Issue: Nov & Dec 2025

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SmartHR

delivering effective solutions

eNewsletter

Welcome to our Nov & Dec 2025 eNewsletter!

In this festive edition, we reflect on a busy year and the wide range of people management activities we've supported clients with, as well as focus areas for 2026.

We include details of recent and future employment legislation changes, an article on 'burnout' and prevention strategies, and potential AI expense receipt scams.

In addition, we include an interesting range of employment tribunal findings covering race discrimination, sex discrimination, failure to provide reasonable adjustments, unfair dismissal, protected beliefs, and racial harassment. Also, a recent tribunal ruling that non-binary does not meet trans protections under equality legislation.

We hope you find our eNewsletter of interest.

Please feel free to forward this to other colleagues.

To sign up to our mailing list email contact@SmartHR.co.im

REFLECTIONS ON 2025...

As 2025 almost draws to close it feels like this year has gone by in a flash! It's been a very busy year for the team at SmartHR and we've reflected back on the wide variety of people-related activities we've supported our clients with during the year including:

- **Strategic people planning**
- **Ongoing people management advice and guidance**
- **Outsourced people management services covering the full employee life cycle**
- **Various HR audits completed together with post-audit action planning and delivery**
- **Supporting new business set-ups creating their people management infrastructure**
- **Creating numerous customised employment contracts, people policies, and employee handbooks**
- **Updating people policies and employment documents to comply with various changes to employment legislation across different jurisdictions throughout the year**
- **Supporting companies in defining and embedding organisational values**
- **Creating various customised performance management frameworks**
- **Delivering various learning and development solutions, including our unique Essential HR for Line Managers development programme**
- **Neurodiversity in the workplace programmes**
- **Designing and delivering various culture and engagement surveys, reports and action planning**
- **Creating customised engagement and wellbeing programmes**
- **Designing reward and recognition frameworks**
- **Supporting with organisational design and restructuring programmes**
- **Delivering people management coaching programmes**
- **Supporting with dispute resolution, disciplinary and grievance matters**

So what's in store for 2026? We expect organisations to have a continued focus on performance, culture, wellbeing, and engagement on their People Agenda; as well as ensuring they have the right structure, skills, and leadership capabilities in place and that they are up-to-date and compliant with ever changing employment legislation.

We'd like to take this opportunity to thank our clients for using us for their HR/people, culture, and development needs during the year and we look forward to providing continued support in 2026.

ISLE OF MAN EMPLOYMENT LAW CHANGES
1 NOVEMBER 2025

New employment rights for shared parental leave and parental bereavement leave were introduced in the Isle of Man on 1 November 2025.

The new rights are the final provisions of the Employment (Amendment) Act 2024 that has been introduced, providing crucial support for parents during challenging times and ensuring the continued commitment to supporting family-friendly policies.

Parental Bereavement Leave

Under the new rights, an employee, regardless of their length of service, is entitled to take up to 2 weeks' parental bereavement leave (for each child who has died or was stillborn) if they suffer the loss of a child under the age of 18 or they suffer the stillbirth of a child after 24 weeks of pregnancy. The leave can be taken as two consecutive weeks, two separate weeks, or as a single week. In the case of a miscarriage up to 24 weeks of pregnancy, 1 week of parental bereavement leave will be provided.

A new parental bereavement allowance is available from the Government, subject to eligibility.

Shared Parental Leave

Shared parental leave enables parents (including adoptive parents) to curtail their maternity leave or adoption leave early to create a shared parental leave entitlement and share up to 50 weeks of leave and up to 37 weeks of shared parental allowance (a benefit payable by the Government) to care for their child in the first 12 months of their child's life or placement for adoption.

A new shared parental allowance is available from the Government, subject to eligibility.

NEED TO UPDATE YOUR EMPLOYEE HANDBOOK OR PEOPLE POLICIES?

If you haven't updated your people policies or Staff Handbook, please contact us and we will be happy to review and update these. Alternatively, we have created various documents that are available to purchase on our online document shop.

UK EMPLOYMENT RIGHTS ACT TO BECOME LAW

The UK's Employment Rights Act gained royal assent on 18 December 2025 and will introduce a wide range of employment legislation changes during 2026 and 2027. Including:

April 2026:
- Day one right to paternity and parental leave
- Increased collective redundancy protective award
- A Fair Work Agency to be established which will have powers to enforce workers' rights
- Statutory sick pay reform
- Increased whistleblowing protections and ban on NDAs
- Rate adjustments and increase to minimum wage
- Extended rights for Trade Unions
- Gender pay gap and menopause action plans on a voluntary basis (mandatory from 2027)

October 2026:
- Ban on fire and rehire
- Increased duty for employers to prevent sexual harassment of their employees
- Additional Trade Union changes
- Tightening of tipping law
- Tribunal time limits to be extended to six months

2027:
- Reduction in qualifying period of unfair dismissal rights from 2 years to 6 months
- Removal of compensation cap for unfair dismissal
- Right to guaranteed hours for workers
- Enhanced dismissal protections for pregnant women and new mothers
- Regulation of umbrella companies as employment businesses
- Changes to collective consultation threshold
- Flexible working changes
- Bereavement leave
- Restrictions on zero hours contracts and applying the measures to agency workers

The changes will require a number of key people management practices together with various HR policies and procedures being reviewed and updated, and ensuring that relevant staff are trained on the new rights.

If your organisation would benefit from support, please contact one of the team to discuss.

HR LABELS BURNOUT AS THE BIGGEST BUSINESS RISK FOR 2026, SURVEY FINDS

According to a recent survey by HiBob, almost half of HR/people professionals warned that 'burnout' will be the biggest business risk in 2026, and managing employee wellbeing and burnout was described as the most emotionally demanding part of the job by 42 per cent of respondents, with 63 per cent describing HR as the company's 'crisis hotline'.

BURNOUT AT WORK: UNDERSTANDING, ADDRESSING, AND PREVENTING IT

Burnout has become one of the most pressing workplace challenges of our time. It's more than just feeling tired - it's a state of emotional, physical, and mental exhaustion caused by prolonged stress. Left unchecked, burnout can erode employee wellbeing, reduce productivity, and damage customer service quality.

Burnout has shifted from being a personal struggle to a recognised organisational challenge. The World Health Organisation classifies burnout as an occupational phenomenon, highlighting its impact on both employee wellbeing and business performance. For leaders, managers, and employees alike, understanding burnout is essential to building resilient workplaces. The good news? With the right strategies, organisations and individuals can prevent burnout before it takes hold.

🚨 What Is Burnout?

Burnout is a state of chronic physical and emotional exhaustion, often accompanied by feelings of cynicism and reduced professional efficacy. Unlike short-term stress, burnout develops gradually and can persist if not addressed.

🚨 Signs of Burnout

Employees experiencing burnout often show a combination of these symptoms:

- **Persistent fatigue** – feeling drained even after rest.
- **Reduced motivation** – loss of enthusiasm for tasks once enjoyed.
- **Cynicism or detachment** – withdrawing from colleagues or customers.
- **Declining performance** – difficulty concentrating, making decisions, or meeting deadlines.
- **Physical symptoms** – headaches, sleep disturbances, or frequent illness.

Recognising these signs early is critical to preventing escalation.

🌱 Causes of Burnout

Burnout rarely stems from one factor - it's usually the result of multiple pressures converging over time. Common workplace triggers include:

- **Workload imbalance:** excessive demands without adequate resources.
- **Lack of autonomy:** limited control over decisions or how tasks are completed.
- **Unclear expectations:** ambiguity in roles, responsibilities, or performance measures.
- **Insufficient recognition:** effort not matched by appreciation or reward.
- **Poor communication**: lack of communication or blocked communication channels.
- **Cultural pressures:** "always on" environments that discourage rest or boundaries.
- **Work-life conflict:** personal time is consistently sacrificed for professional obligations.

🛡️ The Impact of Burnout

Burnout affects more than individual wellbeing - it has ripple effects across organisations:

- **Employee engagement drops:** disengaged staff are less likely to deliver quality service.
- **Customer experience suffers:** stressed employees struggle to maintain empathy and patience.
- **Turnover increases:** burnout is a leading factor in resignations.
- **Innovation declines:** creativity is stifled when employees are exhausted.
- **Health costs rise:** burnout contributes to absenteeism and long-term health issues.

