EMPLOYMENT AND IMMIGRATION HORIZON SCANNER

November 2024

ADDLESHAW GODDARD

FUTURE KEY LEGISLATION DEVELOPMENTS

NO.	ACT OR STATUTORY INSTRUMENT	SUMMARY AND IMPACTS	IMPACT DATE
1.	Employment Rights Bill tba	**Employment Rights Bill** In its election manifesto, the government set out its plan for employment law reforms and to introduce legislation within its first 100 days in office, but to consult fully on how to put its plans into action before legislation is passed. The Employment Rights Bill was published on 10 October 2024 and contains the following proposals: • Banning exploitative zero-hour contracts and ensuring workers have a right to a guaranteed hours contract that reflects the number of hours they regularly work (over a 12-week reference period) and that all workers get reasonable notice of any changes in shift with proportionate compensation for any shifts cancelled or curtailed. Those who wish remain on zero hours contracts will still be able to do so. • Ending 'Fire and Rehire' and 'Fire and Replace' save in very limited circumstances where an employer has no alternative to remain a viable business. • Making paternity leave and parental leave a day one right. • Establishing bereavement leave (going beyond the existing parental bereavement leave) as a day one right. It looks likely this will be unpaid leave, with eligibility for parental bereavement pay remaining only for parents whose child dies before the age of 18. • protection from unfair dismissal will become available from day one removing the current two year qualification period (with probationary periods to assess new hires). • Making Statutory Sick Pay a day one right by removing the current three-day waiting period and also removing lower earnings limit for to all workers. • Making flexible working the default from day-one for all employees, with refusal of requests only where it is reasonable on prescribed grounds. • Strengthening protections for new mothers by making it unlawful to dismiss a woman during pregnancy or who has had a baby for six months after her return to work, except in specific circumstances.	The Government has promised to consult fully on how to put its plans into action before legislation is passed, with the majority of reforms taking effect no earlier than 2026. Reforms of unfair dismissal will take effect no sooner that Autumn 2026.

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		• Establishing a new Single Enforcement Body, also known as a Fair Work Agency, to strengthen enforcement of workplace rights. • Updating trade union legislation, removing unnecessary restrictions on trade union activity, simplifying union recognition process, bringing new rights of access to the workplace, protecting against detriment for taking part in industrial action, removing the cap on number of weeks protected for when taking industrial action, providing access to facilities, bringing in new voting requirements for industrial action, updating blacklisting regulations and repealing the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023. • Reintroducing employer liability for third party harassment for all relevant protected characteristics. • Strengthening the requirement for employers to take ***all*** reasonable steps to prevent sexual harassment at work and protections for women reporting sexual harassment. • Requiring that collective redundancy consultation be determined by the number of people impacted across the business rather than in one workplace. • Mandating gender pay gap and menopause support action plans for large businesses. • Introducing a new requirement for consultation and review of written policy about allocating tips etc. • Amend the Procurement Act 2023 to protect transferring workers on outsourcing contracts and introduce a two-tier workforce code of practice for outsourced workers. • Measures will also be brought in to extend time limits for bringing an employment tribunal claim via amendment to the Bill. Other measures announced alongside the Employment Rights Bill include: • The launch of a Call for Evidence on tightening the ban on unpaid internships by the end of the year. • The launch of a working group looking allowing the use of modern and secure electronic balloting for union statutory ballots. • Taking forward the right to switch off through a statutory code of practice.	

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		• Supporting workers with a terminal illness through the Dying at Work Charter. • Modernising health and safety guidance. • Developing menopause guidance for employers and guidance on health and wellbeing. Longer-term reforms include: • Consulting on a simpler framework for single "worker" status that distinguishes between workers and the genuinely self-employed including how to strengthen protections for the self-employed e.g. written contract, extending H&S protections. • Reviewing unpaid carer's leave - and examining the benefits of introducing paid carer's leave. • Reviewing the parental leave system. • Consulting with trade union / elected staff representatives on introducing surveillance technologies. • A call for evidence on issues relating to TUPE. • Consulting with ACAS on allowing collective grievances. This will be the most significant change to employment law protections that we have seen for many years, affecting employers of all sizes. We can expect to see more tribunal claims, trade unions having greater involvement in industrial relations, recruitment and dismissals will be impacted and business reorganisations and outsourcing are likely to become more complex.	
2.	Consultations on the Employment Rights Bill	**Consultations on the Employment Rights Bill** Four consultations on the Employment Rights Bill have been published seeking views on: • Strengthening the remedies against abuse of the current rules on **collective redundancy consultation** by increasing the maximum protective award from 90 to 180 days' pay or removing the cap altogether and on introducing a right to apply for interim relief in a claim for unfair dismissal in a **fire and rehire** situation.	The Statutory Sick Pay consultation closes on 4 December 2024. The other consultations close on 2 December 2024.

