Issue: March & April 2026

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eNewsletter

Welcome to our March & April 2026 eNewsletter!

There's been a number of changes to UK employment legislation since our last eNewsletter. We provide an overview of the key changes, plus details of future changes later in the year.

IWe've been delighted with the uptake in our NEW Smart Dispute Resolution Solutions and include an article from Andrea regarding this. We also include details of our NEW 1-day coaching and development workshop for Managers – The Coaching Edge: Elevate Your Leadership Impact. Please contact Natalie to find out more about this.

In addition, we include our usual interesting range of employment tribunal findings covering harassment sex discrimination, disability discrimination, unfair dismissal (various cases), and constructive dismissal. Also included is a recent tribunal case regarding a £400k ruling in respect of 25 years of outstanding unused holidays!

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

UK EMPLOYMENT RIGHTS ACT CHANGES 2026 & 2027

Since our last eNewsletter, there have been a wide range of employment legislation changes due to the UK's Employment Rights Act 2025. UK employers should have reviewed and updated their employment documentation, HR/people policies and procedures, and delivered knowledge awareness sessions to management for these:

April 2026:

- Simplifying the trade union recognition process
- The right to statutory sick pay from day one, rather than day four
- Increased collective redundancy protective award
- Day one right to paternity and parental leave
- Increased whistleblowing protections as sexual harassment can be the subject of a protected disclosure
- Introduction of bereaved partners' paternity leave
- The establishment of a Fair Work Agency with powers to enforce workers' rights
- Statutory rate adjustments for maternity, adoption, paternity, shared parental leave, neonatal care, parental bereavement pay, sickness and redundancy, and minimum wage has increased
- Increases to the basic award for unfair dismissal and maximum compensatory award
- The new duty to keep holiday records relating to annual leave, holiday pay, pay in lieu of annual leave, and carried over leave
- Voluntary menopause and gender pay gap reporting for organisations with 250 or more employees

There are also expected to be various other changes for the UK in October 2026 covering:

- Ban on fire and rehire
- Increased duty for employers to prevent sexual harassment of their employees
- Additional Trade Union changes
- Tightening of tipping law

2027 changes for the UK are expected to include:

- Reduction in qualifying period of unfair dismissal rights from 2 years to 6 months on 1 Jan 2027
- Removal of compensation cap for unfair dismissal on 1 Jan 2027
- Further powers in relation to sexual harassment and steps that are regarded as reasonable
- Zero hours and low hours contract changes and extending these to agency workers
- Flexible working changes
- Gender pay gap and menopause action plans and reporting
- Enhanced dismissal protections for pregnant women and new mothers
- Bereavement leave
- Bereavement leave for pregnancy loss
- Also, potentially a change to provide paid carer's leave

FORMER CO-OP CHIEF HR OFFICER AWARDED £100K IN SEXISM CASE

A former Chief HR Officer for the Co-operative Group has been awarded more than £100,000 for sex discrimination and unfair dismissal.

Samantha Walker won an equal pay case against the Co-op in 2018 at the Manchester employment tribunal, which upheld complaints of unfair dismissal, sex discrimination and equal pay.

However the Employment Appeal Tribunal overturned the equal pay ruling in 2019 and a subsequent judgment by the Court of Appeal in 2020 dismissed a legal challenge against that decision.

Walker joined the Co-op in 2013 as director of strategic HR projects, before being promoted to chief HR officer the following year. She was initially to receive a salary of around £500,000 but this was reduced to £425,000 during restructuring with the co-operative saying it reflected “varying levels of skill and experience in the executive team” and the higher figure “seemed excessive”. Walker told the tribunal she only “pushed back a little” because she was newly promoted.

An independent assessment of executive roles in January 2015 by Hay Group found that her role was as high or higher than the other male executives within the company.

The 2018 tribunal found that the Co-op directly discriminated against Walker on the ground of sex when it graded her performance as only “partially achieved” for 2015 without an adequate year-end appraisal.

Walker told the panel that, before the final appraisal, her performance had always been assessed as outstanding. Although she had acknowledged some issues with the projects she had worked on in her own self-assessment, she said that, knowing what she now knows about how her male colleagues were assessed, Co-op chief executive Richard Pennycook should have given her performance as outstanding.

Walker said that the process had been “unfair, unreasonable and disregarded her contractual entitlements” and that colleagues were aware of the conversations she was having. She said that the turning point was when she raised the equal pay issue. In April 2016, the Co-op terminated her employment, in what the tribunal found to be procedurally unfair.

In a remedy decision published in April 2026, a decade after her legal fight began, the employment tribunal ordered the Co-op to pay Walker £63,500 as compensation for direct sex discrimination because she had not been paid a bonus. Walker also receives £12,800 for injury to feelings, and £25,100 for unfair dismissal (basic and compensatory awards). The total sum awarded was £101,400.

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

NEW - THE COACHING EDGE: ELEVATE YOUR LEADERSHIP IMPACT

We're delighted to announce our new 1-day coaching and development workshop -
The Coaching Edge: Elevate Your Leadership Impact

This new workshop is designed for Managers, Supervisors and Team Leaders with people management responsibilities, including managing performance, engagement, and development.

The practical workshop is ideally suited to being delivered internally to a group of Managers to enhance their skills and knowledge so they can coach their team with confidence.

Investing in Your People Starts with Your Managers: **Organisations often talk about investing in their people — but real impact begins with those who lead them every day.** People Managers shape culture, performance, engagement and resilience. When they are confident, skilled coaches, teams thrive. When they are unsure, overly directive or inconsistent, performance suffers.

