

Managing return to work following bullying / harassment investigation

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Where an investigation into an employee's allegations of bullying and harassment produced an action plan for her return to work the employer Council was entitled to require acceptance by the employee of the investigator's report before she returned to work.

Stoke-on-Trent Council commissioned an investigation by a Mrs Chadwick into an employee's complaints of bully and harassment. The Chadwick report upheld one of the employee's 33 complaints and proposed an action plan to get the employee back to work in the particular unit where she had previously worked ("the ACE Centre"). The employee was willing to accept the action plan but refused to accept the Chadwick Report and the Council refused to allow her to return to work until she did so. The employee did not return to work, the Council stopped paying her and she brought an unlawful deductions claim.

The Council had made proposals to the employee regarding working outside the ACE Centre but no agreement was reached. In finding for the Council the Employment Tribunal had implied a mobility term into the employee's contract. The EAT implied a term that, in the exceptional circumstances of the case, the Council was entitled to require the employee to work temporarily outside the ACE Centre.

The Court of Appeal decided that there was no need to imply any such terms. It upheld the Employment Tribunal's view that the Council's insistence on the employee accepting the Chadwick Report before returning to work in the ACE Centre was reasonable and since the employee was not working at the ACE Centre she was not entitled to be paid.

Please note: The content of this article is for information purposes only and further advice should be sought from a professional advisor before any action is taken.