🌟 Prevention Strategies

For Organisations:

- **Design sustainable workloads:** Align staffing levels with realistic expectations.
- **Empower employees:** Offer autonomy in decision-making and flexibility in work styles.
- **Recognise contributions:** Regularly celebrate achievements, both formally and informally.
- **Build psychological safety:** Encourage open dialogue about stress without stigma.
- **Invest in wellbeing:** Provide access to wellness programmes, counseling, and flexible schedules.
- **Train managers:** Equip leaders to spot early signs of burnout and respond with empathy.

For Individuals:

- **Set boundaries:** Protect personal time by disconnecting after work hours.
- **Prioritise recovery:** Sleep, exercise, and nutrition are essential for resilience.
- **Practice mindfulness:** Techniques like meditation, journaling, or breathing exercises can reduce stress.
- **Seek support:** Engage with managers, mentors, HR or colleagues when feeling overwhelmed.
- **Reframe success:** Focus on progress and learning rather than perfection.

💡 Building a Burnout-Resistant Culture

Preventing burnout requires collective responsibility. Organisations must create environments where wellbeing is valued as much as performance. Employees, in turn, should feel empowered to manage their energy and speak up when pressures mount. A burnout-resistant culture is one where: workloads are balanced, communication is transparent, recognition is consistent, flexibility is embraced, and wellbeing is integrated into everyday practices.

Contact one of the team to find out how we can support your organisation and team become more resilient and reduce the risk of burnout. Your People - Your Performance - Our Passion

TAXI DRIVERS AWARDED £278K IN RACE DISCRIMINATION CLAIM

Tribunal finds employer formed opinions of the couple based on racial prejudice and ignored the racism they were subjected to.

Two Black taxi drivers have been awarded £278,458 after a tribunal ruled they faced years of racial harassment and discrimination.

Adeshine Olumade and his partner Olufunke Akinleye are both British nationals of Nigerian descent and worked as self-employed taxi drivers for Basingstoke and Deane Borough Council (BDBC).

The Southampton tribunal found officers at BDBC formed opinions of both drivers based on racial prejudice and ignored the racism they were subjected to by their colleagues, causing a "significant" and ongoing negative impact on both drivers.

The panel found the employer viewed Olumade as a "problem" because he complained of racism and it treated Akinleye similarly because of her association with him.

Olumade was awarded £155,529 in compensation and Akinleye won £122,929 after she was also subjected to discrimination, including "vitriolic and oppressive" questioning causing "hurt, trauma and emotional distress".

Background

In November 2006 Olumade was issued with a private hire drivers' licence from the BDBC, using a Nigerian passport with indefinite leave to remain in the UK. In September 2009 he reapplied for the licence, this time with a UK passport.

On 29 October 2009 licensing officer Sheila Stevens wrote to immigration at Portsmouth Home Office to check if they had any concerns about his application. She claimed it was because he had missed a section on a form about countries he had lived in, but failed to explain why she had not instead asked Olumade to fill out the form properly.

The tribunal found he was treated differently to other applicants, as no other passports were sent to the Home Office. They found the fact he was a Black African man influenced the actions, determining it to be an act of direct discrimination as the referral was made because Stevens was "suspicious of him because of his race, colour, and nationality".

Linda Cannon, the licensing manager, said Olumade and Akinleye regularly accused the council of racism, with Olumade claiming they "did not give licences to Black taxi drivers". She claimed Olumade was sometimes aggressive when trying to put his point across.

The tribunal found that attitudes towards him were prejudiced because of his race and nationality and the fact he raised issues of racism.

On 11 February 2016 Olumade and Akinleye went to church in Reading and, while parked, a licensing officer at Reading Borough Council asked to see Olumade's licence. When Olumade asked why, the man took a picture of him and murmured 'black'.

Two other men began filming his car, and Olumade asked what they were doing, before driving off. The licensing officer raised a concern that Olumade refused to identify himself and may have been an unlicensed user of a licensed vehicle.

No one contacted Olumade about the issue, despite the fact BDBC only had three Black cab drivers. Akinleye was not contacted for a statement.

The tribunal noted that licensing officers have no right to stop a vehicle, and there was no reasonable explanation for Olumade being stopped.

On 15 February Olumade was informed he was being investigated about three complaints. One was an incident of dangerous driving, the other was the incident with Reading council and the final complaint was the refusal of a fare from a customer who had a bike.

Stevens said in an email the meeting with Olumade would be "challenging", which the tribunal found indicative of her negative attitude towards Olumade and prejudiced views.

During a meeting on 17 February, Olumade claimed the incident at Reading was racial harassment. Nothing was done about this complaint. He said the other complaints were third-party complaints and also racially motivated. The tribunal found Olumade did nothing wrong by refusing to take the customer with a bike.

The tribunal found Cannon made a conscious decision not to interview Akinleye, who was a witness at the Reading incident, ignoring evidence that might favour Olumade. As they interviewed two other white men present, the tribunal ruled Akinleye was discriminated against on the basis of sex and race.

The tribunal found there was a reluctance on the part of Cannon to accept that Olumade had done nothing wrong, and they found she was motivated by prejudice and a stereotypical view of Olumade.

On 19 February Olumade was assaulted by a white taxi driver, Paul Bulpitt, who threw hot liquid in his face. Olumade said Bulpitt told him he had "played the race card" to the council. He said Olumade and his wife were immigrants and should "go back to where they came from".

Olumade was temporarily blinded and had to go to hospital. Bulpitt and another driver, Stuart Hart, pushed him and said if the council did not remove him from the rank they would do a "better job".

Olumade emailed the licensing team saying something should be urgently done as "going to work has become highly intimidating" after the "horrendous vicious attack". He stated that he was worried about going to work, and had the right to work without "fear of persecution, racial harassment, violent injury or death". The tribunal found there was no response from BDBC to Olumade's reports, and there was no investigation into Bulpitt's behaviour.

Bulpitt was later convicted of assault and given a restraining order against Olumade. However, he continued to work at the same taxi rank.

Olumade also raised the same complaints with the local authority, but there was no response. Following Olumade's complaint to the council, multiple complaints were made against him by white taxi drivers.

On 30 June Andrew Wake, who has been a licensing officer for the council since 2016, wrote to Olumade saying it was investigating issues between drivers at the rank, hoping that drivers would resolve the issues and "focus on the job". **The tribunal found this was unfair as it assumed there was fault on both sides, when Olumade had been attacked and the complaints against him were unsubstantiated. The tribunal found that Wake treated complaints from white taxi drivers more favourably compared to complaints from Olumade.**

Akinleye complained that both her and her husband had unsubstantiated complaints put on their files, which could be used against them to criticise them in the future. The tribunal found in the absence of any other explanation this could be based on race, finding it was discrimination.

In September Olumade received an anonymous threatening letter at home, telling him he was not fit for the job and should just go before he made it worse for himself. He felt his life was being threatened and had concerns about his young children. The council took no action and told Olumade to direct his concerns to the police.

Olumade also made a number of other complaints of harassment and abuse at the taxi rank, but the tribunal found there was a "greater willingness and enthusiasm" to investigate complaints made against him than these concerns. They found this was discrimination as it was motivated by the management team at BDBC disliking him because of his race. In total, Olumade made more than 80 allegations of race harassment and discrimination.

Akinleye made complaints she was referred to as "Olumade's wife" rather than by her name, claiming she was treated differently because she was Black and a woman. In total, Akinleye put forward 43 allegations of race and sex discrimination.

Panel's comments

Employment judge Rayner found officers at BDBC formed opinions of Olumade and Akinleye based on racial prejudice at an early stage and later ignored and denied the racist attitudes of white taxi drivers towards them. The panel ruled both of them were subjected to "long-term and continuous" discrimination, which led to a significant injury to feeling. They found Olumade suffered "severe stress" when the "baseless allegations" were made against him, and was left feeling "humiliated and unsafe" at work. Akinleye found the questioning of her husband to be "vitriolic and oppressive" and caused her "hurt, trauma and emotional distress", the panel ruled. She was left with "incapacitating" anxiety meaning she was unable to work, and she felt "betrayed and despised" by her employer, the panel found.

Thanks to Freddie Clemo and People Management for the tribunal summary. **This case highlights the importance of organisations actively enforcing diversity policies, thoroughly investigating complaints of discrimination, taking them seriously, and dealing with them effectively.**

TRIBUNAL REJECTS WOMAN'S COMPLAINT OVER EMPLOYER'S TRANSGENDER TOILET POLICY

Engineer loses sex discrimination case after claiming company's guidelines put women at greater risk of assault.

