

# UHI | INVERNESS

Meeting	Human Resources Committee
Date and time	Thursday 04 September 2025 at 8.30 a.m.
Location	Virtually – via Microsoft Teams

Governance Officer  
07 August 2025

## AGENDA

*The timings on this agenda are indicative only and may extend beyond times highlighted.*

### Welcome and Apologies

### Declaration of Interests and/or any Statement of Connections or Transparency Statements.

## ITEMS FOR DECISION

- 08:30 – 08:40 1) MINUTES**
- a.) Meeting of the Human Resources Committee held on 05 June 2025
  - b.) Confidential Note of the Human Resources Committee (CN-HR01-062025) held on 05 June 2025
  - c.) Confidential Note of the Human Resources Committee (CN-HR02-062025) held on 05 June 2025
  - d.) Closed Session Note of the Human Resources Committee (CSN-01-062025) held on 05 June 2025
- 08:40 – 08:50 2) OUTSTANDING ACTIONS**
- 08:50 – 09:10 3) POLICIES FOR APPROVAL**
- Report by Head of HR
- a.) Supporting Probation Policy**

## ITEMS FOR DISCUSSION

- 09:10 – 09:20    **4) PROFESSIONAL DEVELOPMENT UPDATE**  
Report by Professional Development Manager
- 09:20 – 09:30    **5) NATIONAL BARGAINING / JOB EVALUATION (CONFIDENTIAL)**  
Report by Head of HR
- 09:30 – 09:40    **6) HUMAN RESOURCES – QUARTER 4 REPORT 2024/25 (CONFIDENTIAL)**  
Report by Head of HR
- 09:50 – 10:00    **7) UHI TRANSFORMATION UPDATE (CONFIDENTIAL)**  
Verbal Report by Vice Principal Curriculum, Operations & External Relations
- 10:00 – 10:10    **8) EMPLOYMENT LAW UPDATE**  
Report by Anderson & Strathern

**FOR NOTING**

- 10:10 – 10:15    **09) EMPLOYEE RELATIONS – CONFIDENTIAL – to follow**  
a) Minutes from JCC – N/A  
b) Minutes from EDI – N/A
- 10:15 – 10:20    **10) AOCB**
- 10:20 – 10:30    **10.1) ACAS UPDATE – CONFIDENTIAL**  
Report by the Head of HR
- 11) DATE AND TIME OF NEXT MEETING**  
HR Committee Meeting – 20 November 2025

If any member wishes to add an item of business to the Agenda, please inform the Chair and the Governance Officer as soon as possible. Additional items of business will only be considered for inclusion in the agenda in advance of the start of the meeting.

Action	Academic Year	Status	Finding	Recommendation	Recommendation Significance	Implementation Date	Responsible Officer	Status as at 05 June 2025	Comments
1	2024/25	Ongoing	<b>New National Staff Disciplinary Policy:</b> The presented National Staff Disciplinary Policy mentioned a number of external links that were not live within the body of the draft document.	Live links to other policies to be added to the body of the new National Staff Disciplinary policy document.	Medium	31 June 2025	Quality Team & GO	Proposed	
2	2024/25	Ongoing	<b>Collaborative Leadership Presentation:</b> The Professional Development Manager reported a shift in the work culture reported by participants.	Empirical Evidence, for example via a pulse survey, to be gathered from participants to measure the development and shift within college culture.	Medium	30 September 2025	Professional Development Manager	Proposed	Ongoing
3	2024/25	Ongoing	<b>Collaborative Leadership Presentation:</b> The HR Committee found the presentation of great value and recommended to the whole Board of Management.	Collaborative Leadership Presentation to be presented to the whole Board of Management.	Low	31 October 2025	Professional Development Manager & GO	Proposed	Ongoing, plan being finalised to schedule a number of open mornings and evenings with the Board with staff and students attending instead of current creative spaces.
1	2025/26								

