Lightfoots SOLICITORS

OCTOBER, 2025

EMPLOYMENT NEWSLETTER

Welcome to our October 2025 employment newsletter.

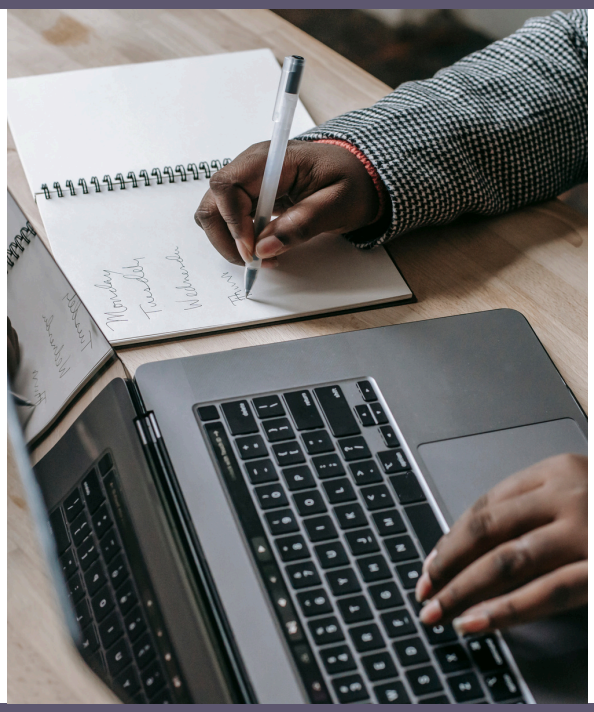
With spooky season just around the corner, we thought we would send some shivers down the spine by sharing two case examples of how NOT to conduct disciplinary investigations and proceedings.

On the 26th of October we see in the one-year anniversary of the new positive duty to prevent Sexual Harassment, a good time to recap on what this means for employers and why it remains important to keep your duties here under review.

New service announcement!

Finally, we are also pleased to announce the launch of our new HR support service for SMEs, details of which can be found at the end of this newsletter.

HOW NOT TO CONDUCT DISCIPLINARY INVESTIGATIONS AND PROCEEDINGS – SOME RECENT EXAMPLES



Case one - Leicester City Council v Parmar

Mrs Parmar worked for the Council as a head of service and was subject to a disciplinary investigation process following a colleague complaint.

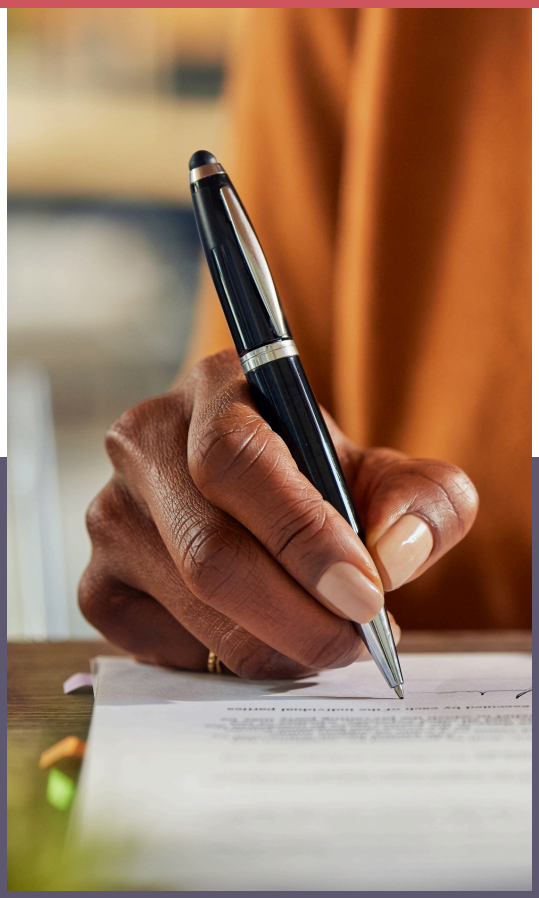
There had been several previous internal issues between departments leading up to the complaint, although none had a direct correlation to Mrs Parmar save for her being the head of service. Until this point Mrs Parmar had not been subject to any disciplinary proceedings or performance measures.

