

## Authorship disputes and employment claims

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In an academic environment, there can be pressures to publish, particularly where funding is dependent upon research and reputation. Whilst there can be competition between Higher Education establishments to be the first to publish, there can also be internal conflicts over authorship rights where several individuals have contributed to the work. This was precisely the issue that arose in **Moghaddam v Chancellor and Scholars of the University of Oxford and others**. Whilst this is a first-instance Employment Tribunal decision – and therefore is not binding – it does demonstrate how a dispute over authorship can escalate into employment claims of (amongst others) unfair dismissal, discrimination and whistleblowing.

The Claimant (C) was employed as a senior postdoctoral scientist on a series of fixed term contracts, working in the laboratory of Professor Sattentau (S). These contracts varied in length and were dependent upon funding from various internal and external grants. Back in 2014, C published an article; C asserted that S had insisted that he (S) should be the senior author, with C sharing the first author status with a DPhil student. In 2018, S informed C that if he didn't publish any paper in 2018 there would be no funding to support his continued employment after the current grant expired. However, C said that he would not accept his manuscripts or ideas being used without his shared authorship. S did not feel able to commit to a position on authorship before a paper had been drafted as it would not be possible to assess the level of contribution from others at that stage.

## Authorship misconduct claim

There was then a dispute over a review manuscript which listed C as third author (after his two students) and with S as the sole senior and corresponding author. C claimed that this was authorship misconduct as he believed the review was a watered-down version of a 2016 manuscript he had prepared. S believed it was based upon a student's review but written by S orientated towards immunologists and it no longer looked much like the original review. He was unaware of C's contribution to the student's review.

This dispute over authorship (including C's refusal to permit S to submit any manuscript with which he was associated to support a particular grant application) subsequently affected both the relationship between C and S and potential applications for new funding. C then raised complaints which he asserted amounted to protected disclosures.

C was dismissed in March 2019 as grant funding had not been secured and he claimed that it was because he had raised concerns about scientific misconduct and discriminatory practises within the department. He brought a number of different claims within the Employment Tribunal; the key claims of relevance within the higher education sector relate to the use of fixed-term contracts to manage grant-funded positions, the termination of such a contract due to the lack of funding, and claims relating to authorship disputes.

C asserted that the continued use of fixed-term employment contracts during his employment was inappropriate and that he should be treated as if he was a permanent employee. The Tribunal disagreed, finding that the use of fixed-term contracts was an appropriate way of managing contracts to broadly fit with the funds available to support that role.

## Breakdown in relations

The Tribunal accepted that the absence of funding available meant that the employer's need for C to carry out that particular work had ceased; accordingly, his dismissal was by reason of redundancy. The reason for the lack of funding was due to the breakdown in relations between C and S and the resultant inability to work together to secure grant funding. Both were well aware of the impact that the lack of funding would have on C's employment.

In respect of C's whistleblowing claim, the Tribunal accepted that he had made protected disclosures when he raised concerns in respect of authorship; he reasonably believed that there was misconduct by S and that that misconduct amounted to a breach of his legal obligations. The Tribunal also accepted that the disclosures were in the public interest – whilst C's private interests were clearly the predominate factor, it accepted that he also did have the interests of others in mind too.

However, whilst protected disclosures were made, the Employment Tribunal did not accept that C had suffered any detriment as a result. In particular, the refusal to renew his contract was simply because of the absence of funding available and not because of any protected disclosure. Similarly, the Tribunal did not accept that C was subjected to any less favourable treatment because of his race.

Employers will already be mindful of the tensions that can exist in competitive environments over recognition and reward and the impact that this can have on team relationships. Whilst C was ultimately unsuccessful in his claims, this case does serve as a reminder as to how perceptions of unfairness in respect of authorship rights can escalate.

Please do get in touch with us if you require guidance on how to best mitigate these risks or if you need any support resolving a dispute.

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