Online Legal Advise

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Dear Sir or Madam

**Free Legal Letters and Documents: Templates and Examples**

Many thanks for visiting Online Legal Advise’ website. We attach copy of the document that you asked for and hope you will find it useful.

If we can be of any further help, please do get in touch by ‘phone or via our website.

Yours faithfully

Online Legal Advise

**ONLINE LEGAL ADVISE**

**ONLINE LEGAL ADVISE– Without prejudice email:**

**Unfair constructive dismissal based on discrimination**

**STRICTLY PRIVATE AND CONFIDENTIAL**

**TO BE OPENED BY ADDRESSEE ONLY**

**[Employer]**

**By Email Only**

[Employer email]

[Date]

Dear [Employer]

**Re: [Employee 1] – Employment Grievances**

**WITHOUT PREJUDICE SAVE AS TO COSTS AND SUBJECT TO CONTRACT**

1. We have been instructed by [Employee 1] in relation to issues at work that have given rise to her grievance, which was submitted in writing by letter on [28th August 2017]. We are aware that this grievance has not been upheld as of a letter dated [23rd November 2017] which was received by our client on [23rd November 2017] at [16:40]. Our client has confirmed to us that she does intend to appeal this outcome and full grounds of appeal will be provided in due course, however she is presently very unwell and unable to prepare said information.
2. Our client is currently signed off sick with stress and depression, as you know, until [5th January 2018] having visited her GP this week.

Background

1. We have considered our client’s history with [Company] up to the recent correspondence and we have seen various documentation provided by our client regarding the actions and behaviour of her colleagues, particularly [Employee 2] and [Employee 3] and other colleagues in her team. We are also aware that our client has a history of anxiety and depression which she has suffered from since [2016] and which [Company] have been aware of since [December 2016]. This evidence illustrates that our client has been treated poorly on the basis that:

* She has been paid less and received a lower bonus than at least one male colleague despite doing    the same job
* She has been paid less than one male colleague doing a similar job
* She has been subjected to sexist remarks and harassment by male colleagues on a regular basis
* She has had to take on additional work and work excessive hours due to the failures/incompetence of other staff
* She has felt unsupported and isolated within the team
* Attempts to receive training and development opportunities were repeatedly prolonged
* Attempts to voice concerns to management and HR colleagues were overlooked and no adjustments were made
* When she raised pay and bonus discrepancies she believes the responses were disingenuous
* She has felt unrelenting pressure to continue to work by her colleagues despite her ill health and attempts to voice her concerns
* She believes the duty of care owed to her by the company has been ignored
  + Whilst off sick she was made aware that her job was being advertised by the company
  + Her pay was stopped without warning in [September 2017], leaving her in a precarious financial position in addition the stress she was already suffering with
  + Her holiday pay due from [2017] has not been honoured despite assurances it would be
  1. We have also seen the grievance that she submitted which was detailed and numerous and gives clear but non-exhaustive examples of the above matters. From the grievance outcome letter, her concerns appear to have been brushed under the carpet and unreasonably legitimised. Furthermore, it is also concerning that the outcome letter appears to indicate that our client is at fault for her situation but intimating that her approach to work is over the top or unnecessarily detailed.  We would question how the company can justify making such comments about an employee who shows diligence in her work and is willing to assist others over and above her role to her own detriment. It goes without saying that these comments deeply upset our client and only reinforced the treatment she has complained about.
  2. We have also seen various documents regarding our client’s workload and hours and she has confirmed that at no point has she ever signed an opt out agreement agreeing to work in excess of the 48-hour working week. On that basis her hours should have been monitored and she should not have been allowed or encouraged to work excessive hours unless and until she had officially opted out of the Working Time Regulations cap.
  3. As a result of the above, our client’s anxiety and depression have been severely exacerbated, and she has had 3 breakdowns and several periods of time on sick leave to attempt to recover. The lack of support and delays have only prolonged her recovery. She has seen her GP frequently and has also spoke to Occupational Health to attempt to return to work on a sustained basis. However, our client has advised that on each occasion she felt that nothing had changed, and her immediate line manager Matt Barnett actively sought to avoid meeting with her to offer help and support. She also sought assistance from HR which did not result in any positive progress. When she sought guidance and advice from an outside organisation she was then made to feel guilty about it. To make matters worse, she was also receiving work related messages during sick leave periods despite requesting not to be contacted. Overall our client has been left feeling harassed, undermined and side-lined, all of which have resulted in what she considers to now be an untenable position.
  4. Our client is currently signed off sick and given the evidence we have seen regarding her employment situation since the start of the year we consider there to be a clear link between the environment she has been subjected to and her decline in health. We do not expect our client to be able to return to work in the imminent future subject of course to her GP’s advice. Even if she can return to work it is highly unlikely she will feel comfortable doing so whilst still working in the same team under the same management and without a clear resolution to the issues she has raised.
  5. As you will appreciate, this has been an extremely difficult time for our client and the impact on her health of the conduct by her managers and colleagues has been serious causing her health to deteriorate to such a degree that she has had to be signed off. She has always performed well, has actively supported other members of the team and has had an unblemished record throughout her employment history. She is now faced with a grievance outcome which is wholly unsatisfactory and has raised further worries for our client, leading her to contemplate whether she can ever return to her role.