Following the complaint Mrs Parmar was temporarily transferred from her position and subsequently invited to a disciplinary investigation meeting with her line manager, Ms Lake. No details of the allegations in the complaint were provided prior to or at the meeting, nor was Mrs Parmar made aware as to which code of conduct(s) she had allegedly breached. Despite subsequent investigation meetings also taking place Mrs Parmar remained unclear on the allegations against her.

Following a change in investigating manager Mrs Parmar was later advised there was no case to answer and the investigation dropped.

In her claim, Mrs Parmar provided the Tribunal evidence of white employees of similar status who had been accused of more serious misconduct issues yet benefited from either no investigation or lesser processes such as mediation or informal discussions.

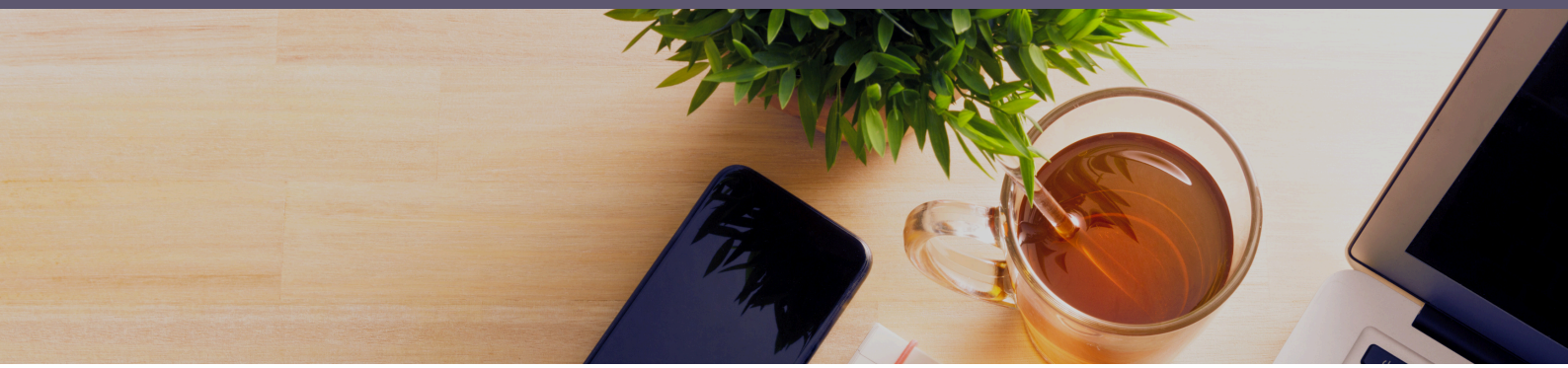
Mrs Parmar had also previously raised with Ms Lake prior to the complaint the question of whether she was being unconsciously bias against BAME employees.



The outcome of Mrs Parmar's claim

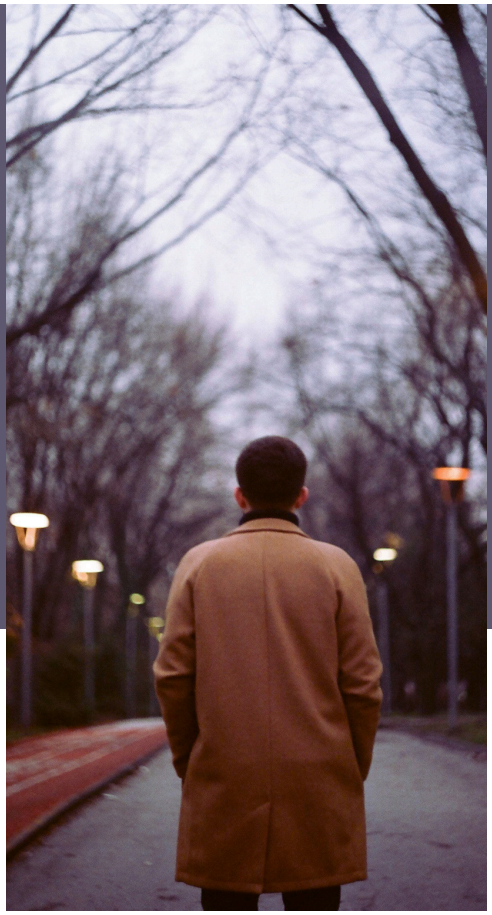
The employment tribunal found that Mrs Parmar had been the victim of race discrimination. They felt able to reach this decision due to the fact the allegations against Mrs Parmar were never particularised with matters escalating quickly, in comparison to the treatment of other white employees.

