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eNewsletter

Welcome to our May & June 2025 eNewsletter!

In this edition, we provide details of our new Customer Service Excellence Programme, an article on Tailored Learning: Seeing Beyond The Tick Box, and how Coaching can be used to empower individuals to thrive.

We also provide various tribunal summaries covering unfair dismissal, discrimination and breach of contract, discrimination and failure to make reasonable adjustments, unfair dismissal due to a flawed sexual harassment investigation, that voodooism is a protected 'religious belief', constructive dismissal due to victimisation, unfavourable treatment and maternity and pregnancy discrimination, and that an apprentice who threatened colleagues was fairly dismissed.

We hope you find our eNewsletter of interest.

Please feel free to forward this to other colleagues.

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TEACHER UNFAIRLY DISMISSED IN 'REVENGE' BY HEAD AWARDED £370K AT TRIBUNAL

Panel finds headteacher's actions towards claimant were 'tainted by personal animosity' and arose because of her role as trade union rep.

A primary school teacher and union representative who was dismissed in "revenge" after she challenged plans to change classroom observation protocols has won more than £370,000 at tribunal.

The Manchester tribunal heard that, following Carmen Wood-Hope's dismissal, Michael Earnshaw, headteacher of The Friars Primary School in Salford, described her as "not at all suitable" for teaching in references when she applied for new positions, and implied there was a "safeguarding issue" to one recruitment agency.

The panel found the claimant was automatically unfairly dismissed for trade union reasons, stating that Earnshaw's actions were "tainted by a personal animosity towards the claimant that arose because the claimant had challenged him in her capacity as the trade union representative of the staff".

They considered Earnshaw was "intent on extracting revenge" and his "apparent need to control the processes of grievance and dismissal were motivated by the fact that he wanted rid of the claimant".

The tribunal further concluded that Wood-Hope suffered detriment on grounds of trade union activities, as well as suffering unlawful disability discrimination. She was awarded a total of £370,563.53 in compensation.

Background

Wood-Hope began working as a teacher at The Friars Primary School in February 2014. In 2017, she became the National Education Union (NEU) workplace representative for teaching staff members at the school.

In September 2018, Earnshaw announced in a staff meeting that classroom observations would take place through unannounced drop-ins, overriding the existing protocol that had been collectively negotiated. A number of trade union members raised concerns about this with the claimant following the meeting.

The next day, a senior leadership team meeting was held, at which Wood-Hope brought up the issue. However, Earnshaw held firm on the decision, arguing that it was his to make.

In a meeting the following day, Earnshaw said he was giving Wood-Hope an 'informal warning' about her conduct at the meeting. The tribunal found this was a response to the claimant carrying out her trade union role, and noted that no procedure was followed in giving the disciplinary sanction.

Wood-Hope was signed off sick for two days on 27 September after experiencing a panic attack. The same day, the NEU sent Earnshaw a letter that claimed his actions fell outside of the Salford Performance Management and Classroom Observation Protocol, which had been agreed with the governors of the school and could be viewed as an attempt to deter trade union activity.

On 3 October, the school's NEU members held a meeting, voting against the plans to change the classroom observation protocol. The NEU regional officer met with Earnshaw following the meeting to explain the protocol and the need to negotiate any changes, but he remained unwilling to compromise on the decision. This led to a ballot for strike action.

On 19 November, Earnshaw agreed to conduct week-long observation periods and give staff five days notice beforehand.

At a senior leadership meeting in March 2019, Wood-Hope suggested that year two and three classes working in an open-plan area should take lunch at different times to limit noise. Following the meeting, a colleague who was not at the meeting accused her of complaining about their class's noise to the leadership team.

Wood-Hope therefore complained that there had been a breach of confidentiality to Earnshaw. After discussing the issue with two teachers who worked in the open-plan area, he told the claimant her colleagues had raised several issues about her that would have to be investigated – but gave no further details. The tribunal found that Earnshaw in effect "turned the matter into a formal investigation into the claimant's conduct".

Wood-Hope then experienced a panic attack and was sent to A&E. She was off sick with work-related stress from 18 March to 17 June 2019.

The claimant attended a 'management of absence' meeting with Earnshaw on 30 April, in which he informed her he was concerned about the level of absences. Another meeting took place on 24 May, when Earnshaw told Wood-Hope that when she came back to work she would be undertaking 'PPA cover', meaning supply teaching, for the rest of the school year, rather than teaching her year three class.

However, in September, Earnshaw decided Wood-Hope would remain on PPA duties throughout the autumn term. In October, Earnshaw conducted the claimant's appraisal, recording: "There were acknowledged concerns during the autumn term of 2018 with some elements of teaching." The tribunal found there was no evidence of these concerns and Earnshaw was unable to explain in evidence what this referred to. The tribunal said this was a "very serious inaccuracy".

On 4 November, Wood-Hope was informed by a colleague that her classroom observation took place without any prior notice and that she had received harsh feedback. She then informed Earnshaw that he needed to follow the agreed protocol, following which he "became very angry and only reluctantly agreed to do so", suggesting he had given verbal notice and that was sufficient. He eventually agreed to redo the observations.

On 7 November, Earnshaw called Wood-Hope into a meeting, refusing to allow her to be accompanied. He told her a support plan would be put in place, and the claimant said this was a matter that needed to be discussed with HR first. The tribunal understood the plan to be a form of performance management, for which it could see "no justification".

The tribunal considered the evidence compiled by Adam Curtis, deputy head teacher, in preparation for a support plan meeting was “selective and deliberately constructed to be critical” of the claimant, adding that when the totality of the documents, consisting of lesson observations and feedback, were examined, “the recorded strengths far outweighed the developmental points”.

The tribunal found the support plan itself was “threadbare” on real support for the claimant and did not outline how the school would offer any professional development, training, coaching or counselling by expert teachers. It would last for nine weeks, during which Wood-Hope would have to show improvement through weekly lesson observations, book looks and ‘pupil voice’ feedback, which would be undertaken by Earnshaw. If there was no improvement, the matter would proceed to capability. Wood-Hope refused to sign the support plan.

On 18 November, she was signed off sick with work-related stress, and never returned to work for the respondent.

Wood-Hope submitted a grievance on 2 December about Earnshaw’s actions towards her and the support plan, writing that she perceived the misuse of the capability procedure to be a means of controlling her as the NEU representative. It was not upheld, with Paul Scott, deputy chair of the governors, deciding he could not ask Earnshaw to remove the support plan because “this is his management decision to put in place”.

A further two grievances submitted by the claimant were also unsuccessful. The tribunal found that the governors who conducted the grievance hearings had been provided with Curtis’s selective list of ‘evidence’ and briefed on a particular view of the claimant, which they “adopted and repeated, but did not substantiate”.

On 8 December 2020, an attendance management hearing was held. Earnshaw created a report into the history of Wood-Hope’s absence, which the tribunal found contained a number of inaccuracies. It considered the report to be “unbalanced, inaccurate and self serving, designed to ensure the claimant’s dismissal”.

On 10 December, the claimant was dismissed as a result of “excessive absence for sickness”. Her appeal of the decision was unsuccessful.

On 16 December, Jill Baker, a teacher, was told by Earnshaw not to give the claimant a reference for any future employment. Wood-Hope subsequently applied to teaching agencies for supply work but received a rejection because of a problem with her reference.

In the reference, Earnshaw wrote that she was “not at all suitable” for teaching, without giving any reasons for this. In response to an enquiry about Wood-Hope’s suitability for working with children, he answered negatively. The claimant was subsequently contacted by another recruitment agency saying her application could not be progressed because Earnshaw suggested there might be a “safeguarding issue”.

Wood-Hope began working at another primary school in Salford on 5 May 2021, with the supply booking expected to last until the end of the summer term. However, the next day the claimant noticed the headteacher seemed to be deliberately ignoring her and she was later told the school had decided not to continue the booking. The claimant understood that this decision followed a telephone conversation with Earnshaw.

However, a few days later Wood-Hope began working at a different school and began to gather more positive feedback.

Panel's comments

The panel said that it was "unreasonable" for the school to have put the claimant on a support plan, stating: "There was no fair evidence to justify a support plan that the tribunal considered was contrived at the behest of the headteacher and with his considerable direction and involvement in selecting the 'evidence' used."

They added that Earnshaw's actions were "largely unexplained" under cross-examination and "tainted by a personal animosity towards the claimant that the tribunal considered to have arisen because the claimant had challenged him in her capacity as the trade union representative of the staff".

