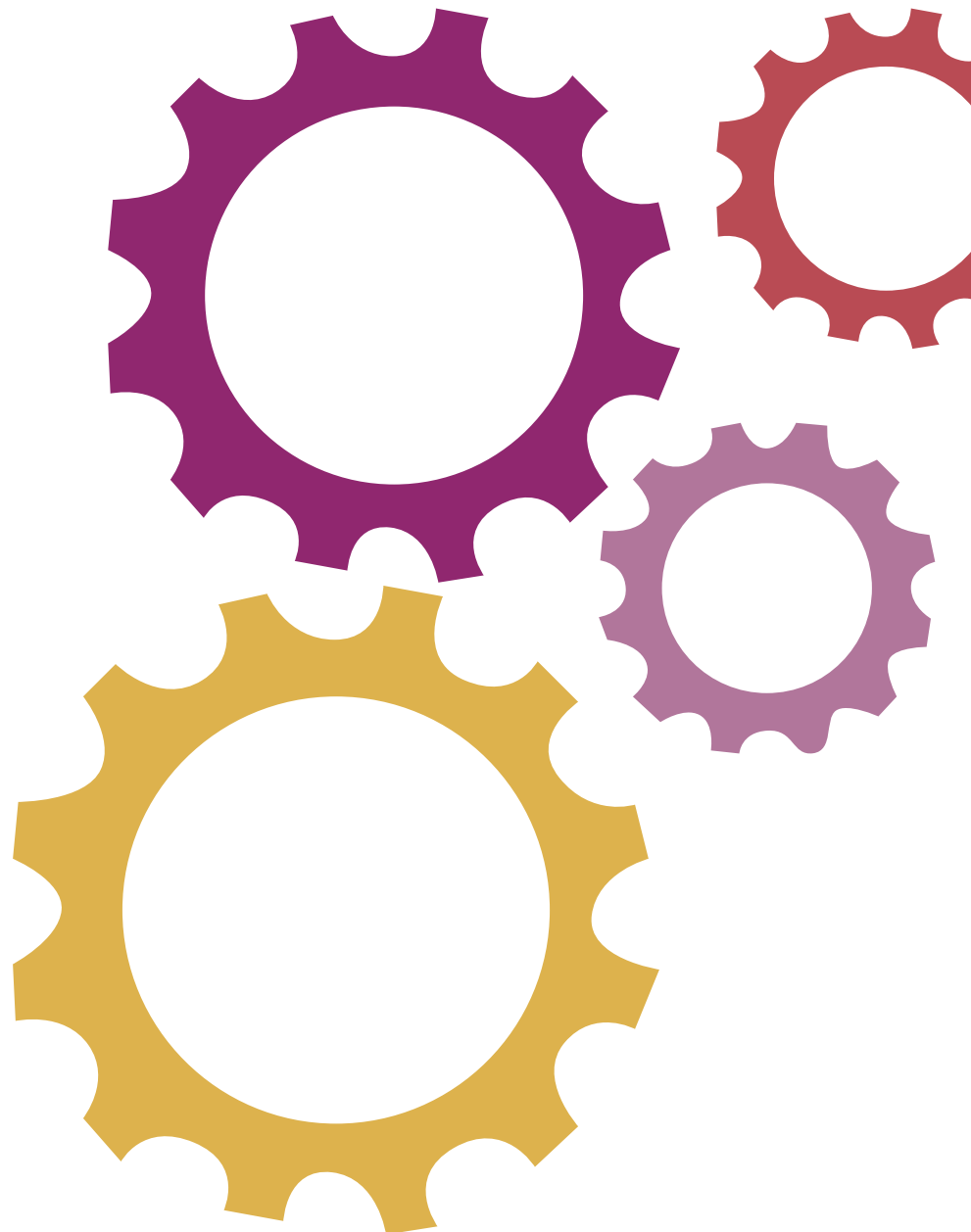# People and Culture Group Round Table

## Climate Change and the Workplace

# People and Culture Group

## Round Table – Session 3

In our Winter B-Corp People and Culture Group Round Table session, we explored the topic of climate change and the workplace, and looked at the practical steps employers can take to ensure that they not only rise to the challenge of helping to combat climate change, but also seek to lead the way in best practice.

