



What to do if you're ghosted... by your employees

By **Mark Callaghan** - 27 February 2019

In the brave new world of online dating, it's an increasingly common problem: you hit it off with someone right away – the first date goes well, perhaps the second one does too! You think you've moved past that awkward 'interview' stage and feel that things might finally be getting serious. Then... nothing, for days. You send a follow up message and receive no response. It becomes clear that, perhaps, they just don't feel the same way about you. In modern parlance, I am afraid (ah) to tell you that you have been 'ghosted'. Very scary indeed. Sorry to break it to you....

And whilst this phenomenon might be new(ish) in the dating world, the 'ghosting employee' is very much an age-old problem for employers.

Employees can, and frequently do, go "off grid" at any point during the employment – erm – relationship. It's probably most likely in the early days; a new recruit accepts the job, but then fails to turn up on day one because he or she has found a better offer and doesn't communicate this to you. But it can happen at a later stage too. For example, an employee might receive some unexpected bad news, or have an accident which prevents them from contacting work for a couple of days. An employee who is made subject to disciplinary proceedings, or suspended pending an internal investigation, might suddenly go AWOL. Even employees who are on garden leave during their notice period might be less contactable than they are contractually obliged to be.

Unlike in the dating world, this is not a cue for both parties to accept that things didn't work out and make a dignified retreat – there's often the matter of a signed contract to consider, for one thing! With that in mind, what are the key considerations for employers who find themselves on the receiving end of the cold shoulder?

- Try to maintain the dialogue. There's no shame in sending multiple messages without a response here. There are two key purposes: the first is to ensure that you discharge your duty of care to your employees and the other is to continue to set boundaries. Until you know the reason for an employee's absence, it's probably sensible to err on the side of caution and use your initial communication to ask whether everything is okay. You can save more structured correspondence for a later stage, when you've ruled out accident or injury.
- Remind employees on suspension or garden leave that they must remain contactable during normal working hours. This is often set out in the employment contract or suspension letter, but frequent reminders are essential.



- Don't pay people for disappearing. If you pay an employee despite their unauthorised absence you may find it very hard to recover those payments at a later date. Keep your payroll team or provider informed and do not make a payment where no payment is contractually or legally owed. Of course, if an employee is off sick, or entitled to another form of paid leave, then things will be different.
- If you're concerned for an employee's safety, let them know that this is the case and then check up on them. Do not turn up at your employee's house without giving fair warning and without justified concern, but if you feel genuinely concerned that something might be wrong it is much better to be the overly cautious employer.

Case law has confirmed that an abundance of communication is key. In *Zulhayir v JJ Food Service Ltd*, an employer terminated their employee's employment when he failed to respond to their written correspondence. He had, in fact, moved house and failed to inform his employer. The employer's suggestion that the employee had "self-dismissed" himself, having failed to follow the employment handbook's procedure on changing address, was rejected by the Employment Appeal Tribunal. The employer was criticised for not having taken steps to contact their employee via his solicitors.