

## HR EMPLOYMENT BULLETIN April 2026

### 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. Engineer awarded £66k for unfair dismissal after calling boss incompetent

A claimant was labelled 'obstructive' and 'unsupportive' after raising concerns about his Manager's ability to carry out role. The Engineer has been awarded £66,295 at Tribunal after he was dismissed for repeatedly telling his Manager they were incompetent.

Mr E, a Chief Engineer at utility infrastructure Company, Morrison Energy Services, was transferred onto a contract with Cadent Gas alongside Mr I, who was charged with overseeing the work as 'designated individual'. Mr E claimed that Mr I, a health and safety specialist, lacked the necessary engineering qualifications and experience needed to fulfil his role. Mr E believed Mr I was not competent to lead the project and expressed his concerns both to Mr I and more senior members of staff in meetings and over email.

Mr E was later dismissed from his role after Cadent Gas sent a letter requesting his removal from the contract, describing him as “obstructive” and “unsupportive”. The Tribunal determined that Mr E had been dismissed as a result of his protected disclosures about Mr I’s ability to fulfil his role. As a result, it found that he was automatically unfairly dismissed.

Mr E began working at construction company Skanska in 2011. The Company worked on contracts with Morrison Energy Services and Cadent Gas. He was promoted to Chief Engineer in 2018 and was transferred to a new contract between Morrison Energy Services and Cadent Gas, which was due to start on 1 April 2021. Mr I was appointed to the role of ‘designated individual’, meaning he would be leading the project. However, Mr E believed Mr I would not be able to fulfil the role as he was a health and safety specialist, rather than an engineer.

On 12 November 2020, Mr E wrote to the Interim Head of Contract, Mr B, asking how the work under the new contract would be managed. Mr B reassured Mr E that there had been a selection process. On several occasions prior to starting the contract, Mr E told Mr I that he did not think he was competent to take on the role of designated individual.

Mr E was directly managed by Mr I following his transfer from Skanska to Morrison Energy Services to work on the Cadent Gas contract.

In a meeting on 6 April, Mr E again mentioned that Mr I lacked the experience and qualifications for the position and sent him an email setting out his concerns. He included a copy of the Temporary Works Forum’s Guidance on appointing a designated individual, which outlined the required competencies. Mr I thanked Mr E for the guidance and booked himself onto a training course in response.

Two days later, Mr E emailed Mr K, Executive Director at Morrison Energy Services, raising his concerns about the appointment of Mr I and attaching the same guidance. He did not receive a reply.

In the following days, Mr E made the same points twice more to Mr I and emailed Mr B, warning that failure to have a competent designated individual breached construction regulations. On 20 April, Cadent requested that Mr E be removed from the contract. In a letter, it said he had “been found to be obstructive in his behaviours and unsupportive in terms of operations”.

The next day, Mr E was removed from the contract and suspended on full pay. He subsequently challenged the removal and raised a grievance. Morrison Energy Services wrote to Cadent Gas asking it to reconsider and provide in-depth reasons for Mr E’s removal. Cadent responded on 28 June, adding no further detail to the original letter. On 5 July, Mr E’s grievance was dismissed and he later appealed this decision. Following a process to dismiss for ‘some other substantial reason’, Mr E was dismissed on 10 September.

The Tribunal Employment Judge ruled that the removal of Mr E from the Cadent contract was not justified, adding that Morrison Energy Services “could not satisfy itself that Cadent Gas had acted reasonably in requesting removal”. She said the Company should have acted “sooner and more vigorously” to support Mr E and defend his position and also criticised the handling of the SOSR process, stating that Morrison Energy Services “merely went through the motions. In order to be a fair and reasonable process, the respondent would have to be satisfied that the removal was a reasonable request on the basis of the reasons given, before proceeding to consider redeployment or dismissal”.

The Tribunal ultimately found that Mr E was taken through the SOSR process due to his protected disclosures and his claim of automatic unfair dismissal succeeded. Morrison Energy Services was also ordered to pay him Court costs totalling £1,800.