# Climate Change and the Workplace

Climate change is a topic which is of huge importance to us all, but recent data shows that it is of particular importance to Millennials and Gen Z, who are pushing for tangible action to combat it; not just from politicians and government, but also from their employers.

It is also increasingly common for staff to look to their employers to align with, and demonstrate best practice in relation to, their personal values and beliefs; including on issues such as combatting climate change.

In the UK, around 70% of employees say that they are anxious about the future of the planet and society. Around 77% say that companies should be taking responsibility for their environmental impact and around 66% say that they want to work for a company that is having a positive impact.

However, around 68% of employees also say that efforts by businesses to tackle environmental and societal challenges do not go far enough. And around 45% say they would consider resigning if their employer's values don't align with their own, even in these difficult economic times; 35% say they have already resigned for this reason (this is known as "conscious quitting").

Employers are consequently finding that many of their staff are proactively raising climate concerns in the workplace, and increasingly asking them what steps they are taking to help combat it and minimise their organisation's impact on the environment. Clearly, the question of whether or not an employer is doing "enough" in this respect will have a significant impact on the organisation's ability to attract and retain staff, and also on its reputation more broadly.

In this context, in this session we looked at:

1. the legal position (from an employment law perspective) on climate and environment related whistleblowing and philosophical belief discrimination in the workplace; and

2. the practical steps employers can take to ensure that they not only rise to the challenge of helping to combat climate change, but also seek to lead the way in best practice.

In respect of the latter, we had a group discussion about:

a) what, specifically, staff are demanding from their employers;

b) how employers can respond to those demands; and

c) what else employers can do.

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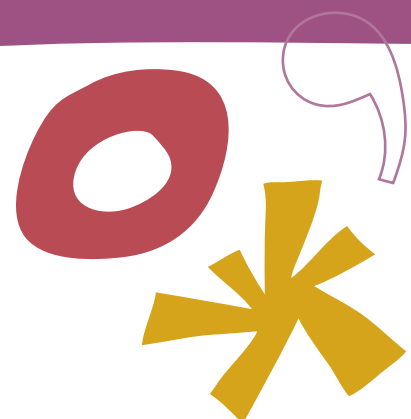
# 1. What is the legal position from an employment law perspective?

**i. Employment law protects those who "blow the whistle" about climate change and environmental issues at work from being subjected to any form of detriment or dismissal by their employer.**

If an employee discloses information to their employer, which tends to show that the environment has been, is being, or is likely to be damaged, this can amount to a "protected disclosure" or "whistleblowing" under the Employment Rights Act 1996 and the Public Interest Disclosure Act 1998.

The definition of "environmental damage" is incredibly broad, and could include a variety of issues like:

- Environmental malpractice, such as pollution of air or water supplies.

- Any negative impact on, or damage to, the environment caused by an employer's decisions or policies on (for example):
  - business travel, or
  - commuting to work, or
  - recycling systems (or a lack thereof).

In addition, disclosures of issues like alleged "greenwashing", or failure to comply with environmental rules or regulations, may equally qualify as a protected disclosure under another strand of whistleblowing (i.e., failure to comply with a legal obligation).

If an employee has made a protected disclosure about an environmental issue to their employer, they are protected from being subjected to any detriment or dismissed by their employer as a result of their disclosure. If they are then subjected to such detriment or dismissed, they will be entitled to compensation.

Establishing causation (i.e., that any detriment or dismissal was because of the protected disclosure) is key, and can often be a point of contention. For example, if an employee voices concerns about, or dissatisfaction with, an employer's environmental practices in a way which is particularly disproportionate or unreasonable (for example, through significant disruption or protest or civil disobedience), the employer may wish to take disciplinary action against the employee in respect of how they are voicing their concern. Such disciplinary action may be lawful, if it is being taken in respect of how the concern has been raised, rather than in respect of the fact of the raising of the concern itself (though this can be a fine line to tread).