"It had been right for the claimant to do so on behalf of concerned trade union members at the school, as Earnshaw sought to adopt a dictatorial attitude and ride roughshod over collectively negotiated and longstanding policies and procedure," the panel continued.

"He did not like the fact that the recognised trade union, the NEU, was preventing him from exercising free reign and that the union required him to negotiate with staff and follow protocol.

"In response to challenges, Mr Earnshaw adopted an approach of threatening the claimant with unsubstantiated allegations of misconduct or performance."

The panel concluded that the claimant was automatically unfairly dismissed for trade union reasons, considering that Earnshaw was "intent on extracting revenge" and his "apparent need to control the processes of grievance and dismissal were motivated by the fact that he wanted rid of the claimant".

"Further, having secured her dismissal, he continued to pursue the claimant's demise by supplying damaging and unsubstantiated references that had the potential to prevent her from working elsewhere or at all," they added.

Additionally, the tribunal found the claimant suffered detriment on the grounds of trade union membership/activities and experienced disability discrimination.

Lawyers' comments

Philip Richardson, partner and head of employment law at Stephensons, told People Management that because the claimant's health was impacted by the respondent's actions, she was awarded a "significant amount" in compensation for injury to feelings and personal injury.

"Furthermore, the headteacher's actions in failing to attend the remedy hearing without explanation in advance, showing no remorse and a lack of insight, and continuing to behave in a highhanded manner, resulted in a further award of aggravated damages of £10,000," Richardson added.

He advised employers to "ensure that they always act objectively and fairly to all employees and ensure that all staff and managers are accountable for their actions, no matter how senior in the organisation or business", adding: "Ultimately, they can be held responsible for that individual's actions."

Thanks to Isabel Jackson and People Management for the tribunal summary.

NEW SERVICE LAUNCH
CUSTOMER SERVICE EXCELLENCE PROGRAMME

We're excited to introduce our NEW
Customer Service Excellence Programme
- a flexible, four-part development journey designed to assess, strengthen, and embed customer service standards that align with your organisation's values, behaviours, and strategic goals. Whether you're ready to embark on a full transformation or want to focus on priority areas, this programme is adaptable to your time, budget, and objectives.

🔹 Part One – Customer Service Excellence Assessment

"Temperature Check" of Current Standards

- A comprehensive audit of existing customer service practices
- Employee and customer feedback analysis to identify strengths and gaps
- A detailed report with key insights and actionable recommendations

Outcome: A clear understanding of where your service stands today and what is needed to enhance it.

🔹 Part Two – Defining & Developing Your Customer Service Excellence Workshop

Building a Bespoke Service Framework

- Define what exceptional service looks like for your organisation
- Develop service principles aligned with your values and goals
- Customise content for engaging, relevant team training

Outcome: A tailored framework that reflects your brand and organisational culture.

🔹 Part Three – Your Customer Service Excellence Training

Interactive & Practical Learning

- Engaging, high-impact training using real-world scenarios
- Equip staff with the mindset, skills, and techniques to excel
- Improve communication, problem-solving, and customer engagement

Outcome: A skilled, confident workforce delivering consistent, high-quality service.

🔹 Part Four – Review of Your Customer Service Excellence

Measuring & Embedding Long-Term Impact

- Assess training impact using feedback, performance data, and follow-ups
- Offer coaching, refresher sessions, or action planning
- Support lasting improvements and a culture of excellence

Outcome: Measurable results and a sustainable approach to outstanding customer service.

Want to know more?

Contact Natalie Cellamare, People & Culture Development Consultant to discuss how we can tailor the programme bespoke to meet your needs.

WORKER WHO RESIGNED AFTER BEING REPLACED WHILE OFF SICK WITH BREAST CANCER WINS £1.2M

Judge rules appointing replacement while executive was unwell caused significant emotional distress, after claimant discovered the news on LinkedIn.

A senior executive has secured more than £1.2m in damages after her employer reassigned her role while she was on sick leave to undergo breast cancer treatment.

The east London tribunal heard that Andrea Wainwright, Head of Installations at Cennox, felt "traumatised and broken" after discovering on LinkedIn that a colleague had taken her position just three months into her absence from the banking services firm.

Upon recovering enough to return, she filed a formal grievance regarding her treatment before ultimately choosing to resign. Five years on, she prevailed in her case for unfair dismissal and disability discrimination.

Wainwright said the job loss after her diagnosis "destroyed" her, and that she pursued the case out of "principle". She has since been granted a payout of £1,224,861 in total damages.

Background

Wainwright began working as Head of Installations at ATM provider Cennox in January 2018 after it acquired her former employer. That August, she was diagnosed with stage 3 breast cancer. Wainwright notified management and began chemotherapy treatment just four days after starting her medical leave.

At the hearing in east London, it was revealed that senior staff member Shelley Cawthorne temporarily filled her position.

By late October, Cawthorne informed Wainwright's manager, Stephen Garrod, that she had received a job offer from a rival company. The tribunal heard that, to prevent the loss, Garrod gave Cawthorne a permanent Head of Installations role, with intentions to divide responsibilities upon Wainwright's return.

Cawthorne officially began in the position on 1 November 2018, after which an updated organisational chart was circulated.

However, Wainwright was excluded from this communication and her name did not appear in the chart. Three weeks later, she came across a LinkedIn post congratulating Cawthorne on the Head of Installations role at Cennox, which left her "understandably concerned", the tribunal heard.

She contacted HR director Jennifer Spencer-Lee to seek clarity on the situation and to find out how it might affect her reinstatement. Spencer-Lee responded that it was "not expected" to impact her position, stating that Cawthorne was heading the team "for now".

The tribunal determined the message was deceptive, as it implied that Cawthorne's appointment was only temporary. "The claimant believed she had been lied to. The claimant therefore knew at the time of her resignation that she had indeed been lied to," the tribunal concluded.

In a June 2019 return to work meeting, Garrod and Spencer-Lee informed Wainwright that the position would be divided between her and Cawthorne.

The tribunal was told she strongly opposed the arrangement and believed the decision amounted to a demotion linked to her illness. In her grievance and resignation letter, she described the offer as a "regulatory non-compliant" role and wrote: "I was assured that my role was unchanged but when I returned to work I did not return to my existing role. I was demoted and several key responsibilities were taken away from me."

Just two days after returning to work in late July, she submitted an 11-page complaint – five pages of which outlined her perspective on her responsibilities and performance in the role, in which she accused Garrod and Spencer-Lee of dishonesty.

Wainwright's grievance was dismissed, but in late August she learned that she had been misled when Cawthorne confirmed her position was permanent – not interim, as her boss had stated.

Her grievance appeal was delayed because of investigator illness, and this led Wainwright to hand in her resignation on 27 September.

In her resignation letter she wrote: "I am very unhappy about the way I have been treated and set out some of the more serious matters. I was assured that my role was unchanged but when I returned to work I did not return to my existing role. I was demoted and several key responsibilities were taken away from me."

The tribunal concluded that she had been deceived regarding her job status and subjected to discriminatory treatment. It found that "being lied to, even if it was in a clumsy and well-meaning way, is likely to damage the implied term of trust and confidence" and that Wainwright's experience met the threshold of "a repudiatory breach of contract".

Judge's comments

Employment judge Catrin Lewis said Wainwright "felt traumatised and broken as a result of discovering that she had indeed been lied to, which was found to have been an act of discrimination". The judge added: "At that time she had been through cancer treatment and was recovering, although she was on continuing medication in respect of the chances of recurrence. She had been well enough to return to work and had been described as a fighter."

The tribunal noted that the emotional impact on Wainwright was so severe that she was diagnosed with "severe depression and anxiety" and "was described as being at risk of suicide on at least two occasions". It added that despite three rounds of therapy and ongoing medication, "the claimant has not yet recovered to the level that she was at before the acts of discrimination".

She received a total award of £1,224,861.94, which includes a previously disclosed £40,000 for emotional distress. The package also includes nearly £400,000 in lost earnings, £300,000 for future losses and £130,000 in interest.

Thanks to Islam Soliman and People Management for the tribunal summary.

TAILORED LEARNING: SEEING BEYOND THE TICK BOX

Throughout my career, I've worked with organisations of all sizes, across various industries and jurisdictions, delivering learning solutions tailored to their needs and budgets. This journey has provided me with a unique perspective on how organisations approach learning and development — particularly in the way they balance culture, time, retention, resources, and finances.

