

Employment – 20:20 vision

Providing clarity and insight on employment law matters

Domestic and Economic Abuse: What do employers need to think about?



One of the many side-effects of the Covid-19 pandemic is a reported spike in domestic abuse. It is a growing issue, as was evident by the most recent budget on 3 March 2021, in which the Chancellor committed to an extra £19 million to help tackle domestic abuse. Statistics also starkly show the impact of lockdown on domestic abuse; from April to June 2020, the charity Refuge reported a 700% increase in visits to its website and a 65% increase in demand to its helpline. One explanation for this increase may be the significant shift to homeworking caused by the pandemic.

It's also important to note that domestic abuse takes many forms which includes restrictions, exploitation and sabotage of access to money and other resources – this is commonly known as economic abuse.

In this context, as employees' domestic and professional lives are ever more intertwined, employers need to consider their obligations in relation to employees who may experience domestic abuse.

Why should employers be taking action?

A report published recently by BEIS, entitled "[Workplace support for victims of domestic abuse](#)"¹ encourages employers to help staff who suffer from domestic abuse by building awareness and understanding of the issue and providing support in the workplace. The report also considers the importance of employment rights, for example that victims of domestic abuse may need time off work for various reasons and the importance of flexibility including the right to flexible working.

The publication of this report has led to an increase in dialogue around the issue and alerted many employers to the fact that domestic abuse is something they should have on their radar. There are obviously strong moral and ethical reasons why employers should be working to support victims of domestic abuse, not to mention economic reasons (a

Home Office study in 2017 found that domestic abuse cost over £66 billion in England and Wales). There are also employment law considerations too:

- **Duty of trust and confidence**
Employers have a duty of trust and confidence towards their employees. An employer who is unsupportive or unreasonable in the face of a domestic abuse situation could risk breaching the duty of trust and confidence, leading to constructive dismissal claims.
- **Disability and reasonable adjustments**
Victims of domestic abuse may experience mental health issues or have other health issues, which are categorised as a disability for the purposes of the Equality Act 2010. A failure to make reasonable adjustments for those employees or a policy which discriminates directly or indirectly against them can lead to disability discrimination claims.

¹ In this alert we mirror the language of the report referring to "victims".

- **Performance management and disciplinary action**

Domestic abuse may increase absences from work or lead to drops in performance. When dealing with performance or attendance issues, employers should try to consider underlying reasons causing or contributing to the issues, including training staff to be able to spot signs of domestic abuse as it is often not disclosed by individuals. There will also be the important question of how employers deal with any employees who they find out are perpetrators of domestic abuse and how to act in the particularly tricky situation where both the perpetrator and the victim are employees.

- **Health and safety obligations**

Employers have a legal duty to provide a safe place of work for their workforce, which includes carrying out risk assessments of the working environment. In situations where the employer may be on notice about domestic abuse, the employer should be considering taking action to ensure the health and safety of its employees.

What practical steps can employers be taking?

- Providing training and education to the HR staff or managers on how to spot signs (e.g. regularly not turning on their camera, not attending socials, money paid into sole account of their partner) and how to deal with domestic abuse.
- Drafting a comprehensive domestic abuse policy and increasing awareness and dialogue about the issue within the workplace (e.g. paying for a victim to go and stay at a hotel and covering some or all of the cost of that).
- Signposting access to counselling or other health-related services (e.g. putting posters up at and using intranet pages or staff communications to draw attention to local service providers or specialist apps.)
- Providing time and space within work for victims to make calls and other arrangements.
- Being aware of the impact on HR staff or those dealing with the domestic abuse issues and providing support for them.
- Ensuring senior management are on-board with the approach – helping to create the right workplace culture from the top down.

Following the publication of the BEIS report ACAS has provided guidance setting out that employers should make clear what support is available if an employee is experiencing domestic abuse and providing some tips such as:

- finding a way to communicate safely, for example by text message if calls are not possible, or a different email address if their email is being monitored by the perpetrator;
- agreeing on a code word or hand signal for someone to use to alert others that they're experiencing domestic abuse;
- arranging another place they can do their work instead of at home – finding a reason for the victim to come into work, so the victim can justify leaving home without too much suspicion;
- being flexible around working hours;
- time off, for example to attend support appointments; and
- helping the person get other appropriate support.

Many employers have, up until recently, considered that domestic abuse was purely a domestic issue – but this is not the case and employers are being encouraged to take necessary steps to address issues arising amongst their staff.

If you have any questions on any of the issues raised in this alert please contact Paul Reeves, Leanne Raven or usual Stephenson Harwood contact.

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