





The agenda for today...

| Topic | Speaker |
|---|---|
| Employment Law Lowdown | Kate Earnshaw Senior HR Business Partner |
| Employment Legislation Update | Nicola Coward Senior HR Business Partner |
| Focus: Occupational Health Referrals | Lauren Mawson HR Business Partner |
| COVID19: 12 months on | Paula Beck HR Business Partner |
| Inclusive Workplaces: LGBT+ Awareness Session | Kate Earnshaw Senior HR Business Partner |
| 2021 DBS Conference Update | Kate Davies Prospects-Online |



Kate Eamshaw
Senior HR
Business Partner

**Employment
Law
Lowdown**

 PACT HR
Senior HR Partner

**No possible
justification for
boss's actions:**

Ms Carol Huttly
v
East Sussex
Healthcare NHS Trust




- Bullying and Harassment
- Unfair dismissal
- £10,000 awarded
- Extremely stressful prank
- **Harassment:** when bullying or unwanted behaviour is related to a 'protected characteristic' under the Equality Act 2010, the unwanted behaviour must have either violated the person's dignity (whether it was intended or not) and/or created a hostile environment for the person (whether it was intended or not).
- **Bullying:** Bullying is behaviour from a person or group that's unwanted and makes someone feel uncomfortable, including feeling frightened, less respected or put down, made fun of and/or upset.

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**Serious breach
of contract and
implied term of
trust and
confidence:**

Mr G Mason
v
Park Holidays (UK) Ltd




- Constructive unfair dismissal
- 2 weeks' notice to vacate
- Accommodation provided as part of employment
- Accepted the offer of a new post on another site (with accommodation provided) but this was later withdrawn
- Resigned having lost all trust and confidence in his employer
- £11,902.87 awarded in damages
- Implied Term of Trust and Confidence (ITTC) is a mutual duty applicable to both employers and employees

Speak to your HR Business Partner if you need to make changes to any positions involving the rental/occupancy of property

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Refusal to wear a mask in the workplace:

Kubilus
v
Kent Foods



- Refusal to wear a mask whilst on site at a customer's site
- Employer policy to comply with PPE instructions of customers when on their site
- Customer policy was masks to be worn on site and handed out on entry
- Driver refused on two occasions
- Claimed not compulsory under law and that his lorry was his home
- Customer banned driver from their site
- Employer took disciplinary action and dismissed
- Employee lodge claim for unfair dismissal but case was rejected

Important to ensure your decision to dismiss falls within the band of reasonable responses. This case gives some indication of how employment tribunals may apply existing principles in Covid-19 situations.

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Refusal to return to work due to Covid-19:

Rodgers
v
Leeds Laser Cutting



- Claim for unfair dismissal (insufficient employment to claim ordinary unfair dismissal)
- Felt he had exercised his right to leave his workplace under section 111 of Employment Rights Act 1996
- Started working for Leeds Laser Cutting in 2019
- Lockdown March 2020 – business remained open throughout
- Text to employer informing of intention to remain home until the lockdown had eased
- Dismissed (unclear of actions taken, if any)
- Hearing in January 2021, case dismissed

Continue to talk to any employees who have concerns about returning to work and if these concerns are valid, make adjustments if reasonable and able to do so.

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Nicola Coward
Senior HR
Business Partner

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Employment Legislation Update

Employment Legislation:

Reminders

Brexit

- Settled / Pre-settled status
- have they applied?
- Assist if possible
- Record their status

Deadline: 30th June 2021

Public Sector Exit Cap

- Revoked!
- 12th February 2021
- Un-reduced pensions should now be paid regardless of whether or not a cash alternative payment has been made to the individual and a full strain cost should be requested.

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Employment Legislation:

Important changes regarding redundancy pay, Employment Tribunal awards and pay rates

- Weeks pay for statutory redundancy increases to £544 per week
- Unfair dismissal basic award / maximum statutory redundancy pay increases to £16,320
- Unfair dismissal compensatory award; which is set to take account of past and future losses is 52 weeks pay; will subject to a new maximum of £89,493
- Maximum amount of additional award for unfair dismissal will rise to £28,288

SO PLEASE SEEK HR ADVICE ON ANY REDUNDANCY PROCESSES

- Statutory sick pay: increases from £95.85 per week to £96.35
- Maternity/paternity leave: increases from £151.20 to £151.97

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Employment Legislation:

Minimum Wages increases

- From 1st April 2021 national minimum wage rates are also set to increase.

The new hourly rates are as follows:

| | |
|--|-------|
| Workers aged 23 and over (National Living Wage) | £8.91 |
| Workers aged 21-22 | £8.36 |
| Development rates for workers aged 18-20 | £6.56 |
| Young workers rate for workers aged 16-17 | £4.62 |
| Apprentices under 19, or over 19 and in first year of the apprenticeship | £4.30 |

- As seen above, the National Living Wage (NLW) threshold is lowering to include all those aged 23 and over.
- Currently, the NLW is payable only to people who were aged 25 and over.

