



Employment Law e-bulletin

May 2021

Welcome to our May e-bulletin. The annual [CIPD Simply Health survey](#), on health and wellbeing this year is an interesting record of how the pandemic has impacted on employee wellbeing and how employers have dealt with it. The survey is well worth a read.

We are starting to see more pandemic related tribunal claims coming through, and, in the latest case, the employment tribunal considered whether the dismissal of an employee who [refused to return to his workplace](#) because of fears of infecting his family was fair.

As the vaccination roll-out continues, and with differing routes out of lockdown for each of the four home nations, we have published a summary of how the [work from home rules](#) apply throughout the UK.

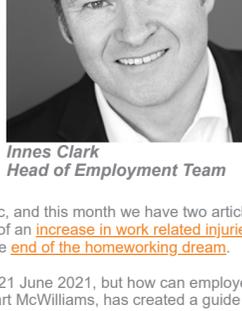
Homeworking has, of course, been a major feature of the pandemic, and this month we have two articles focussing on this way of working. The first looks at whether homeworking will be the cause of an [increase in work related injuries](#). The second considers whether, as restrictions continue to ease, the end of lockdown is the [end of the homeworking dream](#).

The Home Office guidance on right to work checks is changing on 21 June 2021, but how can employers carry out a right to work check with staff still working from home?. Our immigration specialist, Stuart McWilliams, has created a guide to the [Changes to Right to Work checks](#) from 21 June onwards.

In case you missed it in our quarterly [Equality Bulletin](#), last month saw the latest instalment in the [multi-million pound equal pay claim](#) against Asda with the Supreme Court holding that women working in stores can compare their pay with male comparators in distribution centres. Sticking with equality, after [our recent webinar](#) on protecting your organisation from liability for harassment we are running a more in-depth session in June which we are limiting to 20 places only. See below for further details and how to book a place.

We also look at [a report by ACAS](#), entitled "Estimating the Costs of Workplace Conflict" which highlights that the consequences of workplace conflict are costing employers huge amounts of money every year.

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



Innes Clark
Head of Employment Team

Equality and Diversity - Establishing the reasonable steps defence to protect your organisation



Equality & Diversity Training

Establishing the reasonable steps defence to protect your organisation

Thursday 3 June | 10:00 - 12:00

Claims for discrimination are uncapped with six and even seven figure sums having been awarded by Employment Tribunals in the past few years. Employers who can show that they have taken "all reasonable steps" to avoid discrimination through appropriate training on equality issues may be able to use this statutory defence against certain discrimination claims arising from the acts of their employees. Recent cases highlight the issues caused by a lack of training, "stale" training and the absence of refreshing training regularly.

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 relation to discrimination matters. Sarah and Karen have designed this training course to help employers establish a "reasonable steps" defence in the event that a harassment claim is raised against them. In this course they will cover:-

- The protected characteristics under the Equality Act 2010
- Different types of discrimination
- Harassment and the dangers of workplace "banter"
- Recent cases and Employment Tribunal awards
- Practical tips and red flags
- The reasonable steps defence and how to ensure that you can argue it
- Cascading training down through the workforce

This training is applicable to the legal position in Scotland, England and Wales and is suitable for HR professionals, managers, employees and in-house lawyers who wish to update their training and also for managers and employees who have limited prior knowledge of the topic. The attendees will be limited to 20 to ensure that the session is as engaging as possible and to allow sufficient time for questions. Attendees will receive a copy of the Powerpoint slides, a detailed handout, a certificate of attendance and a recording of the training. It is intended that this training can be referred to as part of any reasonable steps defence.

- Cost: £125 plus VAT per person
- Cost for charity employees and trustees: £110 plus VAT
- 2 hour paid for training session - restricted to 20 people

To register click [here](#).

This month's topics

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

- [CIPD/Simply Health Survey](#) - the annual survey on workplace health and wellbeing records the impact of the pandemic on workers' mental health.
- [Employee concerned about infecting vulnerable family members with Covid-19 loses unfair dismissal claim](#) - a look at the latest case involving a coronavirus related dismissal.
- [Working from home - current guidance](#) - with the four nations coming out of lockdown at different times, we summarise the rules on returning to the workplace throughout the UK.
- [UK Employers Spending Billions on Conflict Every Year](#) - but is there an easy alternative?
- [Asda equal pay claim](#) - Supreme Court holds women in stores can compare their pay with that of men working in distribution centres.
- [Covid-19 - the cause of an increase in work related injuries](#) - employers face a ticking time bomb of personal injury claims from homeworkers according to one of the UK's foremost employee welfare experts.
- [Changes to Right to Work checks](#) - Home Office guidance on right to work is changing on 21 June 2021, but how can employers carry out a right to work check with staff still working from home?
- [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.
- [Opinion piece: Is the end of lockdown the end of the homeworking dream?](#) - with restrictions easing is there still a will to maintain home and other flexible working arrangements?

Our weekly employment law podcasts

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

[Can employers dismiss employees who stay at home over COVID H&S fears?](#) - David Hossack and Caroline Maher discuss the case of an employee who refused to attend work due to COVID-19 concerns as well as looking at the wider implications of the case.

[ASDA Equal Pay](#) - David Hossack talks to Sarah Gilzean about the latest instalment of the long running equal pay litigation against Asda.

[Unfair dismissal - what are the consequences of a successful claim?](#) - Innes Clark and David Hossack discuss the options open to an Employment Tribunal in the event of a successful claim.

[Unfair dismissal, constructive dismissal and wrongful dismissal - what is the difference?](#) - David Hossack and Innes Clark discuss the difference between unfair dismissal, wrongful dismissal and constructive dismissal as well as looking at the key elements of each.

[The future of Shared Parental Leave - time for an update?](#) - Sarah Gilzean talks to Rachel Crasnow QC about what the future may hold for SPL, the impact of recent case law and the case for reform of the statutory scheme, which is currently only used by 2% of those eligible.

[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

Also a reminder that we have 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

Our 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.

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. Alternatively, you can access an electronic version [here](#).

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

Our courses are designed for business owners, HR professionals, line managers, in-house lawyers, finance team members, charity trustees and board appointees.

All of our courses have a very practical focus, drawing on our many years of experience advising both employers and employees.

Our courses can be delivered face to face or via a live webinar.

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

A little more help

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 webinars](#) that we run throughout the year.

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

WELCOME TO CLARITY

Clear legal advice for businesses, public sector, individuals and families.

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Glasgow: 0141 274 1100
info@morton-fraser.com



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