<b>Subject/Title:</b>	Policy Approval – Supporting Probation Policy
<b>Author:</b> [Name and Job title]	Quality
<b>Meeting:</b>	HR Committee
<b>Meeting Date:</b>	September 2025
<b>Date Paper prepared:</b>	2 <sup>nd</sup> September 2025
<b>Brief Summary of the paper:</b>	HR Board Committee are asked to approve the reviewed Supporting Probation policy.
<b>Action requested:</b> [Approval, recommendation, discussion, noting]	Approval
<b>Link to Strategy:</b> Please highlight how the paper links to, or assists with:: <ul style="list-style-type: none"> <li>• compliance</li> <li>• partnership services</li> <li>• risk management</li> <li>• strategic plan</li> <li>• new opportunity/change</li> </ul>	Compliance
<b>Resource implications:</b>	No <b>If yes, please specify:</b>
<b>Risk implications:</b>	Yes <b>If yes, please specify:</b> Operational: Organisational: Policies review and development required to ensure compliance with legislation and awarding body regulations.
<b>Equality and Diversity implications:</b>	Yes <b>If yes, please specify:</b> Policy EIA included
<b>Consultation:</b> [staff, students, UHI & Partners, External] and provide detail	PPRP – May 2025 Staff Consultation – June 2025 JCC – September 2025 Employee Engagement Group – June 2025 EMT Committee – September 2025

## ITEM

<b>Status</b> – [Confidential/Non confidential]	Non-confidential		
<b>Freedom of Information</b> Can this paper be included in “open” business* [Yes/No]	Yes		
*If a paper should <b>not</b> be included within “open” business, please highlight below the reason.			
Its disclosure would substantially prejudice a programme of research (S27)		Its disclosure would substantially prejudice the effective conduct of public affairs (S30)	
Its disclosure would substantially prejudice the commercial interests of any person or organisation (S33)		Its disclosure would constitute a breach of confidence actionable in court (S36)	
Its disclosure would constitute a breach of the Data Protection Act (S38)		Other (please give further details)	
For how long must the paper be withheld? (express either as the time which needs to pass or a condition which needs to be met.)			

Further guidance on application of the exclusions from Freedom of Information legislation is available via

<http://www.itspublicknowledge.info/ScottishPublicAuthorities/ScottishPublicAuthorities.asp> and

[http://www.itspublicknowledge.info/web/FILES/Public\\_Interest\\_Test.pdf](http://www.itspublicknowledge.info/web/FILES/Public_Interest_Test.pdf)



**Style Definition:** Body Paragraphs: Justified, Indent: Left: 2.5 cm, First line: 0.01 cm, No bullets or numbering

SUPPORTING PROBATION POLICY

REFERENCE: PL/HR/2022/006

Policy Owner	<del>Assistant</del> <u>Vice</u> Principal, <u>Curriculum</u> Operations and External Relations
Lead Officer	<del>HR Manager</del> <u>Head of HR</u>
Review Officer	HR Business Partner
Date first approved by BoM	28. <del>June</del> <u>06</u> .2022
First Review Date	June 2025
Date review approved by BoM	
Next Review Date	
Equality impact assessment	<del>-</del> Yes
Further information (where relevant)	

Reviewer	Date	Review Action/Impact
HR Manager	28.06.2022	Approved by BoM
<u>HOHR/HRBP's</u>	<u>May 2025</u>	

Contents

1. Policy Statement	3
2. Legislative framework / related policies	3
3. Scope	3
4. <del>Compliance</del> Responsibilites	4
5. Monitoring	4
6. Review	5

### 1. Policy Statement

UHI Inverness recognises that a supportive and developmental probation process is vital in providing the appropriate level of support and training for new members of staff on commencement of their employment

The contractual probation period ensures the performance of new UHI Inverness employees is monitored regularly in the first months of their employment, with problems addressed at an early stage and any potential inability to meet the requirements of the role recognised as early as possible ~~with~~ and any remedial action taken promptly.

All newly appointed directly employed staff will be subject to an agreed period of probation, ~~—~~ normally six months.

### 2. Legislative framework / related policies

Employment Rights Act 1996  
Equality Act 2010  
Part-time Workers (Prevention of Less Favourable Treatment) Regulations 2000 (SI 2000/1551)  
Neonatal Care (Leave and Pay) Act 2023  
Staff Contract of Employment  
Staff Flexible Working Policy and Procedure.  
Staff Code of Conduct Policy and Procedure  
Maternity and Parenting Leave Policy and Procedure  
General Data Protection Regulations (2018)  
Staff Disciplinary Policy and Procedure  
Promoting Attendance Policy and Procedure  
Professional Review and Development Policy and Procedure

### 3. Scope

This Policy applies to all newly appointed directly employed staff at UHI Inverness which includes the ~~EMT~~ Executive Management Team.