🚨 Reactive vs. Proactive

Too often, I've been brought in after an incident — the classic "closing the stable door after the horse has bolted" situation. While intentions may be good, it's frustrating to see learning used as damage control rather than a strategy for growth. We should be aiming for good practice every time. Yes, things go wrong — that's life — but having preventative learning and resources in place should be a source of confidence and care for both the organisation and its people.

It's disheartening when employees are left unsupported — missing the right tools, guidance, or learning structure. The result? Frustration, disengagement, and ultimately, lost talent.

🎯 Understanding Employees: One Size Doesn't Fit All

With five generations now in the workforce — combined with neurodiversity, evolving skill sets, advancing technology, and a focus on work-life balance — "one-size-fits-all" learning no longer cuts it. Ask yourself:

- Does your leadership team know how to support employees with learning differences?
- Can your younger team members confidently handle difficult customer conversations by phone?
- Do some of your longer-serving employees need support with new tech or digital systems?

And most importantly: How do you know? Without understanding the diverse needs of your workforce, learning becomes a box-ticking exercise rather than a meaningful tool for engagement and performance.

🔄 Change Isn't a One-Off

I often hear: "We need some change training as there are changes happening next month."
Good — that's proactive thinking. But let's not forget: change is constant. One-off training sessions won't build resilience or trust. Employees need transparency, consistent communication, and behaviour from leadership that matches the message. "Walk the Talk" is not just a phrase — it's the foundation of trust and loyalty.

✅ What Needs Your Attention — Right Now?

Sometimes, the biggest issues are the ones right in front of us — underperformance, disengagement, or high turnover. Don't delay. Act. Provide the right support. Equip your employees to succeed in their roles, develop professionally, and contribute to your organisation's goals.

The right, bespoke learning and development strategy can improve performance, boost retention, and offer real return on investment. Let's talk about what your organisation really needs — not just what sounds good on paper. Contact Natalie to discuss your development needs.

PART-TIME FACILITIES WORKER MADE REDUNDANT OVER VIDEO CALL ON DAY OFF WINS £24K AT TRIBUNAL

Panel upholds claims of discrimination and failure to make reasonable adjustments, finding claimant was 'blindsided' and left in 'state of despair'.

A part-time employee in the facilities department at Dermalogica UK who was made redundant over a video call on one of her non-working days has been awarded £24,000 at a tribunal.

The Croydon tribunal heard that Joanne Neill, who experienced severe depressive disorder, anxiety and panic attacks, was sent a Microsoft Teams invite for a meeting titled 'Catch Up' the evening before it was due to take place.

After being informed that she was to be made redundant, Neill – who was alone at home – was left in shock. Isolated from her colleagues, this "significantly worsened her already fragile mental health and plunged her into a state of despair", the tribunal found.

"The short notice period she was given of the meeting and the misleading title of the invite meant she was unprepared and blindsided," said employment judge Ord.

Neill's complaints of indirect sex discrimination, part-time worker discrimination and failure to make reasonable adjustments succeeded and she was awarded £24,042.08 in compensation.

Background
Neill began working in Dermalogica UK's facilities department in 1995. She worked two days a week, while the rest of her team worked full time.

In January 2022 she began struggling with day-to-day tasks because of mental illness, and she informed Ian White, facilities manager and her line manager.

Neill's mental health continued to decline over the next few months – she experienced severe depressive disorder, anxiety and panic attacks. She was unable to get out of bed, eat or sleep properly, keep on top of housework or support her children, and had regular emotional and tearful outbursts. Neill also had a reduced ability to concentrate or focus and began counselling sessions to help manage these symptoms.

On 26 May, White emailed Sarah Beardsworth, Head of HR, letting her know that Neill was struggling to attend work because of her mental health issues and asking for advice. In response, Beardsworth said: "I appreciate you want to support her by noting it all down but at some point you need to manage it in line with company policy, just as we would with anyone else struggling with their mental health."

White replied: “Certainly don’t want her exploiting any time off and when she was in on Monday she just couldn’t focus on anything.”

Beardsworth responded: “Nothing else we can really do; by the sounds of it she is doing the right thing by getting help and I sent her all the details back in Jan on how to get help through our healthcare, which she can also utilise.”

Dermologica UK took no further action to help Neill with her mental health issues. The tribunal heard that the claimant began to feel suicidal and, on 3 June 2022, she stood on a bridge overlooking the A3 and contemplated ending her life.

The following day, Neill saw a GP, who said in a letter that she was extremely unwell with acute anxiety and was staying with her sister as it was unsafe for her to be on her own.

Neill texted White on 15 June asking if she could work from home as she was struggling in the mornings, to which he replied he had been put under pressure from HR and Kerry Nicholson-Melvill, location and expansion project manager and White’s line manager, for the claimant to be seen in the office. He therefore told her he was not able to offer this “reasonable adjustment”.

On 22 June, Neill’s GP reported that the medication she had been prescribed had helped and she had turned a corner after her panic attacks and anxiety.

On 11 July, White texted Neill asking whether she could go back to working full days in the office. In response, she asked if she could work from home in the mornings, but White again refused.

While Neill’s medical records stated that her medication was helping with her mental ill health, her colleague, Beth Fanning, told the tribunal she had seen the claimant break down and cry on a number of occasions in front of the team during an office refurbishment from September to November 2022. She believed Neill was still struggling with her mental health.

Similarly, White gave evidence to the tribunal that Neill was visibly upset and was overwhelmed by her workload during this time, as she was under significant stress.

While Beardsworth and Nicholson-Melvill both stated in evidence to the tribunal that they were unaware of the claimant’s mental health conditions, the panel found this was not the case.

Around November 2022, Mark Hermann, the general manager, told Nicholson-Melvill that the facilities department needed to lose 0.5 headcount. She informed White of this conversation. Both told the tribunal that Hermann was responsible for identifying Neill for redundancy, adding that her name had previously come up in senior leadership discussions.

As neither Nicholson-Melvill nor White had experience in redundancy matters, they asked for support from HR in dealing with the situation and met with Beardsworth on 10 November. White asked her to be present when they informed the claimant of the decision, to which she said: “There’s no need for me or HR to be involved in this meeting.”

White told the tribunal he felt uncomfortable making the claimant redundant because of the length of time she had been working for the company and the fact she had just completed a large head office refurbishment to a very high standard.

Beardsworth told them to keep the meeting short, with investigation meeting notes suggesting it lasted between 10 and 15 minutes. White said HR made no mention of consultation and there was no scoring process.

White and Nicholson-Melvill prepared a draft statement for the meeting with Neill, which they sent to Beardsworth to check over. They planned to state: "Within the facilities team the global directive is to reduce our headcount by 0.5, and so it is with regret we share that your role has been selected for redundancy."

Beardsworth replied that day, saying: "Yeh all good with me! Nice and clear!"

A Microsoft Teams invite for a meeting on 17 November, which was titled 'Catch Up', was sent to Neill late in the evening the day before, after she had been working in the office all day. The meeting was scheduled for one of the claimant's non-working days.

Neill thought it was strange the meeting had not been mentioned to her the day before. She texted White to ask what it was about, but did not get an answer.

She attended the meeting, with the claimant's recollection being that White told her: "No easy way to say this, global directive to reduce headcount, our department has been selected for half a head and unfortunately that is you." **There was no mention of any redundancy consultation.**

The tribunal noted there was no prior warning and Neill had no opportunity to question the decision. She was left in shock and was alone at home, isolated from her colleagues. The tribunal heard this "significantly worsened her already fragile mental health and plunged her into a state of despair".

On 6 December, Neill raised a formal grievance with Beardsworth regarding part-time and disability discrimination. The next day, she was informed the redundancy consultation was on hold while the grievance was investigated.

The grievance was partly upheld – it was stated in the outcome letter that Neill had been unfairly selected for redundancy because of her part-time status.

Neill's redundancy was paused and another process was started some time later. Before it concluded, another employee left the department and, as a result, Neill was not ultimately made redundant.

Panel's comments

The panel found that the respondent failed to make reasonable adjustments, including having the meeting on a working day in the office and giving more notice of the meeting and verbal context in advance, as well as providing Neill with the opportunity to be accompanied and following proper redundancy procedure.

