

Transcript of Podcast

December 2006

Hello and welcome to the first D&W Employment Vox, one of a regular series of podcasts. In this D&W Employment Vox we update you on news and developments in the field of employment law.

My name's Alasdair Anderson and in this D&W Vox, prepared by our employment team, we take a look at a selection of news highlights;

- **Coming up, bullying in the workplace. Looking at the legal risks for employers who do not tackle the problem**
- **Company mobile phone policies. An initiative in London sees police cracking down on mobile phone misuse**
- **Lifting the veil on religious discrimination. The classroom assistant who sued her employers for asking her to remove her veil**
- **Also to come, we review some recent cases highlighting the financial costs of failing to follow the statutory grievance procedures**

But first, workplace bullying. One in five employees has been the victim of workplace bullying or harassment according to a recent report by the Chartered Institute of Personnel and Development. And as the 7th of November was 'Ban Bullying at Work' day it's a good opportunity for employers to consider their strategies on tackling bullying in the workplace. As banbullyingatwork.com emphasises, workplace bullying can result in stress related illness and absence. Bullying can have other effects, from low morale to reduced productivity and in some cases, financial costs from legal claims.

So what are the legal claims an employee can raise if they are bullied? Well, constructive dismissal is one possibility where the behaviour is so serious that the employee resigns. If the bullying is also linked to another characteristic such as sex or race then the employee may be able to bring a harassment claim. Where the bullying results in serious psychiatric injury, the employee may pursue a personal injury claim. Although, in practice, stress related personal injury claims are difficult to win.

And this year saw a new claim added to the list. A House of Lords case has said that an employer can be liable under the *Protection from Harassment Act 1997* for the behaviour of a bullying employee. Until now this Act has been more associated with stalking than workplace bullying. All of which means that it's more important than ever for employers to make sure that their policies and procedures are fit for purpose in tackling workplace bullying.

But now, turning to mobile phones. Croners employer's briefing reported that police in London this summer have been cracking down on company mobile phone misuse. Companies whose employees are caught talking on the phone while driving can also be questioned by the police about what measures the company has in place. Repeat offenders could be prosecuted under health and safety at work legislation. Companies should be very clear in their mobile phone policy that employees should not speak whilst driving, or provide hands free sets if they do.

And moving on to more controversial matters. A Muslim classroom assistant, Aishah Azmi, was suspended after she refused to remove her veil in the classroom. The Church of England school said pupils found it difficult to understand her. Mrs Azmi brought claims before an employment tribunal claiming she had been discriminated and harassed on the grounds of her religion.

The tribunal decided that the Council's instructions to remove the veil did not amount to discrimination, but the way in which the council handled Mrs Azmi's complaints amounted to victimisation.

All discrimination complaints need to be handled seriously, regardless of an employer's view on the disputed issue. Employers also need to ensure that they do not behave negatively towards the employee. It has also been reported that the £1100 compensation which was awarded to Mrs Azmi included a 10% increase because the School did not follow the statutory dispute procedures.

Which brings me on nicely to the statutory grievance procedures. Almost any written employee complaint can now amount to a grievance. Both parties can be penalised by 10% to 50% if they fail to follow the statutory requirements.

Two recently reported cases show how the tribunals are approaching the 10-50% rule. In one case the tribunal ordered the full uplift of 50% where an employer had completely failed to respond to a grievance letter. And, in another case, they awarded a 10% reduction where an employee had failed to appeal their grievance.

And that's the D&W Employment Vox news.

Each month the Employment team take an in-depth review of a practical issue in their written bulletin. This month the topic was the some other substantial reason defence or SOSR as it is commonly known.

If you want to find out how to access our SOSR bulletin or find out more about any of the issues covered in this D&W Vox please contact **Valerie Dougan** on **0131 200 7472**. Details on how to subscribe to our written bulletins can be found on our website at www.dundas-wilson.com. Each D&W Employment Vox will also be archived on the website in case you want to listen again or tell a colleague about us. Our website also contains information on future events and seminars.

And that's all for this month's D&W Vox.

This podcast is correct to the best of our knowledge and belief at the time of going to press. It is however written as a general guide, so it is recommended that specific professional advice is sought before any action is taken. We are required by law to protect personal data.

If you would like any further information on any of these cases or news items, or any other Employment issue, please call the person at D&W with whom you normally liaise, or one of the following specialists:

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