A female engineer at aerospace firm Leonardo UK, who complained about having to share toilets with transgender colleagues, has lost her sex discrimination claim.

Maria Kelly claimed it was "ridiculous" that transgender employees were permitted to use the female toilets at Leonardo's Edinburgh offices and lodged a formal grievance with the company in June 2024.

After Kelly's grievance was not upheld, she made claims at tribunal that Leonardo's toilet access policy amounted to harassment related to sex, direct sex discrimination and indirect sex discrimination.

All of her claims were dismissed by the tribunal. Employment judge Sutherland said that there was "no reasonable basis" on which to conclude the policy put female employees at greater risk of violence and sexual assault or impacted their privacy more than male staff.

Background

Kelly began working for Leonardo UK at its Edinburgh office as an engineer in January 2007, and was promoted to the position of people and capability lead in September 2024.

There are around 2,800 employees working from the Edinburgh site. Around 20 per cent of the workforce are women, while 0.5 per cent are transgender.

Kelly told the tribunal she believed a transgender woman and a biological man were "materially the same" and that it was "ridiculous" that transgender women should be allowed to use the female toilets. She considered this to be prioritising the needs of "a few men" over hundreds of women.

She said women have a particular need for privacy if they are experiencing menstruation, pregnancy or menopause. In particular, Kelly said she would be embarrassed to wash blood off her hands or unwrap sanitary products in toilets where transgender women are present.

Since September 2022, Kelly was aware of three transgender women who used the female toilets regularly.

Before June 2023, Leonardo did not have a policy regarding access to toilet facilities.

On 13 June 2023, Kelly emailed Gill Nairne, the vice president of HR for the Edinburgh site, asking for the company's policy on toilets and whether they were accessible on the basis of "sex rather than gender". Nairne responded, stating: "The toilet facilities at Leonardo are based on gender aligning with the Workplace (Health, Safety and Welfare) Regulations 1992."

A couple of weeks later, Kelly replied asking when the policy was introduced, whether there was anything in writing, if it was going to be shared with staff and how gender identity was determined. She commented that staff expected toilets to be segregated on the basis of sex and expressed the viewpoint that the policy had the effect of making all the toilets mixed sex.

On 28 February 2024, Rachel Ruxton, head of inclusion and diversity, emailed Kelly stating that Leonardo had an obligation to comply with the Equality Act 2010 and to "ensure employees are not discriminated against because of a protected characteristic", noting that this included gender reassignment. On this basis, she said, Leonardo considered it was "appropriate and an inclusive approach" to allow anyone undergoing or who had undergone gender reassignment to use the toilet aligned to their gender identity.

Kelly replied the same day, saying the response was "very disappointing". She submitted a formal grievance on 24 June, complaining that she was being subjected to sex discrimination and harassment as a result of Leonardo's toilet access policy.

On 8 August, a grievance outcome letter was issued by Andrew Letton, vice president of people share services. Kelly's grievance was not upheld; however, some of the toilets in the Edinburgh office were made single occupancy, in line with Kelly's request. Kelly appealed the grievance on 23 August, arguing that the toilet access policy put the "views of those subscribing to gender self-identification theory above those who hold protected gender-critical beliefs". She also claimed that others had been reluctant to speak up about the issue for fear of being called "transphobic". Although she welcomed the addition of single-occupancy toilets, she argued that their provision did not reflect the number of women on site and that dedicated female-only toilets would be more appropriate.

The appeal was not upheld, with the outcome letter stating that Kelly's beliefs came into "direct conflict with the notion of inclusion and tolerance towards all" and that any actions on her part that were considered discriminatory towards transgender colleagues may result in disciplinary action.

Judge's comments

The tribunal dismissed Kelly's claims of harassment and sex discrimination. Sutherland said the company's toilet policy did not put female staff "at greater risk of violence and sexual assault" or impact their privacy more than that of men and there was no evidence that the claimant was more fearful. All staff had access to single-occupancy toilets if preferred and no other complaints were made about the policy. Kelly also did not state in her grievance or evidence that there had been any incidents of violence or sexual assault and did not change the pattern of her toilet usage, despite the availability of alternative single-occupancy toilets. Sutherland added: "The claimant was not upset by the operation of the toilet policy, which had no practical effect. She was annoyed that the respondent had permitted access based upon gender, which she considered 'ridiculous'. She does not believe a person can have a gender identity different to their biological sex." The tribunal found that permitting access based upon asserted gender rather than sex was an appropriate means to achieve the aim of an inclusive workplace environment. The tribunal's judgment follows the Supreme Court's ruling in April 2025, which determined that the terms 'woman' and 'sex' in the Equality Act 2010 referred to a "biological woman" and "biological sex".

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

ESSENTIAL HR FOR LINE MANAGERS DEVELOPMENT PROGRAMME - RECENT TESTIMONIALS

"Highly informative, an absolute must for new or existing managers to support them in becoming high quality people managers."

"Great trainer. In-depth modules with clear learning objectives. I feel confident going back into the workplace with the knowledge and documents provided by the course."

"As a new manager, I found the course very helpful. It gave me a great understanding of how to deal with difficult situations which I can now use at work and pass on to other employees."

We were delighted to deliver our last Essential HR for Line Managers Development Programme for 2025 last month, and receive the lovely testimonials above. We are passionate about sharing our knowledge and expertise to enhance people management skills.

If your management team would benefit from people management training, please contact us to discuss and we will provide a free no-obligation cost quote. Our programme can be customised to reflect your organisation's people management policies and practices.

What does the Essential HR for Line Managers Development Programme?
There are 5 x 4-hour workshops that can be delivered flexibly - these cover:

- **Line Management Skills and Behaviours** – the manager's role and what makes a great manager, emotional intelligence, motivating and developing your team, and key people management skills.
- **The Employee Lifecycle** – equal opportunities, recruitment and selection within an equality framework, managing induction and probation.
- **Performance Management** – setting standards and SMART objectives, conducting effective appraisals, managing performance problems, providing constructive feedback, and having difficult conversations.
- **Managing Absence, Discipline, Grievances and Leavers** – managing short-term and long-term absences, disability and reasonable adjustments, managing discipline and grievances, and leaver considerations.
- **Mental Health and Wellbeing** – wellbeing responsibilities, an overview of common conditions, identifying the signs of declining wellbeing, supporting your team members, managing your own stress and mental wellness, and promoting positive health and wellbeing in the workplace.

Full details of the programme can be found in our EssentialHR brochure: here

TRIBUNAL RULES NON-BINARY DOES NOT MEET TRANS PROTECTIONS UNDER EQUALITY LEGISLATION

A non-binary cognitive behavioural therapist who brought a claim of harassment against an NHS trust has lost their case after an employment tribunal judge ruled that they did not have the protected characteristic of gender reassignment.

The case of Lockwood v Cheshire and Wirral NHS Foundation Trust is believed to be the first employment tribunal decision on non-binary gender identity since April's landmark Supreme Court ruling in For Women Scotland v Scottish Ministers, which found that sex as defined in the Equality Act 2010 is biological. It is binary; either male or female.

While it does not set a precedent in case law unless the decision is upheld on appeal, it marks a significant legal decision in the wake of the Supreme Court judgment on how gender identity is interpreted under the Equality Act.

The judge in the case also referred to the case of Taylor v Jaguar Land Rover in 2020, which found that non-binary individuals can fall under the protected characteristic of gender reassignment.

Haech Lockwood, the claimant who still works for the NHS trust, filed complaints of harassment relating to gender reassignment at the tribunal, following nine incidents, including where they were "mis-pronouned" and "deadnamed".

The tribunal claims were made against the Cheshire and Wirral trust and against six individuals who work there, and the case was heard over seven days in September at Liverpool employment tribunal.

Lockwood, who was born female, identifies as non-binary and uses the pronouns they/them. Under the name Heather Lockwood, the claimant started work with the trust in November 2021, having noted on their application that they were non-binary.

They/them pronouns

With support from their manager, the claimant arranged for an email to be sent to colleagues in the psychological service, advising that the claimant wished to be known as Haech Lockwood, that they identified as trans/gender fluid and did not identify as male or female, that using their deadname caused gender dysmorphia, and that the claimant's pronouns were: they/them.

After Lockwood's name was changed by deed poll, they notified their manager to request their name be changed on the trust's ICT systems, but this took several months to be fully actioned. Meanwhile, the claimant's deadname would still appear on Microsoft Teams.

Another incident involved Lockwood receiving a letter from occupational health, following an absence due to stress and Covid, addressed to "Other Heather Lockwood".