Why This Matters: Across industries, professional bodies continue to highlight a clear issue: **Many People Managers are not fully equipped to lead a multi-generational, culturally diverse and increasingly neurodiverse workforce.** Some managers coach instinctively. Others default to delegation, avoidance or rigid instruction. The result? Underperformance, frustration, escalation to HR, employee disengagement, and lost productivity.

The Coaching Edge **equips People Managers at any level with a structured, practical coaching approach that drives accountability, performance and growth — without adding significant time pressure.** Whether new to role or highly experienced, this programme sharpens capability and builds confidence.

Who Is This For? **People Managers at all levels who want to:**
- Develop their leadership impact
- Improve team performance
- Increase accountability
- Navigate generational and cultural differences confidently

What This Programme Delivers: This is not theory heavy. It is **experiential, practical and highly interactive**. Managers work on real scenarios and practice coaching in real time alongside like-minded professionals. Participants leave with tools they can apply immediately.

Pre-Course Preparation: Participants will complete a short coaching style self-assessment, reflect on their top three current people management challenges, and identify one real employee scenario (on an anonymous basis). These 'live' cases are worked through during the session, ensuring practical application.

NEW - THE COACHING EDGE: ELEVATE YOUR LEADERSHIP IMPACT

Core Areas Covered:

1. **The Coaching Mindset:** Managing vs coaching, When to direct and when to coach, Creating psychological safety, and Awareness of neurodiversity and individual differences

2. **Non-Verbal Communication:** What your body language signals, Micro behaviours that build or damage trust, and Identifying disengagement cues

3. **Emotional Intelligence:** Self-awareness under pressure, Managing emotional triggers, and Responding rather than reacting

4. **Active Listening & Powerful Questioning:** Listening to understand - not to respond, Challenging constructively, and Avoiding premature advice-giving

5. **Accountability & Ownership:** Setting clear expectations, Holding people accountable without micromanaging, and Following up with confidence

6. **Positive Reinforcement & Motivation:** Recognition beyond "good job", Intrinsic vs extrinsic motivators, and Reinforcing performance-enhancing behaviours

7. **Using DOTS as a Coaching Tool:** Strength-led development, Identifying blockers and Turning development gaps into action

8. **Coaching & Performance Improvement Plans (PIPs):** When coaching is appropriate, When formal performance management is required, and Structuring supportive but firm conversations

Outcomes for Participants: **By the end of the day, the Managers will:**
- Gain confidence in structured coaching conversations
- Understand their own management style, strengths and blind spots
- Apply coaching techniques immediately in the workplace
- Improve emotional intelligence and relationship management
- Strengthen team accountability
- Support improved morale and engagement
- Reduce avoidable performance issues
- Contribute to improved team efficiency and outcomes

Outcomes for the Organisation: **Investing in your Managers delivers measurable cultural and performance impact. Organisations can expect:**
- **Stronger accountability culture**: clearer expectations, consistent follow-through and ownership at all levels
- **Reduced escalation to HR**: Managers equipped to address issues early and confidently
- **Increased Manager confidence:** structured conversations replace avoidance or over-direction
- **Earlier intervention in performance issues:** proactive coaching before formal processes are required
- **Improved engagement and retention:** employees who feel heard, supported and challenged appropriately

When managers coach effectively, performance improves, relationships strengthen, and cultural standards become consistent across teams. **Contact Nat to find out more at** **natalie@SmartHR.co.im**

PROPERTY MANAGER AWARDED £400K AFTER 25 YEARS OF UNUSED ANNUAL LEAVE

Tribunal finds claimant was owed for 827 accrued holiday days after he was unable to take time off because of staff shortages.

A property manager who was not able to use his full annual leave entitlement for 25 years has been awarded £392,000 at tribunal.

The Watford tribunal heard that Mohamed Ageli, who worked at property management company Sabtina, had multiple annual leave requests rejected because of staff shortages.

It had been agreed that Ageli would be paid in lieu of his holiday entitlement when his employment ended. However, when he was later dismissed from the firm, he was not compensated for the 827 holiday days he had accrued.

Background
Ageli joined Sabtina in 1987 as deputy managing director and later became commercial manager.

At the start of his employment, he was entitled to 30 days' annual leave. This increased to 45 days in 1996. However, because he and his personal assistant were the only full-time employees, Ageli was responsible for running the company's day-to-day operations, which prevented him from taking any time off.

Between 1988 and 1996, Ageli requested a total of 200 days holiday, all of which were refused.

He eventually requested that he receive payment in lieu of the unused annual leave, which managing director Yousef Abdelmaula agreed to.

In both 2001 and 2004, Ageli was paid £15,000 in lieu of holiday, following requests to Abdelmaula.

After years of making these requests, it was agreed that paperwork did not need to be sent for approval or denial. Instead, Ageli kept records of his holiday entitlement and the unused days would be rolled forward each year.

It was agreed that he would either be paid for his holiday when needed or receive a lump sum at the end of his employment.

He told the tribunal: “The respondent does not have a pension scheme for the employees, and both myself and my personal assistant were saving the holidays we could not have for when needed or at retirement.”

By 2024, Ageli was entitled to be compensated for 827 days of annual leave.

On 16 May 2022, a new board of directors was appointed. At a meeting on 16 September, Ageli was informed that all his responsibilities would be taken over by a new managing director. Following this, Ageli was ordered to hand over the keys for all properties, had to relinquish his company car and was removed as a signatory from the company accounts. Ageli had no official responsibilities or position at this stage, but remained employed.