The lesson here is that employers should ensure that they take whistleblowing allegations seriously and take steps to investigate them. In this case there were numerous disclosures found by the Tribunal to be protected disclosures and the employer did not deal with them appropriately. When a client requests the removal of an employee from a contract, businesses should make “reasonable challenges” to that request where appropriate. If considering possible dismissal of an employee on the basis of SOSR, they should make sure there are reasonable grounds for such dismissal and follow a fair process.

## **2. Property manager awarded £400k after 25 years of unused annual leave**

The Watford Tribunal has found a claimant was owed for 827 accrued holiday days after he was unable to take time off because of staff shortages and the Property Manager who was not able to use his full annual leave entitlement for 25 years has been awarded £392,000 at Tribunal.

The Tribunal heard that Mr A, who worked at property management company Sabtina, had multiple annual leave requests rejected because of staff shortages. It had been agreed that he would be paid in lieu of his holiday entitlement when his employment ended. However, when he was later dismissed from the firm, he was not compensated for the 827 holiday days he had accrued.

Mr A joined Sabtina in 1987 as Deputy Managing Director and later became Commercial Manager. At the start of his employment, he was entitled to 30 days’ annual leave. This increased to 45 days in 1996. However, because he and his personal assistant were the only full-time employees, Mr A was responsible for running the company’s day-to-day operations, which prevented him from taking any time off. Between 1988 and 1996, Mr A requested a total of 200 days holiday, all of which were refused.

He eventually requested that he receive payment in lieu of the unused annual leave to which Managing Director Mr Ab agreed. In both 2001 and 2004, Mr A was paid

£15,000 in lieu of holiday, following requests to Mr Ab. After years of making these requests, it was agreed that paperwork did not need to be sent for approval or denial. Instead, Mr A kept records of his holiday entitlement and the unused days would be rolled forward each year. It was agreed that he would either be paid for his holiday when needed or receive a lump sum at the end of his employment.

Mr A told the Tribunal that the respondent does not have a pension scheme for the employees, and both he and his personal assistant were saving the holidays they could not have for when needed or at retirement. By 2024, Mr A was entitled to be compensated for 827 days of annual leave.

On 16 May 2022, a new Board of Directors was appointed. At a meeting on 16 September, Mr A was informed that all his responsibilities would be taken over by a new Managing Director.

Following this, Mr A was ordered to hand over the keys for all properties, had to relinquish his company car and was removed as a signatory from the company accounts. Mr A therefore had no official responsibilities or position at this stage but remained employed.

On 18 March 2024, Mr A was dismissed for “gross misconduct” with immediate effect via an email from Mr Aw, Managing Director. He was not paid for his outstanding holiday entitlement.

Mr A replied to the email, stating he was shocked to have received the email stating that he knew nothing of the allegations made against him and noted that he had not been given any details of the same. He also noted that the employer had not provided him with any right of appeal and that had it been done he would appeal against the dismissal on the grounds as there is no justification whatsoever for the decision. Mr Aw gave the Tribunal reasons for Mr A’s dismissal, including that he had rented out two units to a company that his two sons were directors of without declaring the conflict of interest to the Board.

The Tribunal Employment Judge found that there was an agreement in place with Mr A from the start of his employment that allowed any unused holiday to be carried over into the following year but it was “inconceivable” that Mr A would not have claimed the payments in lieu of holiday on an annual basis if he thought the entitlement would be lost. Had there not been an agreement to roll over his holiday entitlement to be paid at some future stage, it was found that Mr A could very easily have submitted a request for a payment in lieu to the Managing Director, which could have been approved as it had always been done in the past. Furthermore, it was found that Mr A had an accrued holiday entitlement of 827.25 days and was entitled to payment of £391,943. The Tribunal also ruled that Mr A was unfairly dismissed, awarding him a basic award of £14,070 and a compensatory award of £91,490.

