

COUNCIL NEWS

What does the Workers (Predictable Terms and Conditions) Act 2023, mean for Town and parish Councils?

The above legislation has now been passed by Parliament and is expected to come into effect in September 2024.

The purpose of the Act is to create a more secure work environment for people on Zero Hours contracts, as well as Fixed Term contracts of 12 months or less.

Employees with 26 weeks continuous service on a zero hours contract, or fixed term contract, will be able to request:

1. Regular hours.
2. Regular days.
3. If they are engaged on a fixed term contract of 12 months or less, they can request that the contract be extended for a longer period or made permanent.

The worker must submit their request in writing and the Council is obliged to fully investigate it. If the Council wishes to reject the offer it must be for one or more of the following reasons:

1. Additional costs.
2. Potential damage to customer service.
3. Detrimental impact on recruiting staff.
4. Detrimental effects on other aspects of the business.
5. Lack of work.

If the request is turned down the Employee can Appeal. If the Appeal is turned down the Employee can make a claim to an Employment Tribunal based on the Employer's failure to prove that their reasons had been properly investigated and were based on points 1-5 above. The claim would be for loss of statutory rights under the new Act, which would enable them to claim Unfair / Constructive Dismissal, which could award them up to 12 months pay. Workers who have less than two years' service would be able to submit a claim.

Is Stress a Disability?

The diagnosis of Work Related Stress is extremely common throughout the UK workforce and something most Councils are likely to encounter at some point.

The common perception of stress is that it is a short-term issue. Most Case Law treats it as a relatively time limited response to events, either at work, personal or both. As a consequence it has not met the definition of a disability, which is defined in the Equality Act 2010 as a

physical or mental impairment that has a substantial and long term adverse effect on an Employee's ability to carry out day to day activities. To be long term, the usual reference point is 12 months. Incidents of stress are usually short term and do not meet this definition. Consequently, Employees have not been able to claim Disability Discrimination if they have been sacked or treated unfavourably due to suffering from stress.

This was recently challenged in *Morris v Lauren Richards*. Morris had taken time off due to stress and was sacked. As she only had 20 months continuous service she was unable to claim Unfair Dismissal. Instead she submitted a claim for Disability Discrimination based on her diagnosis of Work Related Stress.

The original Tribunal decision was similar to previous Case Law as her stress was unlikely to last for 12 months or more. This was particularly the case as her diagnosis was Work Related Stress. Once she had been sacked, work would no longer cause her stress, and so the problem would not meet the time criteria.

However on appeal to the EAT Morris's claim was successful. The Judge ruled that it was wrong to think that Work Related Stress ends with the Employee's employment in the job. What had not been investigated before she was sacked was whether or not the stress would stop once she stopped doing the job. There was no investigation or medical report to indicate one way or the other. Consequently Morris was able to claim Disability Discrimination.

PROFILE

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