



Anna West on employment myths - part 2



Keeping tabs on staff – there are limits!

EVERYONE makes assumptions that they believe to be correct and often no harm results. But with employment law, incorrect assumptions are not only dangerous, they can prove very expensive now that employees have become so litigious. Here is part two of your guide to the 10 most common employment law myths.

1. Myth: Employees have no right to privacy in the workplace.

Reality: Employees do have a right to privacy in the workplace. This means there is a limit to how far employers can go to keep tabs on their staff.

While some level of monitoring is reasonable, maybe to ensure the quality of work, employers must strike a balance between the needs of the business and employees' rights to protect their private lives. In general, any interference with privacy must be no more than is reasonably necessary and the employer should have good reasons for doing so.

Employers should also make sure employees are aware of any workplace monitoring, by having a clear policy on when this will occur that is clearly communicated to all staff.

Cost: Employers who engage in unlawful monitoring could face claims of unfair dismissal (with compensation of up to around £70,000), plus unlimited damages (and potential fines) under data protection laws.

2. Myth: Employees with young children have the right to work part-time.

Reality: Employees with young children do not have an automatic right to work part-time, but they have a right to ask to work flexibly (after six months' service), eg working part-time.

Employers do not have to agree to such requests, but must consider them carefully by

following a set procedure and only refusing them on specified grounds (eg additional costs or impact on performance).

In addition, refusing a flexible working request from a female employee may amount to sex discrimination, on the basis that women are more likely to be primary carers. Refusal can be objectively justified, but the employer would need to have good reasons for this and, ideally, evidence to support it.

Cost: Failing to follow the set procedure could cost the employer up to £2,640 in compensation, but a sex discrimination claim, for unjustifiably refusing a flexible working request, could cost a lot more, as compensation is unlimited.

3. Myth: The Myth: Employees who are pregnant or on maternity leave can't be dismissed.

Reality: They can, but if the reason for the dismissal is related to their pregnancy or maternity leave this amounts to sex discrimination and unfair dismissal. Sometimes an employee is dismissed for a fair and non-discriminatory reason, but a lack of evidence to back this up leads an employment tribunal to believe that the pregnancy/maternity leave was the real reason for dismissal.

Employers should document clearly the reason for dismissal (such as poor performance) and ensure that other paperwork (appraisals, warning letters and the like) supports this.

Cost: Employees who are dismissed unfairly can claim compensation of up to around £70,000. Compensation for sex discrimination is unlimited, and includes an award for injury to feelings from £500 to £25,000.

4. Myth: You can sack an employee on the spot for gross misconduct.

Reality: The Reality: Employers planning to dismiss an employee, for whatever reason, must follow a set statutory procedure. This applies to all dismissals, including dismissals for serious misconduct like theft or fighting.

Broadly, the employer must set out the alleged misconduct in writing, invite the employee to a meeting to discuss it and give the employee the chance to appeal. This statutory procedure is a minimum, so the employer should also ensure that it has fully investigated the situation and allowed the employee the opportunity to respond to the allegations.

Cost: Failure to follow the statutory dismissal procedure makes dismissal automatically unfair (for an employee with at least a year's service), and the employee can seek compensation of up to around £70,000.

5. Myth: You can dismiss an employee who is 65 without claims.

Reality: Employers are allowed to retire an employee at or above 65 (or the employer's normal retirement age if this is later). But to avoid claims, employers must follow a statutory retirement procedure.

This means they should notify the employee in writing 6 to 12 months in advance of their retirement and tell them that they can ask to work for longer.

If the employee does ask to work beyond the retirement date, the employee has to consider the request seriously and meet with the employee to discuss it.

Cost: If the employer does not go through all these steps, the employee will have an age discrimination claim when compensation could be unlimited and an unfair dismissal claim with compensation of up to £70,000. **CFJ**

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David Gatfield on wall and ceiling systems

Why more floorlayers go to the wall!

THIS month I'm not going to talk about floors, but a product that is not a million miles away, walls. After all, for every floor there are approximately four times the number of walls and by definition, four times the number of sq m.

Fixing PVC to walls and ceilings, for that matter, is hardly new.

I remember 35 years ago clambering along scaffolding at a well known pharmaceutical company, installing PVC cladding on the ceilings and walls before welding everything together to

form a skin inside a room that could be easily cleaned.

For many years since its humble beginnings, flexible PVC as a wall and ceiling covering has been seen as a viable alternative to paint or ceramic tiles.

Many excellent flooring contractors now find themselves fixing vinyl to walls and ceilings and most would admit it's better than being down on all fours for eight hours a day.

Vinyl 'flooring' as a wallcovering has long been the

product of choice in many hospital operating theatres and clean rooms, providing a decorative, non shedding, hygienic and seamless surface for areas that have to be kept sterile to prevent the risk of cross contamination, in drug manufacture for instance, or to drastically reduce the risk of the spread of infection in the operating theatre.

Twenty or so years ago we developed another wall and ceiling system, still PVC but

arguably more durable and unarguably more robust and impact resistant than the flexible variety.

Originally in white only hence the name Whiterock, it is now available in many colours and designs. Next month I'll explain more about this wall and ceiling system. **CFJ**

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