On 18 March 2024, Ageli was dismissed for “gross misconduct” with immediate effect via an email from Salah Awad, managing director. He was not paid for his outstanding holiday entitlement.

Ageli replied to the email, stating: “I am shocked to have received your email. I know nothing of the allegations you make against me and note that you have not given me any details of the same." “I also note that you have not provided me with any right of appeal. If you had, I would appeal against my dismissal on the grounds that there is no justification whatsoever for your decision.”

Awad gave the tribunal reasons for Ageli’s dismissal, including that he had rented out two units to a company that his two sons were directors of without declaring the conflict of interest to the board.

Judge’s comments
Employment judge George Alliott found that there was an agreement in place between Ageli and Sabtina from the start of his employment that allowed any unused holiday to be carried over into the following year.

Alliott said it was “inconceivable” that Ageli would not have claimed the payments in lieu of holiday on an annual basis if he thought the entitlement would be lost.

“Had there not been an agreement to roll over his holiday entitlement to be paid at some future stage, I find that the claimant could very easily have submitted a request for a payment in lieu to the managing director, which would have been approved as it had always been done in the past,” he added.

Alliot found that Ageli had an accrued holiday entitlement of 827.25 days and was entitled to payment of £391,943. The tribunal also ruled that Ageli was unfairly dismissed, awarding him a basic award of £14,070 and a compensatory award of £91,490.

Alliott said: “The reason for the claimant’s dismissal was not gross misconduct; I find that the reason for the claimant’s dismissal was that having been stripped of all his duties which had been allocated elsewhere, the respondent simply wanted to get rid of him.”

Ageli’s dismissal was also procedurally unfair, as he was not notified of the charges or evidence against him and did not have an opportunity to represent himself at a disciplinary hearing or appeal the decision.

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

This tribunal case highlights the importance of encouraging staff to take their holidays, keep well documented records including any rules regarding 'use it or lose it' for unused holidays.

WHY EXTERNAL DISPUTE RESOLUTION MAKES A DIFFERENCE

- Andrea Lillywhite, Senior HR Consultant

Managers usually want to address issues properly, but competing priorities often limit time, confidence or emotional space for difficult conversations. As a result, problems may be recognised but not fully resolved, leaving frustration to build, teams to disengage or in some cases, people to leave.

Our **Smart Dispute Resolution** solutions bring structure, clarity and neutrality to these situations. We help ensure expectations are clearly communicated, processes are fair and outcomes are properly documented. This supports managers rather than replaces them, and gives confidence that issues are handled proportionately, consistently and appropriately.

When disruption comes from within the team

Workplace tension between colleagues is often left to drift because it feels sensitive, personal or awkward to raise. For example, unmanaged absence, or behaviour that others find difficult, is often initially tolerated or quietly worked around. Over time, this can lead to frustration, uneven workloads and strained relationships. Without early intervention, communication breaks down and both morale and productivity suffer.

The influential long-serving employee

Another common challenge arises when a longstanding employee becomes highly influential in shaping team culture. Managers can find it difficult to challenge them, while other team members may feel unable to speak openly. This can quietly distort team dynamics and make even small changes harder to introduce. Work may still get done but increasingly on that individual's terms, creating tension around consistency, flexibility and teamwork. At that point, structured intervention is needed to reset expectations.

How Smart Dispute Resolution can help:

We provide a neutral, structured approach to resolving workplace issues, including:

- Clarifying expectations around behaviour, attendance and communication
- Separating health related factors from workplace impact
- Facilitating constructive, outcome focused conversations
- Supporting fair, proportionate and consistent management decisions
- Rebalancing team dynamics where required

Early intervention helps prevent issues becoming entrenched and supports managers in balancing empathy with operational demands.

Outcomes and resolution

Our aim is always resolution that allows both the business and individuals to move forward. This may involve improved performance or behaviour through clear expectations and practical steps.

Where resolution is not possible, we support fair and legally sound processes. Across all cases, the focus remains on fairness, proportionality, clarity and consistency.

Need support? Contact me for a confidential discussion on 345332 or email andrea@SmartHR.co.im

NEW - SMART DISPUTE RESOLUTION SOLUTIONS

Although we have delivered dispute resolution related services to clients for over 15 years, we can also provide these as a stand alone service. We offer a wide range of impartial and confidential employment-related dispute resolution solutions including:

- Independent advice: impartial advice and guidance on wide-ranging topics, including complex cases.

- Early intervention and facilitated conversations: we prevent smaller issues from escalating, help leaders and managers identify early signs of conflict and support conversations before they become formal disputes.

- Workplace mediation and conflict resolution: a neutral, structured process that helps employees move past conflict, rebuild communication, and restore working relationships.

- Conflict coaching and support: one-to-one support for leaders, managers and employees to build clarity, confidence and constructive communication skills.

- Support for collective and group issues: guidance and facilitation for teams, departments, and union-related concerns, helping organisations navigate sensitive issues calmly and collaboratively.

- Independent workplace investigations: we can conduct independent workplace investigations or provide guidance and support to your leaders and managers.

- Disciplinary and grievance process support: we provide practical advice, guidance and support in managing disciplinary and grievances situations, including creating supporting documentation. We can act as an independent note-taker, chair or appeals chair.

- Training and capability building: we deliver skills workshops to enhance leadership/management capability including handling difficult conversations, conflict awareness for managers, psychological safety and respectful workplaces, effective grievance and dignity at work approaches.

- Policies and procedures support: we can create or review and update your organisation's policies and procedures including equal opportunities, diversity and inclusion, anti-bullying and harassment, sexual harassment, discipline, grievance, and dignity at work.

