



August 2020

EMPLOYMENT LAW UPDATE – WHAT’S NEW?

Acas issues new advice to employers on redundancies after record increase in calls to its helpline

Acas has issued new advice to employers on redundancies after calls to its helpline since June 2020 increased by a record-breaking 160% compared to the same time last year. The advice seeks to help employers navigate the financial difficulties caused by the coronavirus pandemic by offering alternatives to redundancies where possible, such as voluntary redundancy, early retirement, changes to working hours and job roles, and recruitment freezes, but also sets out how to consult and select staff appropriately where job losses are unavoidable. The detailed guidance also explains how to calculate notice periods and redundancy pay accordingly and can be accessed [here](#).

EAT finds that employee had been fairly dismissed without any formal dismissal procedure being followed after an irreparable breakdown in working relations

In *Gallacher v Abellio Scotrail Ltd*, the Employment Appeal Tribunal (“EAT”) found that an employee had been fairly dismissed ‘for some other substantial reason’ after a serious breakdown in working relations at a time when the employer was facing significant financial difficulties, despite no form of dismissal procedure being followed.

Mrs Gallacher was a senior manager at Abellio Scotrail when her working relationship with her line manager broke down irreparably. After consulting with HR, it was agreed that Mrs Gallacher would be dismissed at her annual appraisal meeting without any forewarning, formal procedure, or right to appeal, as she recognised the relationship breakdown herself and had no interest in repairing it.

The EAT agreed with the Employment Tribunal (“ET”) that in this rare instance, dismissing Mrs Gallacher without following a formal dismissal procedure was fair and reasonable in the circumstances. This is because the working relationship had broken down irretrievably on both sides and following any such procedure would have been futile as it would have resulted in the same outcome.

Nonetheless, the EAT did note that dismissals without any fair procedure will always be scrutinised very carefully, which is why it is so important for employers to seek legal advice before making any decisions regarding dismissal of an employee, particularly where there has been a break down in relations.

EAT upholds unfair dismissal claim despite there being no financial compensation available

In *Evans v London Borough of Brent*, the EAT upheld an unfair dismissal claim, despite there being no financial compensation available, because it still had a reasonable prospect of success on the grounds of procedural unfairness.

In this case the employer, Copland Community School, had failed to follow the correct procedure when dismissing Deputy Headteacher Dr Evans. However, as Dr Evans had contributed to his own dismissal to such an extent by making unlawful bonus payments to himself that there was no financial compensation payable, the ET dismissed the claim.

The EAT disagreed with the ET's decision to strike out the claim on the grounds that it was not in the interests of justice to proceed because there was no chance of Dr Evans receiving a financial award, even though they acknowledged that the case had a reasonable prospect of success in relation to procedural unfairness. The EAT found that unfair dismissal claims are not always financially motivated and instead, the mere judicial finding that an employee has had their rights violated by their employer can be of tremendous importance to an employee simply out of principle.

This case shows that unfair dismissal claims where no financial compensation is payable still have the potential to succeed and make a statement against employers if the case has merit in other areas, demonstrating the importance of following fair procedure no matter the circumstances.

For more information on any of the items discussed in this article please contact either [Nick Hall](#) or a member of the [Employment Law team](#).

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