"The short notice period she was given of the meeting and the misleading title of the invite 'Catch Up', meant she was unprepared and blindsided," said employment judge Ord.

"The announcement encroached into her own time, which ought to have been recovery time away from work, but instead plunged her into a state of shock and despair, significantly setting back her state of mental health," the judge explained. "Conducting the meeting via Teams exacerbated the situation as it meant there was no support from colleagues and no opportunity to ask HR questions.

"She was isolated and left reeling from the ordeal, feeling discriminated against and having to cope on her own at home.

"For these reasons we find that the claimant was put at a substantial disadvantage compared to someone without her mental health issues."

Additionally, the panel found that Neill experienced indirect sex discrimination, explaining that the wording - reduce our headcount by 0.5, and so your role has been selected for redundancy", demonstrated the claimant's role was selected because it was part time.

"Only the claimant's name was identified as she fulfilled the half a head requirement," the panel said. "We take judicial notice of the fact that, in general, more women work part time than men. Consequently, this PCP (provision, criterion or practice) would put women at greater risk of redundancy than men."

Neill's claim for part-time worker discrimination also succeeded.

Lawyers' comments

"It is important that a full and fair procedure is carried out when selecting a long-serving employee's role for redundancy," Jainika Patel, senior associate at Freeths, told People Management. "When that employee suffers from a mental health-related disability and is a part-time worker, employers will more than likely need to consider additional factors when undertaking a redundancy exercise."

Patel said that, in this case, the claimant was selected for redundancy because of her part-time status and her poor mental health was impacted by the manner in which the redundancy process was carried out.

She advised that, in light of this case, employers should consider whether they can justify the need to only select a part-time worker for redundancy, ensure they hold any redundancy consultation meeting on an employee's working day and in their usual place of work, and give the employee adequate notice of the meeting.

Following a proper procedure in terms of consultation and discussion of alternatives to redundancy if applicable, as well as "providing some context in advance so as to minimise the risk of them being blindsided and completely unprepared" are also important steps for employers to take, added Patel.

Ross Spiller, solicitor at Mayo Wynne Baxter, said: "The case is a useful reminder for HR practitioners that the way in which a meeting regarding a prospective redundancy is conducted can be as important as the content of the meeting itself."

He added that "HR directors must give particular care where they are aware that the employee concerned suffers from mental health difficulties, as was the case here".

"Had the employee been given prior warning of the purpose of the meeting, and had it been held in the office where she could seek support from her colleagues afterwards, it may be that the impact upon her condition would not have been so severe," Spiller explained.

"HR directors should also ensure they provide staff conducting such meetings with sufficient training and support from HR on how to handle redundancy processes and conduct these meetings, particularly if it is requested. Despite support being requested in this case, it was not provided."

Thanks to Isabel Jackson and People Management for the tribunal summary.

ARE YOU USING COACHING TO EMPOWER INDIVIDUALS TO THRIVE?

Why Coaching?

Everyone has experienced coaching in some form — whether from a parent, teacher, friend, or manager — who guided you through a challenge and helped you discover the right solutions for yourself. Despite its transformative potential, many people still misunderstand coaching or overlook its capacity for **personal and professional growth.**

Life is filled with transitions, and each individual's resilience shapes how they respond to change. Our thoughts and feelings drive our physical and emotional reactions, sometimes prompting us to reflect and question our direction. At other times, we need external support to gain clarity and move forward confidently.

Coaching provides that support—a **personalised, impactful process** designed to **empower individuals to thrive**. However, coaching is more than just support; it encourages **accountability and commitment**. A coach will not tell you what to do or provide solutions — that's up to you.

Key Elements of Coaching:

- **Goal-Oriented:** Helps individuals clarify their objectives and chart a path to achieve them.
- **Client-Centred:** Empowers individuals to find their own answers rather than offering direct advice.
- **Solution-Focused:** Emphasises actionable steps and practical outcomes instead of dwelling on past issues.
- **Confidential & Supportive:** Establishes a safe, trusted space for exploration and growth.

Why SmartHR?

At SmartHR, we value the coaching process and have witnessed individuals grow, develop, and thrive throughout their careers. We are passionate about people and offer an affordable, flexible coaching service with professionally qualified consultants.

Benefits of Coaching:

- **Boosts confidence and motivation**
- **Develops leadership and problem-solving skills**
- **Enhances communication and interpersonal relationships**
- **Improves time management and productivity**
- **Helps overcome challenges and achieve goals**

Coaching is beneficial at all career levels — whether you're a leader seeking better management skills, an employee navigating challenges, or a professional striving for growth and success.

Contact Natalie to find out how you can use coaching to empower your team to thrive.

WILLIAM HILL EXECUTIVE WINS £70K FOR UNFAIR DISMISSAL AFTER FLAWED SEXUAL HARASSMENT PROBE

Judge says company's decision was based on 'brief' witness statements and there were 'very limited grounds' to sustain the misconduct finding.

A former executive at William Hill has been awarded nearly £70,000 after an employment tribunal found he was unfairly dismissed over a sexual harassment allegation.

Joe Tobin, who was head of search at the gambling firm, was dismissed without notice after he was accused of touching a female colleague inappropriately and putting his fingers in her mouth at a pub where people were watching a Euros 2024 football match. Police found no evidence of the alleged assault.

However, the London Central tribunal criticised the company's internal investigation into the incident, highlighting the lack of effort to secure CCTV footage and noting that police found no 'clear evidence'.

Employment judge Walker said: "The key issue in my view is the failure to try to obtain the CCTV and take reasonable steps to review it, and the general approach taken to interviewing only enough witnesses to support the complainant's case without any real regard for the possibility of looking for evidence to exonerate Mr Tobin renders this dismissal unfair."

Tobin succeeded in his claims of unfair dismissal, a redundancy payment, notice and holiday pay. In a remedy hearing, he was awarded £68,065.29 in compensation.

Background

Tobin had worked at William Hill for almost five years before being summarily dismissed following a disciplinary hearing on 30 August 2024.

The alleged incident took place at a Soho bar on 20 June 2024, where William Hill colleagues and approximately 30 guests were attending an event to watch England vs Denmark at the 2024 Euros football tournament.

Later that evening, Akash Raval, a William Hill colleague, messaged Alex Carr, Tobin's line manager, via WhatsApp, claiming Tobin had been "inappropriate" towards a female colleague, and that she planned to raise the matter with HR.

He said he had not witnessed the alleged incident but accused Tobin of putting his fingers in her mouth and grabbed her "ass", adding that it was not the first time.

Another William Hill colleague, Telfer, who the tribunal understood was in the process of leaving the company, also later messaged Carr, confirming that the female colleague appeared “pretty upset”.

The tribunal heard, however, that, despite Carr receiving these messages, no immediate HR action followed, and the female colleague did not submit a formal grievance until 5 July 2024.

Carr later informed HR that he was concerned about Tobin’s conduct and began an internal investigation.

The female colleague told the tribunal that she had warned two co-workers not to leave her alone if Tobin approached her and to intervene if he attempted to speak with her.

In her statement she said: “To be clear nothing like this had happened with him before; he is always just giving me a weird vibe and previously we have had a couple of disagreements.”

She claimed that, on the evening they were at the pub: “Every time Tobin would join a conversation with me and others he would put his arm on my back and slowly move his hand lower to my butt before moving his arms off completely. This happened more than once.”

She also described the alleged incident: “Later on Frankie, another colleague and I were having a conversation when Joe joined us as Frankie was sharing the story. I reacted, which left my mouth wide open; this is when Tobin pushed his fingers down my mouth.”

She said she was "shocked" and removed his hand. She also claimed Tobin took his fingers out and laughed, which she found "disgusting”, so she offered an odd smile, handed Frankie her drink, and headed to the toilet, where she rinsed out her mouth and cried.

On 9 July, the female colleague was interviewed by Carr for an investigation meeting and she was asked to explain what happened in more detail. She said Tobin’s behaviour was consistent with earlier “uncomfortable” interactions and mentioned a previous disagreement with him at a work Christmas party.

Carr carried out an investigation between 12 and 15 July, involving interviews with several witnesses and staff members. The tribunal heard that Frankie was the only witness who claimed to see Tobin place his fingers in the female colleague’s mouth. While other colleagues did not witness the alleged incident itself, they did confirm that she appeared visibly upset.