The Tribunal Employment Judge stated that the reason for the claimant’s dismissal

was not gross misconduct and found that the reason for the claimant's dismissal was that having been stripped of all his duties which had been allocated elsewhere, the respondent simply wanted to get rid of him. It was also found that Mr A's dismissal was also procedurally unfair, as he was not notified of the charges or evidence against him and did not have an opportunity to represent himself at a disciplinary hearing or appeal the decision.

This case highlighted the substantial risks for employers that allow untaken leave to be accumulated unchecked and it serves as a reminder that failing to actively encourage holiday, keep clear records and communicate any 'use it or lose it' rules can result in very significant liabilities that transpire when employment ends.

Workers have the right to paid holiday, whether that is the statutory minimum or through more generous contractual entitlements. They cannot contract out of this entitlement, irrespective of how senior they are. Employers should have well-documented and publicised processes around how employees request holiday, along with effective monitoring and communication around taking holiday. This is particularly important in the light of the new rules under the Employment Rights Act, which have come into force, requiring employers to keep records of holiday pay compliance..

### **3. Council workers win harassment claim after colleague exposed himself outside of work**

Two claimants have been awarded £11k after being advised to 'get it over with' when informing the Company of a culprit's return to work and the Council has been ordered to pay £11,600 to two female employees after an HR Manager suggested they should "just bump into" a colleague who had committed a sexual offence outside of work and "get it over with".

Two Bridgend County Borough Council employees brought claims after a male colleague exposed himself to them during an encounter outside working hours in June 2023. Despite the incident, and although he later pleaded guilty to outraging public decency and received a non-custodial sentence, he was not dismissed and returned to work in October 2023. A Cardiff Tribunal found that the employee's behaviour did count as sexual harassment, as it was unwanted and violated the claimants' dignity. However, the Tribunal decided the incident took place "outside the course of employment", because of when and where it took place. This meant the claim of sexual harassment failed.

The claimants' complaints of harassment related to sex succeeded and they were each awarded £5,000 for injury to feelings, plus £801 in interest, bringing the total award to £11,602.

On 12 June 2023, the two claimants were driving home together from a non-work event when they reportedly spotted another Council worker, a man in his 40s who had a learning difficulty, urinating against one of their parent's cars. The precise

condition and the colleague's name were not disclosed to the Tribunal. The male employee was accused of approaching the vehicle the claimants were in, while still exposed and talking in an "aggressive manner".

The claimants called 101 to report the behaviour and seek advice when he approached the car again – this time fully clothed. He then proceeded to bang on the car roof and window, before walking away. Both women reported the incident to the police and their employer the following day. The employee later pleaded guilty to outraging public decency relating to the incident involving urination and defecation in public, and to a separate indecent exposure offence from April 2023.

The male employee was not initially suspended. Instead, HR suggested a "management discussion" and advised the claimants to adjust their working patterns to avoid him. However, this was challenged by one of their Managers, who said it was "unacceptable" that the victims were having to alter their work patterns and behaviour because of the male employee's actions. The male employee was suspended on 23 June 2023 and returned to work in October.

HR held meetings with the two victims ahead of the male employee's return to work. During these discussions, interim Principal HR Business Partner, told the claimants that they should "just bump into him and get it over with". She said that her comment had been intended to help reduce the claimants' anxiety about meeting the male colleague, as they would likely see him in the office again. The claimants said the comments were "unwelcome" and did not reflect how serious the incident was. In November 2023, they submitted a formal grievance.

The Tribunal was satisfied that the majority of the alleged acts did happen, despite the fact that the Crown Prosecution Service did not prosecute the male employee for indecent exposure on 12 June 2023. However, because the incident happened outside of work hours and away from the workplace, it determined that the Council could not be held liable and the claimants' complaint of sexual harassment failed. The claimants did succeed in their claim of harassment relating to sex. The Employment Judge said that the Tribunal was satisfied that the Council had "failed to conduct appropriate risk assessments" and should have assessed both the likelihood of further misconduct and the impact on the claimants. The Tribunal found that "female employees are inherently more vulnerable in relation to the commission, or simply the prospect of the commission, of sexual offences". This meant the employer's failures were linked to sex.

