

**HR**

# Solutions

Monthly Newsletter | **September 2023**

## Hot topics

### Introducing the Carer's Leave Act 2023: A Breakthrough for UK Carers

In a significant step forward for carers across the United Kingdom, the Carer's Leave Act 2023 is set to usher in a new era of support and flexibility. This groundbreaking legislation will introduce a statutory entitlement to one week of flexible unpaid leave per year for employees who are caring for a dependant with a long-term care need. This vital change will grant carers the much-needed time to fulfil their caregiving responsibilities without compromising their employment status. This amendment to the **Employment Rights Act 1996** is due to come into force in 2024. Now is as good a time as any to understand some of the expected detail.

### A Day One Right

One of the most striking aspects of the Carer's Leave Act 2023 is that it establishes this entitlement as a day one right for employees. This means that from the moment they start a new job, workers will have access to this essential support, alleviating the stress of navigating the workplace while managing the demands of caregiving.

**Now, for tomorrow**



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## A Gap in Support Addressed

Until now, informal carers in the UK faced a significant gap in support. While the law has allowed for a “reasonable” amount of time off work to care for a dependant in emergencies, this often fell short of the ongoing, long-term care needs that many carers provide. Consequently, carers were left with no choice but to utilise their precious annual leave for caregiving duties, leading to burnout, frustration, and a less-than-optimal work-life balance.

## Work-Life Balance Reimagined

The Carer’s Leave Act 2023 seeks to revolutionise the concept of work-life balance for carers. By providing one week of flexible unpaid leave per year, carers will have the breathing room they require to attend to the needs of their dependants without the worry of unknown loss of income or employment. This newfound flexibility can contribute to improved mental health, reduced stress, and enhanced overall well-being for carers.

## The Path Forward

While the Carer’s Leave Act 2023 has been passed, there is still work to be done. Secondary legislation is pending, and this will serve to clarify some of the questions and ambiguities surrounding the Act’s implementation. Carers and their advocates eagerly await these secondary regulations which will bring the changes into force and provide a comprehensive framework for both employers and employees to follow.

In conclusion, the Carer’s Leave Act 2023 marks a significant milestone in recognising and addressing the needs of informal carers in the United Kingdom. By offering a statutory entitlement to flexible unpaid leave, this legislation represents a crucial step towards achieving a better work-life balance for those who shoulder the responsibility of caring for dependants with long-term care needs. As we eagerly anticipate the secondary legislation that will bring these changes into full effect, it’s clear that this Act has the potential to make a meaningful and positive impact on the lives of countless carers across the UK. Watch this space for further updates on this new legislation, as it promises to reshape the landscape of caregiving support in the UK.





## Getting the Basics Right – Disciplinary and Dismissal

From time to time, you will have employees who commit acts of misconduct... It's just human nature unfortunately! You may feel aggrieved about this and want to deal with it swiftly, but it is important to remember that irrespective of what the employee has done, if they have two years' service, they have certain rights which must be upheld, particularly if the reason for disciplinary could lead to dismissal.

Did you know that not following a proper process could mean that if your case ends up at tribunal and the Claimant (your employee) wins, that any costs awarded will be increased by 25%? Tribunals become a permanent record once the case has been heard. This means that win or lose, the claim could be damaging to your reputation. It is essential to ensure that you follow the process that you have outlined within your contract of employment and policies and procedures.

Should you have an instance where you believe that your employee should be dismissed, it is important to note that they have the right not to be dismissed for a first offence, unless it is categorised as gross misconduct i.e. something so serious that you cannot countenance employing them any longer. This is restricted to very serious offences such as violence, theft, harassment, or

serious breaches of confidentiality or health and safety. Even for a gross misconduct offence, a fair procedure must be followed; "instant dismissal" is automatically unfair and therefore costly at Tribunal, regardless of what the employee has done.

Employees also have the right to be accompanied at any formal meeting by either a Trade Union official (who has been certified in writing by a Trade Union as having experience or having received training in accompanying an individual at a disciplinary hearing) or a work colleague.

We can advise you on whether or not dismissal falls within what is called the "range of reasonable responses" i.e. even if the employee has committed an act of misconduct, is dismissal a proportionate and fair response?

**We can also advise you on the correct procedure to be followed, from investigation through to the final meeting, including supporting you on site if required. We can even script the meetings for you, and can provide all the relevant template letters you will need for the process.**

To find out more click [here](#).



## Case Study

Our client, a manufacturer of concrete casings, discovered that they had been using a substance which is hazardous to health without the correct PPE (breathing apparatus, masks and gloves) and that it had decanted which it should not have been.

They confronted the employee responsible for Health and Safety including COSHH (Control of Substances Hazardous to Health) as he signed off the COSHH sheet. He admitted that he hadn't read it, and had just signed it. He said that he thought the Managing Director would not be happy if the product didn't go out, and that they had been using the substance in this manner for 20 years so what was the problem?

Clearly this was a serious issue as it could affect people's health and also lead to Personal Injury claims against the client. The employee appeared to have been completely negligent; we advised to fully investigate with a view to taking disciplinary action.

The client therefore investigated. Whilst the employee had been doing the role for some time, it emerged that he had not been sufficiently trained. We advised that the employer had a duty to ensure proper training was provided, but in addition that if the employee felt he wasn't trained then he should have said so; he was being

paid to do the job. The client, however, also did not have any form of proactive performance management in place e.g. appraisals or Performance Improvement Plans, and so accepted that there had been limited opportunity for the employee to raise his lack of training as a concern.

We therefore considered the level of disciplinary action to be taken. Whilst the seriousness of the situation would potentially mean that this was a gross misconduct offence, rendering the employee liable to summary dismissal, there were clearly mitigating factors to be taken into account. On that basis, we advised that a written warning would be appropriate along with arranging COSHH training for the employee. We additionally advised that the client should implement a performance review system so that issues like this could be captured in the future.

This case demonstrates the importance of considering the "range of reasonable responses" when deciding the level of disciplinary action to be taken.

**HR Solutions can advise and assist you at any stage of a disciplinary process, from initial investigation through to Settlement Agreements or Conciliation via ACAS.**

**Please see below some examples of the work that we have completed recently.**

 **Birmingham**

Completion of a Directors Service Agreement

 **Northampton**

Completion of template Contracts of Employment, an Employee Handbook and a Privacy Notice

 **Leicester**

Advice, draft and completion of a Settlement Agreement

 **London**

Template Leavers letter

 **London**

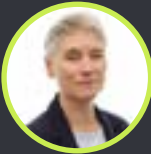
Ongoing HR support including HR system audit, new starter process and adhoc advice as required



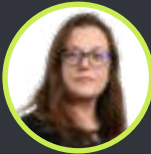
**How we can help?**

If you require HR support, please contact us at [HRsolutions@mha.co.uk](mailto:HRsolutions@mha.co.uk) to discuss how we could assist you.

We can provide support on an hourly, fixed-fee or retainer basis so there are a number of options available according to your needs; as you can see from the above examples, we can assist with a large project or a one-off piece of advice.



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