Carr’s summary report recommended proceeding to a disciplinary hearing, noting Tobin’s awareness of the company’s ‘everyone matters’ policy, which outlines expected workplace conduct and grievance procedures.

The tribunal noted that Carr’s interview notes were brief and lacked detail, including timelines and information about the positioning of those present.

On 17 July, Tobin was informed during a team call of the sexual harassment allegation from a female colleague. It was alleged that he had touched her lower back and bottom and placed his fingers in her mouth.

Tobin was said to be “shocked”, acknowledging he had spoken to her that evening but denying any inappropriate conduct. He confirmed he spoke to the female colleague, but described it as “friendly” and said the allegations made him feel “physically sick”.

He was told there was an eyewitness and that the matter would be referred to a disciplinary hearing. Tobin was suspended pending the outcome.

Tobin raised concerns over the limited scope of the investigation, the lack of CCTV review and his inability to access company systems or the 'everyone matters' policy documents. He also complained that Carr was not "neutral or impartial" and should not have been in the investigation.

Gavin Hilton, a former William Hill employee, was assigned to carry out the disciplinary process. During the disciplinary hearing on 30 August, Hilton found that Tobin had breached William Hill's workplace conduct policy through inappropriate physical conduct amounting to gross misconduct, which he claimed could be "construed as sexual harassment", towards a colleague.

Tobin was dismissed without notice on 4 September.

Separately, the tribunal heard that the female colleague had reported the incident to police on 10 August. The police reviewed the CCTV footage from the bar and the investigation officer, PC Aitken, found no evidence of the alleged misconduct on the footage, noting that no one appeared to react to any inappropriate behaviour.

Judge's comments

Employment judge Walker found that Hilton's decision was "based on brief witness statements" taken from the female colleague and Taylor in particular regarding the incident.

Walker noted that Hilton relied on these statements, along with the reactions of other witnesses who had heard about the incident later, to come to his conclusions. "He had little or nothing to go on in relation to the assertion that her body had been touched," Walker said. He also added that there was "very little grounds" overall for the findings of misconduct.

The judge added that the company made "no effort at all" to contact the bar and request CCTV.

Because of the potentially "career ending" impact a dismissal for gross misconduct could have on Tobin's career, Walker concluded that the investigation was "not satisfactory" and that "the disciplinary hearing manager did not challenge the evidence enough to make that inconsequential."

Expert comments

Liz Stevens, professional support lawyer at Birketts, said the decision highlighted the importance for employers to carry out a thorough and fair investigation to avoid the risk that a dismissal will be found unfair, especially when the allegations are of a serious nature.

"The tribunal here was particularly critical of the fact that the claimant's line manager was appointed to conduct the investigation when he was found not to be fully impartial. The investigation relied on a limited number of witnesses, with witness statements lacking in the necessary detail," she said. "Contradictory and exculpatory evidence was not properly considered, and relevant CCTV evidence was not requested and therefore not taken into account."

Stevens added that employers must carefully consider who is best placed to carry out workplace investigations, and pointed out that appointed managers should be properly trained, understand the legal standards required and receive timely HR support.

Thanks to Mahalia Mayne and People Management for the tribunal summary.

VOODOOISM IS A PROTECTED 'RELIGIOUS BELIEF', TRIBUNAL RULES

But panel dismisses harassment claim, determining colleague's 'voodoo doll' remark was meant to express her exhaustion rather than being directed at the claimant.

A tribunal has ruled that voodooism is a protected religious belief under the Equality Act 2010.

The Birmingham tribunal made these findings when considering a council worker's claims of harassment in relation to race, religion and belief after a colleague commented that she was like a voodoo doll with needles in its eyes. The panel ultimately dismissed the claims, stating that the comment was intended to convey "extreme tiredness" and was not aimed at the claimant.

In coming to this decision, it concluded voodooism was a "spiritual belief system" that was held by a "group of adherents" and "explains mankind's place in the universe and relationship with the infinite by reference to its divinity and spirits". However, it considered the voodoo doll to be "separate to the concept of voodoo more generally", and concluded that a belief in the power of the voodoo doll was not a religious or philosophical belief under the Equality Act.

Background

Mr Wint began working for Walsall Metropolitan Borough Council as a support officer in the housing section on 1 April 2022. He was born in the UK to Jamaican parents and is a practising Christian who identifies as Black African Caribbean, and does not follow voodoo.

On 4 June 2023, the claimant failed to report to work for his scheduled night shift because of what the tribunal found to be a "genuine mistake" with the rota. Mandy Shone, a tenancy support officer for the respondent, was on call that night and covered the shift.

On 17 July, Shone spoke to Wint in the office for the first time since the missed shift. Ursula Jeffrey and Desiree McKenzie-Plummer, his line manager, were also present during the conversation.

Shone asked Wint where he was on the day she covered his shift and how he could have forgotten about it when it was on the rota. He apologised, saying something along the lines of "don't go on".

According to the claimant, Shone then said: "I should have sent you a voodoo doll with pins in it." However, Shone said she commented something along the lines of: "I am like a voodoo doll to stick needles in my eyes."

When asked by the tribunal to clarify the meaning of her comments, she explained that what she meant was: "I'm like a voodoo doll with needles in her eyes." She said this was an attempt to convey her exhaustion on the night she covered Wint's shift.

McKenzie-Plummer thought Shone had said a comment to the effect of: “I would rather have stuck pins in my eyes like a voodoo doll than covered that shift.” Both McKenzie-Plummer and Jeffrey agreed the comment had been lighthearted.

The tribunal said the key difference between these accounts was that Wint viewed the comment as directed specifically at him, whereas the others believed Shone was comparing herself to a voodoo doll.

Despite this, Wint told the tribunal he would be offended whichever version of the comment was made. He argued that the comment had been targeted at him as a Black person with Jamaican heritage, saying that because Shone had previously had a Jamaican boyfriend she would have been aware of voodoo’s cultural relevance in Jamaica.

However, Wint then contradicted these comments by telling the tribunal that voodoo was a taboo subject in Jamaica and was rarely discussed. Shone and McKenzie-Plummer both told the tribunal that they did not view voodoo as being associated with Jamaica, and Shone said she would have made the same comment in front of a white colleague.

The tribunal concluded that Shone’s version of events made the most sense and that she made the comment in relation to feeling tired from covering the shift, meaning it was not targeted at Wint.

In a phone conversation later that day, neither McKenzie-Plummer nor Wint mentioned the incident.

However, on 21 July 2023, when Wint returned to work after three days off, McKenzie-Plummer observed he seemed unfocused. When she raised it with him, Wint responded that he had a headache and personal issues at home before bringing up the ‘voodoo doll’ comment.

The tribunal found that Wint had a discussion with his daughter in the preceding days about the incident, and she had said she was shocked and appalled at what had happened, and linked the comment to his race.

After the conversation with McKenzie-Plummer, Wint left work, commencing a period of long-term sickness absence.

On 11 August, Wint completed the respondent’s grievance form, in which he set out his version of events and said the incident had severely affected his mental health and he felt discriminated against because of his race.

Sarah Gavin, senior welfare and housing officer, who was appointed to investigate Wint’s complaint, met with him on 7 September. Gavin told the tribunal that Wint commented that he would “take this as far as it could go” and that he wanted disciplinary action taken against Shone.

Wint alleged that Shone had previously behaved inappropriately but that this was the first time he had been racially abused, and he was offended and in disbelief about the comments.

The informal grievance outcome letter was sent to Wint on 22 September, stating that there was no evidence found to support his claims and that neither of the witnesses felt anything was said in a malicious or offensive manner. However, it did not set out what options the claimant had if he was unhappy with the outcome, which the tribunal found was a “significant flaw” on the respondent’s part.

Wint did not respond to the informal outcome and remained on long-term sick leave as a result of work-

On 26 June 2024, Sarah Szwyd, in the respondent's HR team, emailed the claimant a letter on behalf of Michelle Dudson, head of customer engagement, which "reminded" him he could raise a formal grievance if he felt the matter was unresolved. This was the first time Wint was informed of this in writing.

On 1 July, Wint responded, highlighting that it had taken nearly a year for the respondent to reach out to him and saying he was frustrated and confused at the fact he was only now being given the opportunity to raise a formal grievance.

Panel's comments

The tribunal concluded that voodooism was a "spiritual belief system" which was held by a "group of adherents" and "explains mankind's place in the universe and relationship with the infinite by reference to its divinity and spirits".