The Judge also said that it was a mistake not to interview the claimants before the employee's return to work, adding that the impact on the victims was an important factor when deciding whether an employee was still suitable for their role.

This case demonstrated that the post-incident handling of an incident could amount to harassment related to sex, even if the incident itself is not found to be sexual harassment. It also highlighted the importance of ensuring victims were "heard and supported" and that the "psychological safety, dignity and vulnerability" of victims

should be considered as part of any risk assessment and illustrates the difficulties in managing staff relationships when serious allegations have been made. Employers should handle such situations sensitively and carry out timely risk assessments, involving all parties where appropriate.

#### **4. Finance worker unfairly dismissed after raising racism allegations**

A Tribunal Employment Judge stated in this case was forced to withdraw and apologise for a grievance they lodged about alleged discriminatory treatment by colleague when a finance worker who was told “I hope you’re f\*\*\*ing proud of yourself” by her boss after raising allegations of racism against a colleague was constructively unfairly dismissed.

The Birmingham Tribunal heard that Ms S, who worked as a Financial Planner for AFH Independent Financial Services, raised a grievance about colleague Ms H’s behaviour after a candidate Ms S referred to a role at the Company alleged he had faced discrimination during his interview.

After hearing Ms H was upset about the allegations, the Company’s Chief Executive, Mr H, raised his voice at Ms S in the office. The Employment Judge described this as a “deliberate, offensive, aggressive and retaliatory response” to Ms S’s grievance and “textbook victimisation”. Shortly after the outburst, Ms S resigned from her role. However, she soon changed her mind about leaving the Company as a result of financial pressures and asked for her position back. She was told she would have to withdraw her grievance and apologise in order to return to the Company. The Tribunal ruled therefore that Ms S had been victimised and constructively unfairly dismissed. The remedy will be decided at a future hearing.

Ms S had referred Mr A, the son of a former colleague and recent graduate, for a Trainee Independent Financial Adviser role. He was interviewed by Ms H but he did not get on with her at the interview, stating she was “dismissive of his answers, patronising, rude [and] had an aggressive tone”. The Tribunal heard that Mr A was “taken aback” by the treatment and felt like he was “being discriminated against because of his race”. After hearing of Mr A’s experience, Ms S raised concerns with HR and her Line Manager, Mr H, about the issue. Ms S subsequently submitted a grievance after Mr A’s treatment led her to realise that her previous negative experiences with Ms H may have been because of her race.

On 22 November 2022, HR emailed Ms H a copy of the grievance. The next day, there was a festive meal planned for senior management. Mr H had previously invited Ms H to the meal, even though she was not on the management team. No other employee received this “preferential treatment”, the Tribunal heard.

However, Ms H decided she would not attend the meal, stating that she was “distracted” about the grievance. Mr H persuaded her to attend but told the Tribunal he was angry about the situation and he described the grievance as “vile, abhorrent and false”.

After the phone call, Mr H went over to Ms S's desk and said "I've just had Suzie on the phone; she is in absolute bits. I hope you're f\*\*\*ing proud of yourself." This was said in a raised voice and others in the office could hear him.

Earlier that day, in a conversation with Ms H, Mr H allegedly said he needed to make the grievance "go away" and asked her to obtain a retraction from Ms S who subsequently texted Mr H to inform him that he had "flipped" at her and that she intended to resign. The following day, she submitted a formal resignation, giving one month's notice. However, because of financial pressures as a single mother, she later asked to withdraw her resignation.

On 28 November, Mr Ha met with Ms S at her house and explained, on Mr H's request, that she would only be allowed back into the business if she withdrew her grievance and apologised for it. On 5 December, Ms S withdrew the grievance but felt "humiliated" by the situation. She returned to work a week later.

