



Employment Law e-bulletin

April 2021

Welcome to our April e-bulletin. April 2021 is a busy month with a mix of [annual statutory changes](#), changes to IR35 in the private sector and some important judgments being handed down. Following our [essential employment law webinar](#) last month, we are running another webinar later this month on [Equality & diversity: protecting your organisation from liability](#). See below for further details.



Innes Clark
Head of Employment Team

Boris Johnson has indicated that workers will be back to the office "within a few short months" and, in light of the improving COVID-19 situation in the UK, we are looking at the importance of risk assessments, good communication and flexibility when it comes to [safely returning to the office](#). Also keeping workers safe are newly extended [protections from detriment](#) for workers who find themselves in serious or imminent danger at work.

Our coverage of important recent cases starts this month with the Supreme Court confirming that workers do [not need to be paid NMW while asleep](#) during "sleep-in" shifts. Meanwhile, the Court of Appeal has considered two connected cases where protection from discrimination on the grounds of sexual orientation [has come into conflict](#) with the right of an individual to freedom of religion. We also look at two cases from the EAT, the first which decided that transfers to [multiple employers are possible](#) under the TUPE service provision change provisions. The second case will [significantly limit holiday pay claims](#) for workers who took unpaid holiday when their employers refused to provide paid annual leave.

As the deadline for obtaining settled or pre-settled status nears, immigration specialist Stuart McWilliams [provides an overview of the updated Home Office guidance](#) on right to work checks for those with EU citizens starting work before 30 June 2021.

Finally, we have our usual [Employment Law Covid-19 Round up](#) and our overview of [what else is happening in employment law](#).

Equality and Diversity - protecting your organisation from liability



Employment Law Webinar

Equality & Diversity - protecting your organisation from liability

Tuesday 27 April | 10:30 - 11:30

Recent case decisions have made it clear that 'stale' training and poorly implemented equality and diversity policies will not protect employers from liability for harassment. Join us for a free webinar on this topic with Karen McGill and Sarah Gilzean on Tuesday 27 April at 10.30am. Sarah Gilzean is a leading discrimination expert and an accredited specialist in discrimination law. Karen McGill has many years of experience advising both employers and employees in discrimination law.

Sarah and Karen will look at the recent cases of Allay (UK) Limited v Gehlen and Taylor v Jaguar Land Rover Ltd and discuss the practical steps that employers can take to reduce the risks of discrimination and harassment occurring and liability arising.

This webinar is applicable to the legal position in Scotland, England and Wales.

To register click [here](#).

For those of you who missed our March webinar you can [access a recording](#) of the webinar which looked at the latest employment law developments including the April changes, future changes to watch out for and some important recent case decisions.

This month's topics

Please click on the link below to view the relevant article:-

- [April employment law changes](#) - a look at the key changes to employment law coming into force this month.
- [Welcome Back - how to safely return to the office](#) - risk assessments, good communication with staff and flexibility of approach will all feature strongly in ensuring a safe return.
- [Health & Safety protections extended to include workers](#) - new legislation extends protections previously only provided to employees.
- [No NMW entitlement for hours spent asleep on the job](#) - the Supreme Court has dismissed the appeals of two care workers who argued they should be paid NMW for the whole of a "sleep-in" shift.
- [Removal of lay magistrate for opposition to same sex adoption not religious discrimination](#) - the Court of Appeal has again considered the conflict between competing rights.
- [Transfer to multiple employers possible under TUPE service provision change](#) - EAT decision aligns position in relation to SPCs with that of business transfers under TUPE.
- [Pimlico Plumbers successfully defend worker's holiday pay claim](#) - EAT holds ECJ decision on carrying over holiday without limit does not apply where unpaid leave is taken.
- [Checking right to work after Brexit](#) - new guidance issued by The Home Office on right to work checks for those with EU citizens starting work before 30 June 2021.
- [Employment Law COVID-19 round up](#) - our monthly look at the employment law COVID-19 news you may have missed.
- [What else is happening in employment law?](#) - our monthly round up of the rest of the employment law news.

Our weekly employment law podcasts

You can listen to our most recent employment law podcasts by clicking on the links below:-

[Does raising a grievance impact on the success of a constructive dismissal claim?](#) - David Hossack and Fiona Meek look at the law of constructive dismissal and discuss a recent case which looked at the issue of affirmation when a grievance is raised.