**If an employee has made a protected disclosure about an environmental issue to their employer, they are protected from being subjected to any detriment or dismissed by their employer as a result of their disclosure.**

**ii. Employment law also protects those who hold "protected beliefs" about climate change and the environment from being discriminated against at work or dismissed by their employer as a result of those beliefs.**

"Philosophical beliefs" are potentially a protected characteristic under the Equality Act 2010, and employees holding such beliefs are protected from being treated less favourably (i.e., discriminated against) or dismissed because of them.

In order to fall within the protections of the Equality Act 2010, a philosophical belief must be a "protected belief", and must satisfy the 5-stage test known as the Grainger Criteria. These criteria are that:

1.  the belief must be genuinely held; and

2.  it must be a belief, and not an opinion or viewpoint, based on the present state of information available; and

3.  it must be a belief as to a weighty and substantial aspect of human life; and

4.  it must attain a certain level of cogency, seriousness, cohesion and importance; and

5.  it must be worthy of respect in a democratic society, compatible with human dignity, and not conflict with the fundamental rights of others.

In the *Grainger v Nicholson* case, a court decided that a belief in man-made climate change, and the alleged moral obligation to act to mitigate against it, was capable (if genuinely held) of being a protected philosophical belief. Similarly, in the cases of *Casamitjana Costa v League Against Cruel Sports* and *Reilly v RT Management Bridgeton Ltd,* the courts found that ethical veganism met the 5-stage Grainger test, and was capable of being a protected philosophical belief. It is, however, worth noting that there are other cases which have found that in some instances veganism is not a protected belief – particularly where it also includes a belief which impinges significantly on the rights of others and/or is unlawful (e.g., a belief in the right to trespass on private property and act in contravention of the law to expose and relieve animal suffering (*Miles v Royal Veterinary College*)).

In any event, employers should not jump to conclusions too quickly about what may (or may not) be a protected philosophical belief, and should be mindful that many environmental and climate-change related beliefs are capable of being protected.

**Employers should not jump to conclusions too quickly about what may (or may not) be a protected philosophical belief, and should be mindful that many environmental and climate-change related beliefs are capable of being protected.**

# 2. What practical steps can employers take to ensure that they not only rise to the challenge of helping to combat climate change, but also seek to lead the way in best practice?

There are a number of ways in which organisations can rise to the challenge of helping to combat climate change, whilst also seeking to lead the way in best practice:

- Have a realistic strategy on sustainability and climate change, which is clearly communicated to employees.

- Incorporate environmentally friendly clauses into your contracts of employment, and workplace policies and procedures.

- Ensure that your public stance on sustainability and climate change is consistent with internal policies and does not include any misleading statements.

- Seek feedback from employees on the issues of sustainability and climate change – what is important to them, how do they think the organisation could be doing better?

- Take staff feedback seriously, and develop a workplace culture which incorporates and respects employees' views.

- See the climate crisis and related beliefs as examples of protected philosophical beliefs.

- Examine existing policies to ensure that they do not directly or indirectly discriminate against climate-conscious employees.

- Inform senior staff and managers about avoiding discrimination against climate-conscious employees.

- Have sensible and effective whistleblowing arrangements in place, which have been checked to ensure that environmental damage is included in the definition of wrongdoing.

- Actively encourage employees to speak up and report concerns.

- Make clear to staff that you understand the needs and wishes of climate-conscious employees, and how to accommodate them.

Having an open workplace culture will create a positive environment, where game-changing conversations around sustainability and climate change are encouraged, and will help to ensure that employers not only contribute to combatting climate change, but are also leading the way in terms of best practice in this regard.

> **Have sensible and effective whistleblowing arrangements in place, which have been checked to ensure that environmental damage is included in the definition of wrongdoing.**

> **Having an open workplace culture will create a positive environment, where game-changing conversations around sustainability and climate change are encouraged.**

# Group discussions

## a) What specifically are staff demanding from their employers?

New research shows that employees are increasingly concerned about issues like climate change and sustainability, and want to get involved in initiatives aimed at tackling these issues; particularly Millennials and Gen Z. Certainly, the organisations we spoke with said that their staff are increasingly particularly concerned about, and engaged in, these issues - including in the workplace – and that this shows how important it is to them. For many employees, the research shows, concerns about climate change and sustainability surpass even concerns about the current cost-of-living crisis.