In June 2023, Ms S submitted a second grievance alleging race discrimination, which was unsuccessful. In the appeal investigation, Mr H stated that he thought the claimant had an "ulterior motive" for making the complaint and was looking for financial benefit. Within 24 hours of receiving the appeal investigation notes and reading Mr H's comments, Ms S tendered her resignation once more. The Tribunal found that this resignation was in response to the cumulative breakdown of trust and confidence.

The Tribunal Employment Judge found that Ms S had been subjected to unlawful victimisation. Mr H believed that Ms S was "essentially 'playing the race card'", without saying those words, because she didn't get her way in recruiting her friend's son into the business. He considered the claimant to have an ego and believed she thought of herself as the best performer." He noted Mr H's favouritism towards Ms H, who had worked for him since she was 16 and stated that "discrimination can be conscious or unconscious, meaning that a person may not be aware that they have a racial bias against others." He also noted that Mr H "stood by his views", which he said was "concerning for any employees who want to raise discrimination concerns in future".

It is clear that how employers reacted to allegations of discrimination is "critical". If the response is retaliatory or motivated by offence, an employer can end up with a victimisation claim on their hands – even if the original allegation turns out to be wrong. In the employment law world, it is a major 'own goal' and one that's entirely avoidable.

Employers need to take allegations on the chin and deal with them calmly and objectively, focusing on the reasons for the conduct complained of – not on being offended.

## **5. Police worker could receive £126k after not being issued noise-cancelling headphones for ADHD**

An Employment Judge has ruled that the following amounted to both a failure to make reasonable adjustments and unlawful harassment under the Equality Act. A police staff worker with ADHD has succeeded in claims of unlawful harassment and failure to make a reasonable adjustment after her force overlooked her request for noise-cancelling headphones.

The Bristol Tribunal heard that Ms V, a victim and Witness Care Officer for the Chief Constable of Avon and Somerset Constabulary, requested the headphones to block out background noise. However, her Manager, Ms C, failed to refer the matter to HR or occupational health and her request was unfulfilled. The Employment Judge ruled that this amounted to a failure to make a reasonable adjustment, even though Ms V owned her own headphones at home. The force was also found liable for unlawful discrimination by harassment after Ms C questioned the legitimacy of Ms V's diagnosis during a video meeting. Ms V is estimated to receive £126,542 in compensation at a later remedy hearing.

Ms V began her employment as a Victim and Witness Care Officer on 25 September 2023. She was employed on a fixed-term contract to cover a colleague's long-term absence. The contract was intended to end on 10 May 2024. In May 2023, Ms V was diagnosed with ADHD by private assessment provider ADHD360. However, she had previously been assessed by her GP, who did not think she had the condition.

At induction, Ms V disclosed her ADHD on a medical form and requested noise-cancelling headphones. She wrote "If they aren't already supplied, noise-cancelling headphones please... I'm neurodivergent, and this would help with background noise." Ms C, the Team Leader, was notified of the request but failed to refer the matter to either HR or occupational health. The Tribunal determined that this issue "fell between the cracks" and the headphones were never issued.

Ms V repeated her request for noise-cancelling headphones following her four-week probation review in October but the headphones remained unissued. In her statement, Ms C said "I know now that I should have done, but didn't think I needed to at the time... and at no point did [Vale] tell me that the absence of noise-cancelling headphones was causing her any difficulty."

On 8 November 2023, Ms V experienced a medical episode at work, which led her to believe she was having a heart attack. During the incident, Ms V told Team Leader Ms W that her ADHD medication was not prescribed by a GP, noting that her "GP had no awareness of what she was taking". Following the episode, Ms S, an ex-nurse colleague, took Ms V to the hospital. On 13 November, a conversation took place between Ms S and Ms V regarding the recent health scare incident, which the Tribunal heard left Ms C concerned. During this discussion, Ms V expressed "doubts" about her ADHD360 diagnosis.