NEW - SMART DISPUTE RESOLUTION SOLUTIONS

Our aim is to partner with organisations and deliver trusted solutions to prevent conflict from escalating, support resolving disputes, restoring working relationships, protecting wellbeing, and enhancing organisational culture.

Workplace conflicts can arise for a wide range of reasons including poor communication, personality clashes, misunderstandings, conflict with colleagues, conflict with management, behavioural concerns, unclear roles and responsibilities, poor management, unfair or discriminatory treatment, intense pressure, rapid changes, and previous unaddressed conflicts. If left unaddressed these could escalate into costly external legal disputes and potential employment claims.

Why use SmartHR?

Our distinct advantage lies in the breadth and depth of our team's extensive expertise and our solutions focused approach. We work across diverse industries and jurisdictions to support clients effectively resolve workplace disputes in a sensitive and confidential manner.

The benefits of our expertise means:

- Faster intervention by highly experienced professionals
- Knowledgeable and trusted advice and guidance
- Highly confidential and impartial service
- Effective early dispute resolution
- Helps prevent escalation, formal disputes or tribunals
- Protects relationships and reduces internal tension
- Reduced organisational disruption
- Cost effective and pragmatic solutions

To find out more, please contact Gail or Andrea for a free, confidential, no obligation initial call to talk through any challenges and we can explain how external dispute resolution solutions can help your organisation move forward.

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VIDEO OPS MANAGER WINS £73K AFTER TRIBUNAL FINDS PREGNANCY INFLUENCED DISMISSAL

Judge rules employer scrapped performance improvement plan and quickly moved to dismiss the claimant after she disclosed she was pregnant.

A video operations manager locked out of her work system while on pregnancy-related sick leave has been awarded more than £73,000 after a tribunal ruled she was unfairly dismissed and discriminated against.

The Reading tribunal ruled that Fresh Cut Video and its director, Mr Pill, moved to dismiss the claimant, Mrs Kaila Farmer, soon after she revealed her pregnancy, dropping plans that had been made to support her through a performance improvement plan (PIP).

The tribunal found that the employer rushed the dismissal process, with employment judge McCooey concluding that this urgency was "inextricably linked" to Farmer's pregnancy and related absence.

Despite claims of poor performance, the judge ruled Fresh Cut Video failed to give a "convincing explanation" for the dismissal and determined that pregnancy had "materially influenced" the decision.

At a remedy hearing, Farmer was awarded £73,511.02, including £32,453.12 for financial losses and £18,000 for injury to feelings. A 15 per cent Acas uplift of £7,567.97 was applied because of procedural failings. No separate award was made for automatic unfair dismissal to avoid double recovery.

Other claims relating to flexible working requests were dismissed.

Background

Farmer worked for video production firm Fresh Cut Video from 16 January 2023 until her dismissal in February 2024. She initially worked remotely from South Africa under consultancy agreements before moving to the UK on a skilled worker visa in September 2023 and joining the company's Oxford office.

Although her probation period was due to end in November 2023, internal emails between Pill and his mother, Amanda Pill, who acted as HR, showed the company sought advice about extending it.

At that stage the employer planned to place Farmer on a PIP or extended probation, citing concerns she focused too heavily on administrative work rather than leadership.

However, the tribunal found those concerns were not clearly communicated. Meetings, including her probation review, were informal, sometimes held in a pub, and the judge concluded Mr Pill downplayed his dissatisfaction, leaving Farmer unaware that her role was at risk.

Farmer became pregnant in November 2023. She took sick leave on 6 and 7 December and worked remotely from 8 to 16 January as she felt unwell. She had been due to return to the office on 16 January for an important client call.

Farmer communicated with Pill on 16 January 2024 that she would unlikely feel better the following day but would still attend the client meeting. Pill responded: “Hi Kaila, no problem – let’s have a call at 11.30am and don’t worry about the meeting [...] Justin Temple will cover it.” She emailed again later that day confirming she was still unwell, to which Pill replied: “Sorry to hear you are unwell. Really hope you feel better tomorrow.”

Pill later texted Mrs Pill suggesting her probation be reviewed and that she be placed on a PIP. “Time to check about that probation on K and if we need to put a PIP in place to extend – not noticing/caring about an emergency like that call and telling me about it today at 7.20am instead of last night – doesn’t care about me at all.” He sent a further message later on, saying: “Sounds like more sick leave to come.”

On 17 January, Farmer informed Pill of her pregnancy on the scheduled 11.30 Zoom call. The tribunal heard she was excited and the claimant said Mr Pill appeared to receive the news positively. She told him her GP advised her to work from home, and Pill said that was fine.

Later that month, she was invited to a ‘probationary review meeting’ where dismissal was a possible outcome. The tribunal found that, despite the wording, the meeting was effectively treated as a disciplinary hearing.

On 30 January, Farmer asked to postpone the meeting, citing extreme distress and concerns for the health of her unborn baby. She also requested time to find a companion to accompany her.

On 1 February, Fresh Cut Video refused further postponements, citing a "statutory maximum” of five days and warning that the meeting would proceed in her absence if she failed to attend. On 2 February, she was locked out of her work email and systems, preventing her from accessing documents relevant to her defence. She later submitted a GP fit note and raised a formal grievance alleging discrimination.

She was dismissed on 19 February for alleged poor performance and misconduct. An appeal conducted on 13 May subsequently upheld the decision to dismiss her.

