

Employment Law e-bulletin - December 2021

Welcome to our December e-bulletin. As the year draws to a close we take the opportunity to look back at what has happened in employment law in 2021 with our review of the year. In addition, after the negative publicity linked to "fire and rehire" tactics during the pandemic we review the new ACAS guidance on this practice. There are also two interesting tribunal cases covered, the first looking at the less than straightforward question of what should be deducted from earnings prior to calculating the national minimum wage. The second case looks at whether employers need to consult with employees about appropriate sanctions in order for a subsequent misconduct dismissal to be fair.

All our other regular features are here too, including links to our weekly podcasts. Scroll down to find out more.

Due to popular demand, we are running **Equality & Diversity training** again in January 2022. If you don't provide training on equality & diversity or you haven't provided refresher training over the past year then your organisation may be exposed to financial and reputational risk. Click on the link for [full details and cost of attendance](#).

Finally, as we head towards the holiday season we would like to take this opportunity to send out our thanks and best wishes for 2022 to all of our subscribers.

INNES CLARK

Head of Employment Team



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Employment Law Review of the Year 2021



As coronavirus dominates the news for a second year, we look at what happened in employment law in 2021.

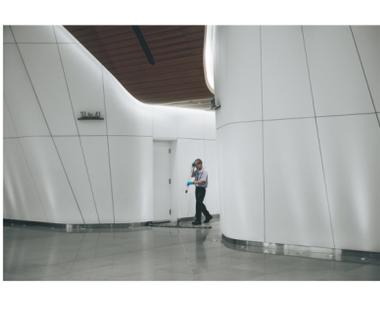
[READ OUR REVIEW](#) →

2022 Essential Employment Law webinars



Register below for our upcoming free essential employment law webinars. Our webinars last for approximately 50 minutes and are free to attend. Click on the links below for further details.

- [Employment law - what to expect in 2022 - 13 January 2022](#)
- [2022: The year of holidays - holiday masterclass - 10 February 2022](#)
- [Long covid & menopause - emerging disabilities - 24 March 2022](#)



INSIGHT

Calculating NMW - as easy as 1,2,3?

A recent EAT judgment finds that even costs incurred by employee choice need to be deducted when calculating National Minimum Wage.

[READ MORE](#) →

GUIDANCE

New ACAS guidance on "fire and re-hire" practice

Guidance confirms it should only be used as a last resort.

[READ MORE](#) →



Our weekly employment law podcasts

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

[Christmas Parties](#) - Employment lawyer, Fiona Meek and personal injury expert Derek Couper discuss Christmas events with David Hossack including "after party". Christmas events and in what circumstances employers might still be liable for the actions of employees. They also consider what impact Covid may have on the planning of Christmas events.

[14 year old employee discriminated against on the grounds of age](#) - David Hossack and Caroline Maher discuss an interesting case where a schoolgirl successfully argued she had been discriminated against on the grounds of her age.

[Can supporting a particular football club amount to a philosophical belief?](#) - Following recent media reports that an individual is seeking to argue that his support of Rangers Football Club amounts to a philosophical belief for the purposes of the Equality Act 2010, David Hossack and Elise Turner discuss the relevant legal tests and whether being a supporter of a football club is likely to be protected.

[Employer liability in whistleblowing claims](#) - can a line be drawn between an employer's decision to dismiss and the actions of a manager?

For links to more of our podcasts see:-

[Podcasts | Morton Fraser Lawyers \(morton-fraser.com\)](#)



EMPLOYMENT TRIBUNAL

Must employers consult with disciplined employees about appropriate sanction?

And will a failure to do so render a dismissal unfair?

[READ MORE](#) →

Employment Law Guide and Employment Timeline

To see our Brief Guide to Employment Law in Scotland, England and Wales, click below.

For details of upcoming changes in employment law, see our Updated Employment Law Reform Timeline.

[CLICK FOR GUIDE OR TIMELINE](#) →



Employment Law Covid-19 round up

Our monthly round up of the COVID-19 employment law related news that you may have missed.

[READ THE ROUND UP](#) →



What else is happening in employment law?

We look at what else is happening in employment law away from the pandemic.

[READ OUR SUMMARY](#) →



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
[Lindsey Cartwright](#) on 0141 274 1141
[David Hossack](#) on 0131 247 1024
[David Walker](#) on 0141 274 1146

Edinburgh
0131 516 9217

Glasgow
0141 530 3675

info@morton-fraser.com

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