The Tribunal found that in a later Teams meeting on 16 November, Ms C went further by questioning the validity of the diagnosis and suggesting that she may have been “exploited” by ADHD360. This followed the Panorama episode *Private ADHD Clinics Exposed*, which aired on 15 May 2023 and had previously scrutinised the organisation, highlighting concerns that an undercover journalist had received a diagnosis and medication without adequate checks. ADHD360 responded to the *Panorama* documentary, calling it an “inaccurate piece of journalism”. The statement read: “ADHD360 is an NHS service provider and is both proud of its achievements and its patients. ADHD360 sees over 1,000 new patients every month, and many in England choose to access treatment via ‘right to choose’, meaning that they are seen at no personal cost and with the NHS paying for their treatment. ADHD360 also said it follows NICE guidelines and prescribes the same medicines as the NHS.

Ms C and the Regional Manager, Mr S, subsequently concluded that Ms V did not have an ‘official’ diagnosis, despite her claims, and decided that they did not need to take any further action. No referral to occupational health was made. Ms V commenced sickness absence in early December 2023 and formally raised a grievance on 18 December. Her fixed-term contract was not renewed and her employment ended on 10 May 2024.

The Tribunal Employment Judge said the fact that Ms V owned noise-cancelling headphones at home but did not use them at work or inform her manager was “unusual”. However, the employer’s duty to make reasonable adjustments remained and he added that “Self helping... is not sufficient of itself to undermine [Vale’s] case.” The Tribunal found that Ms V was placed at a “substantial disadvantage” because of the lack of an “auxiliary aid” to help her ADHD, which can manifest in “concentration difficulties”. He concluded that the police force should have identified Ms V’s need for the headphones from the initial functional needs assessment form.

Providing Ms V with the noise-cancelling headphones was a reasonable adjustment which [the police force] failed to do and by late November, the force was in breach of its duty and, by the time of Ms V’s grievance, that breach was “evident”. Regarding the harassment claim, the Judge found that Ms C’s comments questioning the diagnosis and suggesting Ms V had been exploited amounted to unlawful harassment. Although Ms C may have intended to support Ms V, the legal test under section 26 of the Equality Act focuses on the effect of the conduct rather than the intention behind it.

The ruling serves as an important reminder to implement workplace support. The issue was that the request was not properly followed through and the key lesson for employers is to make sure that, when someone asks for support, there is a need for a clear investigation, a proper record of what has been agreed and a timely follow-up.

Good intentions were not enough. Well-meaning comments can still create legal risk

if they leave an employee feeling that their diagnosis or treatment is being questioned. While managers are not expected to be medical experts, they do need to listen carefully, respond supportively and involve HR or an occupational health specialist where more information is needed. This case was a reminder that the Equality Act 2010 focuses on the effect of conduct rather than the motive behind it.

Repeatedly challenging a diagnosis, suggesting exploitation by a private provider and deciding to 'carry on as normal' without occupational health input will be found to undermine the employee's dignity and amount to unlawful harassment. The case confirms that employers cannot rely on employees providing their own solutions and the duty to make reasonable adjustments rests squarely with the employer, even where the adjustment appears modest or informal.

## **6. Sexual Harassment Policy**

This is just a reminder of the need for employers to have a Sexual Harassment Policy in place. From 26 October 2024 a new provision in the Equality Act 2010 (being brought in under the Worker Protection (Amendment of Equality Act 2010) Act 2023) requires employers to take anticipatory preventative action to try and stop the sexual harassment of employees and workers in the course of their employment. This legal duty requires employers to take "reasonable steps" to prevent sexual harassment from happening including anticipating when sexual harassment may occur (if possible), all of which is intended to help create a safe working place.

One of the key actions required of employers is to have a comprehensive policy in place which would include such things as a complaint procedure, reporting mechanism and put advise and training in place to remain compliant with current regulations and in particular to cover defining sexual harassment, so outlining the process to follow for reporting incidents and detailing the disciplinary actions that may be taken. If you have any questions on it or wish to discuss any help you may need to create such a policy, please let me know.

