

HR Consultant's letter could bind employer to higher pay

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The Employment Appeal Tribunal held that Sheffield City Council was bound by the rates of pay erroneously set out in a letter from an HR consultant to its employees. It was held that the letter was binding on the employer because the HR consultant was held out as being authorised to make this communication.

The claimants were employed by the Council as market patrol officers. The Council sought to lower the rates of the claimants' pay from grade 4 to grade 3. The claimants appealed this decision under the Council's procedures. This appeal was heard in March 2011; however, the decision was not communicated to the claimants and their pay did not change.

In August 2011, the claimants issued a grievance against the Council which was investigated by an HR consultant appointed by the Council. The HR consultant had no authority to make a decision about the claimants' pay but was authorised to communicate the outcome of the grievance to them. On 10 October 2011, the HR consultant mistakenly wrote to the claimants stating that it had been decided that they should be placed on pay grade 5 and their pay would be increased to £19,370 per annum.

The claimants' pay did not increase. The Council realised that a mistake had been made in the HR consultant's letter and that the claimants should actually be on pay grade 4 rather than 5 as stated by the HR consultant. The claimants then issued proceedings against the Council claiming that the letter from the HR consultant was a binding offer which they had accepted and therefore the Council had made an unlawful deduction from their pay.

The Employment Appeal Tribunal held that the Council was bound by the offer in the letter sent by the HR consultant as it was intended that the letter would set out the decision of the Council and the HR consultant had been held out by the employer as authorised to make that communication to the claimants.

Hershaw and others v Sheffield City Council UKEAT/0033/14

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