"While there is no clear definition of what is good and what is evil set out centrally in any code or text, there is clear teaching that adherents should live their lives in conformity with the lwa and what they represent," the panel said.

However, it considered the voodoo doll to be "separate to the concept of voodoo more generally", and concluded that a belief in the power of the voodoo doll was not a religious or philosophical belief under the Equality Act 2010.

Despite finding the 'voodoo doll' comment related to both religion or belief and race, the tribunal decided the comment was not made with the purpose of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for the claimant.

"It was simply intended to convey the extreme tiredness that Miss Shone says she felt at that time," the panel said. "This is particularly so given that Miss Shone did not even reference the Voodoo comment when interviewed as part of the claimant's internal complaint, as she had not realised that to be a relevant issue."

"We do not conclude that he has deliberately twisted what was said, rather we consider that he heard the words 'voodoo doll' and applied his own context to it, without appreciating what was actually said," they added, arguing that, at the time the comment was made, Wint was not offended by it and did not consider it to be harassment.

"However, afterwards he reflected and had some disquiet about it, hence raising it to his daughter," the panel noted. "By that time we consider that he has misremembered the actual comment and put the personal slant on it, and then having discussed it with his daughter (in the context of what he by then thought had been said) he was genuinely offended by it."

The tribunal added: "Voodoo is a sensitive subject for some and therefore it was perhaps ill advised for Miss Shone to refer to it in the workplace.

"Equally, however, we must not trivialise the concept of harassment and not every adverse comment that relates to race and/or religion or belief will amount to harassment."

Thanks to Isabel Jackson and People Management for the tribunal summary.

APPRENTICE WITH ADHD WHO THREATENED COLLEAGUES AFTER FINDING HOLES POKED IN HIS SANDWICHES WAS FAIRLY DISMISSED, TRIBUNAL RULES

After claimant sought to attribute behaviour to his disability, judge says his actions were 'unacceptable' and dismissal was necessary to protect employees.

An apprentice technician with ADHD (attention deficit hyperactivity disorder) who sent threatening messages to his colleagues after finding his lunch had been tampered with was fairly dismissed, a tribunal has ruled.

The Bristol tribunal heard that Brooklyn Forrester Hayes came into the tea room to find his crisps were smashed, chocolate bars crushed and someone had "opened his sandwich box and poked finger-sized holes through the sandwiches".

He then messaged a colleague on Snapchat, saying: "If i find out it was u Ur toolbox is fucked." He went on to say: "If it was u ur paying for my lunch if u dont ill cut ur tyre valves off Simple."

The claimant told the tribunal that his ADHD means he may react "impulsively" and experience "high levels of frustration" and more intense emotions in certain situations.

Despite this, Forrester Hayes was dismissed by Scania (Great Britain), with the dismissal later stating: "Any form of threat made to employees, regardless of its nature, cannot and will not be tolerated within our organisation."

Employment judge Ferguson said: "The respondent was entitled to take the view that notwithstanding the claimant's ADHD this was unacceptable behaviour and dismissal was necessary to protect its employees."

Forrester Hayes's claims of unfair dismissal, direct disability discrimination, discrimination arising from disability, harassment related to disability and failure to make reasonable adjustments were all dismissed.

Background

Forrester Hayes began working for Scania in its Swindon depot as an apprentice technician in February 2020, when he was 16 years old. The tribunal heard that there were a number of other young men among the apprentices and technicians, and there was a culture of "banter" and "pranking" each other.

Forrester Hayes was diagnosed with ADHD when he was five years old. He told his manager, Adrian Wilkinson, about the condition when he began working for Scania, but said he did not want it to be common knowledge.

In early February 2021, a colleague, referred to as KH, wrapped up one of Forrester Hayes's tools in electrical tape, in retaliation for the claimant unplugging the air line for the grease reel he was using. When Forrester Hayes discovered what KH had done, he challenged him, grabbed him by the collar and held on to him. KH then hit the claimant in response and a supervisor intervened.

Both Forrester Hayes and KH were suspended and, after an investigation and disciplinary hearings, were both given a final written warning lasting nine months. Wilkinson told the claimant that this conduct would usually have ended in dismissal but, because of "age and naivety", he was willing to offer the claimant "a second chance at redemption".

On 11 July 2023, Forrester Hayes arrived just before his shift was due to start at 2pm and put his lunch in the tea room. After half an hour, he went into the tea room to get a drink and found his crisps were smashed, chocolate bars crushed and someone had "opened his sandwich box and poked finger-sized holes through the sandwiches", as well as opening tea bags and sprinkling tea leaves over his lunch bag.

The claimant was "upset, dismayed and angry" and had no food until he got home at around 11pm. He assumed someone from the earlier shift was responsible.

An apprentice who was working the earlier shift that day, Max Sealey, was in the tea room waiting for a lift home and secretly videoed some of Forrester Hayes's reaction.

The video recorded the claimant as saying: "I'm going to find out who did that. Someone's getting fucked." He then accused another colleague, referred to as TA, of tampering with the lunch, adding: "If I see his fucking toolbox open tomorrow – I'm going to fuck everything up in there."

Sealey told the tribunal that he had begun filming the incident because he was worried that Forrester Hayes was going to do something to TA, stating that TA was vulnerable and the claimant always picked on him.

Forrester Hayes then messaged TA on Snapchat, saying: "I stg [swear to god] if it was u [...] better not have been you." He later added: "If i find out it was u Ur toolbox is fucked."

After TA repeatedly denied tampering with Forrester Hayes's lunch, the claimant said: "If it was u ur paying for my lunch if u dont ill cut ur tyre valves off Simple." TA denied it again and refused to pay for the claimant's lunch, to which he responded: "Thats fine mate cus when i found out it was u hide ur bike and lock ur box."

Forrester Hayes also sent threatening messages to another colleague, referred to as AM, on Snapchat.

Forrester Hayes reported the lunch-tampering incident to Paul Brady, area manager, Martyn Perry, workshop controller, and Kieren Marvell, Forrester Hayes's supervisor.

The claimant told the tribunal that his ADHD means he may react "impulsively" and experience "high levels of frustration" and more intense emotions in certain situations. He said this means he did not stop to think about the consequences of sending the messages to TA.

On 12 July, Marvell asked everyone on the early shift if they knew what had happened with his lunch. Although no one admitted culpability, some staff told Marvell that the claimant had been sending abusive messages, and photos were taken of the messages on TA and AM's phones.

The claimant found the early shift workers in the tea room and asked if anyone would own up, but they all denied it. He then apologised to TA for blaming him and for the bike tyres message.

Marvell reported the issue of the messages to HR and Gurpreet Virk, people business partner, advised him that Forrester Hayes should be suspended, writing in an email: "As disappointing as it is that someone has done this to the lunch, we cannot condone threatening behaviour and based on what I have read he is a threat to our employees and potentially himself if this escalated further."

Forrester Hayes was suspended that afternoon. Following this, his mother contacted HR asking if his ADHD was on file, suggesting to Virk that this could have been a factor in his conduct. As a result, Virk advised Perry to seek Forrester-Hayes's consent for an OH referral.

On 18 July, an investigatory meeting was held, with Forrester Hayes writing in his statement that he sent the tyre message "in the heat of the moment" and it was "nothing violent or threat[en]ing", he was just "extremely upset at the time". The following day, Forrester Hayes had an occupational health assessment, which stated that his ADHD would not "impair the ability to know 'right' from 'wrong'" or "excuse the individual from legal liability for their actions".

The disciplinary hearing took place on 20 July and Craig Sutton, branch manager at Heathrow, was appointed as the disciplinary manager. Forrester Hayes accepted sending the messages and agreed it was not acceptable. But he said: "It wasn't out of the blue. There was a cause to it." Sutton responded: "That is a separate matter that is being investigated."

After the claimant said he had "no intention" of cutting TA's tyres or harming his tool box, Sutton pointed out: "The person you messaged had no idea that you didn't intend to do it."

Sutton concluded: "The messages that you have sent compromise the core values that are respect of the individual and dignity at work. For me this is a serious act of gross misconduct whereby there is zero tolerance to any kind of threats being made to any employees, and therefore I am going to dismiss you."

Scania's disciplinary policy listed "fighting, assault on another person or threatening behaviour towards another person", as gross misconduct, stating that, where that has taken place, "the result will normally be summary dismissal without notice or payment in lieu of notice".