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		• Extending the measures on **zero hours contracts** to agency workers and whether it should be the responsibility of the hirer or the employment agency. • What the percentage replacement rate should be for those earning below the current rate of **Statutory Sick Pay** when Statutory Sick Pay becomes a day one right. • The principles which should underpin a **modern industrial relations framework**. The Statutory Sick Pay consultation closes on 4 December 2024. The other consultations close on 2 December 2024.	
3.	Draft Equality (Race and Disability) Bill	**Draft Equality (Race and Disability) Bill** Bringing forward the draft Equality (Race and Disability) Bill is one of the measures expected in "Autumn 2024 onwards". Reforms to be included are: • Enshrine in law the full right to equal pay for ethnic minorities and disabled people, making it much easier for them to bring unequal pay claims. • Introduce mandatory ethnicity and disability pay reporting for larger employers (those with 250+ employees) to help close the ethnicity and disability pay gaps. • Ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay.	The Government will begin consulting on the Equality (Race and Disability) Bill in due course, with a draft bill to be published during this parliamentary session for pre-legislative scrutiny.
4.	Statutory Code of Practice on Dismissal and Re-engagement	**Statutory Code of Practice on Dismissal and Re-engagement** The statutory Code of Practice on Dismissal and Re-engagement came into force on 18 July 2024. The Code is intended as a practical guidance for employers that clarifies the steps employers should take when seeking to change contractual terms and conditions of employment where there is a prospect of dismissal and re-engagement. The Code applies regardless of the number of employees affected and while it does not apply in a genuine redundancy situation, it clarifies that it does apply in situations where an employer envisages both redundancy	Already in force since 18 July 2024, but: • An order to extend power to adjust compensation to cover protective awards for failure to inform and consult on larger scale dismissals; is expected to come into force on 20 January 2025.

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		and dismissal and re-engagement in respect of the same employees and will continue to apply for as long as dismissal and re-engagement is an option. The purpose of the Code is to ensure that an employer takes all reasonable steps to explore alternatives to dismissal and engages in meaningful consultation with trade unions, other employee representatives or individual employees in good faith, with an open mind, and does not use threats of dismissal to put undue pressure on employees to accept new terms, instead of seeking to find an agreed solution. The Code sets out the process an employer should follow including: • Communicating the wish to change terms and conditions. • Sharing information on the proposals as early as possible. • Engaging in meaningful consultation conducted in good faith with the intention of seeking an agreed resolution. The timing of the consultation process will depend on the circumstances. • The updated Code has also taken account of responses to the consultation and removed the requirement for an employer to re-examine the business strategy if the employees show they are unwilling to accept the contractual changes. Instead, the employer will be required to re-examine its plans after sharing the information sharing and consultation stages. • Putting agreed changes in writing. • Where it has not been possible to reach agreement, following the guidance set out in the Code for the unilateral imposition of new terms where, as a last resort, an employer decides to dismiss and re-engage on new terms. There is no direct claim for breach of the Code, but tribunals must take it into account where relevant and may adjust the compensation for certain tribunal claims by up to 25%, including unfair dismissal awards. A draft Order extending this power to adjust compensation to cover protective awards for failure to inform and consult on larger scale dismissals (under the *Trade Union and Labour Relations (Consolidation) Act 1992*) is expected to come into force on 20 January 2025.	• Awaiting details of measures to replace the Code in the Employment Rights Bill (see above).