## **7. Bereaved partner's paternity leave**

Bereaved partner's paternity leave is a new statutory right which came into force from the 6 April 2026. It allows employees who suddenly become the sole carer for a newborn or newly adopted child after the loss of the primary carer to take time off work with legal protection.

## **8. Health and Safety Manager on Star Wars TV show wins £234k victimisation claim**

An Employment Judge has ruled that a dismissal was 'predetermined' after claimant raised discrimination concerns about being replaced by 'white man'. Ms K oversaw health and safety on production of the Star Wars TV series The Acolyte. As a Health and Safety Manager for a Star Wars TV series he was awarded more than £234,000

after being victimised and wrongfully dismissed following her complaint that she was replaced by a “white man”.

Ms K raised concerns after the production company, Blue Stockings UK, which is owned by Disney subsidiary Lucasfilm, appointed Mr B to oversee her department following a health and safety inspection. She complained about his appointment, stating that she felt “uncomfortable that a white man was coming in above me”. She also claimed she had been discriminated against when Mr B received a pay rise, adding that “a white man received a pay rise and a woman of colour had not”.

Mr B filed a harassment complaint, claiming Ms K used “highly offensive racial language”.

While the Reading Tribunal dismissed her direct sex and race discrimination claim, the Employment Judge concluded that managers “manipulated” Ms K’s genuine complaints to justify dismissal. He deemed the dismissal was a “draconian penalty” and found it had been “predetermined”, stating that a fair assessment of her words did not justify such a severe outcome. Ms K’s claims for wrongful dismissal and victimisation succeeded. In a Remedy Hearing, she was awarded £234,113, including £1,268 for wrongful dismissal and £15,000 for injury to feelings. Ms K’s other claims of harassment related to sex, unfair dismissal because of protected interest disclosure, detriments arising from protected disclosure and equal pay were dismissed.

Ms K began her employment as a Production Safety Co-ordinator with Blue Stockings UK on 20 June 2022 and she was dismissed with immediate effect on 28 November 2022.

The production Company was established to produce The Acolyte, a Star Wars spin-off filmed at Shinfield Studios in Berkshire under the codename ‘Paradox’. In her evidence, Ms K claimed she had been given the role of Head of Health and Safety on the production. However, the Tribunal noted this was the subject of “controversy” as the usual Head of Department within the film industry would be the health and safety adviser.

On 1 August 2022, Ms K was given the title of Health and Safety Department Manager and this was said to add to confusion among the producers and the safety team regarding her responsibilities. Following an inspection by the Health and Safety Executive, the Health and Safety Department was issued with two improvement notices and one prohibition notice. Producers concluded the department structure was “wrong” and decided to hire Mr B, who was an experienced health and safety adviser within the film and television industry.

The Tribunal found this decision was made to address a “dysfunctional” department and was not, in itself, discriminatory or intended to disadvantage Ms K. However, Ms K viewed this as an unfair demotion.

On 12 October, Ms K spoke with Mr B to clarify his role and claimed that Disney had

told her they would work “side by side”, but Mr B confirmed that he was the Head of Department. Ms K said she felt “unfairly penalised” and described the decision as “racist”. She claimed that it was “uncomfortable” to be replaced by a “white man” and that she had engaged in “a few battles with white guys before”.

A week later, Mr B made a formal complaint, alleging that Ms K had used “highly offensive racial language”. Ms K denied using offensive language but said she felt “uncomfortable that a white man was coming in above me”.

On 24 November, a Disciplinary Hearing found Ms K guilty of gross misconduct for comments deemed “inappropriate and discriminatory”, and she was dismissed with immediate effect. She appealed against the decision but it was upheld.

The Employment Judge concluded that Ms K was dismissed because she complained about Mr B’s appointment and “that she expressed this as discriminatory on the grounds of her sex and race, by referring to him as a “white man” brought in above her”. Ms K’s comments were not deemed to amount to harassment, as she was complaining about being replaced by “a white man” and “that person happened to be Mr B”. The Tribunal also found her conduct did not breach Disney’s policy and did not justify summary dismissal.

