

YOUR WEEKLY BULLETIN OF WIT AND WONDER



EVERY LOSER WINS

WG failures. We can talk about it now...



A BIG LOSS

How pressing an employee to lose weight just piled on the pounds (sterling) at tribunal.



CLIMB EVERY STAIRCASE

Robots are racing for the landing as AI makes a freaky breakthrough...

LOSERS!

I think we all felt for poor James Newman as he gave his all at Eurovision and then finished the evening with a record breaking NUL POINTS*.

It's bad enough being ghosted by friends and family - but imagine getting literally *nothing* from billions of people all over the planet. That's got to be crushing.

His song title - **Embers** - was perhaps a bit on the nose, as regards the UK's further hopes in the contest.

But sometimes there's a magnificence in coming last. Sometimes, like James in the green room zone, stoically raising his beer and getting hugged by fellow contestants, you've just got to style it out.

And surely everyone needs to come last or score zero once in their life. Here at WG Towers it's been very confessional as the team revealed their own crushing defeats...

Cat: We did a geography quiz at one of our Peace of Mind team meetings and I scored 0... rather embarrassing really. Not too smart when it comes to capital cities of countries...



Natasha: I usually take an instant dislike to things that I'm not very good at (bad trait and in my case rules out most sports) - but bowling I *am* good at (that's a sport, right?) - usually anyway. So I encouraged (made) everyone do this on a staff night out and my *every ball went into the gully*. I blame the cocktails (probably).

Loise: One Saturday afternoon (back in my school days) we had an away netball match. Not only did we lose 38-0, it was also my 18th birthday! The two hour trip home was in no way celebratory.

Howard: I usually get less than zero when playing Monopoly. I always invest ASAP in Mayfair and Park Lane (as you do) whilst the more shrewd investors go for the dull utilities and gradually run my cash pile to nothing once they have a full set of them, so I have to re-mortgage my prized real estate before then going ignominiously bankrupt and have to load the dishwasher. I usually go to jail far too frequently as well.

(Please note, Howard's appalling Monopoly record in no way reflects on his work at WG.)

*Yes I know Jemini scored nul points for the UK back in 2003, but this year's entry was record-breaking because it bombed out *twice* - first with the juries and then with the recently added public vote. Ouch! And *ouch!*

Are you willing to admit to an embarrassing defeat?! Please share your extreme failure stories over on our Facebook page!

WEIGHTY ISSUES

And speaking of losing, today we review the case of *Ms K Moth v The Chief Constable of Devon and Cornwall 2021* in which the Employment Tribunal (ET) had to consider whether a woman who was subjected to comments about her diet and weight was the victim of harassment.

EVENTS SEASON

2021

Ms Moth worked for her employer from December 2003 as a detective constable. She suffered from regional pain syndrome, anxiety, depression, trigeminal neuralgia and fibromyalgia, and these illnesses caused her to frequently miss work.

The employer used the Bradford Scoring system to measure absences. When a certain score was reached, an email would be automatically sent to the employee's line manager flagging their attendance. Ms Moth's line manager, DS Marvelly, received an email flagging Ms Moth's attendance record in December 2018.

In February 2019, DS Marvelly and Ms Moth met with Occupational Health. The OH consultant stated that Ms Moth was disabled within the meaning of the Equality Act and confirmed that she was "not fit to undergo the job related fitness test and therefore could not undergo officer safety training," but she was fit to carry out other duties.

DS Marvelly was clearly concerned that Ms Moth was not officer safety trained and was unable to complete a fitness test. At a case conference meeting, he asked OH if Ms Moth "would benefit from any health and nutrition wellness advice". Ms Moth made it clear she did not wish to discuss this and they decided to leave that discussion for another time.

A couple of months later, Ms Moth's attendance had not sufficiently improved and DS Marvelly decided to proceed with the first formal stage of the unsatisfactory performance procedure. As part of the procedure, DS Marvelly drew up an attendance management action plan which included as action points that Ms Moth "demonstrate progress towards the job related fitness test and officer safety training" and take "personal responsibility" to "improve [her] general health and weight."

At the first formal stage meeting, DS Marvelly told Ms Moth she should take more responsibility over her diet and how it could be affecting her weight and ability to take the fitness test. Ms Moth responded that her weight was due to medication she took to manage her other health conditions. DS Marvelly did not dispute that her medication affected her weight, but also believed her diet should be considered and referenced the fact that she drank "lots of Coca-Cola during the day". This upset Ms Moth who responded that DS Marvelly drank alcohol which is also bad for you. DS Marvelly responded that he didn't drink alcohol every day and that Ms Moth "drank gallons of Coca-Cola".

It was after this meeting Ms Moth decided to bring claim against her employer for failure to make reasonable adjustments, discrimination, and harassment.

The ET found that the employer had discriminated against Ms Moth by including as an action point that she make progress towards the fitness test and safety training. Occupational Health had been "crystal clear" that the fitness test was not achievable due to Ms Moth's health conditions and that this was not going to change for the remainder of her employment. The employer was therefore not justified in including that point in her action plan and in doing so subjected her to "unnecessary pressure".

Ms Moth also succeeded in her claim of harassment for DS Marvelly's comments about her weight and diet at her first formal action meeting. The ET had "little doubt" the meeting was a "humiliating experience" for Ms Moth. DS Marvelly had been told about Ms Moth's health conditions and had no reason to keep pressing her about her diet.

A remedy hearing would be scheduled for a later date.

This case reminds employers to keep a professional tone and treat employees who have disabilities with respect and sensitivity. If the employee has been assessed by Occupational Health or another medical professional, the subsequent advice should be taken seriously and should inform any reasonable adjustments moving forward. Employers should be careful that they do not overlook the advice offered by health professionals in favour of their own assumptions about the employee's illness and abilities.



THEY'RE COMING UP THE STAIRS...



Not sure how to feel about this week's news that a robot has been designed which can climb stairs - blind!

I'm glancing uneasily towards the WG Towers stairwell as I write this.

A bipedal robot named Cassie, designed by the Dynamic Robotics lab at Oregon University, has inbuilt proprioception, which means it can tackle steps, up or down, without a camera system to guide it. So effectively, like any of us fumbling in the dark for painkillers or cake (well, that's what I fumble for!), Cassie can *feel* her way around - *and* manage to not fall over with a very expensive crunch.

And while this - complete with very creepy footage of Cassie on some steps - is an exciting step for AI and the robotics world, I'm just a bit chilled. Because the robots which scared us all when we were kids did at least have that Achilles' heel of not being able to chase you upstairs.

Not anymore...

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