



October 2025 Update

Welcome to this month's update - where we discuss the latest guidance and legislation.

In this Edition we report on:

- What does a 'reasonable' workplace investigation require?
- GDPR: Data Subject Access Requests reform
- Changes to Immigration Rules

What does a 'reasonable' workplace investigation require?

An investigation is a key element of any disciplinary or grievance process. If a claim is lodged, an employment tribunal will look closely at how the employer has carried it out.

The Acas code of practice on disciplinary and grievance procedures requires employers to carry out 'necessary investigations' to establish the facts of a case. In addition, investigations must be 'reasonable', a standard also applied by the tribunal. But what is a 'reasonable investigation'?

What is reasonable depends on the circumstances, but the scope of the investigation needs to be proportionate to the issues under investigation. An investigator needs to make a decision as to whether something did or did not happen on 'the balance of probabilities', which is a lower burden of proof than the criminal standard of 'beyond reasonable doubt'.

When deciding if an investigation is reasonable, a tribunal will consider whether it was within the range of investigations that would be carried out by a reasonable employer.

In considering this a tribunal will look at the complexity and seriousness of the issues, the potential impact on the employee, the employer's size and resources and any potential regulatory elements.

Sources of evidence

At the outset, the investigator should identify potential sources of evidence relating to each issue under investigation. Evidence may include:

- witness evidence;
- written evidence, including emails, meeting notes, handwritten notes and instant messages, including Teams or WhatsApps;
- CCTV footage; and
- medical records.

The investigator should also consider how best to secure the evidence so that confidentiality is maintained. Information should be shared on a 'need to know' basis.

The investigator should prepare questions for each witness in advance but it is important that they remain flexible and are prepared to deviate to address unexpected issues. Keep questions open to encourage full accounts, and be ready to probe if other evidence contradicts a statement. Sometimes a witness may suggest another person to interview or refer to additional evidence.

Unless your policy states, employees don't have the right to be accompanied at an investigation meeting as such but it sometimes it is appropriate if they have a disability or they are young.

Employers: keep in mind the key issues to decide how much investigation is needed. This won't always involve turning over every stone as it is a balancing act.

Contact us: we can assist with workplace investigations and disciplinary hearings.

GDPR: Data Subject Access Requests reform

Employers continue to have one month to respond to a DSAR (and in some circumstances a further two month's extension) - that hasn't changed.

However, the new Data (Use and Access) Act 2025 ('DUAA') has brought in a change being, if the employer has had to request further clarification from the data subject in order to respond to the DSAR, the DUAA confirms that the deadline is paused pending receipt of satisfactory clarification and the employer does not have to respond to the DSAR until this information is received.

In practice, this means that the 'clock stops' for the deadline to respond to the request until that information is received. This provides employers with more flexibility and legal certainty when handling complex or unclear DSARs.

Limits on what the data subject is entitled to receive

The new DUAA confirms that data subjects are only entitled to their personal data and other information that the employer can provide based on them doing a reasonable and proportionate search. This includes the circumstances of the request and the difficulties in finding the information.

This is helpful as in many cases employees raise requests for a significant volume of information, often for all their personal data. This is often hard to find especially if the employee has been employed for a long time.

The DUAA provides welcome confirmation that the extent of an employer's obligation is to undertake a "reasonable and proportionate" search only. This means it will be unlikely that requests for 'all personal data' will be considered reasonable and an employer can push back to clarify and identify what it considers to be a reasonable scope to respond to the request.

There are exemptions, such as where the data relates to confidential management planning, but if an employer is withholding this data they should inform the data subject of this.

Employers: as a result of these reforms, it is important to review your processes and brief your teams.

Contact us: we can advise on DSARs and GDPR

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Changes to Immigration Rules

The Home Office has published a Statement of Changes setting out various important amendments to the Immigration Rules. These amendments include:

- A significant reform to the Graduate visa route, with the length of visas granted under this route shortened from 24 to 18 months for new, non-PHD applicants applying on or after 1 January 2027. (PhD graduates will still be able to hold a three-year Graduate visa)
- A new cap on the number of visas that can be granted under the High Potential Individual route. This will be set at 8,000 visas a year initially. Eligibility for this route is being extended, as the number of recognised universities under it will double from November 2025.
- From 8 January 2026, applicants for Skilled Worker visas and some other routes will have to demonstrate a higher standard of English language. At the moment, this higher standard is set to apply to first time main applicants only and not to their dependents.

The government has also published draft regulations which, if approved by Parliament, will see an increase to the immigration skills charge (ISC) from the 16 December 2025. The ISC for the first 12 months of employment is set to increase to £1,320 for medium and large sponsors (up from £1,000).

Employers: businesses may want to utilise the lower ISC by applying before the 16 December 2025 if they need it.

Contact us: we can advise on the recruitment process



Caroline has a wealth of experience supporting business clients with practical hands on HR and Employment Law advice. Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations. She qualified as a Solicitor in 1999 and now acts as a specialist Human Resource / employment Law Consultant to business.

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