Current position

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Current position

1. The purpose of this letter, therefore, is to communicate on our client’s behalf her views about her continued employment with the business and the concerns that she has in that respect.
2. Firstly, our client has completely lost trust and confidence in the company and its management and HR to support her with her many concerns. She has raised issues over equal pay, sex discrimination and harassment, disability related discrimination, breach of duty of care, excessive hours and workload in breach of the Working Time Regulations and bullying. Aside from a recognition that she should not have been contacted whilst on sick leave all matters have been dismissed without full explanation, and none of the individuals that she has raised specific concerns about appear to have been admonished. The resolutions offered do not include any retraining of staff or a reinforcement of policies and she has been offered the option of moving to a different team instead. This would effectively mean further upheaval for our client and she considers this to be entirely unfair and effectively a punishment for raising a grievance instead of dealing with the real issues in question. This would also further hinder and undermine her career prospects and aspirations.
3. Further, our client is not confident that her grievances have even been investigated properly or at all and will be appealing the outcome in the strongest terms when she is well enough to do so.
4. In our view, based on the evidence we have seen thus far, our client would have sufficient evidence to support a claim of constructive unfair dismissal based on sex discrimination and harassment, equal pay, bullying and excessive workload and excessive hours and disability discrimination as well as a breach of the duty of care. She also has a potential claim for Personal Injury for Stress and Psychiatric Damage. All claims would attract reasonable awards of compensation given the issues and evidence in our client’s case.

Next Steps

1. Accordingly, whilst our client wishes to deal with her grievance appeal, she still has serious reservations as to whether the process will be dealt with fairly and whether she will be able to return to a healthy and supportive work environment. This situation has deeply saddened her and given the business’s apparent reluctance to deal with any matters in a more hands on and timely way, she is very concerned as to whether she could have a real continuing future with [Company].
2. We are therefore instructed to propose terms for a Settlement Agreement which would provide for the mutually agreed termination of our client’s employment and the payment of her contractual benefits, including a payment in lieu of notice and any accrued but untaken holiday pay.
3. In addition, our client seeks to receive an agreed favourable reference and an ex gratia payment from the business reflecting the pain and suffering and injury that she has had to endure because of the actions of people within the business and the disregard for her genuine and serious complaints. If our client were to pursue the claims as listed above, which we certainly believe she would be successful in, we would envisage her receiving compensation equivalent to at least 12 - 24 months’ salary, bearing in mind that there is no cap on compensation for discrimination, equal pay claims and personal injury.
4. The company also faces the risk of possible audits by the Equality Commission being imposed if our client’s concerns were to become public and should she pursue her claims to a final Tribunal hearing there is every likelihood that the Tribunal will set Recommendations for the company to meet, which will also be part of the public records.
5. Moreover, it is likely, having regard to the deterioration in our client’s health that it will be a little while before she is fit enough to start the process of finding alternative work and unlikely, therefore, that she will be able to just walk into another job. You will appreciate that this has been a very difficult situation for our client as she genuinely loved her job and is still struggling to this day with the impact of the treatment she has received. The grievance outcome has only amplified this further.
6. We should be grateful if the contents of this letter could be seriously considered by the business and that a response is sent to us within 7 days from date of sending. Please note that we reserve the right to bring this letter to the attention of the Tribunal in respect of costs, should our client be forced to pursue her claims. We look forward to hearing from you accordingly

Yours faithfully

[Lawyer's name and signature]