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Employment Legislation:

National Professional Qualifications Announcement

- In April the Department for Education (DfE) announced they will be introducing a new suite of National Professional Qualifications (NPQ's) from September 2021
- The three existing NPQ's in Senior Leadership, Headship and Executive Headship have been refreshed
- The existing Middle Leadership NPQ has been replaced with three new NPQ's these are:
 - NPQ for Leading Teacher Development
 - NPQ for Leading teaching
 - NPQ for Leading Behaviour and Culture



Employment Legislation:

Benefits to the new NPQs

- Supports teachers and leaders wanting to expand and develop their skills
- The frameworks that support this have been developed in consultation with an expert advisory board
- The frameworks will clearly set out the content that the participants should know and will be able to do after completing the NPQ
- The providers of the NPQ's will use these frameworks to design their courses
- In March the DfE announced who the lead providers will be:
 - Ambition Institute
 - Best Practice Network (home of Outstanding Leaders Partnership)
 - Church of England
 - Education Development Trust
 - Harris Federation
 - Leadership Learning South East
 - Teacher Development Trust
 - Teach First
 - UCL Institute of Education



Employment Legislation:

Benefits to the new NPQs

- Scholarship funding to support participants to access the reformed NPQ's is planned from September and further details will be confirmed in due course.
- Please see below a link to further information regarding the upcoming NPQ reforms and qualifications which will be available for teachers and school leaders.

https://www.gov.uk/government/publications/national-professional-qualifications-npq-reforms/national-professional-qualifications-npq-reforms?utm_source=email&utm_medium=email&utm_campaign=UpdatedGuidance

Any teacher who is currently, or aspiring to be:

- a senior leader (with cross-school responsibilities) or;
- head teacher or head of school (with responsibility for leading a school) or;
- an executive head teacher or school trust CEO (with responsibility for leading several schools)

will be eligible to undertake the relevant leadership qualifications.

- Additionally, the specialist qualifications will be available to any teacher who may have, or are aspiring to have, responsibilities for the following:
 - Leading teaching in a subject, year group, key stage, or phase.
 - Leading behaviour and/or supporting pupil wellbeing in their school.
 - Leading the development of other teachers in their school and/or the development specifically of teachers who are early in their career





Lauren Mawson
HR Business Partner

Focus:

Occupational Health Referrals

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Your HR Partner

Occupational Health Referrals:

Purpose:

- Support employees and employers
- Physical/mental health or both
- Primarily used when employees are absent but the service is accessible to all employees including those still attending work


Helps advise and guide on what employees need to:

- Return to work
- Feel better
- Do their job

Or all of these and more

Immediate referrals should be made where employees report:

- Stress
- Anxiety/depression
- A neck/back/shoulder complaint

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Occupational Health Referrals:


Referral:

- Remember – the employee being referred can read the referral form
- Sections 1 to 4 are to be completed by the referring manager
- Section 5 is addressed by OH – only amend or add to this in respect of the areas that OH will cover in their report.

SECTION 5 – EMPLOYEE HEALTH & WELLBEING REPORT

Employee Health & Wellbeing reports will cover the following (tick as applicable to each case):

| |
|--|
| Medical condition, any underlying medical conditions including treatment or medication which may impact on work |
| Likely date of return to work and indication of how long the absence is expected to last |
| Details of any suggested reasonable adjustments and any duties the employee should not undertake on a temporary or permanent basis |
| Unlikelihood that any condition may fall under the Disability legislation outlined in the Equality Act 2010 |
| An indication of whether or not the employee fits the criteria for medical redeployment where applicable |
| An indication that the employee is fit to attend interviews/hearings in relation to any process and when they may have to be present |
| Please use this space to outline any additional responses / recommendations as appropriate |
| Is the employee fit to undertake the duties and responsibilities of their role? |
| If not what is the alternative/line of business of the employee being able to do so? |
| Do the employee's duties involve a unique and essential aspect to the business? |
| Is there any further support that the school can put in place to help the employee remain fit to return to work? |

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Occupational Health Referrals:

Referral: Section 4

- Detail, detail and more detail!
- Current absence details:
 - Reason for absence
 - Any changes or developments throughout the period of absence
 - Any treatment, medication and/or support
 - Any other relevant factors that would be useful to OH for context
- Sickness absence history:
 - Remember your GDPR obligations
- Management actions:
 - Meetings, phone calls, adjustments etc



Occupational Health Referrals:

Final Steps

- Review and ensure accuracy
- Ensure requested attachments are provided
- Seek advice from your HR Business Partner where needed
- Send to occupationalhealthadmin@Bradford.gov.uk

Appointment & Report

- It is advisable to ensure the employee is aware of the date and time of their appointment to minimise the risk of non-attendance and associated fees
- OH will make recommendations in the report – they will not stipulate you have to do something as it is for you to determine if any adjustments being suggested are reasonable for your school
- Again, seek advice from your HR Business Partner where needed





Paula Beck
HR Business
Partner

**COVID19:
12 months on
& lessons
learnt**



Lockdown Positives and lessons learnt :

General
comments from Schools

- School's one way systems: We are going to keep them, they work
- Children coming in wearing their PE kits - it saves time and cuts down on staff time sorting out lost property
- Staggered start and finish times - much less traffic around school
- Parents evenings going to offer in person or remote and arrange a separate time a block session for parents to come in to see books.