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		Under the Employment Rights Bill (see above) the Government proposes to end 'Fire and Rehire' and 'Fire and Replace' save in very limited circumstances where an employer has no alternative to remain a viable business, but for the time being the statutory Code of Practice on Dismissal and Re-engagement remains in force.	
5.	Employment (Allocation of Tips) Act 2023	**The Employment (Allocation of Tips) Act 2023** The Employment (Allocation of Tips) Act 2023 was fully brought into force on 1 October 2024. It provides a requirement that employers pass all tips to staff in full without deductions, save for those required by tax law. Employers are required to have a written policy on tips and to distribute them in a fair, transparent and consistent way and to keep records of how tips have been dealt with for three years from the date received. A statutory Code of Practice which promotes fairness and transparency in distribution of qualifying tips, gratuities and service charges, setting out key principles of fairness and suggesting how employers can apply them to different aspects of developing and implementing a policy on the treatment of tips came into force on 1 October 2024 alongside other provisions of the Employment (Allocation of Tips) Act 2023. The Employment Rights Bill proposes to introduce a new requirement for consultation and review of written policy about allocating tips etc. We await further details.	1 October 2024.
6.	The Worker Protection (Amendment of Equality Act 2010) Act 2023	**Harassment: A new mandatory duty to prevent harassment in the workplace** **The Worker Protection (Amendment of Equality Act 2010) Act 2023** came into force on 26 October 2024. Under the Act, employers are under a new duty to take reasonable steps to prevent sexual harassment of their employees in the course of their employment. Breach of this duty may be enforced by the Equality and Human Rights Commission (EHRC) under its existing enforcement powers and, where a claim for sexual harassment has been upheld by an employment tribunal, the tribunal may order an uplift of up to 25% of any compensation awarded for sexual harassment if the tribunal considers that the duty to take reasonable steps to prevent sexual harassment has been breached. On 26 September 2024, the EHRC published its updated EHRC Technical Guidance on sexual harassment and harassment in the workplace along with a new eight-step guide for employers on preventing sexual harassment in the workplace. The eight-step employer guide sets out steps to take which include:	The Worker Protection (Amendment of Equality Act 2010) Act 2023 came into force on 26 October 2024.

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		1. **Develop an effective anti-harassment policy:** Either a standalone policy or a single policy which clearly distinguishes between the different forms of harassment. The policy should address **third-party harassment** (e.g. explaining the legal position and that it will not be tolerated, workers are encouraged to report it, steps that will be taken to prevent it and to remedy a complaint / prevent it from happening again, e.g. warning a customer about their behaviour, banning a customer, reporting any criminal acts to the police or sharing information with other branches of the business). 2. **Engage staff**: Conduct regular 1-2-1s, staff surveys, exit interviews, open door policies. Convey how to report sexual harassment, where to find the policy and the consequences of breaching the policy. 3. **Risk Assessment**: Undertake a risk assessment to help comply with the preventative duty and consider factors which might increase the likelihood of sexual harassment and the steps that can be taken to minimise them, such as a power imbalance, staff working alone, customer facing duties. 4. **Reporting**: Have a reporting system which allows staff to raise issues anonymously or in their name. 5. **Training**: Train managers/senior staff as well as workers. In workplaces where third-party harassment from customers is more likely, train workers on how to address issues. 6. **Complaints procedure**: Act immediately to resolve complaints, taking account of how a worker wants it to be resolved, protect workers from ongoing harassment, discuss police reporting if the complaint may be a criminal offence and only use confidentiality agreements where lawful, necessary and appropriate to do so. 7. **Dealing with harassment by third parties**: For example, from customers, clients, supplier, members of the public. These complaints should be treated as seriously as harassment by a colleague and employers should take steps to prevent it. 8. **Monitor and evaluate actions**: Regularly evaluate the effectiveness of steps put in place to prevent sexual harassment in the workplace and implement any changes arising from it e.g. anonymous staff surveys of sexual harassment experiences, compare reported complaints against	