The Council had also failed to either keep or produce documents during the tribunal process, which resulted in adverse inferences being drawn. Basically, the council was unable to satisfy the tribunal that it had an adequate non-discriminatory explanation for Mrs Parmar's treatment. The tribunal's decision has since been upheld by both the Employment Appeal Tribunal and Court of Appeal.



Case two - Woodhead v WTTV Limited and NBC Universal International Limited

Mr Woodhead was Managing Director of WTTV when he was given 6 months' notice to terminate his employment, due to redundancy. The redundancy was fair, however later that same month he was invited to a meeting following a series of complaints of sexual harassment. These surrounded conversations with a freelance writer about Mr Woodhead's addiction problems and private life. It was common ground that Mr Woodhead suffered from long-standing psychiatric conditions.



At the meeting Mr Woodhead was informed of the complaints and asked to provide his comments on the same. Whilst the accuser had provided written statements to WTTV these were not provided to Mr Woodhead at this time. He was then suspended from work the same day pending further investigation.

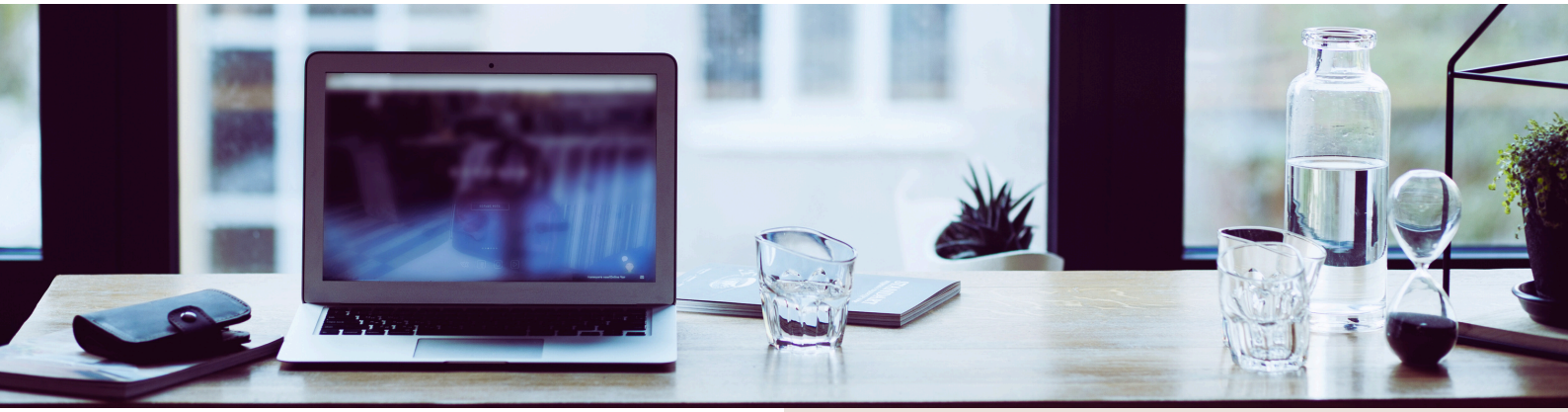
Following the meeting, Mr Woodhead's mental health deteriorated resulting in hospitalisation. He remained under various treatments until after his notice period had naturally expired.

The negligence claim

Mr Woodhead pursued a claim for damages for psychiatric injury, WTTV having a duty of care not to expose him to an unreasonable risk of foreseeable psychiatric injury.

Whilst ordinarily you would not expect psychiatric injury to be reasonably foreseeable when invoking disciplinary proceedings, WTTV were on notice of Mr Woodhead's long term and serious mental health condition.

They were also made aware that the initial investigation meeting had caused a relapse requiring treatment, and therefore he was unfit to participate in the disciplinary process. Even once fit enough to engage with the process he would still need the support of his psychologist.