Judge's comments

The tribunal concluded that Fresh Cut Video had adopted a “clear stance” that Farmer should be physically present in the office at the time she announced her pregnancy. Judge McCooey found that “whether subconsciously or otherwise”, her pregnancy-related sick leave influenced the decision to dismiss her. The judge said the sudden move from development-focused measures, such as a PIP or extended probation, to dismissal was not justified, as the performance concerns did “not singularly or collectively amount to a convincing explanation” unrelated to pregnancy. The judge also found Mr Pill “tended to downplay his concerns to the claimant, giving the impression that things were fine with him when, in reality, they were not”. **The final weeks of her employment were described as being driven by the “urgency with which Mr Pill wanted it concluded”, with the unfavourable treatment found to be because of her pregnancy.**

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

ENGINEER AWARDED £66K FOR UNFAIR DISMISSAL AFTER CALLING BOSS INCOMPETENT

Claimant was labelled 'obstructive' and 'unsupportive' after raising concerns about manager's ability to carry out role.

An engineer has been awarded £66,295 at tribunal after he was dismissed for repeatedly telling his manager they were incompetent.

Andrew Estcourt, a Cief Engineer at utility infrastructure company Morrison Energy Services, was transferred onto a contract with Cadent Gas alongside James Irving, who was charged with overseeing the work as 'designated individual'.

Estcourt claimed that Irving, a health and safety specialist, lacked the necessary engineering qualifications and experience needed to fulfill his role. Estcourt believed Irving was not competent to lead the project and expressed his concerns both to Irving and more senior members of staff in meetings and over email.

Estcourt was later dismissed from his role after Cadent Gas sent a letter requesting his removal from the contract, describing him as "obstructive" and "unsupportive".

The tribunal determined that Estcourt had been dismissed as a result of his protected disclosures about Irving's ability to fulfill his role. As a result, it found that he was automatically unfairly dismissed.

Background

Estcourt began working at construction company Skanska in 2011. The company worked on contracts with Morrison Energy Services and Cadent Gas. He was promoted to chief engineer in 2018.

Estcourt was transferred to a new contract between Morrison Energy Services and Cadent Gas, which was due to start on 1 April 2021. James Irving was appointed to the role of 'designated individual', meaning he would be leading the project.

However, Estcourt believed Irving would not be able to fulfil the role as he was a health and safety specialist, rather than an engineer.

On 12 November 2020, Estcourt wrote to the interim head of contract Russell Brown asking how the work under the new contract would be managed. Brown reassured Estcourt that there had been a selection process.

On several occasions prior to starting the contract, Estcourt told Irving that he did not think he was competent to take on the role of designated individual.

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

In a meeting on 6 April, Estcourt again mentioned that Irving lacked the experience and qualifications for the position and sent him an email setting out his concerns. He included a copy of the Temporary Works Forum's guidance on appointing a designated individual, which outlined the required competencies.

Irvine thanked Estcourt for the guidance and booked himself onto a training course in response.

Two days later, Estcourt emailed Sean Kelly, executive director at Morrison Energy Services, raising his concerns about the appointment of Irving and attaching the same guidance. He did not receive a reply.

In the following days, Estcourt made the same points twice more to Irving and emailed Brown, warning that failure to have a competent designated individual breached construction regulations.

On 20 April, Cadent requested that Estcourt be removed from the contract. In a letter, it said he had "been found to be obstructive in his behaviours and unsupportive in terms of operations".

The next day, Estcourt was removed from the contract and suspended on full pay. He subsequently challenged the removal and raised a grievance.

Morrison Energy Services wrote to Cadent Gas asking it to reconsider and provide in-depth reasons for Estcourt's removal. Cadent responded on 28 June, adding no further detail to the original letter.

On 5 July, Estcourt's grievance was dismissed. He later appealed this decision.

Following a process to dismiss for 'some other substantial reason', Estcourt was dismissed on 10 September.

Judge's comments

Employment judge Sally Cowen ruled that the removal of Estcourt from the Cadent contract was not justified, adding that Morrison Energy Services "could not satisfy itself that Cadent Gas had acted reasonably in requesting removal".

Cowen said the company should have acted "sooner and more vigorously" to support Estcourt and defend his position. She also criticised the handling of the SOSR place, stating that Morrison Energy Services "merely went through the motions". "In order to be a fair and reasonable process, the respondent would have to be satisfied that the removal was a reasonable request on the basis of the reasons given, before proceeding to consider redeployment or dismissal," Cowen added.

The tribunal ultimately found that Estcourt was taken through the SOSR process due to his protected disclosures, and his claim of automatic unfair dismissal succeeded.

Morrison Energy Services was also ordered to pay Estcourt costs totalling £1,800.

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

YOUR EMPLOYEES ARE YOUR ORGANISATION'S MOST VALUABLE ASSET — SO ARE YOU REGULARLY IDENTIFYING THEIR DEVELOPMENT AREAS?

Are you confident that you're on track to achieving both team and organisational objectives?

If you're a people manager who struggles to find the time to develop your team members — or if you feel you would benefit from additional support to enhance how you lead — **SmartHR can help.**

At SmartHR, we provide a **tailored coaching service designed around you**.

Our aim is to support you to get where you need to be.

Coaching offers a unique opportunity to explore your development areas, build confidence, and engage in a reflective process that strengthens your emotional intelligence. Many clients experience genuine **light-bulb moments** during coaching — moments of clarity that shift perspectives, unlock new ways of thinking, and **inspire meaningful change**.

Through coaching, you can develop new personal techniques and strategies that help you operate more effectively while continuing to grow in your career.

Working with an external coach brings objectivity and fresh, creative insights — offering new perspectives you may not have considered within your day-to-day environment.