Lockdown Positives and lessons learnt :

HR Perspective

- Staff Resilience
- Leadership Meetings
- Reduction in sickness absence (*non-Covid19 related*) since the introduction of hand sanitiser and the extra hygiene measures
- Less time spent on managing staff absence
- Greater appreciation and respect for colleagues
- Breaking down barriers and the stigma associated with Mental Health; people are being more open
- The pre-recorded briefing sessions

We'd love to hear more of your thoughts!
Drop us a line or tweet us @Pact HR





Kate Eamshaw
Senior HR
Business Partner



Inclusive Workplaces Training

LGBT+ Awareness Session:

Jake Futby
Diversity Enterprises



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LGBT+ Awareness Session:

Jake Futby

- **Aim of the session:** To gain an understanding of working with LGBT+ people including colleagues and students/pupils
- **Two separate dates available:** 12th May 2021
20th May 2021
- **Cost:** Free for SLA organisations
(£10 for non-SLA customers)
- **Duration:** 50 minute virtual session

DIVERSITY ENTERPRISES

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Kate Davies
Recruiting and Advertising Manager

The DBS Conference 2021




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Your HR Partner

The DBS Conference 2021:

Steps to safe recruitment

| Preparation | Selecting the right people | Choose wisely | Check thoroughly | Remain vigilant |
|---|---|--|---|---|
| Plan and prepare for a process to deter unsuitable applicants E.g., Advertising; ID & PS; Application pack & form; Safeguarding statement. | Access information supplied during application process to shortlist and identify concerns for follow up E.g., Checking applications; Shortlisting; Defining criteria; Follow-up questions. | Conduct an effective interview and selection process E.g., Interview preparation; Interview skills; Scoring; Decision-making. | Pre-employment checks and risk assessment; link all information E.g., References; ID & Right to work; DBS checks; Self-disclosure; record outcome. | Maintain a culture of vigilance and support once individual in post. E.g., Effective induction; Training; Probation period; Supervision & appraisal; or organisational safeguarding culture. |

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The DBS Conference 2021:


Data Protection and Safeguarding

Data Protection & Safeguarding

- Data protection is not a barrier to responsible data sharing.
- The UK GDPR and the Data Protection Act 2018 provide a framework that enables proportionate, and fair data sharing.

UK GDPR Principles:

- Lawfulness
- Fairness and transparency
- Purpose limitation
- Data minimisation
- Accuracy
- Storage limitation
- Integrity and confidentiality (security)
- Accountability

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The DBS Conference 2021:

Importance of sharing low level concerns (LLC)

- Guidance applies to all organisations which work with children – across any sector.
- Guidance focuses on LLCs regarding adults' behaviour towards children.
- Concerning behaviour towards; or the abuse of; children is not limited to sexual behaviour and LLCs can apply in other behavioural contexts.
- In virtually every country, there is a threshold for reporting about an adult's behaviour to statutory/regulatory authorities and; by definition; anything below that threshold can be termed a LLC.
- Early identification and prompt and appropriate management of concerns about adults is critical to effective safeguarding.
- Creating a culture in which all concerns about adults (including where the threshold for an allegation is not met) are shared responsibly, with the right person and recorded and dealt with appropriately is crucial.
- Behaviour which is not consistent with the standards and values of an organisation and which does not meet their expectations as set out in their Code of Conduct needs to be addressed.
- Where a concern about an adult's behaviour reaches the threshold of an allegation, clear guidance exists in the UK on how organisations should report, record and manage it.
- However, where a concern falls below that threshold the position is much less clear.
- low-level concerns policy - as part of a culture that enables staff to share any concerns; no matter how small; and how organisations should respond to such concerns.


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The DBS Conference 2021:


Low Level Concerns and Employment References

Remember:

- KCSIE prohibits schools and colleges from referring to unsubstantiated, malicious or false allegations in references
- Do not refer to LLCs in a reference unless they either:
 - constitute matters which ordinarily would form the subject of a reference (e.g. misconduct, poor performance);
 - or
 - collectively meet the threshold for a referral and are found to be substantiated.


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PACT HR - DBS Online:

 DBS online


Barred List Checks – 1st April Onwards

- Previously, lone Barred List Checks carried out (for a small fee) as part of the range of services offered by the DBS Online team.
- As schools are now able to access this service for free themselves we will no longer be offering this element of the service but will of course continue to provide all other DBS checking services.

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Pre - Employment Checks:

Right to Work Checks – 17th May Onwards

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