

## Care home worker fairly dismissed for refusing Covid-19 vaccination

The Tribunal considered whether a care home worker was unfairly dismissed following her refusal to be vaccinated against Covid-19. It is important to note the Claimant's dismissal pre-dated the compulsory vaccination regulations in force from November 2021.

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In Allette v Scarsdale Grange Nursing Home Limited, the Tribunal considered whether a care home worker was unfairly dismissed following her refusal to be vaccinated against Covid-19. It is important to note the Claimant's dismissal pre-dated the compulsory vaccination regulations in force from November 2021.

The Claimant was dismissed on the grounds that she had unreasonably refused to follow management instructions to get vaccinated in January 2021. The Claimant asserted her beliefs against the safety of the vaccine and that it would be against her Rastafarian beliefs to take non-natural medication. The Tribunal considered claims for wrongful and unfair dismissal.

The Tribunal found the Respondent had a legitimate aim when instructing employees to get vaccinated and for dismissing the Claimant who refused to comply, namely to protect the health and safety of residents, staff and visitors. The Tribunal found that although there was interference with the Claimant's Article 8 Convention right (right to respect for her private life) in requiring her to have the vaccine, this was justified in the circumstances as the particular circumstances of this care home meant that the Article 8 rights of the residents and other staff and visitors were unjustly interfered with by the presence of the Claimant. The Respondent acted within the range of reasonable responses and dismissal was proportionate.

In relation to wrongful dismissal, the Tribunal found the Claimant's fear and scepticism was an unsubstantiated belief, rather than a religious belief, and as she knew her actions represented a risk to others this was gross misconduct.

The decision is only first instance and is not binding, although it is a useful first look at how tribunals may deal with claims related to compulsory vaccination (including within employers where there is no legal mandate) and, in particular, the relevance of Convention rights.

## Contact



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