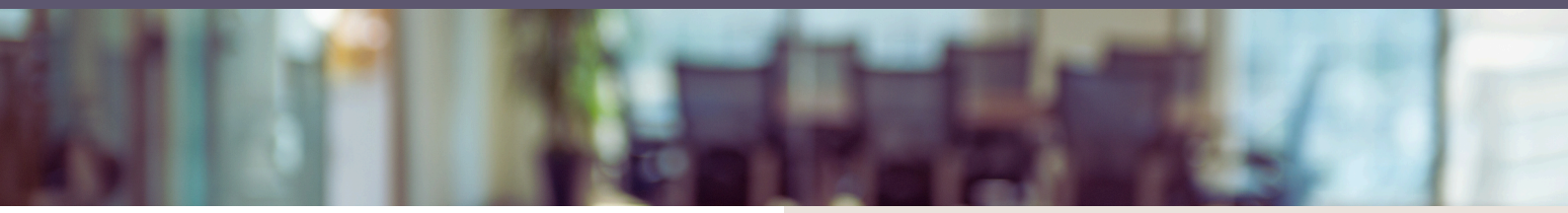


Despite the above the Court found significant failings in the way the disciplinary process was conducted, some of which was found to breach WTTV's duty of care. In particular WTTV were criticised for the following:

- Its handling of the initial meeting including the fact no warning was given of the meeting or detail provided in advance. Despite this the meeting lasted several hours and was conducted as a full investigatory meeting, causing Mr Woodhead considerable distress especially given the identity of the complainant and nature of the allegations;
- WTTV then seeking to impose unnecessary demands and deadlines for Mr Woodhead's response to the allegations despite his not having been provided full details of the same, having already been signed off sick and his solicitor making WTTV aware of the acute stress he was under and potential disability. This only stopped when it became apparent Mr Woodhead was being hospitalised and the disciplinary process paused;
- Despite Mr Woodhead remaining signed off work and under the care of medical professionals, WTTV unreasonably attempted to resume the disciplinary process when he was discharged from hospital. At this point Mr Woodhead was contacted and asked to provide any further response he had to the complaints; and
- Insisting that Mr Woodhead co-operate with an occupational health assessment despite Mr Woodhead's own doctors being available to answer any questions WTTV had and being better placed to answer them. The Court commented this was unnecessary and unreasonable in the circumstances.

The Court also found on the evidence that whilst the investigating officer had concluded that some of the complaints made did not amount to harassment or were not supported by evidence, this information was never shared with Mr Woodhead or his solicitor, prolonging some of the psychiatric harm caused. On the contrary the information shared suggested those complaints remained live issues; an entirely false impression.

Unsurprisingly in this instance Mr Woodhead's claim for negligence was successful.

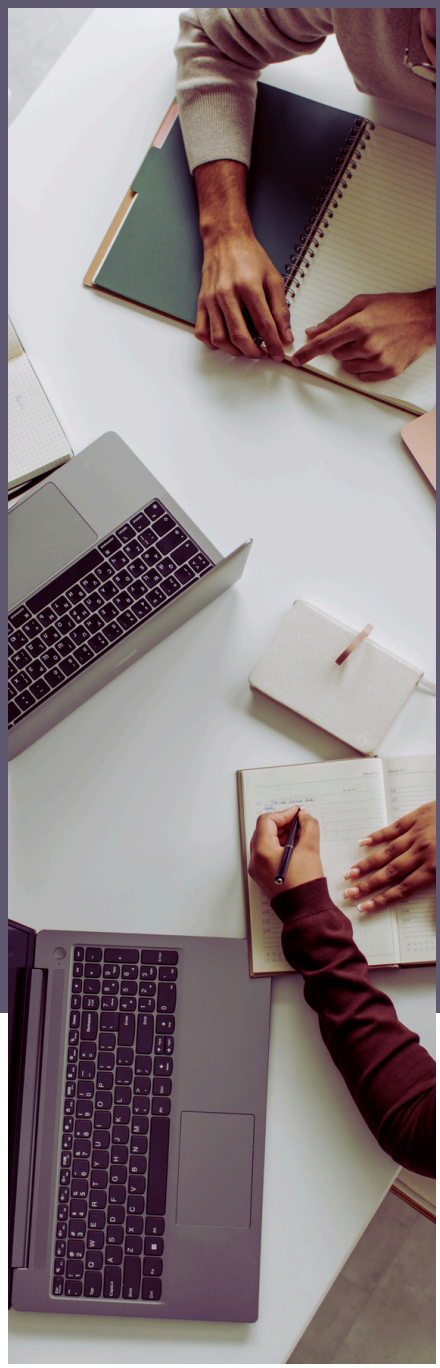


Key takeaways for employers

These cases are an important reminder that it is not just unfair dismissal claims you should be alive to when navigating disciplinary investigations and proceedings.

