



Bulletin 105

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40% Uplift for Employer's Failure

The Employment Tribunal are imposing ever more punitive penalties on employers who fail to comply with their obligations under the Statutory Dismissal Procedures (SDP).

In the recent case of **Metrobus v Cook** the EAT upheld a 40% uplift on compensation.

The Claimant was employed as a bus driver. Following a workplace accident, he was unfit to drive. The Claimant offered to do alternative work and advised his employer that he was on a waiting list for surgery. However, when he was unable to provide a date for his operation he was dismissed. He claimed unfair dismissal and disability discrimination.

The employer conceded that it had failed to comply with the SDP and that the Claimant had been automatically unfairly dismissed. The Tribunal awarded a 40% increase in compensation for unfair dismissal. In arriving at this percentage uplift the Tribunal referred to the fact that Metrobus was a large employer with substantial resources and had blatantly disregarded the SDP. Metrobus appealed.

The EAT upheld the 40% uplift compensation and held that the Tribunal had been correct to directly link the value of the uplift to the equity of the case.

This case is a stark reminder to employers of the consequences of failing to follow the SDP.

Practical Tip

Employers must ensure that all managers are aware of the employer's obligations under the SDP to minimise the risk of punitive compensation uplifts.

If you require any specific advice in connection with the material contained in this bulletin, or on any other Employment Law issues, please contact a member of the Employment Team on 0151 600 3000. If you no longer wish to receive the bulletin please let us know by return email.

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