

To suspend, or not to suspend, that is the question

February 2020



In the recent High Court case [Harrison v Barking Havering and Redbridge University Hospitals NHS Trust](#), Ms Harrison (the Trust's Deputy Head of Legal Service) successfully argued that her suspension was unreasonable.

Facts

Ms Harrison, having been suspended following concerns of her handling of a clinical negligence case, had not been provided with details of the allegations and was subsequently diagnosed with stress.

She was asked to return to work on a phased basis and on severely restricted duties. Ms Harrison refused on the basis it was a demotion and contrary to medical advice. She was suspended again for failing to obey an instruction. Ms Harrison sought an injunction to allow her to return to work and perform most of her normal duties.

The Court's decision

Ms Harrison successfully claimed that her employer had breached its implied duty of trust and confidence and that her health was being harmed as a result. A mandatory injunction was ordered for her to resume the majority of her normal work duties.

Reasoning of The Court

1. Crucially, the criticisms of her casework, which were used to justify her suspension, were not made until after she was suspended.
2. There was no evidence that allowing her to resume her normal duties, except clinical negligence casework, would cause harm to her employer, whereas there was provable detriment to Ms Harrison's health and professional reputation.

Lesson to be learned

An employer should not suspend employees in a broad-brush fashion. Any suspension should be based on supporting evidence which is available at the time the decision is made and it should always be a proportionate response.

With the benefit of legal advice, the Trust may have opted not to suspend thereby saving the expense of a costly court case, management downtime, reputational damage and indeed the detriment suffered by Ms Harrison.

It is vital that robust workplace policies and procedures, which are fair and reasonable, are adhered to and particularly so when conducting internal investigations.

[Karen Cole](#) can conduct a review of your workplace policies and advise you on any investigation. Call her today.

Karen Cole
020 7299 6909
karen.cole@riaabg.com
www.riaabarkergillette.com



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Note: This is not legal advice; it is intended to provide information of general interest about current legal issues.

