

## **My client is 'MRO' an employee of OXXX.**

This document is a compilation of the client meeting I had with him to gather facts and make a first stage representation.

Client had been offered 2 months in exchange for resignation with the company.

MRO potentially had a mental health disability, and is also suffering long COVID.

MRO is unsure of his position and has sought our help in ensuring a fair and decent settlement.

### **Facts:**

- MRO. Employed by OXXX since 1.3.19. He was employed in a customer-facing sales role, but ultimately became deployed to drive a van.
- Upon starting the role MRO completed a medical form where he indicated he was on antidepressants.
- Culture in the organisation is poor: Over 90% of the workforce is male, and 100% of the workforce at the branch MRO worked at are male. The general attitude among staff was one of 'laddish banter'. A few employees were often bullied or picked upon. Mark, a former van driver had a term named after him within the business if anyone tried to finish earlier it was called the 'Mark paradox'. Paul Walmsley was 'picked upon for being frequently stressed'. MRO felt due to this culture and lack of understanding or conversations around mental health, he was unable to truly open up about his mental state. In MRO's words 'those doors were never opened to these discussions'.
- Lee Roe is MRO's father and over the course of MRO's employment would have conversations about MRO's deterioration in mental health with Andrew Smith, director of OXXX.
- The organisation had no policies or procedures in place that MRO was aware of, he was also unaware of how to speak to anyone about HR matters.

### **MRO and COVID19**

- MRO had COVID19 in early June 2021. He is still suffering long COVID. After an initial diagnosis MRO returned to work after a few weeks and was sent home on the same day for being unwell.
- MRO returned to work after OXXX agreed to lighten his workload to daily shifts from 8am until 1pm. His employment pattern was 8am until 5pm.
- MRO has worked 7 business days in this new pattern and took a day off on Monday August 23rd 2021.

### **MRO's Mental Health.**

- First diagnosis, 2016. Depression and anxiety. Entered counselling for 3 months.
- In 2017, MRO returned to the GP and was prescribed antidepressants, which he took for around a year. Finishing them just before starting employment at OXXX.
- Once starting at OXXX he began intermittent counselling.
- In March 2020 he was prescribed antidepressants again and is still taking them.
- MRO has returned to counselling within the last month.

- He has not been sleeping well for a while, feels very low and anxious. MRO has made a couple of representations to his GP claiming his medication is no longer taking effect.
- During a whatsapp conversation on Wednesday 25th 2021 a work colleague informed the work group about Clitheroe football team winning a game 7-0. When another colleague asked 'who are you playing? A blind team' Paul Fearnley then said 'Nah, it's Morris and his long COVID pals'. 'Morris' is the nickname colleagues have given MRO, who are all very aware of MRO's long COVID diagnosis.

### **Sick time over employment**

- Over his course of employment it would appear MRO has had 7 days off for gastro flu and 5 days off for his mental health. However, he claimed migraine was the cause to his employer due to fear of being chastised.

### **Since Monday**

- Lee Roe, MRO's father, called MRO's manager, Harry, to let him know MRO was too unwell to work on Monday 23rd of August.
- Lee then saw Harry later on that day to discuss MRO's mental state and his illness of long COVID.
- Harry told Lee he was mainly upset MRO wasn't the one to call and let him know he was ill and Lee did it on his behalf. Harry said 'we love MRO. This would be easier if he was a dickhead, but he's a nice guy and we need him at work. He needs to be here so I can go out and see big clients. It's quiet at the minute and I need to get out and drum up business.'
- MRO returned to work at 8am on Tuesday 24th of August. Harry pulled MRO into an office with no prior warning. MRO was told; 'Why didn't you call me? You're making me look like a dick. He said I need to be consistent and being tired is not an excuse to not be at work.'  
MRO was distressed by this conversation given a symptom of long COVID is fatigue. He was expecting to go into a chat with Harry to be told he was valued and wanted to figure out a way of moving forward, but instead felt distressed.
- MRO was unaware that two directors from another branch were then called to see MRO and was told 10 minutes before their arrival.  
During that meeting with Andrew Smith (who Lee Roe had previously discussed MRO's mental illness with) and Matthew Bell, MRO was informed: 'We can tell you are not the same enthusiastic guy who started here. You don't really want to be here. Your inconsistency is pissing the lads off. Your illness is always on a Monday (MRO disputes this). Go and find another job that is more you and we will give you 2 months pay, but you have to resign now'.
- There have been no conversations about what work MRO can do, or what work could be done that would aid his mental health and bring him back to the enthusiastic employee he used to be. No reasonable adjustments or special measures have been discussed, nor put in place.

### **Conclusion**

MRO would agree he is no longer happy at the company. He was brought on to be in a customer facing role, and as a people person felt isolated and lonely when they put him on van driving duties. This was not the 'psychological contract' MRO entered into.

MRO would be happy to have a settlement agreement, but 2 months would not be sufficient in a post COVID landscape.

MRO is suffering long COVID which will harbour his chances of employment elsewhere.

There is a possibility MRO is protected from discrimination on the grounds of his mental illness.

Should the employer not be willing to offer a significantly increased settlement agreement of 6-12 months payment. The employer should be engaging in occupational health services to discuss how MRO can return to work

The first recommendation is to make representation to the organisation asking for a protected conversation to discuss MRO's departure.

Should this avenue fail, this could become a discrimination case.

**Proposed letter to the employer as first representation:**

Dear Sirs,

As a mental health organisation, we have been employed as an advocacy service for your employee MRO Roe.

It is our understanding that MRO has had a mental health disability since 2016, and he is currently under our care. We have been informed you wish MRO to depart from his position of employment, and we would like to facilitate a smooth transition for MRO and yourselves.

We would be grateful if you could send us the mental health and wellbeing policy for the company. MRO is unaware of any policy or procedure in place for looking after staff and their mental health, meaning he could not furnish us with the appropriate information.

At this stage, we would like to make the request for reasonable adjustments in the procedure you have entered into with MRO. From what MRO has described, it would appear you have asked him to enter settlement discussions.

You believe MRO would be 'happier working elsewhere' and have said you would like to offer him 2 months pay, in exchange for his resignation.

MRO recognises the fact you wish for him to leave his position, and would like to have a protected conversation under section 111A of the Employment Rights Act 1996.

At this stage, we do not believe 2 months is an appropriate settlement in this matter, but MRO is open to a compromise.

Given MRO's disability status, we would ask that we are allowed to support MRO, as a reasonable adjustment in these proceedings.

It is important to note that we are concerned for MRO's mental welfare at this moment in time, and we are sure as a reasonable employer you would also like to conclude matters in the most streamline way possible.

If we could arrange the protected conversation next week, we would be most grateful.

Yours Faithfully,  
Rebecca Jane Sutton LLB Ba (Hons)  
CEO | RJ8