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		survey feedback, review complaints data to see if there are trends or particular issues. Review and update policies, procedures and training regularly. The EHRC is also expected to update its statutory Employment: Code of Practice to reflect the new duty on employers from October 2024 but nothing has been published yet. Under the Employment Rights Bill (see above), the Government proposes to reintroduce employer liability for third party harassment for all relevant protected characteristics and to strengthen the requirement for employers to take ***all*** reasonable steps to prevent sexual harassment at work. We await further details on these proposals but in the meantime, the new duty applies and came into force on 26 October 2024.	
7.	Neonatal Care (Leave and Pay) Act 2023	**Neonatal Care (Leave and Pay) Act 2023** The Neonatal Care (Leave and Pay) Act 2023, one of the Private Members' Bills which had Government backing, received Royal Assent on 24 May 2023. The Act requires regulations to be made to give parents the right to take neonatal care leave and receive neonatal care pay entitlement. Regulations are expected to give parents up to 12 weeks of paid leave, in addition to other leave entitlements such as maternity and paternity leave, so that they can spend more time with their baby who is receiving neonatal care (having been born prematurely or sick) in a hospital or other agreed care setting. It will be a day one right for employees and will apply to parents of babies admitted to hospital up to the age of 28 days and who have a continuous stay in hospital of seven full days or more. Before the election, the new entitlements were expected to be delivered in April 2025, with approximately seven statutory instruments to be laid "in due course". The new government has not yet indicated whether it will proceed with this legislation, but it has said that it will conduct a review of the parental leave system. We await further details.	Entitlements were expected to be delivered in April 2025. The new government has indicated it will conduct a review of parental leave as part of its longer-term delivery of reforms.
8.	Paternity Leave (Bereavement) Act 2024	**Paternity Leave (Bereavement) Act 2024** The Paternity Leave (Bereavement) Bill, a private member's bill sponsored by Labour and with cross-party support, was passed to become the Paternity Leave (Bereavement) Act 2024.	The Act's new paternity leave rights will only become effective after further regulations are made, which, in practice, means that the Act will need to be implemented by the new government.

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		The Act removes the usual 26-week minimum service requirement for paternity leave in this situation, making it a 'day one' right. Measures include ensuring leave entitlement if both mother and child die, allowing paternity leave even if shared parental leave was taken and introducing the possibility of KIT days during leave. The Act's new paternity leave rights will only become effective after further regulations are made, which, in practice, means that the Act will now need to be implemented by the new government. There have also been hints about extending paternity leave to 52 weeks, but this would need to happen through additional regulations, so is something to be addressed by the new government. The Conservative government had indicated that it would aim to bring the reforms into force in April 2025 and Labour had said that it would also pass the necessary regulations. The Act only provides access to leave, rather than pay. It's not clear if rights to pay will also be extended, so this may also be addressed by the new government. The Government has said that it will conduct a review of the parental leave system, but we await further details.	
9.	Victim and Prisoners Act 2024 – Confidentiality Clauses and NDAs	**Confidentiality clauses and non-disclosure agreements** The Victim and Prisoners Act 2024 received Royal Assent on 24 May 2024. Section 17 of the Act clarifies that confidentiality clauses and NDAs cannot be legally enforced if they prevent victims from reporting crime and will ensure information related to criminal conduct can be discussed with the following groups without fear of legal action: • Police or other bodies which investigate or prosecute crime. • Qualified lawyers and any individual entitled to practise a regulated profession for the purpose of obtaining professional support from that service in relation to the relevant conduct. • An individual who provides a service to support victims, for the purpose of obtaining support from that service in relation to the relevant conduct. • A regulator of a regulated profession for the purpose of co-operating with the regulator in relation to relevant conduct. • Someone authorised to receive information on behalf of any of the above for the purposes mentioned above. • A child, parent or partner of the person making the disclosure, for the purposes of obtaining support in relation to the relevant conduct.	Regulations required for a date when section 17 will come into force.

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		Section 17 of the Act will come into force on a day to be appointed in regulations made by the Secretary of State. Those regulations have not yet been made. The Act also provides that regulations can be made which amend the disclosures permitted by section 17 or extend its application to a provision which purports to impose an obligation or liability in connection with a permitted disclosure. We will have to wait to see what happens next, either a date when section 17 will come into force or whether the new government will bring in new regulations to amend the provisions.	
10.	Workers (Predictable Terms and Conditions) Act 2023	**Workers (Predictable Terms and Conditions) Act 2023** The Government has confirmed that the Workers (Predictable Terms and Conditions) Act 2023 to give workers and agency workers the right to request a predictable work pattern expected in September 2024 will not now be brought into force.	No longer coming into force. For information only
11.	Strikes (Minimum Service Levels) Act 2023	**Strikes (Minimum Service Levels) Act 2023: to provide minimum service levels for key sectors** The Government has confirmed that the new Strikes (Minimum Service Levels) Act 2023 enabling minimum service levels to be implemented through regulations in six key sectors of health, education, fire and rescue and transport services as well as border security and decommissioning nuclear installations and management of radioactive waste and spent fuel will be repealed via the Employment Rights Bill. In the meantime, a **policy paper** published on 6 August 2024 emphasises that it is the Government's policy that employers will be encouraged to avoid imposing minimum service levels on their workforce and seek alternative mechanisms for dispute resolution, including voluntary agreements and engaging in negotiation and discussion with trade unions, until the Act is repealed.	To be repealed via the Employment Rights Bill.
12.	TUPE	**Consultation on TUPE reforms** On 16 May 2024, the Conservative government announced it was consulting on TUPE reforms following on from its 2023 consultation on reforms to retained EU employment law. Proposals were: • **Proposal 1: Reaffirming that only employees are protected by TUPE** – This follows on from Dewhurst v (1) Revisecatch Ltd (t/a Ecourier) and (2) City Sprint (UK) Ltd which concluded that TUPE applies to limb (b) workers as well as employees. Although it was an ET case and not binding, it	The consultation closed on 11 July 2024. It is not yet known if the new government will continue with these proposals. The Government will