Coaching sessions typically last 50–60 minutes and can be scheduled as often as every two weeks at a mutually convenient time, day, and location.

If you would like to explore how coaching can support you and your team, we'd be delighted to help.

Natalie Cellamare, People & Culture Development Consultant, is a qualified Level 7 Executive Coach and Mentor with extensive experience across financial services and the third sector. She supports individuals and organisations to develop confidence, capability, and effective leadership skills.

Contact Natalie to arrange a confidential meeting or call to discuss your coaching needs at natalie@SmartHR.co.im

Your People - Your Performance - Our Passion

DEVELOPER WITH CHRONIC HIP CONDITION WINS £36K AFTER DISMISSAL FOR POOR PERFORMANCE

Tribunal recommends formal diversity training on disability for HealthRota's senior leadership team following finding of unfavourable treatment.

A software developer with chronic hip pain and severe sleep disruption has been awarded more than £36,000 after a tribunal ruled her dismissal amounted to disability discrimination.

An East London tribunal heard that workplace management software start-up HealthRota had raised concerns about Dannielle Smith's performance several months before her dismissal.

However, Smith told her manager, Julian Webb, that her difficulty completing some tasks was partly linked to pain and sleep disruption caused by her medical condition, bilateral femoroacetabular impingement – a structural abnormality affecting the hip joints.

She was dismissed in September 2023 with notice, but without any prior performance improvement process or occupational health assessment.

The tribunal found that her dismissal amounted to unfavourable treatment arising from a disability.

At a remedy hearing, Smith was awarded £36,459, including £16,999 for past financial losses and £15,000 for injury to feelings, plus interest.

The tribunal also recommended that HealthRota's senior management team undertake formal diversity training on disability, decision making and reasonable adjustments within six months of this decision.

Background
Smith worked for HealthRota as a mid-level software developer from 27 June 2022 until the termination of her employment on 14 October 2023.

As a small start-up with fewer than 10 employees, HealthRota had no HR specialists.

The tribunal heard that Smith's hip condition, later identified as bilateral femoroacetabular impingement, began affecting her from September 2022, causing pain and sleep disturbance.

Smith was not formally diagnosed with the condition until 25 September 2023.

In March 2023, performance concerns were raised with Smith, because of the time she was taking to complete tasks. Smith accepted she had been “struggling” and told Webb that pain and lack of sleep were contributing factors.

In April, she began talking therapy for pre-existing PTSD linked to trauma experienced between 2003 and 2006. It later emerged that Smith had provided the court-appointed expert with redacted medical records, omitting details of her prior trauma and the treatment she had received.

Smith was dismissed during a meeting on 14 September 2023 and received confirmation by email. Her employment ended on 14 October 2023 after her notice period.

However, the tribunal heard that at the time of her dismissal Smith was unaware of the specific performance concerns HealthRota relied upon.

In evidence, Webb accepted that HealthRota should have provided Smith with a performance improvement plan and an occupational health review.

Judge’s comments
The tribunal accepted that her medical condition met the definition of disability under the Equality Act 2010.

Employment judge Illing, and other panel members, found that the condition caused significant pain and sleep disruption, which partly contributed to difficulties with work performance.

The tribunal noted that the dismissal caused “immediate and significant” distress, severely affecting Smith’s confidence.

It also accepted that Smith was upset by the manner of the dismissal because she was unable to say goodbye to colleagues.

However, Illing said the tribunal “was not satisfied” that the dismissal was the “material cause” of Smith’s current psychological condition. It said the expert evidence could not safely be relied on because the medical records provided to the joint expert had been redacted and did not fully disclose Smith’s history of PTSD and low mood.

The judge also concluded that, even if HealthRota had acted lawfully by implementing a performance improvement plan and obtaining an occupational health review, Smith’s employment would likely still have ended.

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

This case highlights the importance of making reasonable adjustments for an employee whose performance is impacted by a disability. It is also prudent to make an occupational health referral to obtain information and input on potential reasonable adjustments and the impact of the disability on day-to-day work activities.

FINANCE ADMINISTRATOR CONSTRUCTIVELY UNFAIRLY DISMISSED AFTER LISTENING TO ROMANTIC FANTASY AUDIOBOOKS AT WORK, TRIBUNAL RULES

Claimant was accused of accessing 'pornographic' content after boss read personal WhatsApp messages referring to novel as 'steamy'.

A finance administrator has been awarded £8,000 by an employment tribunal after undergoing disciplinary proceedings for listening to romantic fantasy audiobooks at work.

Kirsty Coleman was accused of accessing "pornographic content" on company devices after her boss read her private WhatsApp messages that described her audiobooks as **"steamy"** and **"dragon porn"**.

Coleman resigned after her employer, heat pump manufacturer Thermoelectric Conversion Systems (TCS), prevented her union representative from attending her disciplinary hearing.

The Glasgow tribunal ruled she was constructively unfairly dismissed, finding the company "destroyed or seriously damaged" the trust and confidence required for the employment relationship to continue.

Background

Coleman began working as a finance administrator at TCS in September 2022.

On 31 May, Jonathan Siviter, managing director at TCS, used his administrative access to log into Coleman's computer to obtain a spreadsheet. While on her computer, Siviter noticed messages on her device that described TCS finance and HR director Elaine Knox as "just so rude it's unbelievable".

Siviter went on to read around 30 pages of personal conversations and perceived one message as a personal threat to another colleague. However, the tribunal found that this was a private message to a friend that was made out of anger.

In another message to a colleague, Coleman said: "I am listening to my book and it has just got steamy (again)." The colleague replied: "Haha oh ur sic big dragon porn."