Staff want to work for companies which have strong values that match their own, and which are working towards solving problems like climate change. Around 2 in 3 UK employees say that they want to work for a company that is having a positive impact on the world. However, almost 70% say their companies aren't doing enough in this regard, and almost half are willing to resign when the company's values don't align with their own. In fact, a third of employees say they already have, and this rate is even higher for Millennials and Gen Z. This has been termed "conscious quitting", and many businesses are losing staff or struggling to recruit as a result.

Examples of things that staff (both existing and prospective) are demanding from their employers include:

- More open, transparent and collaborative discussions about climate change and sustainability, and how things could be done better.
- Active steps being taken to limit the organisation's impact on the environment; including in relation to its premises, its internal operations and its external services. Many employees see external accreditation or

certification in this regard (for example, as a B-Corp) as a big plus.

- More environmentally aware / sustainable policies, benefits packages and employee perks; for example:
- initiatives to reduce the organisation's carbon footprint,
- cycle to work schemes,
- "green" travel policies,
- support of "green" energy suppliers, sustainable / ethical pension funds,
- ensuring that suppliers, contractors and consultants are also "environmentally friendly" in their organisations / practices,
- time off for volunteering to support sustainability/ organisations that are involved in the climate change sphere, and
- wellbeing initiatives (for both people and planet).

It is clearly more important than ever that employers look at what steps they can be taking to address issues like climate change and to promote sustainability, and what perks and benefits they can offer their staff in this regard. Not only to ensure staff attraction and retention, but also to ensure that they are following best practice and staying ahead of the curve on these issues, which makes for good business practice more generally.

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# Group discussions

## b) How are employers responding to that demand?

Some organisations have formally recognised the Climate Emergency and Biodiversity Crisis, and have made a number of commitments to help minimise their environmental impact, and use their business as a platform to help address these crises.

Many organisations have introduced climate friendly initiatives into their workplaces, such as:

### Reducing, Reusing, Recycling

- Having a "paper free" office.

- Avoiding single use plastics, and / or working towards a plastic-free workplace.

- Having a "zero landfill waste" office – with office waste being reused or recycled.

- Encouraging staff to bring hard to recycle items from home so these can be recycled.

- Having net zero carbon emissions / being carbon neutral in the workplace (either by reducing or offsetting).

### Sustainable Suppliers

- Using procurement procedures which encourage suppliers to work towards net zero emissions within specified timeframes.

- Having all catering as vegetarian by default, to reduce meat consumption.

- Offering staff discounts for environmentally friendly businesses.

### Sustainable Workplace Practices, Policies and Benefits

- Having a climate / sustainability policy.

- Incorporating environmentally friendly clauses into contracts of employment, and workplace policies and procedures more generally.

- Offering a sustainable pension fund as default.

- Offering more sustainable benefits packages more generally.

- Offering cycle to work schemes supplemented with showers and storage space in the workplace.

- Promoting "green" travel for commuting.

- Considering an electric car salary sacrifice scheme.

- Giving staff extra paid time off for sustainable holiday travel (e.g., travelling by train rather than plane).

- Giving staff extra paid time off for volunteering, which they can use to contribute towards climate friendly initiatives if they wish.

- Having a climate programme recognition reward scheme, which rewards staff for actions which have a positive environmental impact.

- Having "green" energy suppliers and/or offering staff money (for example, £100) towards the cost of switching to certified green energy at home.

- Having "power down days" in the office.

- Allowing staff paid time off to support their wellbeing and mental health.

- Having hybrid working, flexible working and/or a 4-day working week.

**Dialogue, Transparency and Accountability**

- Having a staff forum which discusses environmental issues and shapes the organisation's approach to these.

- Publishing an annual Report which details the steps taken to combat climate change / promote sustainability, and the milestones achieved along the way (including, for example, reduction in carbon footprint).

## c) What else can Employers do?

It is clear that employers need to be giving careful thought to, and implementing workplace policies and procedures in respect of, their climate and sustainability commitments. Not only to encourage recruitment and retention, but also to ensure best practice.

For those who haven't already, consideration could be given to implementing some or all of the measures outlined in section 2(b) above.