To fully protect your business, it is always important to:

- Ensure the employee understands from the outset of the investigation the nature of the allegations against them and give them a reasonable opportunity to respond
- Complete a reasonable investigation, keeping an open mind, before deciding what further action it is appropriate to take
- Only suspend employees if there is no other reasonable alternative. ACAS have published some helpful guidance
- Ensure you follow your standard internal processes, or ACAS' Code of Practice
- If you are aware of a disability ensure reasonable adjustments are put in place including, in appropriate circumstances, pausing the disciplinary process until the employee is well enough to engage
- If any allegations are not upheld, communicate this. Do not mislead employees into thinking dropped allegations remain live issues
- Ensure all decisions are fully documented and records retained



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ONE YEAR ON: IS THE POSITIVE DUTY TO PREVENT SEXUAL HARASSMENT WORKING?

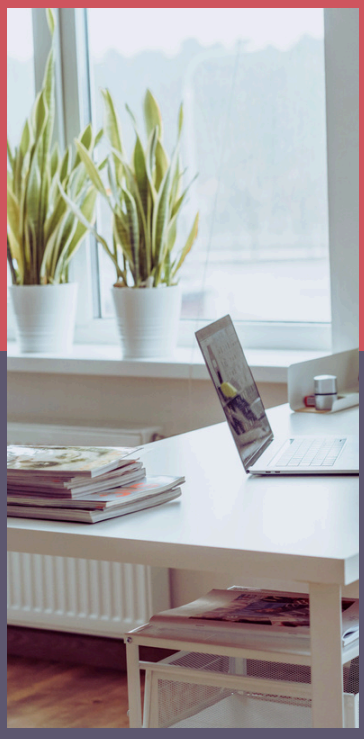
Last October saw significant legal reform when it comes to protecting your workforce from sexual harassment. A positive duty on employers to take reasonable steps to prevent sexual harassment came into effect, enshrined in the Worker Protection (Amendment of Equality Act 2010) Act 2023. This new duty marked a shift from reactive enforcement to proactive prevention.

One year on and with further reform proposed under the Employment Rights Bill, we reflect on this new duty and its impact so far.

The duty in practice

The duty requires employers to anticipate and prevent sexual harassment, not merely respond to it. This includes:

- Taking reasonable steps to prevent harassment before it happens
- Addressing risks in all work-related contexts, including offsite events, training sessions, and social gatherings
- Considering third-party interactions, such as those with clients or customers, reducing the risk of third-party harassment where you can
- Tribunals now have the power to increase compensation by up to 25% if an employer is found to have breached this duty. The Equality and Human Rights Commission (EHRC) also have powers to intervene and work with employers to ensure full compliance.



One year on: has anything changed?

For those employers taking this new duty seriously their workforce should now be better informed on what is, and is not, acceptable behaviour and encouraged to speak out, in turn reducing the risk of claims.

Many employers have responded by updating policies, conducting training, and revisiting internal reporting and grievance procedures.

A focus on this new duty should also create a more open dialogue around workplace behaviour, empowering employees to recognise and speak up when witnessing or being subjected to unacceptable behaviour.

However, whether the above is enough to constitute "reasonable steps", will always be business specific. What's reasonable for a large corporation may differ vastly from a small business. The industry you operate in and risks present will also be a factor. It remains important for employers to ensure they understand their obligations and what "reasonable steps" means for them.

Looking ahead: what should employers be doing?

It is important to always remember this duty is an ongoing one. It will therefore be important for employers generally to:

- Conduct regular risk assessments tailored to their specific work environments
- Implement robust reporting mechanisms that protect confidentiality and prevent retaliation and keep these under review
- Ensure leadership buy-in, as cultural change starts at the top
- Carry out refresher training periodically. Training becomes stale, outdated and forgotten over time. Also don't forget to overlook new joiners
- Review third-party interactions, even if not currently directly liable, to mitigate reputational and operational risks

How you investigate and respond to any complaints, should they arise, will also be important. The case of Woodhead v WTTV above is just one example of the need to handle such matters with sensitivity and care out of respect for both the complainant and the alleged harasser.

