



March 2017 Update

Welcome to this month's update - where we discuss the latest legislation and guidance.

Top tips for managing conflict - Part 1 (part 2 in next months' brief)

Conflict is a normal part of human relationships. The important thing is recognising when conflict arises at an early stage to try and minimise its capacity to cause damage to working relationships.

* Improve your communication skills

Workplace conflicts may arise and then fester due to ineffective communication, leading to employees attributing all sorts of false motives to one another as the conflict escalates. As a more effective communicator you can explain what you are doing and why you are doing it, as well as how to have the 'difficult conversation' which are key soft skills for every manager. Be conscious that what you say and do may be misinterpreted.

* Learn to become a more active listener

This allows you to understand an employee's point of view. Trying to understand the employee's underlying interest will often be key to understanding the stance they have adopted in conflict.

* Address unfulfilled needs

Conflicts in the workplace may be due to a sense of unfulfilled needs on the part of at least one of the participants.

This may be because of a desire to have a sense of autonomy over their own work, have more recognition or to just feel valued. Identifying these issues and then finding ways to address the employee's needs in an acceptable way is frequently the key to avoiding conflict.

Identifying these underlying interests may lead to an obvious way to resolve the conflict in an effective way. When the underlying interests of the parties are analysed, it is amazing how often they have more common interests than conflicting ones. Those common interests can then be looked at collaboratively to address the opposing positions and to find a way to help avoid or resolve the present conflict.

* Don't take it personally

Try to not attribute negative motives to those perceived to be the source of the problem. The principle known as Hanlon's Razor, being "never attribute to malice something which can be adequately explained by stupidity".

This helps managers understand to perhaps subscribe to the 'cock up' theory not the 'conspiracy' theory of life.

Employers: So if not malice or stupidity, open your mind to the possibility that (a) you may not understand their motives (which may have a sensible explanation) and/or (b) they may have made incorrect assumptions about the situation and/or you may be being unreasonable yourself, then you may find yourself in less conflict situations and perhaps will be less angry about the infuriating things that others do.

Contact us: if your business needs help to resolve conflict or simply increase team productivity

Timing of Notice of Termination

There is uncertainty on when does termination of employment takes effect in some situations.

In the case of Newcastle Upon Tyne NHS Foundation Trust v Haywood, Ms Haywood was at risk of redundancy. She turned 50 on 20 July 2011. If she was made redundant after her 50th birthday she would have been entitled to a more generous pension. She was contractually entitled to 12 weeks' notice.

On 19 April 2011, she went on holiday, returning on 27 April. On 20 April, her employer sent notice of termination of employment due to redundancy by recorded delivery, ordinary post and email to her husband's email address. She did not read the notice until her return from holiday.

The Court found that the contractual notice of termination was given on actual receipt rather than on delivery or any deemed date of receipt. Ms Haywood thus received notice on 27 April and termination took place after her 50th birthday.

Employers: be careful about how you notify your employee about termination of their employment in situations where you don't see them face to face.

Contact us: if you need any assistance with disciplinary or redundancy issues.

Long-term Absence Dismissals

In the recent case of O'Brien v Bolton St Catherine's Academy, the Court of Appeal has provided some clarity to help employers understand the legal test in the context of discrimination arising from disability in the dismissal of long-term sick employees against the legal test for unfair dismissal.

The Court said that the law is complicated enough without tribunals having to judge the dismissal of such an employee by one standard for the purpose of an unfair dismissal claim and by a different standard for the purpose of discrimination law.

Employers: whilst this decision does not change the law in any way, it should provide comfort to employers when they are considering dismissing a disabled employee who has been on long-term sickness absence. It should be the same test used for unfair dismissal, which is whether the decision to dismiss was within the range of reasonable responses open to the business.

Contact us: for guidance on managing long-term absence issues

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



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