For employees on fixed-term ~~employees~~ contracts, this Policy should still be applied irrespective of length of contract, in recognition of the fact that fixed-term contracts may be extended.

This Policy does not apply to agency staff, supply staff, contractors, or volunteers.

In circumstances where supply staff move to a permanent employment contract, as a result of two years continuous service on supply, this policy does not then apply.

Formatted: Left

Formatted: Left, Indent: Left: 0 cm



#### 4. ~~Compliance~~Responsibilities

HR Department is responsible for:

~~The HR department is responsible for~~

~~Providing advice, guidance and support to managers and staff in relation to contractual probation management~~  
~~, and for Auditing the implementation of the Policy and Procedure.~~

During the formal stage of the procedure, HR will also be responsible for:

Booking an appropriate meeting room on site or online.

Providing template invite and outcome letters for adaptation by the Manager

Providing a note taker for the Formal Probation Review meeting

Line Managers are responsible for:

~~Line managers are responsible for Ensuring~~ the consistent and fair application of this Policy and Procedure, obtaining advice and guidance from HR where necessary.

The new appointee's line manager will have responsibility for managing the probationary period. In some instances, the line manager's senior manager may review this to ensure consistency in application of criteria, for example, when conducting a meeting to confirm that the probationary period may be extended or concluded.

The content and issuing of formal letters to the employee, obtaining advice and guidance from HR where necessary.

Employees within the scope of this policy are responsible for:

~~All new appointees~~

~~All newly appointed directly employed employees are responsible for~~  
Attending and fully engaging with all review meetings and outcomes when required as part of the probationary process.

#### 5. Monitoring

~~The Supporting Probation Policy will be monitored, and its implementation evaluated. Appropriate procedures for monitoring and evaluation are the responsibility of the Llead Olead officer. These procedures will be subject to audit by the Quality Unitdepartment.~~

Formatted: Left

Formatted: Left

Formatted: Indent: Left: 0 cm

Formatted: Left, Indent: Left: 0 cm, First line: 0 cm

Formatted: Left, Indent: Left: 0 cm, First line: 0 cm

Formatted: Left

Formatted: Indent: Left: 0 cm

Formatted: Left, Indent: Left: 0 cm

Formatted: Left, Indent: Left: 0 cm, First line: 0 cm

Formatted: List Paragraph

Formatted: Left

Formatted: Indent: Left: 0 cm

Formatted: Left, Indent: Left: 0 cm

~~Further monitoring will be provided to the HR Committee in accordance with equality schemes monitoring. Additional analysis will consider aspects such as the effectiveness of support and training. Each college policy will be reviewed regularly, and its implementation and effectiveness monitored. Appropriate procedures for reviewing and monitoring are the responsibility of the policy lead officer.~~

~~The following performance indicators will be used to monitor implementation of the Supporting Probation Policy and Procedure:~~

- ~~o Number of successful/unsuccessful probation periods.~~
- ~~o Nature of issues when probation period extensions are implemented.~~

~~Further breakdown of these performance indicators will be used to identify any emerging patterns on Supporting Probation and wider organisational performance.~~

6. Review

This Policy will be reviewed every three years unless a legal change warrants an earlier review.

Formatted: English (United States)

Formatted: Indent: Left: 0 cm, First line: 0 cm

Formatted: English (United States)

Formatted: List Paragraph

Formatted: English (United States)

Formatted: Indent: Left: 3.75 cm, First line: 0.66 cm, Bulleted + Level: 2 + Aligned at: 4.42 cm + Indent at: 5.05 cm

Formatted: Left, Bulleted + Level: 2 + Aligned at: 4.42 cm + Indent at: 5.05 cm

Formatted: Indent: Left: 0 cm, First line: 0 cm

Formatted: Left, Indent: Left: 0 cm, First line: 0 cm

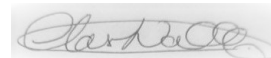
Formatted: Left, Indent: Left: 0 cm

Formatted: Left

Policy/Procedure/Strategy: Supporting Probation Policy

Author/Owner: Nicola Quinn / Clair Wallace

Signature:



Review Due: June 2025

Department/Section: Human Resources

Date of Assessment: May 2025

Date: 06/05/2025

## Step 1

Aim of proposed activity/decision/new or revised policy or procedure:

UHI Inverness recognises that a supportive and developmental probation process is vital in providing the appropriate level of support and training for new members of staff on commencement of their employment. The contractual probation period ensures that the performance of newly appointed UHI Inverness employees is monitored regularly in the first months of their employment, with problems addressed at an early stage and any potential inability to meet the requirements of the role recognised as early as possible and any remedial action taken promptly.