For those who have already, further consideration could be given to:

- Taking a stronger stance on environmental issues and economic inequality, including by:
  – setting climate targets in line with scientific evidence,
  – developing internal education programmes for staff,
  – pursuing policies to promote greater equality and inclusion.

- Communicating more openly, transparently, and regularly with staff about environmental and societal issues, and the action being taken to address these.

- Giving staff a greater role in helping their company change for the better, including by:
  – finding ways employees can contribute, and
  – asking employees how they want to contribute.



**It is clearly more important than ever that employers look at what steps they can be taking to address issues like climate change and to promote sustainability, and what perks and benefits they can offer their staff in this regard.**

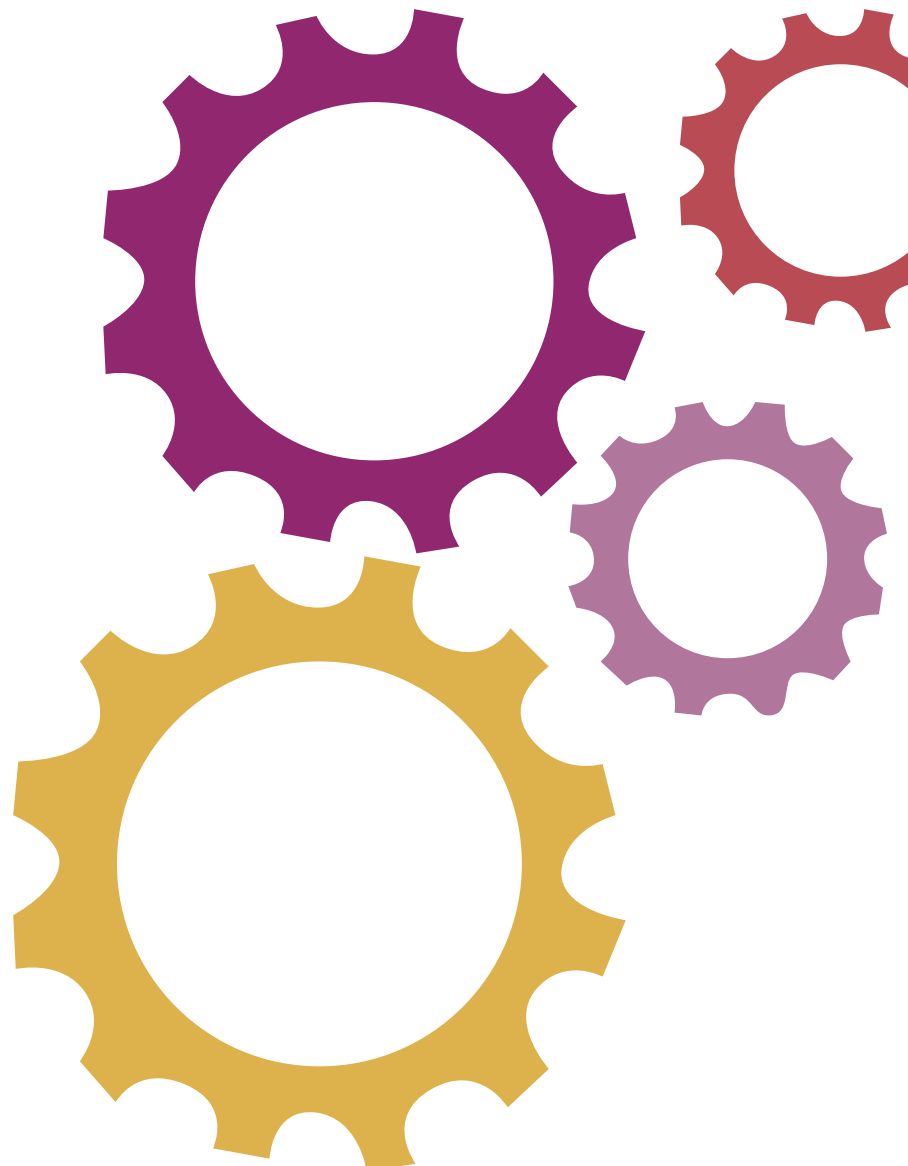# Key contacts

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