Sivitier believed this could be a breach of the company's internet policy. However, the tribunal noted that staff were permitted to listen to audio books while working and the book in question was a "widely available" fantasy novel.

On 3 June, Coleman was suspended for gross misconduct. This included threats against a colleague, unacceptable use of language, inappropriate use of company equipment during working hours and disruptive behaviour in the office.

A disciplinary hearing was scheduled for 9 June.

Coleman emailed requesting full disclosure of all allegations made against her and evidence in support of these to allow her to prepare a response. She also said her trade union representative would be attending the disciplinary hearing. Knox replied, asking for Coleman's representative to verify their credentials, as required by the Acas code. She also said that the representative could be there to support Coleman only, not speak on her behalf.

In her response, Coleman confirmed that her representative held the necessary credentials and said she was under no obligation to verify his identity before the hearing. She added: "As for your claim that my representative cannot speak on my behalf, this is a clear breach of section 17 of the Acas code, which clearly states the companion should be allowed to address the hearing and put and sum up the worker's case, respond on behalf of the worker to any views and confer during the hearing."

After further requests for the full allegations to be disclosed, Knox emailed Coleman screenshots of her WhatsApp conversations, stating that her behaviour "warrants dismissal" for misusing company resources and accessing "pornographic content".

Coleman was also accused of a "serious breach of company policies" for using the company network and resources for personal use. Ahead of the disciplinary hearing, Coleman drafted her resignation. She said she was concerned that she would not receive a fair hearing and her dismissal was inevitable, given the way in which the investigation had been conducted.

At the disciplinary hearing, Coleman's union representative showed Andrew Knox, a technical director at TCS, his union card, driving licence and an email from the union stating he had completed the relevant training. However, Knox asked for the documents to be presented again in the office so they could be verified. When the union representative refused, he was denied entry and Coleman was offered the chance to proceed with the meeting by herself.

Coleman felt she had been denied the opportunity to present her position alongside her union representative and handed in her resignation letter. She added that her trust in her employer had been destroyed.

Judge's comments

Employment judge David Hoey said Siviter's decision to read Coleman's personal messages was "wholly unreasonable and entirely without justification". "No information was presented to show that the book being listened to was in any way inappropriate and the respondent relied solely upon the WhatsApp exchange," Hoey added. However, the employment tribunal did not have the power to make a formal finding on the lawfulness of the company's use of private messages in this case. It also ruled that the bringing of unjustified proceedings by itself could amount to a fundamental breach of contract.

Hoey concluded that Coleman had been constructively dismissed, saying that the company's decision to deny her union representative access to the disciplinary hearing damaged the "trust and confidence required for the employment relationship to continue".

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

NESTLE WORKER ACCUSED OF VAPING IN TOILETS AWARDED £22K FOR UNFAIR DISMISSAL

Judge rules employee's refusal to apologise or admit mistake was not misconduct.

A Nestlé factory worker sacked for allegedly triggering a fire alarm by vaping in a disabled toilet has won more than £22,000 after a tribunal ruled his dismissal unfair.

Luke Billings, a technical operator at Nestlé's Hatton facility, was fired for alleged gross misconduct in October 2023. He denied vaping in the company toilets but an internal investigation came to the conclusion that his actions caused the fire alarm to be triggered.

A Nottingham tribunal found that Nestlé held an "honest and genuine belief" that Billings was responsible. However, it ruled the dismissal unfair, as it was based chiefly on Billings's failure to admit wrongdoing and apologise, rather than the safety breach itself.

It ruled that his dismissal fell outside the "range of reasonable responses" available and Billings was awarded £22,216 in compensation. The award was reduced by 50 per cent for "contributory conduct" after employment judge Ahmed found Billings was equally at fault for the incident.

Billings's disability discrimination claims were dismissed.

Background
Billings worked for Nestlé UK as a technical operator from 6 August 2012 until his dismissal for gross misconduct on 4 October 2023.

Between June 2022 and August 2023, Billings was on long-term sickness absence because of depression and had only recently returned to work on a phased basis when the incident occurred.

Shortly after Billings had returned to work, a fire alarm was activated at the factory, forcing an evacuation and temporary halt to production.

Following an internal investigation and a review of CCTV footage, the company concluded that the alarm had been triggered by someone vaping in one of the toilets. Smoking and vaping onsite were prohibited.

The tribunal heard that the company concluded Billings had been vaping in a disabled toilet. He denied the allegation, although he later accepted that he vaped occasionally at home during weekends, but not at work.

At a disciplinary hearing, Billings initially said he was “not vaping at all in the toilets on the day in question”. He maintained he was not responsible for the incident.

The disciplinary officer, Nasr, concluded that Billings had triggered the alarm and had been “untruthful” during the investigation. He determined that the dismissal was “appropriate” because of the health and safety breach, the loss of production and a breakdown in trust and confidence. Nasr concluded that, as a long-serving employee, Billings “ought to have known better” about the no-smoking policy.

At the disciplinary hearing, Billings argued that his treatment was inconsistent with that of another employee who committed a separate health and safety breach by storing clothing in an area containing a fire hose. The employee was issued with a written warning and apologised for the incident.

Nasr acknowledged in his evidence that Billings would have not been dismissed had he admitted his mistake and apologised.

Billings was dismissed on 4 October 2023. He appealed, but his dismissal was upheld.

Judge’s comments

Judge Ahmed found that the main reasons for dismissal were Billings’s failure to apologise and accept responsibility.

“Nasr made it clear in his evidence that, had Billings accepted he had been vaping in the toilet and apologised, he would not have been dismissed,” he said.

