

When expletives get expensive

Whilst aggressive leadership is an accepted route to managerial success in certain working environments, it is often judged unacceptable by employment tribunals. The sacking of St Helens' Rugby League coach, Ian Millward, earlier this year for, amongst other allegations, the use of abusive language towards a fellow employee, has raised questions.

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An employer or manager who relies upon a heavy-handed leadership style is now more likely than ever to find him/herself facing a claim of unfair dismissal from an increasingly empowered and legally informed British workforce. Those who use threats to increase productivity and punish inefficiency with verbal intimidation should be warned that progressive employee protection laws mean the days of aggressive management styles are disappearing fast.

Constructive dismissal

Ian Millward was dismissed on the grounds of gross misconduct for, amongst other things, allegedly using

foul language towards a fellow employee who subsequently tendered his resignation. Whilst the need for employers to address aggression in the workplace is a leadership issue, there are also legal considerations employers must bear in mind. Procedurally, employers are under a legal obligation to investigate all allegations of abusive or intimidating behaviour in accordance with the new dispute resolution regulation, introduced with a view to resolving disciplinary and grievance issues in the workplace.

An employee who resigns after being subjected to verbal abuse from a colleague or superior may be well within their rights to pursue a claim for constructive dismissal. An

employer who fails to investigate allegations of abusive language could face this type of claim by the abuse victim on the grounds that the employee's trust and confidence in their employer has been compromised. Following an investigation, if a manager is found to have subjected a subordinate to verbal abuse, employment tribunals have held that it is important to provide the manager with an opportunity to apologise, particularly where the language was used in the heat of the moment. Furthermore, a warning should always be considered before resorting to dismissal in order to avoid an allegation of unfair dismissal.

Gross misconduct

In the most severe disciplinary cases, an employer may be forced to dismiss a member of staff immediately, or almost immediately, for gross misconduct. Employers are advised to always suspend with a view to completing a thorough investigation before dismissing, given that failure to do so again exposes employers to the risk of a claim for unfair dismissal. Given that employers are required to follow a fair procedure and demonstrate that their actions were reasonable in view of the circumstances, the absence of a thorough investigation will be viewed with concern by an employment tribunal.

There is no doubt that environmental considerations, such as industry or sector, play an important role in determining the types of behaviour which are generally accepted in the workplace. For example, conduct which may be commonplace on a building site or football pitch, such as foul language and physical or verbal aggression, would be unacceptable in an office. Even so, any employer, no matter what business they are in, must uphold acceptable levels of behaviour and discipline and bring to account those who break the rules.



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