were scheduled between Ms B and Mr B in June 2022 but the meetings were cancelled or rescheduled and ultimately did not go ahead.

The Tribunal heard that he had no direct communications with his manager over this period and that neither his performance nor health challenges were discussed.

On 27 September 2022, Ms B told Mr B that he was being let go because of a decision to reduce headcount in the senior team.

Two days later, on 29 September, he was dismissed with immediate effect, with the stated reason being ill health. No further explanation was provided. The Tribunal also saw evidence that he did not receive pay for his notice period.

The Judge concluded that Mr B was dismissed because the Company found his health-related issues “time consuming and difficult to manage”, and it was “unwilling to invest the necessary time and effort in that regard”. He added that “The fact that the respondent never documented its concerns in writing, failed to document or minute any meetings or discussions with the claimant, and did not even confirm his dismissal in writing, points to an organisation that was entirely neglectful of its responsibilities in the matter”. He found that while the Company claimed it needed to reduce headcount, there was actually no such need, but “merely a desire to remove the claimant from the business in the most expedient way”.

The Judge concluded that he was wrongfully dismissed and discriminated against as a result of his disability.

It was clear from the Tribunal’s findings that the employer had failed to follow “even the most basic procedural steps”. It had disregarded occupational health advice, failed to document its concerns in writing and kept no records of meetings with the claimant. Crucially, there had been no formal capability process or any warning given of the potential for dismissal.

The employer’s case was further weakened by its failure to comply with Tribunal orders and to attend both the merits and remedy hearings. Engaging properly with the Tribunal process, even if a claim has a high prospect of success, is always advisable to minimise potential losses.

The case is a warning to employers that they must always comply with their legal obligations under the Equality Act – in this case making reasonable adjustments for disabled employees. Any concerns about an employee's capability should be addressed through a fair and transparent process, supported by medical evidence where appropriate as treating disabled employees as an inconvenience can lead to significant legal and financial consequences.

10. Further help and/or advice

If any of the above is not clear or you wish to discuss it or just would like further advice on any of the issues in this Bulletin or indeed support on any other issue or particular employment situation, please do contact me on clivep@cpassociates.co.uk or call me on 01582 755172 or 07970 381592. I always look forward to hearing from you on anything with which I may be able to help.

Clive

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