All newly appointed directly employed employees will be subject to an agreed period of probation, normally six months.

Who will be affected?

All newly appointed directly employed employees, including those on a fixed term basis and members of EMT but not including supply staff, volunteers, or agency staff at UHI Inverness

Who will be consulted?

- All employees at UHI Inverness.
- 3 recognised Trade Unions – EIS-FELA, UNISON and GMB.
- UHI Inverness's EMT and Board of Management

Evidence available:

## Step 2

Potential Positive/Negative/Neutral Impact Identified. <b>P, N, N/I</b>	Age	Disability	Gender Reassignment	Marriage/Civil Partnership	Pregnancy and Maternity	Race	Religion or Belief	Sex	Sexual Orientation
Eliminating Discrimination	N/I	P	N/I	N/I	N/I	N/I	N/I	N/I	N/I
Advancing Equality of Opportunity	N/I	P	N/I	N/I	N/I	N/I	N/I	N/I	N/I
Promoting Good Relations.	N/I	P	N/I	N/I	N/I	N/I	N/I	N/I	N/I

Step 3

Sustainability	Neutral Impact
----------------	----------------

Step 4

No Action to be taken

Summary of EIA Outcome – please tick

- √ No further action to be carried out
- ☐ Amendments or changes to be made
- ☐ Proceed with awareness of adverse impact
- ☐ Abandon process – Stop and Rethink

Please forward completed EIA forms to the Quality Unit

# UHI | INVERNESS

<b>Subject/Title:</b>	Professional Development update
<b>Author:</b> [Name and Job title]	Fiona Gunn, Head of Professional Development
<b>Meeting:</b>	HR committee
<b>Meeting Date:</b>	4 September 2025
<b>Date Paper prepared:</b>	27 August 2025
<b>Brief Summary of the paper:</b>	This paper provides a brief update on staff professional development activities planned for academic year 2025/26.
<b>Action requested:</b> [Approval, recommendation, discussion, noting]	Discussion

<b>Link to Strategy:</b> Please highlight how the paper links to, or assists with: <input type="checkbox"/> compliance <input type="checkbox"/> partnership services <input type="checkbox"/> risk management <input type="checkbox"/> strategic plan <input type="checkbox"/> new opportunity/change	Links to strategic objectives: <ul style="list-style-type: none"> <li>To ensure the professional practice of all staff is aligned to sector standards, industry best practice and our values.</li> <li>To ensure that our staff have opportunities to develop and maintain their knowledge and skills to the highest industry and professional standards and are equipped for an increasingly digital world.</li> </ul>
<b>Resource implications:</b>	No
<b>Risk implications:</b>	No <b>If yes, please specify:</b> Operational: Organisational:
<b>Equality and Diversity implications:</b>	No <b>If yes, please specify:</b>
<b>Student Experience Impact:</b>	Yes If yes, please specify: Staff professional development, GTCS registration and learning & teaching enhancement impact on the student experience.

<b>Consultation:</b> [staff, students, UHI & Partners, External] and provide detail	N/A		
<b>Status –</b> [Confidential/Non confidential]	Non confidential		
<b>Freedom of Information</b> Can this paper be included in “open” business* [Yes/No]	Yes		
*If a paper should <b>not</b> be included within “open” business, please highlight below the reason.			
Its disclosure would substantially prejudice a programme of research (S27)		Its disclosure would substantially prejudice the effective conduct of public affairs (S30)	
Its disclosure would substantially prejudice the commercial interests of any person or organisation (s33)		Its disclosure would constitute a breach of confident actionable in court (s36)	
Its disclosure would constitute a breach of the Data Protection Act (s38)		Other (Please give further details)	

Further guidance on application of the exclusions from Freedom of Information legislation is available via

<http://www.itspublicknowledge.info/ScottishPublicAuthorities/ScottishPublicAuthorities.asp> and

[http://www.itspublicknowledge.info/web/FILES/Public\\_Interest\\_Test.pdf](http://www.itspublicknowledge.info/web/FILES/Public_Interest_Test.pdf)

## Purpose

To provide a brief update on staff professional development activities in academic year 2025/26.