The case showed how victimisation claims can still succeed, even where discrimination or harassment allegations are ultimately unfounded. The test Tribunals rely on is whether the claim is made in good faith. This decision is a reminder of the importance of investigating complaints and, if necessary, pausing any disciplinary process, before taking action. While employers should take active steps to prevent harassment, employees should not be penalised for raising allegations of discrimination or harassment in good faith.

Even when an employee’s language is challenging or emotive, raising a concern about discrimination is a protected act and this ruling underlines the importance of training managers on equality, diversity and handling sensitive conversations.

## **9. Why your HR policies may no longer be fit for purpose**

With seismic employment law changes here or coming the need for an urgent review of your documentation may be appropriate. For many businesses, HR policies sit in a dusty folder, are rarely read and are only pulled out when something has already gone wrong. But everything is about to change. Organisations are seeing a perfect storm, legislative change, Tribunal risk, workforce expectations and outdated documentation colliding head on. With the result that policies may no longer be fit for purpose and, in some cases, actively increasing legal risk!

The direction of change in UK employment law is clear. Enhanced day-one rights, stronger protections around flexible working, family leave and sickness absence, and longer Tribunal time limits are no longer theoretical – they are shaping how disputes are argued right now. Yet many employers are still relying on policies drafted pre-

pandemic, pre-hybrid working and before the current wave of employment litigation – and that mismatch is proving costly. One of the most common things we hear from businesses is ‘We followed our policy – so we’re fine, aren’t we?’ Unfortunately, this is not necessarily correct and can no longer be used as defence.

Problems arise where policies are internally inconsistent, silent on modern working practices, out of step with how managers actually operate or legally inaccurate and overly generic. In one recent disciplinary case, the employer followed its written procedure to the letter. Unfortunately, that procedure itself was flawed. The investigation process was unclear, the right of appeal was poorly defined and the policy wording created expectations the business could not meet. The result was a settlement that could have been avoided with a clearer, updated policy. In another case, a sickness absence policy failed to address long-term health conditions and reasonable adjustments. What started as ‘routine absence management’ quickly escalated into a disability discrimination claim, illustrating that policies do not just guide behaviour – they shape legal risk.

The reality is that policies are not just for HR. They are used (often imperfectly) by line managers dealing with live issues such as performance concerns, grievances, conduct problems, flexible working requests and wellbeing conversations. If the policies are too long, too vague or completely divorced from day-to-day reality, managers will either ignore them or apply them inconsistently. Both scenarios increase exposure. The best policies are clear, concise and practical, aligned with how the business actually operates, supported by training and guidance, and updated regularly, not reactively.

Another significant shift is employee awareness. Staff are better informed about their rights, more willing to raise grievances and less hesitant about pursuing claims when processes feel unfair. I am seeing an increase in grievances that focus not just on outcomes, but on process including how decisions were made, whether policies were followed and whether discretion was applied consistently. Put simply, outdated policies are easy targets.

The most effective HR policy rewrites are not just cosmetic. They involve stepping back and asking what risks the business actually faces, where disputes usually arise, how managers really behave under pressure and what culture the business wants to reinforce. This is the right moment to treat HR documentation as a strategic asset, not an administrative afterthought. With longer Tribunal time limits and greater scrutiny of employer decision making, the margin for error is shrinking. A poorly drafted policy can now come back to haunt an organisation for many months, or even years, later. In contrast, a well-structured, legally robust and practical policy framework can prevent disputes before they start and significantly strengthen an employer’s position when things do go wrong.

So, if your HR policies have not been reviewed in the last two years, they are almost certainly out of date. If they were downloaded from the internet and never tailored, they may already be a liability. With the Employment Rights Act already in force, and

further reforms scheduled for later this year and 2027, many employers will soon be forced to confront that reality. The smart ones will act now and if you need any assistance with this review just let me know.

#### **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](mailto: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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**CP Associates**

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