Lockwood filed an informal grievance about both issues, which later led to two formal grievances.

The series of harassment incidents occurred between October 2023 and January 2024. They included: being referred to as "her" by a member of the ICT service desk; the claimant's deadname appearing on communication with patients; being referred to as "she" at a Covid vaccination clinic and various other occasions of misgendering; and a colleague, who had been aware of an incident of misgendering, failing to properly acknowledge the claimant after they had said "good morning".

Employment contract

In January 2024, the claimant asked HR for a copy of their employment contract. The claimant was provided with copies of two contracts: the first was a copy of the contract they had signed in September 2021, which was in the claimant's deadname, Heather Lockwood; the second was a later contract reflecting a reduction in hours. That contract was in the name of Haech Lockwood.

In the claimant's grievance, Lockwood was told the first contract was a historical document that could not be changed as it reflected facts that were legally correct at the time – in line with the trust's document retention policy.

Ceri Widdett, counsel for the claimant, adopted the reasoning in the decision in Taylor v JLR that section 7 of the Equality Act, particularly that "proposing to undergo" transition is ambiguous.

Referring to Hansard, the Taylor case supported the premise that gender reassignment was intended to cover a "spectrum moving away from birth sex, and that a person could be at any point on that spectrum. That would be so whether they described themselves as 'non-binary', i.e. not at point A or point Z; 'gender fluid', i.e. at different places between point A and point Z at different times; or 'transitioning', i.e. moving from point A, but not necessarily ending at point Z, where A and Z are biological sex."

Widdett also referred to For Women Scotland, which was decided after Taylor, noting that the Supreme Court expressly preserved the distinct protection afforded to trans individuals under the separate protected characteristic of gender reassignment.

Non-binary

In its decision, the panel said: "The claimant is non-binary. Their sex at birth was female. They have no intention to transition to the male sex. They have changed their name by deed poll to Haech and live under that name. They have the preferred pronouns of they/them. The claimant intends taking no other steps to change their sex, medical or otherwise."

"The starting point are the words of the statute itself. The Supreme Court emphasised in For Women Scotland that 'sex' within the Equality Act 2010 means biological sex. As such sex is a binary concept, male and female. The question we consider that this tribunal needs to answer in this case, is what does 'for the purpose of reassigning the claimant's sex' mean following For Women Scotland."

The judgment asked: "What journey does section 7 require the claimant to be on for them to have the protected characteristic of gender reassignment?" It added: "On our reading of section 7 Equality Act 2010, in light of the clear direction from the Supreme Court that sex is biological sex and as such is binary, the journey can only be from one sex to the other."

The judgment also stated: "The only reference that the tribunal has found to indicate that a process to move away from birth sex is sufficient to meet the definition within section 7 (rather than it being a process to move from one sex to the other) is the EHRC Code of Practice on Employment, which the EHRC are in the process of updating following For Women Scotland and as such we consider is of limited assistance."

The panel explained that it had carefully considered the Supreme Court judgment and believed that there is nothing in it to suggest its view is incorrect.

'**Distinct and separate'**

It referred to paragraph 199 of the judgment, which clarifies that it is the process of reassignment which section 7 is protecting, when explaining that sex and gender reassignment are "distinct and separate bases for discrimination and inequality, giving separate protection to each".

The judgment said: "That does not however detract from our view that the process still requires the purpose of the reassignment of sex. Although [Lockwood] has taken steps to change attributes of their sex from female, by changing their name to a name which can be identified as of either sex, and has changed their preferred pronouns, those are not in our view attributes which are for the purpose of moving from one sex to the other, they are steps in the process of moving away from the female sex to a different gender identity, i.e. that of non-binary. The claimant is not proposing, nor do they intend to take any steps to reassign their sex from that of female to male.

"We therefore find that the claimant does not have the protected characteristic of gender reassignment."

Despite this finding, Employment Judge Benson considered Lockwood's harassment complaints. The panel accepted that the claimant was "distressed, upset and offended by each of the incidents they complain of". The judgment said: "We do not find that the claimant has shown facts from which we could conclude that any of the incidents had the effect of violating their dignity. Violating is a strong word. Offending against dignity or hurting is not enough."

All claims failed and were dismissed. The judgment concluded: "We understand that transgender issues are emotive and sensitive matters and that our decision will be disappointing to the claimant and to others. "In some cases, this being one, there is no direct authority from higher courts upon a legal point. The role of an employment tribunal is to consider the evidence and to decide upon the case before us, having applied the law as we interpret it. We have done so to the best of our ability."

Thanks to Rob Moss and Personnel Today for the tribunal summary.

DYSLEXIC CHEF DISMISSED AFTER STRUGGLING TO READ ORDERS WINS £24K AT TRIBUNAL

Tribunal rules pub chain Greene King failed to provide reasonable adjustments, including requested Bluetooth headset.

A chef with dyslexia who struggled to read customer's food orders has succeeded in a claim for disability discrimination at tribunal.

Mr L Moore's employer, Greene King Retail Services, failed to provide reasonable adjustments after he was unable to read orders that appeared on a screen in the pub's kitchen. His manager said the pub chain would have to "lay him off" if he could not come up with a reasonable adjustment, the Bury St Edmunds tribunal heard.

However, Greene King failed to implement Moore's suggestion of a Bluetooth earpiece that would connect to the respondent's computer and convey the information on screen verbally. His employment was then terminated.

The tribunal found Moore's complaint of failure to make reasonable adjustments for disability was well founded, awarding him a total of £24,005.63.

Background

Moore has dyslexia, which was confirmed in an assessment conducted in March 2021, concluding he has weaknesses in reading, spelling, phonological processing and short-term memory.

The assessment report described Moore's difficulties with literacy and numeracy as "extensive", noting that he was unable to read at an efficient speed and struggled to interpret certain words accurately and fluently.

On 6 June 2023, Moore attended an interview for the role of back of house team member (kitchen chef) at the Rushbrooke Arms in Bury St Edmunds, owned by Greene King Retail Services, but was initially unsuccessful. However, on 9 September, after conduct-related issues with another chef, general manager Lance Brown contacted Moore to ask him if he was still looking for work and invited him for a further conversation about the role.

Moore met with James Pope, kitchen manager, on 11 September to discuss the position. He informed Pope of his dyslexia, telling him he could not read or write. Pope told him this would not be a problem and offered Moore the job to start in two weeks' time.

On 19 December, Moore explained to Pope that his granddaughter lived with him under a special guardianship order and that he could work up to 40 hours per week if she attended nursery full time. Pope said Moore could start at 32 hours a week and they would “see how he got on”. As a result, arrangements were made for nursery care for his granddaughter on a full-time basis. The tribunal said this “was not a binding contractual agreement to the effect that there was a minimum number of hours per week” and that no specific terms of Moore’s employment were agreed.

Although a written contract of employment was prepared, Moore never signed it. Instead, he was required to download an app when he began working at the pub, which was used for HR issues, including pay and training. When an employee first logs into the app it displays a PDF of their contract for them to review. They were then asked to click a box to confirm that they had read and agreed to the contract of employment and would then be given full access to the app.

Moore ticked the box to agree to the terms of the contract, but was unable to read it first. The tribunal accepted Moore’s evidence that he also could not read the wording that stated that he would be agreeing to the contract by clicking in the box, and so was not aware that he was doing so.

The contract was in fact fixed term, beginning on 15 September 2023 and ending on 5 January 2024. It also stated that Moore’s working hours would vary each week but that he would work about eight hours per week, depending on business requirements.

At the end of Moore’s shift on 1 October, Brown spoke to him about his progress. He told him he had received positive feedback from the other chefs and that his work ethic could not be faulted, but added: “The only issue we have is your reading, because if you can't read the orders on the screen in the kitchen you are going to struggle.”

Brown asked Moore if he could think of anything that might help, saying: “If we can't come up with a reasonable adjustment then we will have to lay you off." The same day, Moore suggested he could use a Bluetooth earpiece that connects to the respondent's computer and relays the information on screen verbally via the headset.

Moore did not undertake any further shifts at the pub and, on 3 October, he raised a grievance. He was taken off the rota as he had also not undertaken all his online training, which involved reading. An occupational health assessment was carried out on 25 October, with the resulting report suggesting that a wireless headset could be provided to accommodate Moore’s difficulties. Despite this, two meetings took place in November 2023 to try to resolve matters, but these were unsuccessful. Following the meetings, Cassie Hunt, employee relations case manager, left a message on Moore’s phone explaining that as the respondent could not find a way forward they would not be able to continue with Moore’s contract. Moore’s employment ended on or around 23 November.