## Main body of information

### 1. Areas of ongoing professional development in 2025/26

#### 1.1 Approaches to behaviour management (in the classroom)

College Development Network provided a series of workshops at staff development days in June which will be further developed into online sessions. Providing the sessions online will facilitate more staff to engage with this relevant training.

#### 1.2 Challenging conversations and resolving conflict (for all staff)

Workshops provided by People Support in Crisis at staff development days received positive feedback from participants and online sessions will be offered during this academic year. This aligns with our current campaign around re-setting our expectations and supporting staff to consistently deal with behavioural concerns.

U:NI INVERNESS

Where learning means more

# Re-setting our Expectations

- Attendance expectations
- Digital ID
- Rubbish & general respect for the campus
- Behavioural concerns dealt with consistently
- No mobile phones in workshops
- Apprentice employers have been contacted – expectations set

- ✓ Attendance & Engagement Officer
- ✓ Induction support and in class checks
- ✓ New visual campaign
- ✓ Your support in setting our expectations
- ✓ Support Duty Manager

#### 1.3 Digital skills

Training and support for staff digital skills, including using AI, will continue with sessions available online, on campus and hybrid. These are underpinned by a range of accessible resources available on the Professional Development SharePoint site (see appendix 1).

#### 1.3 Research schemes

The Enquiring Minds Scheme has been relaunched for 2025/26, and the Research Connect Scheme will open on 1 September. These schemes are available to all staff and aim to support the development of staff research skills as they complete a project that will enhance the experience of students and staff. The schemes align with our aim to further develop our research culture.

#### 1.4 Additional qualifications

Support for staff undertaking additional qualifications will continue this academic year with 13 staff receiving financial support for course fees.

Level	Number
PhD	4
Postgraduate	7
Undergraduate	1
Other	1

A further 8 staff are enrolled on Teaching Qualification in Further Education (TQFE) courses. An additional 10 staff will undertake the Graduate Apprenticeship BA(Hons) in Business Management, which is funded externally.

## 2. Additional areas of focus for professional development in 2025/26

### 2.1 Staff wellbeing

This will be a specific area of focus with regular provision of the **Scottish Mental Health First Aid** programme as well as other relevant training such as **LISTEN**, which aims to support staff to deal with disclosures of gender-based violence.

All staff were required to complete **Trauma Informed Practice** training and **PREVENT** duty training last academic year, and this will be followed up by further training on these topics for key staff.

A new initiative to offer training on **neurodiversity** to all staff will be a focus for 2025/26. Managers participated in this training as part of the Collaborative Leaders programme and their feedback suggested that offering this across the organisation would be beneficial as we seek to build high-performing and resilient staff teams.

Following the introduction of a national **menopause** policy, we will be working with a local partner to roll out menopause training, first to all managers, then to staff.

### 2.2 Sexual harassment prevention

The legal duty for employers to prevent sexual harassment of employees requires us to take a proactive approach to anticipate and mitigate risks of sexual harassment in the workplace. Managers have participated in a workshop to equip them with knowledge of our responsibilities and practical tools to implement relevant procedures. A shorter version of this workshop will be provided to all staff, and this will be a specific focus of training in 2025/26.

### 2.3 Learning, teaching and assessment

UHI Inverness is one of the colleges chosen by College Development Network to participate in their new [Elevate Learning and Teaching](#) programme pilot. The programme aims to provide practical and evidence-based professional learning to embed transformative pedagogies and techniques, supported by innovative digital tools. The lecturers in the pilot group will engage with the [TeachingHOW2s](#) platform during the academic year to enhance their teaching practice and participate in teaching observations and dialogues.

As work-based programmes continue to grow, a series of workshops will be provided to support Assessors to engage in relevant professional learning. These will be delivered by the Quality team and experienced Assessors.









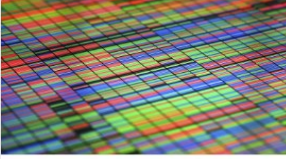
## Conclusion

There is a continued focus on the development of all staff through provision of a wide range of opportunities. These include training courses, workshops, opportunities to engage in further study and research activity.