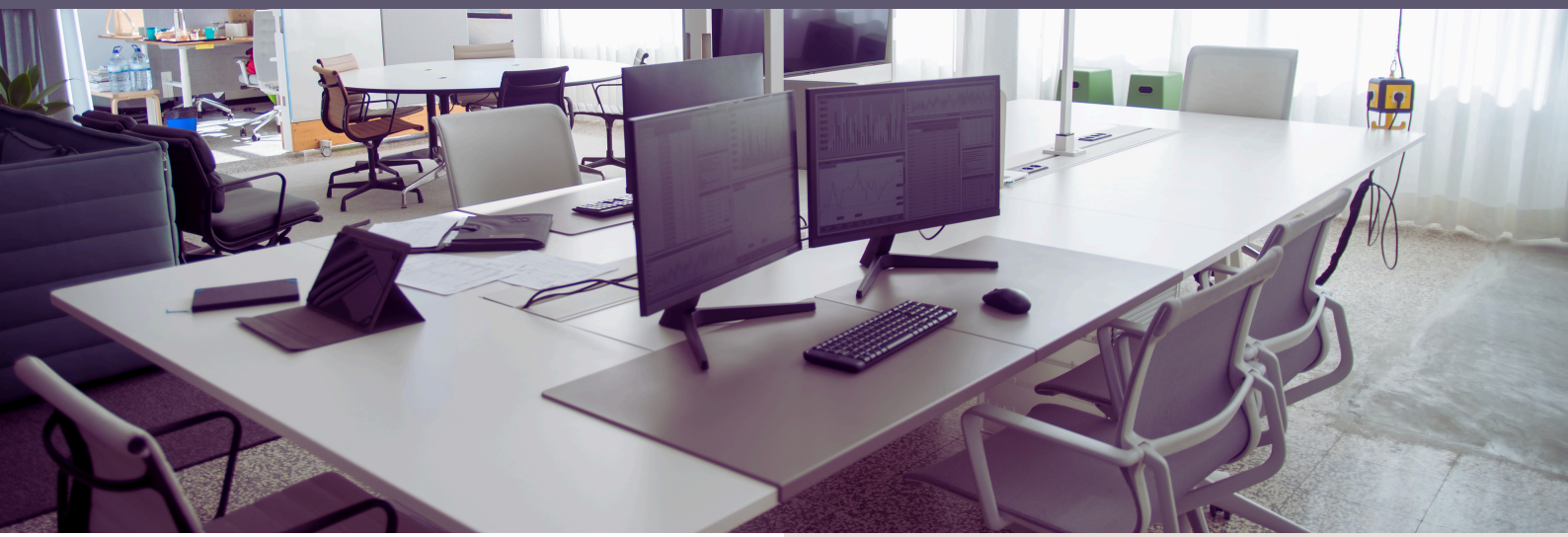
Final thoughts

The introduction of this positive duty was more than a legal tweak, increasing both financial and reputation risk for those employers choosing to either ignore it altogether or fail to keep their compliance under regular review.

This is especially given the Labour Government plans to yet further increases an employer's obligations under the Employment Rights Bill as covered in our January newsletter.

Whilst full compliance may not remove the risk of sexual harassment in the workplace all together, it significantly lessens the risk for your business and should be taken seriously.

Whether you want guidance to ensure ongoing compliance, or need advice investigating a complaint, or defending a tribunal claim our experienced team are here to help.



HOW CAN WE HELP?

Our employment team and associated HR service can support you in a variety of ways.

For example, our newly launched HR Support Service gives you access to:

- Support from an experienced HR Professional on demand
- Template employment contracts and policies
- Preferential hourly rates if you need to involve our employment solicitors
- Regular legal updates and top tips allowing you to stay ahead of employment law changes
- Employment Disputes Insurance cover via a third-party provider if you do not have existing cover

Specifically in relation to the contents of this newsletter our experienced employment team can also provide:

- Step by step legal advice when it comes to disciplinary proceedings and avoiding unfair dismissal, discrimination or other types of claims
- Provide legal guidance on complying with your positive duty to prevent sexual harassment, dealing with a complaint or defending tribunal proceedings

You should seek legal advice before relying on the content of this newsletter as every situation is different and employment law is ever changing.

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