Panel’s comments

The respondent conceded that it had failed to make reasonable adjustments. Employment judge Spencer said that, had the adjustments been made, it was highly likely Moore would have remained in employment, given Brown’s “very positive assessment of his work capabilities”. The judge also pointed out that the discrimination Moore experienced “took its toll on him”. “The way the respondent treated him made the claimant feel worthless, humiliated, suicidal and anxious, particularly as he knew he was going to be jobless once again,” said Spencer, noting that Moore was later prescribed medication for his anxiety, regularly had suicidal feelings and his relationship with his wife had suffered. **As a result, Moore was awarded a total of £13,735.89 for injury to feelings and £10,269.74 for past financial losses.**

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

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Your People - Your Performance - Our Passion

SECURITY SUPERVISOR ARRESTED ON SUSPICION OF MISUSING CCTV FOOTAGE WAS UNFAIRLY DISMISSED

Tribunal finds company did ‘nothing proactive’ to find alternative employment for claimant, after relying on third-party pressure as reason for dismissal.

A security supervisor working at Croydon University Hospital who was arrested for the alleged misuse of CCTV footage was unfairly dismissed, a tribunal has ruled.

The London South Employment Tribunal heard that the claimant, Nick Darling, along with 15 of his colleagues, were arrested and suspended by ICTS, the security company employed by Croydon University Hospital, while the police investigated.

ICTS later dismissed Darling after the hospital said it would not permit individuals still under investigation to return to the site.

However, the tribunal ruled that Darling’s dismissal, which resulted from third-party pressure, was unfair after ICTS failed to adequately consider alternative employment for him, which it stated “fell outside the range of reasonable responses”.

Background

Darling began working as a security officer at ICTS in 2020. He had experienced stress and anxiety since 2012. In 2021, Darling became a security supervisor, based at Croydon University Hospital. All security personnel were provided with bodycams by ICTS and had to download footage onto a server.

The tribunal noted that there was no formal training on how to use the bodycams or server, and that all 16 security officers had access to the system.

On 12 May 2022, Darling and the rest of the security personnel at the hospital were arrested on suspicion of perverting the course of justice after an employee misused CCTV footage. Cheney, security manager at ICTS, told the tribunal that another employee had allegedly accessed the server at Croydon University Hospital to film footage of CCTV, possibly using his phone camera, before illegally sharing it.

Detective Sergeant Suffolk emailed ICTS on 16 May to inform the firm that 16 employees had been arrested and bailed with conditions not to contact anyone at ICTS or attend work at Croydon University Hospital.

On 8 June, ICTS was told that all employees, except for one individual, had been released under investigation. It was expected the investigation could take six to 12 months, during which the police said they could not return to work. On 12 June, Darling was suspended while the police investigated the incident. On 27 June, Darling wrote to Johnson, HR business partner at ICTS, informing her of his anxiety, and that he was having suicidal thoughts and had been referred to counselling. Two days later, Darling attended an investigation meeting with Johnson. She explained that ICTS was waiting for confirmation from Croydon University Hospital that they would be willing for individuals still under investigation to return to the site.

If he could not return to work at the hospital, Johnson said ICTS would begin a search for alternative vacancies. She said these may be limited to non-security roles while the investigation was ongoing and told Darling to look at the positions on the company's careers website to see if any were of interest.

Darling was also told he could not apply for any roles in healthcare, or at colleges or universities. ICTS told the tribunal that it would have been "irresponsible and a breach of the respondent's duty to their clients and members of the public" to have placed Darling in another security role.

Darling found that none of the available roles were within his skillset, or within a commutable distance.

On 22 July, the hospital sent a letter to ICTS stating that it would not permit staff still under investigation to return to site. ICTS told the tribunal that it was not possible for it to keep the employees who had been released under investigation suspended on full pay because of the costs and disruption to the business.

Darling was signed off work because of anxiety from 29 August and two weeks later he was dismissed. The dismissal letter stated: "To date we have no record of you applying for any alternative roles within the business and as such it is with regret that I inform you that your contract of employment is being terminated as a result of third-party pressure." The other 15 security officers were also either dismissed or given alternative employment.

Darling appealed the decision on 26 September, stating that no suitable alternative roles were available to him. The appeal was not upheld, with ICTS stating he was given the opportunity to apply for alternative positions.

Judge's comments

Employment judge Macey found that Darling was unfairly dismissed because ICTS failed to take sufficient steps to find an alternative vacancy for the claimant, despite identifying third-party pressure as a fair reason for dismissal. "The respondent did nothing proactive in terms of alternative employment," Macey said. "The claimant was simply told he could apply for jobs on the website, within certain parameters, without any meaningful assistance being provided to him." The appeal outcome letter simply repeated the fact that Darling could look at any open positions on the company website. "The respondent's lack of action in respect of considering alternative employment with the claimant fell outside the range of reasonable responses by a reasonable employer," Macey said. The judge set out that a reasonable employer would have spoken to the claimant about where his interests lie, assisted him in identifying other roles or encouraged conversations about different roles, even if they meant he would be demoted.

ICTS was also aware that Darling was experiencing anxiety symptoms. "This was all the more reason to have provided the claimant with meaningful assistance to find an alternative role within the respondent," Macey added. Darling's claims of automatic unfair dismissal for asserting a statutory right and unauthorised deductions from wages were unsuccessful. The tribunal will decide a remedy at a future hearing. Thanks to Isabel Jackson and People Management for the tribunal summary.

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- Analysis and interpretation of survey data
- Comprehensive report with insights and recommendations

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- Skills and Knowledge Matrix development
- Creation of a new / updated strategic people and culture development framework
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- Review of existing wellbeing strategy, framework and plans
- Detailed report with analysis and strategic recommendations
- Plus an agreed number of days of wellbeing-focused support within a specific timeframe e.g. this could deliver one wellbeing-focused workshops on a quarterly basis

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ACTUARY FINED £22K FOR ISLAM-CRITICAL TWEETS WAS SHARING PROTECTED BELIEF, TRIBUNAL SAYS

Lawyers urge employers to ensure disciplinary action is 'justified and proportionate', but emphasise decision cannot be applied universally. The view that "unreformed Islam is problematic for western liberal democracies" can be a protected belief under the Equality Act 2010, a tribunal has said in a preliminary hearing.

The claimant, Patrick Lee, a member of the Institute and Faculty of Actuaries (IFoA) described "traditional" Islamic beliefs as incompatible with "western values". His arguments included that they justify violence against non-believers, promote unequal legal status for women, impose the death penalty for apostasy, blasphemy and homosexuality, and reject the separation of religion and state.

As a result, he set out that the religion, "particularly in a traditional form, rather than a reformed, modernised, moderate and westernised form", was "deserving of criticism".

Employment judge Khan found in a preliminary hearing that Lee genuinely held his belief and that it therefore met the legal threshold for protection under the Equality Act. Khan accepted Lee's evidence that he was "critical of certain Islamic doctrines and practices, and not to individual followers of Islam or to the Islamic faith/religion at large". "I also accept his evidence that his view was (and remains) that these doctrines and/or their interpretation require urgent reform," the judge said.

Background

Lee made the tribunal claim after the IFoA found that a series of tweets posted by Lee between 20 March and 29 August 2020 criticising the Islamic religion constituted misconduct. Following a disciplinary hearing, the trade body banned him from the profession for two years and fined him £22,667.

The IFoA ruled that Lee's tweets used offensive and inflammatory language designed to "demean or insult Muslims", concluding that his conduct could "reasonably be considered to reflect upon the reputation of the actuarial profession as a whole". At the hearing, it was found that, out of 83 tweets posted by Lee, 43 could be considered either offensive, inflammatory or both.

The IFoA's judgment highlighted tweets that labelled Islam as "morally bankrupt", a "dangerous cult" and a "1,300-year-old con trick", as well as referring to the prophet Mohammad as a "monster". In one tweet, Lee described the religion as "fundamentally evil" and said it could not be reformed. The trade body also noted that Lee's use of the Twitter handle 'Free Speech Actuary' risked his conduct reflecting on the profession as whole, as well as Lee's status as a member of the IFoA's council.

“This was not a one-off misjudgment but a sustained campaign involving a substantial number of unacceptable posts,” the disciplinary panel stated, finding that “members of the public and other members of the profession would consider that this behaviour fell well below what would be expected”.

