

Contents of Workplace Investigation Reports

The case of *Dronsfield v The University of Reading* UKEAT/0255/18 is a useful reminder of the extent of the conclusions that should be set out in an investigator's report. The Acas guidance is clear that the investigator should restrict their conclusions to recommendations on whether the employer should take formal action, the investigator should not suggest a possible sanction or prejudge the outcome of the disciplinary hearing. In the above case the investigation report was amended on the advice of their solicitor and the Employment Appeal Tribunal upheld the Tribunal's decision that the dismissal was not unfair.

Employer liable for automatic unfair dismissal

In the case of *Royal Mail Group v Jhuti* [2019] UKSC 55 the Supreme Court held that the employer was liable for automatic unfair dismissal as a result of protected disclosures and not the allegations of under performance from the employee's line manager. The decision maker was only presented with information concerning the employee's alleged poor performance and dismissed her. The line manager was found to have manipulated the situation to get her dismissed. The Court found that the employer would be liable even though the decision maker was unaware of the fact that the employee had made protected disclosures.

No Right to Work – Right to Withhold Work and Pay?

The EAT in *Badara v Pulse Healthcare Limited* UKEAT/0210/18 held that the employer could not rely on a clause in its contract which stated that the employee had to produce evidence of his eligibility to work in the UK. The employer sought to rely on an erroneous negative result from the Home Office Employer Checking Service to withhold work and pay. The case highlights the difficulties for employers in relying on the right to work checks.

Written Statement of Terms

As previously reported, from 6 April 2020 all workers, not just employees, will have a day one right to a written statement of terms under the *Employment Rights (Miscellaneous Amendments) Regulations 2019* (SI 2019/731). The content of the written statement known as the principle statement is set out in the regulations. Further information can be provided in a supplementary statement within two months of the start date and the remainder of the information has to be made



available in a reasonably accessible document such as a staff handbook. Employers need to ensure that their standard documents have been revised to comply with this change in the law.

Termination Payments

From 6 April 2020 employer National Insurance Contributions at 13.8% will be payable on any part of a termination payment that is subject to income tax. It is important that employers liaise with HR to decide on the approach to deal with this increase in cost.

Parental Bereavement (Pay and Leave) Act 2018

From 6 April 2020 parents who have lost a child under 18 will be entitled to one or two weeks off work, with pay in certain cases, within the first 56 weeks after the child's death. Employers should consider updating any existing compassionate leave policies or the addition of a Parental Bereavement Policy.

National Minimum Wage

From 1 April 2020 the following rates will apply: Apprentice rate: £4.15 an hour; Youth Rate (16-17 year olds): £4.55 an hour; Development Rate (18-20 year olds): £6.45 an hour; Adult Rate (21-24 year olds): £8.20 an hour; National living wage (aged 25 and over): £8.72 an hour.

For advice about any of the issues raised in the newsletter or other issues relating to employment law, please contact Anna Illingworth.

Anna Illingworth
Employment Law Specialist
anna.illingworth@rowberrymorris.co.uk

www.rowberrymorris.co.uk

17 Castle Street, Reading, RG1 7SB
Tel: 0118 958 5611 Fax: 0118 959 9662

