

Quit-Tok – is the latest viral trend a risk for employers and how can any risks be mitigated?

The concept of “quiet quitting”, where an employee does the minimum amount of work possible to retain their job, became prominent on social media during the Covid lockdowns.

Fast forward a few years and things have turned on their head. The latest viral trend is so-called “Quit-Tok” or “loud quitting”, where dissatisfied employees covertly record resignation or dismissal meetings, redundancy announcements, or meetings regarding poor performance or disciplinary action, and then post them online. Should employers be concerned?

What are the risks for employers?

1. **Adverse publicity:** Some of these videos are accumulating millions of views, and therefore pose a risk of adverse publicity for employers. By their nature, they are one-sided and give little scope for an employer to put its side of the story into the public domain.
2. **Breach of confidentiality:** The information contained in such videos may be highly sensitive and include information about an employer’s customers or finances which it would not want in the public domain or in the hands of competitors.

3. **Data protection:** GDPR issues could arise if the video shares the personal data of other employees, or even customers of the employer.
4. **Employment claims:** The lead up to the meetings, as well as the meetings themselves, may well already be the subject of potential employment claims against the employer. If the video seeks to call out alleged poor behaviour or practices of the employer, and the employer then takes action against the employee as a result, the risk of a whistleblowing or victimisation claim might arise.

An employee might even try to use the recordings as evidence in an Employment Tribunal claim, and it is possible that a Tribunal would deem those recordings admissible as evidence.

What can an employer do to mitigate the risks?

1. Ensure that any such meetings are conducted fairly and sensitively, reducing the likelihood of a harmful covert recording emerging. Consider conducting meetings in person to achieve this (whilst making it more difficult for an employee to record) and providing training to managers on having difficult conversations.
2. Ensure that confidentiality provisions in employment contracts are drafted to cover this scenario. Firstly, this would give employers a right of action against the employee, namely that they are in breach of contract.

This could be used to force the employee to take the video down (albeit that damage may already have been done) or the employer may even be justified in pursuing a legal claim against the employee. Secondly, a serious breach of confidentiality could also justify the employee's summary dismissal, meaning that they can be dismissed without notice or payment in lieu of notice. However, caution should be exercised in doing so, particularly if there are already allegations that the employer has acted unfairly or that the meeting was not handled well by the employer. Special care should also be taken where the employee has previously blown the whistle or alleged discrimination.

3. Implement or amend social media policies to cover the sharing of business information and internal meetings and processes online so that it is clear to employees what they are and are not permitted to do.
4. Ensure that data protection policies also cover the point, and that employees are aware of their obligations, particularly in relation to handling personal data of fellow employees.
5. Update grievance and disciplinary policies to state that meetings as part of those processes cannot be recorded by employees.
6. Make it clear in all relevant policies that posting information online against the employer's policies will be regarded as gross misconduct, which will give the employer stronger grounds to dismiss an employee summarily if they contravene such policies.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Emma Burroughs (EmmaBurroughs@bdbf.co.uk), or your usual BDBF contact.