At a further hearing in February, the employment tribunal will decide whether the claimant was discriminated against. The tribunal will consider whether Lee’s tweets were a manifestation of the protected beliefs, whether the employer interfered with the activity and whether the interference was justified. In the preliminary hearing, the judge commented: “I do not find that these tweets and the pleaded belief are mutually exclusive, nor incompatible.”

Lee told People Management that he hopes employers “will now recognise that Islam-critical views enjoy the same level of protection in law as any other protected characteristic”. “Free speech is the bedrock of democracy,” he added. “If professionals like me are barred from saying anything controversial – which is effectively what the Institute and Faculty of Actuaries have imposed on their members via their Actuaries’ Code – then they cannot take part in any debate about important political and social matters.”

An IFoA spokesperson said: “Under its Royal Charter, the IFoA has a responsibility to regulate the actuarial profession in the public interest. “The IFoA's independent disciplinary process operates to ensure that the public has confidence in the work of actuaries and that the reputation of the actuarial profession is safeguarded. “We acknowledge the decision of the employment tribunal at this preliminary hearing but are unable to comment further while proceedings remain ongoing.”

What does the tribunal decision mean for employers?

Ian Jones, director and principal solicitor at Spencer Shaw, emphasised that the finding was “specific to the facts of this case” and could not be applied universally. “Lee was critical of certain Islamic doctrines and practices, rather than the whole religion or individual followers, and the tribunal accepted his submission that his views were based on analyses of Islamic texts, not prejudice,” he said. Jones explained that employees in a similar position will still have to prove that their individual views meet the threshold of protected beliefs. “Beliefs will not be protected if they are unworthy of respect or incompatible with the fundamental rights of others,” he said. “This case shows that criticisms of religion are not automatically unworthy of respect, even if some people find them offensive.”

However, Alex Berkshire, senior associate at Browne Jacobson, said that, while the ruling did not immediately change the legal landscape for employers, it reflected a “growing trend of courts recognising protection for a broader range of beliefs”. He added that employers dealing with employees who post controversial views on social media should be aware that the law recognised a “fundamental right to hold and manifest express beliefs, even those others may find offensive”. “Employers must ensure any disciplinary action is justified and proportionate, considering factors such as potential reputational damage, whether the employer can be identified from the employee’s posts, whether there is an impact on the employee’s job and how offensive the post is,” he explained.

Katie Hodson, partner and head of employment at SAS Daniels, noted that if the tribunal concludes Lee’s tweets were not an appropriate manifestation of his belief, it may find that the IFoA’s actions were justified. She said employers could still act where an employee’s conduct, including social media activity, breached equality or conduct policies or risked bringing the organisation into disrepute. “The key is to focus on behaviour and impact rather than the belief itself, applying policies consistently, ensuring investigations are fair and carefully balancing the rights to belief and dignity at work,” Hodson advised.

Thanks to People Management for the tribunal summary.

LAWYER WINS RACE HARASSMENT CLAIM AFTER COLLEAGUE SHARED PHOTO OF 'NAKED' SAMBA DANCER TO WORK WHATSAPP

Co-worker's holiday snapshot of Brazilian performer created a 'degrading environment' for Black women, tribunal finds.

An ex-chief legal officer has partially won a race harassment claim after a colleague shared two holiday photos from Brazil in a workplace WhatsApp group, including one that appeared to show an almost naked samba dancer.

The Cambridge employment tribunal found that Rochelle Tapping, the sole black member of Peterborough City Council's corporate leadership team, was racially harassed after chief finance officer Cecilie Booth sent the images on 11 April 2023 while on holiday.

The tribunal determined that the first image, which showed a black performer who appeared to be naked, could reasonably be regarded as race related and created a hostile setting for Tapping and black women generally.

A second race-related harassment complaint, concerning chief executive Matthew Gladstone, asking whether Tapping and newly appointed black interim colleague "were friends", was also upheld.

All the remaining claims, including 20 other alleged detriments and allegations of race discrimination and victimisation, were dismissed. A remedy hearing is scheduled for a later date.

Background

Tapping, who is of Jamaican heritage, joined Peterborough City Council as director of legal and governance and statutory monitoring officer from 14 November 2022. As a monitoring officer, she was responsible for maintaining the legality and ethical standards of the council's decision making and was one of three who held a statutory role. She was also a member of the corporate leadership team and the first black permanent senior appointment at the council in several years.

From March to May 2023 she raised several concerns about her treatment, many referencing her experience as the only black senior leader in the organisation. While these concerns were addressed in the context of her later complaints, the tribunal did not uphold the majority of them.

In February 2023, an interim head of legal, Adsuwa Omoregie – also a black woman – joined the council and was introduced to Tapping. Upon their introduction, the tribunal found that Gladstone asked whether the two women were friends.

The tribunal held that, although unintended, the comment implicitly suggested that two black senior professionals must know each other, and reasonably caused offence.

On 11 April, while on holiday in Brazil, Booth sent two images to the leadership team's WhatsApp group. The first image showed a black samba performer in carnival costume who had "her buttocks on show".

The tribunal heard that the woman appeared, "at first glance, to be naked except for a plume of green feathers protruding from her head".

The tribunal said that although much of Booth's holiday messaging was innocuous, the first image – with the focus on the performer's exposed buttocks and the fact Tapping was the only black person in the group – amounted to race-related harassment.

During the same period, concerns were raised about Tapping's performance. On 3 May, Gladstone held a probation review meeting in which he described her tone as "aggressive", a term he later apologised for.

Tapping's probation was extended on 12 May and she was dismissed on 31 August following a panel hearing. The tribunal found that these decisions were based on genuine performance concerns rather than race or protected acts.

Judge's comments

The tribunal rejected most of Tapping's allegations, concluding that she failed to establish the facts needed to show discrimination, victimisation, or harassment for the majority of the detriments she relied upon.

Only two incidents were upheld as race-related harassment: Gladstone's question asking whether Tapping and Omoregie were "friends", and Booth's circulation of a WhatsApp image of a samba performer.

On the 'friends' comment, the tribunal accepted that Gladstone had intended to ask if the women had worked together but, as both women were black, it was reasonable for them to interpret the remark as an assumption that they knew each other because of their race. While there was no intention to offend, the question nevertheless created an "adverse environment".

Regarding the WhatsApp incident, the tribunal highlighted the focus on the black performer's exposed buttocks and the fact that Tapping was the only black member of the group.

Employment judge Tynan said: "That fact, combined with the picture's focus on the black performer's exposed buttocks, rather than for example her abilities as a performer or dancer, lead us to conclude that the image can be said to be related to race and that it was ultimately reasonable for Tapping to feel that it created a degrading environment for her and black women in general."

Although the distress caused to Tapping was not deemed "particularly significant", it was judged to have offended "her sense of what it takes to be a successful professional black woman". For this reason, the complaint was upheld.

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

This case highlights the need for organisations to ensure that their people understand the 9 protected characteristics contained within equality legislation and what acts could be classed as discrimination, harassment, or victimisation. Employer should be completing regular awareness training to all staff, as well as having robust policies in place that are effectively managed.

EXPENSES SCAM: AI-GENERATED RECEIPTS POSE NEW THREAT FOR EMPLOYERS

Artificial intelligence allows staff to create 'scarily realistic' expense receipts to make fraudulent claims, expert warns.

Workers are using artificial intelligence (AI) to generate fake expense claims receipts and fool finance teams into approving fraudulent payments, a cybersecurity expert has warned.

Jake Moore, global cybersecurity adviser at security firm ESET, told the Daily Mail that generative AI tools now allow anyone to fabricate receipts that are "scarily realistic", raising concerns that businesses could be losing money to fraudulent reimbursements.

Most companies allow staff to claim expenses by submitting an image of their receipt alongside their request for reimbursement. Finance or payroll teams then process and approve these claims – often in bulk. The sheer volume of receipts, combined with increasing workloads, means fraudulent claims can easily slip through.

What is the AI expense receipt scam?

This risk is growing as AI makes it far easier to create convincing fake documents. Where Photoshop once required specialist skills and time, new tools now let users generate realistic receipts with minimal effort, Moore warned.

"AI has enabled crime to be sped up and become accessible to many more people," he said. "Tools like Photoshop can be difficult and take a long time to learn. Now with AI, you can get what you want by giving it a prompt."

Moore demonstrated how easily this can be done by creating a fake £38.20 Starbucks receipt in seconds using a chatbot. While minor inconsistencies might sometimes appear, these can go unnoticed by busy finance teams.

