

In This Edition

- An ET upholds a constructive dismissal claim after finding an employer dealt with an underperforming employee by applying undue emotional pressure rather than going through a formal capability procedure.
- The Queen's Speech, setting out the legislation the Government intends to progress in future Parliamentary sessions, contained some employment law aspects, but not all of the commitments in the manifesto.
- The EHRC have produced a short film for employers and individuals which explores the different elements of hate crime and why it is important to challenge intolerance and report incidents.
- A former employee who defrauded her employer and colleagues out of tens of thousands of pounds by lying about having cancer has been given a 12-month suspended sentence and ordered to pay back a nominal sum.

Underperforming employee subjected to intimidation was constructively dismissed

In [Williams v Meddygfa Rhydbach Surgery and others](#), Williams (W) was a practice manager at the surgery, having been promoted in 1996. The partners had been dissatisfied with W's performance for quite some time. The collective view was that she was not taking managerial responsibility to improve practice efficiency. They considered W had been over-promoted by previous partners, that she was not up to the task and told her she was not meeting their expectations. They did not offer W training or any guidance, set targets or issue any explicit warnings. But they did subject her to prolonged and often unexpected criticism which W reasonably considered to have come 'out of the blue' as she had not been criticised since commencing employment in 1986. Dr. Smits' conduct, in particular, towards W, on occasions was rude, aggressive and beyond being civilly "direct". She was frequently subjected by him to abrupt, curt, accusatory and demanding treatment with a tendency to impatient displays and shouting. W resigned.

An ET upheld W's constructive dismissal claim. The practice had failed for a considerable length of time to manage W's performance effectively by way of appraisal or under formal capability procedures. They applied undue emotional pressure on W especially through the oppressive words and actions of Dr Smits with the apparent consent or acquiescence of his partners. W reasonably felt that his words and actions created an intimidating working environment and her feelings were shared at various times by many of her colleagues. She felt that she was being got at; and she was. The practice was even aware of the risk of W resigning and claiming constructive dismissal but carried on applying pressure. W had no reasonable belief that the practice would treat her fairly. There had been an 'employment assassination' which had destroyed the relationship of trust and confidence.

Employment law aspects of the Queen's Speech

The Queen's Speech, setting out the legislation the Government intends to progress in future Parliamentary sessions, contained some employment law aspects, but not all of the commitments in the manifesto. The [briefing notes](#) show that legislation promised includes: a Data Protection Bill (p46) which will replace the Data Protection Act 1998 and implement the EU General Data Protection Regulation; and, increasing the national living wage to 60% of median earnings by 2020 (p67). Page 68 indicates that the Taylor Review of Modern Employment Practices will help the Government understand if working rights need to be modernised to keep up with new ways of working. Page 69 states an intention to make further progress in tackling the gender pay gap and discrimination because of race, faith, gender, disability or sexual orientation, but no details are provided.

EHRC guidance for employers and individuals on reporting hate crime

The EHRC have produced a short film for employers and individuals which explores the different elements of hate crime and why it is important to challenge intolerance and report incidents. Hate crimes are defined as any crimes that are targeted at a person because of hostility or prejudice towards that person's: disability, race or ethnicity, religion or belief, sexual orientation or transgender identity. The [guidance page](#) shows the film and covers why it is important to report hate crime, how hate crime can be reported, sharing EHRC generated graphics on social media and specific support for Polish people living in the UK.

Employee who faked cancer at work ordered to pay back £1

A former employee who defrauded her employer and colleagues out of tens of thousands of pounds by lying about having cancer has been given a 12-month suspended sentence and ordered to pay back a nominal sum. CIPD People Management [report](#) that Ms Whitehead was given a 12-month suspended sentence after admitting two counts of fraud and was told return a nominal sum of £1 by a judge after a confiscation hearing determined she had no assets. The court heard that she lied to her employer by telling them she had stage four metastatic bone cancer and also lied to her partner and friends. The employer lent her £5,000 to fund private medical treatment and handed her almost £10,000 in sick pay. Her co-workers also donated £1,400 to charity in her name.

Content

This update provides summary information and comment on the subject areas covered. Where employment tribunal and appellate court cases are reported, the information does not set out all of the facts, the legal arguments presented and the judgments made in every aspect of the case. Click on the links to access full details. If no link is provided, contact us for more information. Employment law is subject to constant change either by statute or by interpretation by the courts. While every care has been taken in compiling this information, SM&B cannot be held responsible for any errors or omissions. Specialist legal advice must be taken on any legal issues that may arise before embarking upon any formal course of action.