Health and safety and loss of production were described as “playing a lesser part in the decision to dismiss” because they were not determinative.

Ahmed concluded that the failure to accept responsibility was the main reason for dismissal. He added: “Failing to apologise or to accept responsibility is not misconduct.”

The tribunal also criticised Nestlé's treatment of Billings’s long tenure. Rather than treating it as a mitigating factor, the company argued that he “should have known better”.

“A reasonable employer would consider length of service as a mitigating factor, not a disadvantage,” Ahmed said. “There was no or insufficient credit for the fact that there had been no prior misconduct.”

The tribunal also noted that Nestlé had “no clear rule or warning that vaping in the toilets would be deemed an act of gross misconduct”.

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

In this case the tribunal found that it was the claimant's failure to admit the misconduct and apologise that were the main reasons for dismissal, rather than the use of a vape inside the premises and the associated health and safety risks from this. It is also important that your HR/people policies are clear on what can constitute misconduct or gross misconduct.

If you would like support in reviewing and updating your HR/people policies please contact one of the team who will be happy to help.

TELLING PREGNANT COLLEAGUE A KICK IN THE TESTICLES IS WORSE THAN CHILDBIRTH WAS HARASSMENT, TRIBUNAL RULES

Judge finds claimant felt 'hurt and belittled' by comment made in work group chat, deeming it an 'ill-judged attempt at humour'.

A pregnant employee at an electric vehicle manufacturer was judged by a tribunal to have been harassed by a colleague who said being kicked in the testicles is more painful than childbirth.

In a company group chat, the male employee said that the fact women chose to have subsequent babies was proof it was less painful to give birth, adding that you would never hear a man say they "wouldn't mind another kick in the bollocks".

The Birmingham tribunal heard the message received several thumbs up reactions, including from the claimant's line manager.

Employment judge Maxwell found that the message constituted harassment related to sex, stating it was "crude and made light of the claimant's circumstances and the risks the claimant faced".

The claimant, Amy Hope, was "very upset" and felt "hurt and belittled" by the "ill-judged attempt at humour", the judge added. However, Hope's claims of direct sex discrimination, pregnancy discrimination and detriment, and unfair dismisal all failed.

Background
Hope began working as lead human factors designer at Ola Electric in March 2022.

On 3 February 2023, Hope informed her employer of her pregnancy and announced the news to her colleagues.

On 21 March, Hope told Edmund Willis, chief programme designer, that she was concerned her baby bump was not growing. Willis responded: "Never mind the bump, the boob fairy hasn't been either."

While Hope tried to laugh this off in front of Willis, the tribunal heard that she felt "insulted, disgusted and objectified that at a time when she was sharing her pregnancy with colleagues, a senior manager was looking at the size of her breasts".

Hope messaged her friends about this comment the next day, adding: "Things I don't even register at work [facepalm emoji] I will take great satisfaction from applying for new jobs when the time is right."

After one of her friends expressed surprise that someone actually said this to her, Hope replied: “Welcome to working with 40 blokes.”

The tribunal found that the lack of complaint from Hope at the time did not demonstrate she was not upset or offended, but “reflected a strong desire on her part to maintain a good working relationship with colleagues in an overwhelmingly male team”.

On 26 July, David Lippett, studio engineering lead, sent a message to the Ola Electric group chat, saying: “Women say that giving birth is way more painful than a bloke getting kicked in the bollocks. Here is proof that they are wrong. A year or so after giving birth a woman will often say ‘It'd be nice to have another baby’. You never hear a bloke say ‘I wouldn't mind another kick in the bollocks’. Case closed.

“Saw this and thought of you Amy… [crying with laughter emoji]”

Several employees reacted to the message with a thumbs up emoji. Hope responded by saying: “Although, suggesting child birth isn't as bad may well be interpreted as indeed asking for a kick in the bollocks…”

The tribunal accepted Lippett’s evidence that he had a good relationship with Hope, which included exchanging humorous remarks. He was not suggesting that Hope would want to have another baby, but was trying to be funny.

However, the tribunal found that given Hope’s anxiety about her pregnancy, the growth of her unborn child and giving birth meant that “her male colleagues and senior managers laughing about childbirth did not seem very funny to the claimant”.

“I accept that she was upset and hurt by this comment, which also made her feel belittled and this was compounded by others in the group giving it a thumbs up,” the judge added, stating that her response was an effort to maintain good working relationships.

Hope began her maternity leave on 13 August. She was made redundant on 17 January 2024 after the company made the decision not to continue the project she was part of in the UK.

Judge’s comments

Employment judge David Maxwell found that Lippett’s message constituted harassment related to sex. He highlighted that Hope had a difficult pregnancy and was “anxious about her unborn child and the prospect of her impending labour, which was only two weeks away”. “Lippett’s message was crude and made light of the claimant's circumstances and the risks she faced,” Maxwell added, finding Hope was “very upset” and felt “hurt and belittled” by Lippett’s “ill-judged attempt at humour”.

The thumbs up reaction to the message from David Rouse, Hope’s line manager, was also harassment, the tribunal found. Hope’s claim of harassment also succeeded in relation to Willis’s comment. Maxwell said that while Willis did not intend his comment to be hurtful, it “plainly was”, describing it as “entirely gratuitous”. “The claimant felt insulted, disgusted and objectified,” the judge added. “At a time when she was sharing her pregnancy and concerns, a senior manager was focusing on and judging the size of her breasts.”

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

This case highlights the importance of delivering regular equality, diversity and inclusion training.

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

Contact us to discuss your support needs

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