

# Will Pressley's case merit extra time?

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THIS month it was confirmed that Steven Pressley, the captain of Heart of Midlothian, had been stripped of his position and had parted from the club. His treatment has been described as unjust but, from a legal perspective, is that evaluation accurate?

Employers have a duty not to conduct themselves in a manner calculated or likely to destroy or seriously damage the relationship of trust and confidence between them and their employee. Any breach of this implied term is a material breach of contract which, if committed, leaves the employee with two choices: continue in employment or resign. If an employee continues for long enough they will be considered to have affirmed the breach and may lose the right to claim constructive dismissal. If they resign promptly, they can raise a constructive dismissal claim or seek damages in court. Pressley called a press conference.

Hearts may be said to have breached trust and confidence in two ways: in stripping Pressley of the captaincy and allegedly plotting to undermine him; and by threatening dismissal if results did not improve.

Stripping the captaincy would probably not constitute a breach in itself. Results had not met expectations and employers can legitimately redeploy employees to better achieve success. Withdrawing the captaincy could be described as a significant change to Pressley's terms and conditions, and certain legal procedures should have been followed.

The reported "plot" to undermine Pressley is potentially more damaging and more likely to destroy trust and confidence. If there had been a deliberate plot, it would be arguable this had seriously damaged his ability to perform his duties, and it could be said the club had breached its obligations to maintain trust and confidence.

What of Hearts' owner Vladimir Romanov's alleged threat to sack players? "Find me a manager who has not threatened to sack players if results didn't improve," some might say. However, Romanov is not the manager and his threat was reportedly very specific: fail to beat Dunfermline and you will be sacked. Threatening dismissal for failure to meet a target could be viewed as bullying, which breaches the duty of trust and confidence.

Ultimately, though, if Pressley had an issue with the running of the club or its employees' treatment, he ought to have followed his employer's grievance procedures as set out in his contract. The Scottish Premier League (SPL) standard player's contract includes such provisions. We do not know whether Pressley had



**Steven Pressley: Does he have a legal case against Heart of Midlothian FC?**

intimated grievances to the club under those provisions. We do know he held a press conference about Romanov's alleged threats. The standard SPL contract specifically provides that players must not make any public, private, oral or written remarks that are negative or critical about, or against, or adverse to the interests of, the club.

The standard players' contract also provides that if a player commits an act of misconduct, breaches his contract or brings the club into disrepute then the club can either terminate the player's employment, suspend him for no more than four weeks, or impose a fine. Before doing so, the club must comply with the statutory dismissal and disciplinary procedures set out in the Employment Act 2002 and the Dispute Regulations 2004. These include giving full written reasons for the action, consulting or meeting with the player, and informing him in writing of his rights to appeal.

Without knowing whether Hearts followed the correct procedures throughout, or whether what Pressley said during his press conference amounted to a breach of his contract, it's impossible to say who is right and who is wrong in legal terms.

The league has demonstrated before that it demands strict adherence to its rules, and will not be pressured into correcting what others may perceive to be an injustice. Whether that adherence complies with the constraints of employment law will often be an open question. On the other hand, as in many football disputes, it may be the whole dispute has been quietly resolved and the public and the courts will remain in the dark about what really went on.

Romanov has become the knave of the piece for many, while Pressley is cast as a man of principle. However, even in the super-heated atmosphere of professional sport, it is sometimes forgotten the law of the land still prevails: employment law more than most. Sporting employment disputes that end up in courts or tribunals will not, and should not, be resolved on the basis of popularity contests.

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