[Stale diversity training won't protect employers from harassment claims](#) - David Hossack talks to Sarah Gilzean about a recent case where it was found that the employer's diversity training had gone 'stale' and that they should have done refresher training in order to defend the claim.

[Employment law - what's coming up in April?](#) - In our weekly employment law podcast, Innes Clark discusses with David Hossack the key employment law changes happening in April including the extension of the furlough scheme, National Minimum Wage changes, the Employment Tribunal compensation award increase, changes to IR35 in the private sector and changes to post-employment notice pay.

[Redundancy procedure podcast series](#) - this practical series of podcasts provides employers with practical hints and tips throughout the redundancy process.

Fixed-price online mediation service for employment disputes

A reminder that we have [launched a fixed-price online mediation service for employment disputes](#) in response to what we predict will be a changing demand for how disputes are resolved, accelerated by the current pandemic. Headed by **David Hossack**, one of the most experienced mediators in Scotland, the service provides a swift and cost effective way of resolving employment disputes.

Our app

You can download our free Employment Law App [MF HR Mobile](#) for both Android and iPhone. This includes calculators for unfair dismissal awards, maternity pay and statutory redundancy payments, as well as key employment law facts, figures and fingertip guides. It also includes this [monthly e-bulletin](#) and access to all of our [employment law podcasts](#).

Contact us

If you have any questions on the content of this e-bulletin or if you would like to discuss any other employment issue then please contact any of the Employment Law Partners listed below or speak to your usual Morton Fraser employment team contact:-

[Innes Clark](#) on 0131 247 1181 / innes.clark@morton-fraser.com;
[Lindsey Cartwright](#) on 0141 274 1141 / lindsey.cartwright@morton-fraser.com;
[David Hossack](#) on 0131 247 1024 / david.hossack@morton-fraser.com; or
[David Walker](#) on 0141 274 1146 / david.walker@morton-fraser.com.

Employment Law Guide & Employment Timeline

To see our Brief Guide to Employment Law in Scotland, England and Wales, click [here](#).

For details of upcoming changes in employment law, see our [Updated Employment Law Reform Timeline](#).

Our Employment Law Fact Card - 2021/22 edition is out!

Our 2021/22 Employment Law Fact Card is full of useful information for employers including disciplinary and redundancy checklists, Employment Tribunal award limits, family friendly leave entitlements and national minimum wage rates. We will be sending out the latest edition to our mailing list later this month and you can access an electronic version [here](#).

If you are not already on our mailing list and would like a hard copy of our free Fact Card please email us at employment@morton-fraser.com with your name and postal address and we will send it on to you.

You can also find lots of useful employment law information on our free app which is available to download from the App Store or Google Play. For further details and a link to the download see:

[MF HR Mobile - Our Employment Law App](#)

"...the app is gorgeous, very well designed with great functionality and looks." - Legal IT Insider (www.legaltechnology.com)

Employment Law Support for your Organisation

How we can help

Clear employment law advice from one of the leading employment teams in Scotland.

- More Law Society accredited specialists than any other team in Scotland
- Clear, pragmatic, cost effective, legally privileged advice
- Fixed fee packages available (including [Tribunal awards insurance](#), if required)

A highly professional and responsive service...very approachable and always easily contactable - Chambers and Partners.

Contact innes.clark@morton-fraser.com to find out more.

Employment law training

We offer a practical series of employment law courses covering key employment law and related HR issues including:-

- Disciplinary and grievance issues training
- Managing employees (Performance) training
- Managing employees (Sickness Absence) training
- Discrimination and harassment training
- Employment Tribunal Procedure and Witness Familiarisation training
- Immigration & Employment training
- GDPR: the practical day to day skills you need to know in the workplace

For further information please contact Innes Clark on 0131 247 1181 or at innes.clark@morton-fraser.com.

A little more help

The information contained in our Factcard, and much more, can also be accessed via our Employment Law app. Search for MFHRMobile at the App store or Google Play.

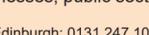
If you don't already subscribe then [contact us at employment@morton-fraser.com](mailto:employment@morton-fraser.com) to receive our monthly employment law updates. As well as providing updates on key employment law developments, our monthly e-news also provides details of **free employment law seminars** that we run throughout the year.

For further information please contact Innes Clark on 0131 247 1181 or at innes.clark@morton-fraser.com.

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