"Where you're approving expense claims quickly and at mass, it could slip through," he said. "It's a potential area that financial teams aren't thinking about and can go under the radar."

Moore also suggested that the ongoing cost-of-living crisis may be encouraging some employees to risk being caught and dismissed over such scams, comparing the behaviour to shoplifting. "Little thefts are a small win for some people," he said.

Spotting fake receipts is getting harder

But those minor gains could soon become much harder to trace, as the AI tools become more sophisticated and capable of generating more convincing fakes, Moore said.

“Unfortunately, like with all generative artificial intelligence, it’s going to get a lot more difficult to spot edited or AI-generated expense receipts. The technology is improving at such a fast rate and it can now be nearly impossible to identify legitimate documents,” he added.

Warning signs for HR and financial teams still exist, however. Managers should pay attention to “blurry text, misaligned formatting, and the VAT number”, Moore said, adding that the latter can be checked using VAT verification tools to confirm whether the vendor details match the shop on the receipt.

What employers can do to protect against AI fraud

As well as checking receipts carefully, Moore advised that businesses could cut risks by moving staff who regularly claim expenses onto company credit cards instead of reimbursing out-of-pocket spending.

“If they’re using their own card to claim reimbursements, it’s likely to be a small amount as you will usually need a company card to make a big purchase. This can also be a good way to monitor payments and mitigate against it,” he said.

Manual verification can also be used by employers to confirm the veracity of expense receipts. “We may need to rely on manual spot checks of physical receipts, capped specific allowances and even issuing company credit cards for all expenses to reduce misuse,” Moore added.

“Issuing corporate cards is a good place to start as it's an opportunity to reinforce policies and set spend limits,” Chris Putie, founder and CEO at expense management solutions provider Receiptable, said.

Technology can also be part of the solution. Giles O'Halloran, fractional HR solutionist at coaching and board advisory company Go2-work, said many expense management platforms use AI to detect anomalies, checking for duplicates, mismatched vendor details or image manipulation.

More advanced options include metadata analysis, where timestamps and editing history are examined, or even blockchain-based systems to validate receipts.

Liz Sebag-Montefiore, director of HR consultancy 10Eighty, advised firms to remove ambiguities from expense policies and simplify the claims process.

“Expense claims should always be checked and the process regularly audited,” she said. “Internal controls can only go so far, you need a certain level of trust in staff that reimbursements are valid.”

Thanks to Islam Soliman and People Management for the article.

MAN WHO GREETED MANAGER IN MOCK IRISH ACCENT WAS UNFAIRLY DISMISSED

An engineering worker sacked after saying to a colleague 'top of the morning to ya' in a mock Irish accent has won more than £16,000 for unfair dismissal.

The case revolves around the claimant's sacking for racial harassment on 4 September 2024.

Karl Davies, then 57, was working at Wrexham's Oscar Mayer ready-meal manufacturing plant when, on August 13, 2024, he greeted a manager, Scott Millward, in an Irish accent while listening to Irish music, an employment tribunal heard.

Judge Vincent Ryan declared an interest, as he has joint Welsh/Irish nationality and said he was irritated by people mocking his accent or greeting him using "top of the morning to you". He stated that he had not been asked by either party in the case to recuse himself.

Millward had been accompanied by a "red-headed" external auditor when the remark was made, and he reported Davies. Oscar Mayer launched a probe into whether the comments amounted to racial harassment, the tribunal in Mold was told. Neither Millward nor the auditor was Irish or was mistakenly thought to be Irish, the tribunal heard.

The claimant repeated the phrase multiple times, with tribunal Judge Vincent Ryan accepting that he was "effectively channelling the musical vibe".

The judge said he recognised that Davies adopted an accent in a "reprehensible" and "mocking" way and was goading Millward by repeating the phrase "in a manner that Millward was bound to find irritating and embarrassing".

He said that the claimant was trying to get on Millward's nerves to get a reaction from him and to cause him embarrassment.

But he added: "I find that the purpose was not to racially harass Millward, and there is no evidence before me that it had the effect, either, on anyone.

"It was nevertheless blameworthy as (Mr Davies) was subordinate to Mr Millward.

"It gave rise to the disciplinary proceedings and therefore contributed to the eventual sanction."

The judge wrote that Oscar Mayer's disciplinary case was based on its perception that Davies may have perceived that the auditor looked "typically Irish".

Davies's phrase was found by his employer to amount to harassment, but neither his clean disciplinary record nor 27 years of employment for the firm were taken into account in the decision to dismiss him, the judge found.

Furthermore, Mr St John, the manager chosen to investigate the incident, was part of an unresolved grievance involving Davies, the tribunal heard. The grievance related to the claimant's conduct at redundancy hearings.

Davies was to be made redundant along with 100 colleagues at the Wrexham plant in September 2024, but contested the basis on which he was selected for redundancy.

The tribunal ruled that the chosen investigator was not "appropriate", witness statements were inconsistent, and the probe was "largely based on assumptions".

The judge said:

"The claimant was accused of using an employment-ending, reputation-damaging, loss-inducing, racially motivated slur, a slur which could have created an intimidating, hostile, degrading, humiliating or offensive working environment; these are serious matters".

"On the facts peculiar to this case, I found that the dismissal was unfair, which does not mean that I approve the use of the greeting in question or the use of mock accents".

"He added that the case was "not an indication of wokeness or anti-wokeness".

The respondent "mischaracterised the conduct, but it was blameworthy conduct and the claimant put himself at risk by insubordination", said the judge. However, the respondent "exaggerated the disciplinary charge to racial harassment but nevertheless there was misconduct."

The judge reduced the basic and compensatory award by 15% to reflect the claimant's conduct in accordance with the Employment Rights Act 1996, so Davies was awarded the sum of £16,490.

Thanks to Adam McCulloch and Personnel Today for the tribunal summary.

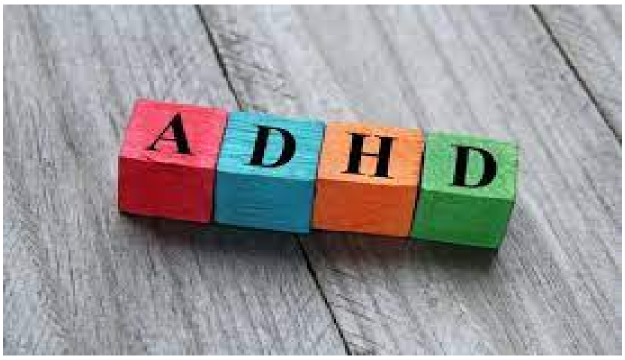
This case also highlights the importance of all staff understanding what the 9 protected characteristics are within equality legislation and the 4 forms of discrimination.

The importance of a fair and unbiased investigation cannot be understated, as many cases fall down on the quality of the investigation process, or investigations are completed by people who have received no formal investigation training.

The Chair of the Disciplinary Hearing should also take into consideration the seriousness of the alleged incident and the accused employee's employment history / background.

If your organisation would benefit from employee relations training including conducting workplace investigations and managing disciplinary and grievance procedures then please contact one of the team and we will be happy to provide a free no obligation cost quote.

LIDL WORKER WITH 'REJECTION SENSITIVITY' WAS UNFAIRLY DISMISSED



Supermarket chain failed to take into account how claimant's ADHD affected his communication style, tribunal finds

Lidl's dismissal of a deputy store manager has been ruled unfair at tribunal after it failed to consider communication difficulties linked to his ADHD.

Ryan Toghill was disciplined for using heavy machinery to lift pallets after he developed a hernia, despite his boss explicitly telling him not to do so.

Following an investigation and disciplinary hearing, he was dismissed for the "clear breach of trust" and for expressing a "lack of remorse" for his actions. However, the Cardiff tribunal determined that Toghill's lack of remorse was linked to his ADHD.

Toghill's symptoms included 'rejection sensitivity', which refers to "intense sensitivity to the impression of being rejected, harassed or criticised", and "ADHD paralysis", which is an inability to initiate, complete or sustain tasks because of overwhelming feelings of anxiety, stress or mental fatigue.

The tribunal determined that Toghill had been treated unfavourably during his dismissal and that this treatment "arose in consequence of the claimant's disability".

While the dismissal was found to be unfair, the tribunal concluded that the appeal was reasonable in every aspect except for the sanction.

Background

Toghill was diagnosed with ADHD in May 2022. The condition caused him extreme anxiety in social and work settings and he needed more time to process questions, with the tribunal stating that it often appeared that he was not listening when spoken to directly and had difficulty concentrating during conversations.