The dismissal letter, sent on 28 July, stated that "any form of threat made to employees, regardless of its nature, cannot and will not be tolerated within our organisation", as well as noting in relation to the claimant's ADHD: "Your persistence in pursuing the issue (your lunch being damaged) from the previous day into the following day, indicates that your threat to the apprentice on Snapchat was not merely a reactive response to the situation you were in."

Judge's comments

Employment judge Ferguson set out that the fact the claimant's ADHD affected his conduct did not mean "he bears no responsibility for his actions". "The claimant is aware that impulsivity is a feature of his ADHD," they said. "It is up to him to find ways to ensure that his impulsivity does not result in unacceptable behaviour that impacts on his colleagues. "Of course he was provoked by what had happened to his lunch and, if this was part of the culture of pranks, it went too far. It should never have happened. But adult, professional behaviour involves being able to manage conflict at work, including unacceptable or unfair treatment, without resorting to violence or threats to others or their property."

As a result, Ferguson concluded that "once the respondent became aware of serious threatening messages sent to another member of staff, it had a duty to take appropriate action", meaning it was proportionate to dismiss the claimant and his claim of discrimination arising from disability did not succeed. Taking the same issues into consideration, the judge found that Forrester Hayes was not unfairly dismissed, explaining: "The respondent was entitled to take the view that, notwithstanding the claimant's ADHD, this was unacceptable behaviour and dismissal was necessary to protect its employees."

Thanks to Isabel Jackson and People Management for the tribunal summary.

BLACK SECURITY MANAGER CALLED 'SLAVE' BY WHITE COLLEAGUE AWARDED £360K FOR CONSTRUCTIVE DISMISSAL

Panel finds race-based incidents occurred over several years, concluding claimant had been victimised.

A Black security manager who was referred to as a "slave" by a white colleague and ultimately left his role because of "continuous bullying" and racism has been awarded more than £360,000 in compensation.

Mr R Assan, who had spent 15 years working for Vigilant Security, brought multiple claims of race discrimination against the company, citing 63 separate incidents that occurred over several years.

The London Central tribunal heard that, in one incident, a white chief engineer referred to him as a "slave" in a comment that was "apparently intended to be humorous". The tribunal panel found that the remark clearly caused Assan a detriment and amounted to "evidently race-based conduct".

The tribunal also heard that Assan had faced sporadic discriminatory treatment between 2011 and 2016, including a "thoughtless" question from a manager about where he had learnt his English.

The tribunal noted that the firm had a "striking imbalance" between racial profiles, as a large number of guards and team leaders were from ethnic minority groups, while the managers were mainly white.

The panel concluded that race-based incidents had occurred and upheld Assan's claims of victimisation and constructive dismissal.

At a remedy hearing in April, Assan was awarded £360,705.36, including £79.647.31 for past losses, £60,308.36 for future losses, £31,821.92 for injury to feelings, £16,839.84 for personal injury, £12,491 for unfair dismissal and £32,154.41 as an Acas uplift.

However, his claims for direct race discrimination, race-related harassment, discrimination arising from disability and failure to make reasonable adjustments were dismissed.

Background

Assan, a Black man of African descent, was employed by Wilson James Security in 2007. In 2010, pursuant to a TUPE transfer, Vigilant Security became his employer, and he advanced to site controller. In May 2018 he was promoted to security manager, a role he held until his resignation on 6 April 2022.

Vigilant Security, which is run by former military personnel, provides security and guarding services at client sites across the UK.

On 8 March 2011, Dineen, a white security guard, launched an angry outburst at Assan, reportedly saying: “F**k you, and f**k Vigilant” or similar. The panel concluded that the abuse of Dineen clearly amounted to a detriment.

Just three months later, on 6 June 2011, Bill Cowle, a white chief engineer working for a contractor on site, referred to Assan as his “slave” in a comment made within earshot of others in the security office.

The tribunal heard that this "extraordinary remark” was intended to be humorous and was delivered in a “jocular manner”. The tribunal noted that “not surprisingly, [Assan] was embarrassed and offended”. Assan reported the incident to his line manager, Paul Moakes, requesting it to be handled informally and confidentially.

The following day, Moakes issued a mild email rebuke to Cowle, encouraging him to be more careful and to offer an appeasement – though the tribunal noted that no such offer or apology was made.

On 8 August 2011, Assan found a white mug inscribed with the word ‘slave’ in the welfare room at the site. He raised this with Moakes and explained he found this object offensive.

Moakes replied that he had chanced upon it in Dineen’s locker after that officer had been dismissed and that he had not read the inscription.

On 2 July 2012, Assan was asked by manager Mr Rampe where he had learned English, an inquiry the tribunal described as “thoughtless” and “clumsy”.

The tribunal heard that the discussion was about Assan’s letter to a security guard concerning an alleged act of misconduct and that there seemed to have been some suggestion of a minor imperfection in the wording of the letter.

However, the tribunal noted that in general terms it has never been in question that Assan’s English, spoken and written, was “impeccable”.

On 16 July 2013, Assan discovered that Moakes had instructed an engineer to place software on his laptop to facilitate monitoring of its use. He complained to Rampe, who suggested he speak directly with Moakes.

The tribunal heard that, in the resulting conversation, Moakes advised Assan that he had simply forgotten to tell him of the intended monitoring and that the software was swiftly removed. Moakes was later dismissed for unauthorised monitoring of staff members’ laptops, not only Assan’s.

On 17 February 2014, Assan complained to Rampe about Moakes’ treatment of him. However, the tribunal noted that there was no evidence that he alleged discrimination based on or connected with any protected characteristic.

In or around March 2015, an employee, Mr X, referred to Eastern European visitors to the site as “stupid foreigners”. This prompted a complaint by a colleague, Mrs Parkes, which alluded to a number of prior incidents going back to 2011. The complaint was upheld and Mr X was disciplined, receiving a first and final written warning. The panel concluded that Assan was offended by Mr X’s remark and a detriment was shown.

On 21 April 2016, Assan applied for a security manager promotion; however, his application was not acknowledged. The tribunal heard that a white candidate was appointed in May but resigned a week later. Assan reapplied, though the tribunal noted there was no written application on file. However, the panel accepted that he had expressed renewed interest, yet was again overlooked. The tribunal also said that it heard no explanation for Vigilant Security's failure to acknowledge and engage with Assan's application.

The tribunal found that the company's evidence was inconsistent and "far from satisfactory".

It was heard that there seemed to be some suggestion that Assan's application was not viewed favourably because he lacked relevant experience or qualifications. However, the tribunal said that "in fact, he lacked neither", as he had relevant experience since 2010 and had completed an operations management diploma in 2015.

On 8 November 2021, Assan complained about an exchange between himself and another colleague, Arscott. Arscott was under pressure from Mrs Wright, the facilities manager at site who was complaining that she had received unclear messages from Assan concerning the availability or accessibility of certain electronic data.

Arscott then wrote to Assan suggesting that, without evidence, he had sent "contradictory messages" to Wright. Assan then replied promptly, confirming that his messages had been consistent and that the data was not accessible. The exchange then became "bad tempered", with Arscott issuing a verbal warning to Assan to be careful.

On the same day, Assan raised a grievance to another manager, Brady, about being subjected to bullying by Arscott and that the treatment amounted to racism. Brady told him that he needed to put his complaint into writing so that it could be addressed under Vigilant Security's formal procedures.

On 23 November 2021, Assan was signed off work for one month with depression. A grievance hearing was scheduled for 25 November, but he did not attend because he was signed off sick.

On 2 December, Assan received an email from Brady asking for the return of his work mobile phone pending his return from sick leave. The tribunal said it seemed that the work mobile phone was a minor benefit for employees because limited private use was permitted. Vigilant Security contended that calling for the surrender of the mobile phone was a standard measure in cases of long-term staff absence, but the tribunal noted that no procedure or policy to that effect was presented.

Assan attended his GP on 13 December and was signed off again until 6 January 2022. Assan provided Vigilant Security with a further fit note recommending a phased return to work from 11 January; however, the tribunal noted that there was no other communication between the parties about when and on what terms he would return.

He returned to work on 11 January, but he had not been rostered to work that day, and could not book into the system as his number had been disabled or blocked. His deputy expressed surprise at his return, stating that Arscott had advised he would not be returning until February.

