

YOUR WEEKLY BULLETIN OF WIT AND WONDER



A DRIVE-BY SHOO-IN

The UK's most cosmic bit of hardstanding ends up in a London museum.



REMISS ON REDEPLOYMENT

How leaving an employee to solve her own issues led Croydon Health Service to tribunal



PRICKLY AS A PICTURE

Stunning nightlife shots of your four-footed neighbours

SPLAT CHANCE

I've still got a few ambitions left and one of them is to have a chunk of my driveway in a museum.

And if that seems odd to you, you clearly aren't keeping up with the Wilcock family. They have just had a paving stone from their driveway in Winchcombe carefully excavated, packed up and taken to the Natural History Museum.

All because a meteorite fell on it. OK, so, fair enough, it was the first bit of space rock to land in the UK for thirty years, and yeah, it apparently does hold chemical clues to the formulation of the solar system, but even so. After the rock was collected, even the 'splat' mark left on the paving is a thing of wonder.

Here at WG Towers we have been trying to work out what we could drop onto the driveway area at the front of the College Place office, which would create a similar level of excitement. Apparently there have been tourists visiting the Wilcock family's house ever since the meteorite landed back in February.



Howard thinks a heavy landing by a sky-diver would create a stylish scar - although he's not offering.

Emma reckons a plummeting Kardashian would leave the kind of imprint which would 'break the internet'.

Natalie is all for persuading Banksy to come around and spill paint. And a signed affidavit that it was *him* that spilt it.

And I am thinking a falling grand piano, actually *being played at the time* by Chris Martin from Coldplay (himself safely on a hoist), and filmed for posterity, obviously.

All four of our driveway art pieces could be displayed in the Natural History Museum. Or, perhaps more appropriately, the Tate Modern. And, like the Wilcock family, we could put up little brass plaques where they used to be, commemorating what was once there.

What would you have drop on your driveway in the pursuit of fame, attention and/or money? Do tell us over on our Facebook page!

A FAILURE TO ADJUST

And speaking of rapid drops brings me to the case of *Mrs S D'Silva v Croydon Health Services 2021*, which shows how failing to properly look for redeployment opportunities for a disabled employee can be costly for employers.

Mrs D'Silva began working for her employer in 2003 as a receptionist. She suffers from stress and anxiety which amount to a disability. Between 2016 and 2017, she was off for a period of long term sick leave and while she was away, there was a restructure. On her return, she was given a role doing back office work only, but her employer insisted that this

EVENTS SEASON

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was only temporary as part of a phased return to work and that eventually Mrs D'Silva would need to do patient-facing work on the reception desk.

Several Occupational Health assessments found that Mrs D'Silva was fit for work but could not perform the part of her job that was patient-facing due to suffering from what the OH doctor described as a "public phobia". He suggested that reasonable adjustments be made, either by modifying the role so that the patient-facing aspect was minimised, or by redeploying Mrs D'Silva to a different role that would not require her to interact with the public.

Mrs D'Silva's managers did discuss redeployment with her at a sickness review meeting, after which she received weekly internal bulletins which listed current internal vacancies. The Employment Tribunal (ET) found there was no effort by the employer to identify suitable vacancies and that the onus was on Mrs D'Silva to apply for roles. She was unable to identify any roles that would be suitable for her and therefore did not apply for any during her redeployment period. The ET found that in fact there had been many administrative roles which were not patient-facing and may have been suitable for Mrs D'Silva, but she never saw any of these vacancies as they were not on the bulletin she received or on any of the other NHS job boards she had access to.

After a final sickness absence meeting, Mrs D'Silva was dismissed in January 2019 on grounds of capability due to ill health. She appealed her dismissal and was unsuccessful, after which she filed a claim against her employer for failure to make reasonable adjustments and unfair dismissal.

The ET accepted that Mrs D'Silva suffered from anxiety and was therefore substantially disadvantaged by the fact that her role was patient-facing. Nevertheless, there were several suitable vacancies and moving Mrs D'Silva to one of these roles would have been a reasonable adjustment. The employer tried to place blame on Mrs D'Silva for failing to apply for any roles during her redeployment period but Judge Corrigan concluded: "*The duty to make reasonable adjustments is on the [employer], not [Mrs D'Silva]. Leaving it to the employee to find an alternative role might successfully lead to an adjustment being made in some cases but the approach adopted by the [employer] to leave all the effort to [Mrs D'Silva], ... runs the risk that, like here, there are a number of suitable roles that would be reasonable adjustments but an adjustment is nevertheless not made.*" Her claim that her employer failed to make reasonable adjustments therefore succeeded.

Mrs D'Silva was also successful in her claim for unfair dismissal. The ET accepted that the reason for Mrs D'Silva's dismissal was her long term sickness absence caused by her inability to perform her patient-facing role. The ET then turned to the question of whether the employer acted reasonably in treating that as a sufficient reason to dismiss her. The ET reiterated that the employer had the duty to "*take reasonable steps to investigate alternative work and consider redeployment*" and that the employer had failed to do this. Judge Corrigan concluded "*It was outside the range of reasonable responses to dismiss [Mrs D'Silva] when the evidence suggests she was fit to work in non-reception roles and there were a number of those roles available.*"

The ET also found that the employer had not followed a fair dismissal procedure and that Mrs D'Silva's past absences were held against her. Had a fair procedure been followed, the ET reasoned, "the likelihood is that [Mrs D'Silva] would have remained at work in a suitable vacancy".

This case reminds employers that the onus is on them to look for suitable redeployment opportunities for employees who are unable to perform their current role due to a disability. Employers should work with employees to identify suitable alternative roles and should continue to consider redeployment opportunities up until the date of dismissal.

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Seminar - Virtual Event

OCT 12
Employment Law
Masterclass - Settlement
Agreements

OCT 20
HR Hangout - Creating a
Diversity and Inclusion
agenda



WILD NIGHT LIFE



If you ever get a bit prickly with your neighbours, you're not alone. A series of brilliant wildlife photographs taken at night have revealed how close foxes and hedgehogs get when they're out foraging for food.

Just like you and the guy over the road who parks his Honda by your kerb space - or six inches across your driveway - they are competing for space and resources.

But the bloke with the Honda probably doesn't occasionally consider eating you. Which does sometimes cross the mind of a fox when glancing over the hedge at the hedgehog next door. Apparently the younger ones occasionally try and soon learn that it's best not to.

The photos, taken by Ola Maddams using a motion activated remote camera, are an absolute treat. Check them out on the BBC website

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