



This Week in Employment Law

16-05-2022

New guidance released on preventing sexual harassment at work

The Equality and Human Rights Commission has teamed up with UK Hospitality to publish a new action plan and checklist for employers, to help them stop sexual harassment in the workplace.

- This was created following research which found that the majority of hospitality workers had experienced or witnessed sexual harassment, and most found it to be a "normal" part of the job in settings where alcohol is consumed.
- The guidance highlights that employers can be held vicariously liable should incidents of sexual harassment occur, if they don't take reasonable steps to prevent it in the first place.
- Suggested actions include changing the working environment by making sure more than one person decides the rota, ensuring staff don't work alone and looking at ways to make the physical environment safer (such as lighting).
- Employers should communicate with employees so they know who to report an issue to and make sure staff have more than one trusted person they can go to, other than their line manager.
- It is important to pay attention to staff who may be more vulnerable to sexual harassment such as younger workers or those who don't speak English as their first language, who might be less likely to report incidents.
- Employers should implement robust policies for preventing and reporting instances of harassment, including harassment by customers, and provide for anonymous reporting to encourage employees to come forward.

Long Covid may not be a disability

The Equality and Human Rights Commission previously advised employers to treat all cases of long Covid as a disability. However, they have now released an updated statement to say that not all cases will fall under the definition of disability in the Equality Act. Employers should consider whether the condition has a substantial, long-term adverse effect on an employee's ability to carry out normal day-to-day activities.

Did you know?

Employers should continue to hold regular welfare meetings with affected employees, and implement reasonable adjustments where necessary to fulfil their duty of care to their staff.

Further delay for long-awaited Employment Bill

There is disappointment from workers and trade unions that the Employment Bill, which was originally proposed in 2019, was not included in the Queen's Speech last week. The Bill would have introduced new workers' rights such as a statutory right to carer's leave and a right to request flexible working from day-one of employment. However, it is now unlikely that the Bill will be consulted on this year.

Did you know?

Despite it not being a legal requirement, some employers may choose to provide similar rights as a contractual entitlement, which could boost recruitment, retention and the organisation's reputation.

"Bald" insult was unlawful harassment

The Employment Tribunal has found that a male employee was subject to unlawful harassment related to sex when he was called "bald" in an argument with his supervisor (*Finn v British Bung Company Ltd*). Although the employer submitted that women can go bald too, the tribunal concluded that being bald is much more prevalent in men so the comment was related to the protected characteristic of sex.

Did you know?

This case is a reminder that any comments that create an offensive environment for the employee and are related to a protected characteristic will amount to unlawful harassment.

Not taking reasonable steps to prevent sexual harassment at work can have a significant detrimental impact on your organisation's reputation, as well as running the risk of a tribunal claim. Contact our 24-hour Advisory Service for up-to-date guidance on this and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.