The tribunal heard that, soon afterwards, Paul Stringer, a contract manager, told him that he was to leave the building and gave him a letter from Ms Boyd, his administration manager, dated 10 January 2022, notifying him that his grievance would be heard on 13 January 2022, and return to work arrangements would be addressed after that.

On 31 January, Assan returned to work following an agreement that he would resume a three-day week, retain the same line manager and receive weekly welfare calls from Boyd. However, after a return-to-work meeting, Assan was unexpectedly asked to attend an investigation meeting led by Stringer, with the London office manager present to take notes.

Assan said that he had received no prior warning and protested. Stringer responded that the company had no obligation to give notice of a disciplinary investigation meeting. When Assan requested a trade union representative, he was told he had no right to one. He became “visibly unwell” and was sent home. Later that day, he received a suspension letter by email citing allegations of gross misconduct, including mismanagement of rosters and leave and allegedly contacting clients to secure opportunities for a family member. He was notified of a reconvened investigation meeting scheduled for 3 February 2022 and instructed not to contact colleagues or attend the workplace without permission. The tribunal heard that the investigation did not proceed further, as Assan was signed off sick from 1 February and did not return to work thereafter.

While on sick leave, Assan’s grievance and appeal were concluded. On 6 April, he resigned with immediate effect, citing "continuous” bullying and racism since 2011, a flawed grievance process and serious harm to his mental health, stating that the events on 31 January had left him feeling suicidal.

On 11 April, Rampe wrote to Assan asking him to reconsider his resignation and allowing him seven days to do so. On 19 April, Assan confirmed his resignation, stating that the company had breached his contract and that he could no longer “tolerate the treatment of Black employees” or the disregard shown for his mental health.

Panel’s comments

In regards to promotion, judge Snelson and the panel said: “The gross racial imbalance within the managerial cohort lends support to Assan’s perception of a culture in which it is an accepted norm that visible ethnic minority staff populate the lower orders of the organisation and management is confined to white men. "In our view, Assan has done enough to transfer the burden of proof to the respondent. That being so, our finding is inevitable. For want of any evidence to disprove discrimination, we find that Assan’s race was, at the very least, a material factor in the failure to engage with any process of his promotion application.” Regarding Rampe’s “thoughtless question” about Assan’s English, the panel was satisfied that the comment was seen by him as offensive and “clears the low bar for establishing a detriment”.

The judge wrote that Assan’s treatment was “found plainly” as a result of his race, adding that, while it was possible that “Mr Rampe would have addressed an equally insensitive question to an imaginary comparator of the claimants (say a white Caucasian born and brought up in Eastern Europe”, there was no evidence to support that idea. They added: “In our judgment his overtly race-based treatment of the claimant is more than sufficient to shift the burden to the respondent to disprove discrimination. That burden is not discharged.” Additionally, the panel and Snelson concluded that race was a central reason for his constructive dismissal. They said: “We have no doubt that he regarded his race as a central reason for his constructive dismissal. Our objective assessment, however, is otherwise.

“There were certainly race-based incidents at several points in the long story. We are satisfied to a high standard that the treatment that caused Assan to resign amounted to a serious act of victimisation. We find that the discriminatory treatment that we have identified had occurred sporadically between about 2011 and 2016 and was part of the background but did not form a material part of his decision to resign in April 2022.” Thanks to Mahalia Mayne and People Management for the tribunal summary.

RECRUITMENT WORKER NOT TOLD ABOUT OFFICE MOVE WHILE ON MATERNITY LEAVE WINS £25K AT TRIBUNAL

Panel rules claimant was unfairly treated after employer did not inform her of relocation and backtracked on part-time working agreement.

A recruitment worker who returned to her office after maternity leave to find it "cleared out" has been awarded more than £25k at tribunal.

Anna Munkevics returned from maternity leave to find her office empty, and when she inquired with staff at a nearby Greggs, she was informed that a removal van had taken everything, the Midlands West tribunal heard. The panel ruled that it was "hard to understand" why the company did not tell Munkevics that the office was permanently closed, ultimately concluding that this was because of her maternity leave and pregnancy.

She resigned after discovering the vacant office and her employer backing out of a verbal agreement for her to work part-time hours after her maternity leave ended. The panel decided this amounted to unfavourable treatment and maternity and pregnancy discrimination. Her claim of unfair dismissal was also upheld.

Background

Munkevics began her career at Echo Personnel as a trainee recruitment consultant on 9 March 2021 at the company's Hereford office. After her probationary period, she was promoted to recruitment consultant on 1 September 2021, earning a salary of £21,250. She announced her pregnancy on 31 January 2022 and her maternity start date was expected to be 15 March 2022. She was sent a letter by Jennie Alexander, the company's finance director, stating that her maternity leave would expire on 1 May 2023 and that she had to confirm her intentions to return to work by 1 April 2023.

On 31 January, the company offered Darren Evans the role of recruitment consultant on an annual salary of £25,000 to cover Munkevics's maternity leave. The tribunal found that, despite the difference in wage, Evans and Munkevics had been employed to do "like work", which was broadly similar.

During Munkevics's leave she visited the office on keep in touch days and talked to her line manager, Ben Diston, about the terms of her return to work.

The tribunal heard that a number of proposals were discussed, including Munkevics working only two days a week as a receptionist, or returning as brand manager with a significant salary increase. Eventually, an informal agreement was reached that she would return to her previous role on a part-time basis (two days a week, four hours a day) before transitioning to full time after a few months. However, this agreement was not recorded in writing.

In December 2022, Munkevics met with Steve Squires, the firm's operations director, and reiterated her return plan. While Squires did not object at the time, the tribunal sided with Munkevics's version of events, agreeing that Squires had confirmed her return plan.

On 27 March 2023, Alexander informed Munkevics that Evans had been made redundant and Diston had left the company. She also mentioned the office was temporarily closed. Munkevics was asked to confirm her return to work. Munkevics responded on 31 March stating that she would return on 1 May on part-time hours, as it was too difficult to find a nursery place in the local area for a child under two.

Alexander replied on 3 April: "Thank you for your email; however, after a telephone conversation with Ben back in January, I believe you were advised that we are unable to accommodate a part-time position [because of] the nature of the job. Therefore, we unfortunately would require you to return five days per week, full time. We have no other options at this time, with only your position that you worked prior to your maternity leave being available."

Munkevics raised an objection via email the same day, explaining the situation. In response, Alexander acknowledged that Munkevics had informed Squires of the arrangement but maintained that no formal agreement had been made.

On 6 April, the claimant raised a grievance, saying she was "misled by two directors with regards my return terms; it was discussed with Ben and Steve, though – I'd be back for two days a week, four hours a day, at the start and now everything [has] changed I'm left with no childcare for the terms you just gave me".

On 18 April she resigned, giving her notice for 16 May. She said: "I feel I have been led on by the directors with false promises. I've spoken to representatives from Acas and Citizens Advice Bureau; they believe I have grounds for a grievance case and constructive dismissal." Alexander responded on 20 April, stating that, while the company could not accommodate her part-time hours because it would have a "detrimental effect" on meeting demands, she urged her to reconsider her resignation.

Munkevics stood with her decision as she had only organised childcare for two days a week. Squires accepted her resignation on 25 April. Munkevics arrived at her workplace on 1 May to work her notice period and found the office vacant. She spoke to the staff at a branch of Greggs next door, who said a removal van had "taken everything".

The tribunal heard that by 27 March the company had closed its Hereford office, and towards the end of April there was a water leak, which led to it completely vacating the premises. When asked, Squires said he had assumed Munkevics would be on garden leave for her notice period, but this was not her understanding. As far as she knew the only other offices were in Corby or Kettering, many miles away, and she was not told about a mobile recruiting van that the staff were working from.

In an email on 25 May to Alexander, Munkevics said she took the office being cleared out as a "sign" she was not expected to return for her notice period, and made the decision to confirm her resignation as definite. She stated that she still expected to be paid for the notice period. As she had no response to her grievance, Munkevics sent it again on 26 June, but it was not acknowledged until 20 July. A grievance meeting took place by phone and Munkevics said Alexander and Squires blamed her for not getting written agreement for her arrangement and laughed at the prospect of her being branch manager.

Munkevics was given no outcome of her grievance and no right of appeal was offered.

Thanks to Freddie Clemo and People Management for the tribunal summary.

COULD YOUR ORGANISATION BENEFIT FROM PEOPLE, CULTURE, AND DEVELOPMENT SUPPORT?

Contact us to discuss your support needs

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