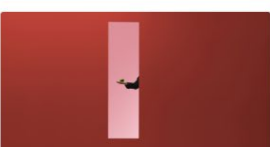


## Appendix 1

Brightspace and Teaching & Learning Sessions – each tile includes a short description and session length to help you choose what suits you best

		
Introduction to Brightspace	Setting Up MS Teams Classes for Teaching Online	Brightspace: Creating Simple Quizzes
		
Brightspace: Using the Awards Tool (Badges & Certificates)	Brightspace: Meta-skills & Awarding Badges	Brightspace: Discussion Forums & Topics
		
Setting Up Assignments in Brightspace: Key Features & Best Practices	Making Your Learning Materials Accessible: Using Ally & MS Office Access	Maximising Engagement & Streamlining Teaching with Microsoft...

Generative AI Sessions - each tile includes a short description and session length to help you choose what suits you best

			
An Introduction to using Generative Artificial Intelligence tools (Gen AI)	Staying Ahead: GenAI Updates for Academic Teams (2025-2026)	Supporting your students with AI and Resources	SQA AI Guidance – What's Changed and Why
			
AI Policy Treasure Hunt	Hidden Risks of Everyday AI Tools to Academic Integrity	Elevating Your Teaching Materials with AI-Generated Art and Imagery	Creating simple Quizzes and Rubrics with AI
			
Designing Effective Schemes of Work (Using the Role-Based Prompt Approach)	Designing AI-Enhanced Assessments	Level Up Your Lessons: Rapid AI Prompting, and Gamified Quizzes	AI-Enhanced Lesson Plans with Meta Skills
			
Behind the Bytes: Investigating			

**Inverness College HR Committee Meeting**

**4 September 2025**

**Employment Law Update**

***Recent cases on disability discrimination and unfair dismissal***

**Disability discrimination**

***Stedman v Haven Leisure Ltd 2025 EAT 82***

- The Claimant has Autism and ADHD and applied for a role with the Respondent but was rejected. He subsequently brought claims of disability discrimination.
- The Employment Tribunal dismissed his claims on the basis that he did not meet the legal definition of disabled under section 6 of the Equality Act 2010. This was based on the Claimant's achievements, such as obtaining a degree and being able to perform in public.
- The Claimant appealed this decision to the Employment Appeal Tribunal ("EAT").
- The EAT held that in relation to the question of disability status:
  - It is sufficient for a condition to have a substantial adverse effect on just one day-to-day activity to meet the definition of disabled.
  - It is not appropriate to weigh up what someone can do with what they cannot do.
  - Whether or not the effect of a condition is "substantial" ought to be determined by comparing the individual as they are with how they hypothetically would be but for the relevant condition.
  - A formal diagnosis can be relevant in assessing whether the legal definition is met.
- The case was remitted to a newly constituted Tribunal for a full rehearing on disability status.
- **Key takeaways:**
  - Disability status is not measured by career success or qualifications – it is about the effect on everyday life.
  - A clinical diagnosis is relevant in assessing disability status.

***Garner v Thorpe Hall Leisure Limited (3202500/2023)***

- The Claimant was dismissed for gross misconduct following an argument with a colleague. She claimed in the Employment Tribunal that her dismissal was discriminatory.
- The Claimant had anxiety, depression and polycystic ovary syndrome and argued that as a result of these disabilities, she was not able to control her anger.
- The Employment Tribunal accepted that the Claimant's inability to control her anger was a consequence of her disabilities. It found her dismissal was unfavourable treatment in terms of section 15 of the Equality Act 2010, but the Respondent successfully argued that the dismissal was a proportionate response.
- The Tribunal found that the Respondent had failed to make reasonable adjustments. The disciplinary process was a PCP which put the Claimant at a substantial disadvantage because of her disabilities.

- The Tribunal held that it would have been a reasonable adjustment to seek medical evidence before dismissing the Claimant. For this failure, the Claimant was awarded injury to feelings compensation of £11,000.
- **Key takeaways:**
  - If behaviour is linked to disability it is essential to consider reasonable adjustments to ensure the disciplinary process is fair.
  - It is important to obtain medical evidence, for example an Occupational Health report before deciding on disciplinary sanction.