Toghill began working at Lidl in October 2019 and was promoted to deputy store manager in June 2022.

Power pallet trucks (PPT) – battery-powered equipment for lifting heavy pallets – were used within Lidl's stores. An instruction not to use the equipment without prior permission was included in Lidl's employee refresher training, which was required to be completed every six months. Toghill told the tribunal that it was common practice in other stores for staff to use the PPT without having been trained, although he accepted that he was aware it should not generally be used in this way.

At the start of July 2023, Toghill was diagnosed with a hernia and told his store manager, Ms Ogden, that it was making pulling pallets more difficult. Despite this, Toghill was informed that he still could not use the PPT without prior permission and any use of it would lead to an immediate investigation. Ogden offered to change his working habits and shifts or put him on light duties, but Toghill declined.

Four members of staff at the store later reported to Ogden that Toghill had used the PPT on the shop floor multiple times within a week and he was invited to an investigation meeting. During the meeting, Toghill admitted he had used the PPT although he knew this went against Lidl's policy. He said he could not remember the conversation about the hernia the previous week.

On 20 July, Toghill was invited to a disciplinary hearing. He was then signed off sick by his GP with stress and anxiety from 20 July to 17 August. A disciplinary hearing took place on 21 August. Toghill said the hearing, led by Narelle Leith, dismissing manager, was conducted in a hostile manner. He noted that he had previously informed his employer that he had difficulty coping with formal meetings because of his ADHD. Toghill did accept that he knew the PPT should not have been used.

After a nine-minute adjournment, Toghill was summarily dismissed. The dismissal letter found that Toghill had shown a "lack of remorse" in the disciplinary hearing, had withheld information at the hearing and had shown a "clear disregard" for Ogden's authority by using the PPT. Toghill appealed the dismissal two days later. After an appeal meeting was held, on 11 September Toghill was given an outcome letter, written by Alex Bowley, appeal manager.

It determined that he had forgotten rather than deliberately withheld information in the disciplinary hearing and that the reference to his lack of remorse was incorrect as Leith did not sufficiently consider Toghill's ADHD and its impact on his communication style. Bowley offered to demote Toghill to shift manager and give him a final written warning. The letter stated: "It is hoped that this offer will allow you to remain in employment in a role that is better suited to you." Toghill interpreted this comment as implying he was unfit for the position of deputy store manager because of his ADHD and found it to be discriminatory. He rejected the reduced sanction and redeployment.

Panel's comments

The panel concluded that Toghill's dismissal was procedurally unfair because the allegation of a clear breach of trust had not been put to him. It also found Lidl had failed to take into account the claimant's disability. "This was particularly relevant to the claimant's interpretation of the conversation with Ogden and how his communication style influenced Leith and affected his ability to participate at the disciplinary hearing," it said. However, the tribunal found that the appeal was reasonable in every aspect except for the sanction. The panel said that "on the face of it, the respondent was perfectly entitled to denote use of the PPT truck on the shop floor as gross misconduct", adding: "Had this been a consistently applied sanction this tribunal would have certainly concluded that it was within the range of reasonable responses to treat the misconduct as gross and summarily dismiss the claimant." However, the tribunal saw evidence of differing sanctions applied for use of the PPT truck, including two store managers who were given final written warnings. Bowley claimed that Toghill had not been issued with a final warning as he had already been told not to use the equipment by the store manager. However, the tribunal found that Bowley had acknowledged that Toghill had misinterpreted this conversation and admitted there may have been "a degree of ambiguity with regards to the seriousness of the act". "It is therefore difficult to understand why the alleged explicit instruction was used to differentiate between the claimant's sanction and those of the store managers," the panel concluded. **Toghill's dismissal was also found to be discrimination arising from disability. His complaints of failure to make reasonable adjustments and wrongful dismissal were also well founded.** A separate hearing will be held to determine a remedy.

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

EMPLOYEE SACKED FOR ONLINE SHOPPING AT WORK AWARDED £14K FOR UNFAIR DISMISSAL

Tribunal finds time spent on personal matters was not 'excessive', after accountancy firm installed spyware on claimant's computer to monitor use.

An accountant who browsed sites including Amazon, Very and Rightmove during working hours was unfairly dismissed, a tribunal has ruled.

The Bury St Edmunds tribunal heard that Anna Lanuszka, an accountancy administrator at Accountancy MK Services, was dismissed after spyware software found that she had been using her computer for personal reasons while at work. The software recorded that she had spent one hour and 24 minutes on "personal matters" across two days. However, employment judge Magee said this time period was not "excessive" and noted that use of her computer for personal reasons was not prohibited.

Additionally, the tribunal found Lanuszka's use of websites for work tasks had been wrongly categorised as personal use. The software's findings had been taken at face value by her employer, with no further investigation conducted.

Lanuszka's unfair dismissal claim succeeded and she was awarded more than £14,000 in compensation.

Background

Lanuszka began working at Accountancy MK in October 2017 as the company's only full-time employee. It ceased trading in 2021 and the business's founder and director, Agnieszka Krauze, set up a new company under the name Accountancy MK Services.

Lanuszka's employment was transferred to the new business in September that year, continuing in her previous role.

In July 2023, Krauze installed spyware software on Lanuszka's computer, which allowed her to record all activity. Analysis produced on 13 and 14 July found that the claimant had spent one hour and 24 minutes on "personal matters" and just over an hour on work matters.

The tribunal accepted Lanuszka's evidence that she was allowed to use her computer for personal matters if she had finished all of her work as well as during lunch breaks, noting that Krauze did the same. Lanuszka admitted that she had visited online retail sites Amazon and Very and the property search website Rightmove, as well as checking information for a planned trip to Brussels.

Her use of websites for work planning and Excel training were also wrongly categorised as “personal” by the software, according to Lanuszka.

Krauze told the tribunal that Lanuszka was sent a letter giving notice of a disciplinary hearing on 17 July, which she denied receiving. The tribunal found this document had not been produced at the time and was not given to Lanuszka.

Krauze provided diary entries to the tribunal that showed there were a series of performance issues with Lanuszka over the period of December 2022 to July 2023. However, the tribunal concluded that the entries had not been created on the days of the alleged incidents, but instead after the adjourned hearing in 2024, which **“seriously undermined”** Krauze’s credibility, according to the tribunal.

Krauze said she showed Lanuszka a set of the company’s policies in April 2021, including the code of conduct; however, the tribunal found these were never provided to her.

On 31 July 2023, Lanuszka was summarily dismissed. The dismissal letter stated that she had “engaged in private business activities during her working hours”, which was a “direct violation” of the company’s code of conduct. However, there was no mention of any previous conduct issues or warnings, or of any disciplinary hearing or discussion of the matter with Lanuszka. It also stated that a “thorough investigation” into the matter had been conducted, including consideration of “the gravity of the situation” and the potential impact it could have on the company’s reputation and productivity.

The tribunal accepted Lanuszka’s account, concluding that she was simply informed of her dismissal and there was no disciplinary hearing or further investigation.

Judge’s comments

Employment judge Magee found that there was no prohibition on Lanuszka using her computer for personal use, and that a “large proportion” of the time identified as “personal use” was for work purposes, professional development and training.

There was no further investigation into the spyware software’s findings on how much time Lanuszka had used the computer for personal use, the judge said. There was also no history of conduct issues and Lanuszka had not had any warnings. Magee noted that Krauze was aware of the two-year qualifying period for unfair dismissal in the UK and thought that Lanuszka did not have the right to bring a claim, as she believed Lanuszka’s employment had begun in September 2021 rather than her start date with the predecessor company, Accountancy MK, in 2017.

“By installing the spyware on Lanuszka’s computer, Ms Krauze intended to gather evidence to support a dismissal of Lanuszka,” Magee said, concluding that “it was Krauze’s desire to dismiss Lanuszka before Krauze believed that she would accrue two years’ service”. The judge said this was the “real reason” for Lanuszka’s dismissal, concluding that there were not reasonable grounds to support a conclusion that she was guilty of misconduct. “Dismissal was outside the band of reasonable responses available to a reasonable employer in the circumstances,” added Magee.

As there was no prohibition on personal computer use and the amount of time Lanuszka spent on these matters had not been shown to be “excessive”, the tribunal did not make any deduction for contributory fault. Lanuszka was awarded an uplift of 20 per cent because of her employer’s failure to follow the Acas code, as no procedure was followed and she was dismissed without any opportunity to explain herself.

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

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