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		created uncertainty for businesses on whether TUPE applies to limb (b) workers. The Government is proposing to amend the definition of "employee" in TUPE to clarify that limb (b) workers are not protected by the TUPE. • **Proposal 2: Removing the obligation to split employees' contracts between multiple employers where a business is transferred to more than one new business –** This follows the case of *ISS Facility Services NV v Govaerts and Atalian NV* where the CJEU ruled that a full-time employment contract can be split between multiple employers when a TUPE transfer involves multiple "transferees". This was the cleaning contract which was divided between two different companies and the CJEU ruled that the split should be in proportion to the tasks performed for each company. The Government is proposing to amend TUPE to clarify that an employment contract should only transfer to one employer and not split between multiple employers. Instead, the employers taking over the business or service would be required to agree who should be responsible for each employee's contract. • **Proposal 3: Abolishing the legal framework for European Works Councils (EWCs)** – Following Brexit, the UK legislated to prevent the establishment of new EWCs in the UK. The regulatory framework was maintained to allow existing EWCs to continue to operate, to give certainty to businesses. The Government now proposes to repeal the legal framework for EWCs in the UK which will include a repeal of the current requirement to maintain existing EWCs. The consultation closed on 11 July 2024. However, it is unclear whether the new government want to proceed with these proposals. The Government plans to launch a call for evidence to examine a wide variety of issues relating to the TUPE regulations and process. We await further details.	launch a call for evidence on issues relating to TUPE.

FUTURE KEY CASES

NO	CASE	SUMMARY AND IMPACTS	CURRENT STATUS
1.	Tyne and Wear Passenger Transport Executive t/a Nexus v National Union of Rail, Maritime and Transport Workers and another	**Trade Unions: Equitable remedy of rectification** The Court of Appeal held that the equitable remedy of rectification is not available to an employer for a legally unenforceable collective agreement. As the legal consequences of the relevant collective agreement were embodied in the individual employment contracts that incorporated it, the employers should have sought to rectify the employment contracts and brought the claim against the employees concerned not the trade unions, who were the wrong defendants. An appeal was heard in the Supreme Court on 14 May 2024, awaiting judgment.	An appeal was heard in the Supreme Court on 14 May 2024. Awaiting judgment.
2.	Higgs v Farmor's School	**Religion/Belief discrimination: proportionality assessment** The EAT has upheld an appeal finding that the tribunal failed to engage with the "reason why" question to determine whether the school's treatment of a teaching assistant who posted on Facebook using inflammatory language which could have led readers to believe that she held homophobic and transphobic beliefs and who was dismissed for gross misconduct. In determining whether the school's treatment was because of, or related to, the manifestation of her beliefs or because she had manifested her beliefs in a justifiably objectionable way, the tribunal needed to carry out a proportionality assessment and be satisfied that the measures adopted by the employer were prescribed by law and recognised the essential nature of the employee's rights to freedom of belief and freedom of expression. The case was remitted to an employment tribunal for re-hearing on the issue. Application for permission to appeal lodged with the Court of Appeal on 10 July 2023. An appeal was heard by the Court of Appeal on 2 October 2024. Awaiting judgment.	An appeal is due to be heard by the Court of Appeal was heard on 2 October 2024. Awaiting judgment.
3.	Moustache v Chelsea and Westminster NHS Foundation Trust	**Tribunal Practice and Procedure: Failure to clarify claims** The EAT has held that a tribunal should have clarified the claims brought by a litigant in person at the outset of a full merits hearing and a failure to do so was an error of law. Although a list of issues had been prepared by the respondent and purportedly agreed by the claimant, it did not include a claim for discriminatory dismissal due to mental ill health (s.15 EqA). As it was not recorded in the list of issues, the tribunal failed to adjudicate on this claim. The EAT held that the	Appeal to the Court of Appeal was heard on 7 October 2024. Judgment awaited.