### ***Hindmarch v North East Ambulance NHS Foundation Trust 2025 EAT 87***

- The Claimant was a “scheduled” ambulance driver who had depression and anxiety which had been heightened by the Covid-19 pandemic. He was concerned about contracting Covid as he also had asthma and shielded between 7 April 2020 and 2 August 2020.
- When he returned to work on 3 August 2020 he worked in stores but was then subsequently signed off sick. The Claimant made clear to his employer that he was not prepared to return to ambulance driving unless he was provided with a FFP3 face mask when transporting patients who tested positive for Covid-19.
- The National guidance at the time was to supply FFP3 masks to emergency ambulance drivers and FFP2 masks to scheduled ambulance staff. The Respondent refused to provide the Claimant with the FFP3 mask for various practical reasons but primarily, because the FFP3 mask would not provide complete protection.
- The Respondent was willing to consider alternative employment, but the Claimant’s health deteriorated to the extent that Occupational Health stated he was unable to do any role.
- The Claimant was dismissed on capability grounds and subsequently brought claims of failure to make reasonable adjustments and unfair dismissal.
- The Employment Tribunal dismissed all claims but the Claimant appeal to the EAT.
- The EAT dismissed the appeal for the following reasons:
  - If there was no real prospect of an adjustment avoiding or reducing the disadvantage, then the employer is under no duty to make the adjustment.
  - Providing the FFP3 mask would have made no difference to alleviating his stress and anxiety of catching Covid in order to enable him to work.
  - The Tribunal’s decision was justified and there had been no failure to make reasonable adjustments.
- **Key takeaways:**
  - It is good practice to provide adjustments where possible but there is no duty to make an adjustment if it does not have a real prospect of alleviating the substantial disadvantage.

### **Unfair dismissal**

### ***Wicken v Akita Systems Ltd [2303081/2022]***

- The Claimant was the Technical Director of the Respondent and resigned after a long-standing breakdown in communication and relations with fellow directors.
- The Claimant requested to attend a mediation meeting remotely via Microsoft Teams but in-person attendance was insisted upon. When he attended, he considered that the meeting was hostile.

- Following the meeting, a performance improvement plan was drawn up and the Respondent informed the Claimant that all directors had lost trust and confidence in him.
- The Claimant submitted a grievance and then went off sick due to work related stress. The grievance manager was a personal friend of one of the directors and the Claimant raised concerns about his impartiality.
- While the Claimant was on sick leave, the grievance manager closed the grievance without any formal investigation or meeting.
- This was the last straw and the Claimant resigned. He subsequently brought a claim for constructive unfair dismissal.
- The Employment Tribunal found that he was constructively unfairly dismissed. The Tribunal was critical of the Respondent's handling of the request to attend remotely, improvement plan and the grievance procedure.
- **Key takeaways:**
  - Disputes over remote attendance and performance expectations are likely to be common due to increased hybrid working. Employers should be flexible and balanced in their approach.
  - Investigations should be impartial, and grievances managed fairly.

***Okoro v Bidvest Noonan (UK) Ltd [3301879/2023]***

- The Claimant worked as a CCTV controller and a core duty of his was to monitor the CCTV from the control room. On one occasion, the manager conducted a spot check of the site and observed that the Claimant was asleep.
- During the investigation, the Claimant denied being asleep. At the disciplinary hearing, the Claimant was informed that falling asleep on duty was considered a matter of gross misconduct and was subsequently dismissed.
- The Claimant brought an unfair dismissal claim.
- The Employment Tribunal concluded the investigation was fair and the belief of misconduct was genuine but that the dismissal was not within the band of reasonable responses because:
  - The Claimant had an unblemished 16-year employment record and fell asleep for 15 minutes at 5am on his sixth consecutive night shift
  - Falling asleep at work was not included in the policy as an example of gross misconduct.
  - There were no adverse consequences as a result.
  - The Claimant did not deliberately fall asleep.
- **Key takeaways:**
  - Allegations of misconduct should be viewed in the context of wider circumstances, including whether the conduct was wilful.
  - Disciplinary policies should be up to date and include examples of conduct which would be deemed gross misconduct.
  - Consideration should be given to an employee's clean disciplinary record before deciding on a sanction.