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		claim form and witness statement contained sufficient information to alert the tribunal that the claimant, a litigant in person, was bringing a claim under s.15 about her dismissal. The unfair dismissal and discrimination claims were remitted to an employment tribunal. Permission to appeal to the Court of Appeal was granted on 17 January 2024 and appeal was heard on 7 October 2024. Awaiting judgment.	
4.	Sellers v British Council	**Unfair dismissal: Is the investigation sufficient?** An employment tribunal found that the dismissal was unfair where there was an inadequate investigation into an alleged sexual assault. The investigation flaws included a failure to identify the existence of contemporaneous documents, a failure to retrieve relevant documents and a failure to identify the relevant circumstances of the alleged assault among other flaws. Following a remedy hearing, the employer was ordered to re-engage the claimant. The remedies order has been appealed. After a preliminary hearing on 30 January 2024, the case is due to be heard by the EAT on 12 November 2024.	Preliminary hearing heard at the EAT on 30 January 2024. The case is due to be heard by the EAT on 12 November 2024.
5.	Ryanair DAC v Morais	**Trade Unions: are striking employees protected from detriment under TULRCA and the Blacklisting Regulations?** The EAT held that section 146 of TULRCA, which protects workers from detriment connected with trade union activities, confers protection on workers who take union industrial action, regardless of whether such action is protected industrial action. The EAT also held that striking workers are protected from detriment under the Employment Relations Act 1999 (Blacklists) Regulations 2010. In reaching its decision, the EAT built on and applied the reasoning in *Mercer v Alternative Futures Ltd* (see above) which is also subject to appeal. The case was stood out by the Court of Appeal on 11 April 2022 and was stayed until the Supreme Court has given a decision on the appeal sought in the case of *Mercer v Alternative Future Group Ltd.* The Supreme Court delivered its judgment in *Mercer* on 17 April 2024 making a declaration that s.146 of TULRCA is incompatible with Article 11 of the European Convention on Human Rights. The case is due to be heard by the Court of Appeal and is due to float on 10 or 11 December 2024.	Stood out by the Court of Appeal on 11 April 2022. Stayed until the Supreme Court has given a decision on the appeal sought in the case of *Mercer v Alternative Future Group Ltd.* The Supreme Court delivered its judgment in *Mercer* on 17 April 2024. The case is due to be heard by the Court of Appeal and is due to

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			float on 10 or 11 December 2024.
6.	Randall v Trent College Ltd and others	**Discrimination: Belief discrimination following controversial sermon** A Tribunal rejected a school chaplain's claim for religion or belief discrimination follow a sermon he delivered in the school chapel. In the sermon the chaplain said that pupils did not have to accept the ideas and ideologies of LGBT activists where they conflict with Christian values and they should make up their own minds. The Tribunal held that the school had been justified in objecting to the way the chaplain manifested his beliefs as it was contrary to his safeguarding duties and the school's statutory duties to the pupils. The chaplain appealed to the EAT. Preliminary hearing at the EAT held on 20 February 2024. The case is now stayed pending the outcome in *Higgs v Farmor's School*.	Preliminary hearing at the EAT held on 20 February 2024. The case is now stayed pending the outcome in *Higgs v Farmor's School* (due to be heard in October 2024)
7.	Miller v University of Bristol	**Discrimination: Protected philosophical belief** An employment tribunal held that an academic's anti-Zionist beliefs qualified as a protected philosophical belief under the Equality Act 2010 and that his summary dismissal was an act of direct discrimination and was unfair. An appeal was lodged on 18 March 2024, awaiting initial sift process.	An appeal was lodged on 18 March 2024, awaiting listing.
8.	Dobson v Cumbria Partnership NHS Foundation Trust	**Indirect Sex Discrimination: Flexible working** Having been remitted, the employment tribunal has upheld its original decision that the claimant had not been indirectly discriminated against or unfairly dismissed. Dismissal for refusing to work weekends was a proportionate means of achieving a legitimate aim of providing 24/7 care in the community, balancing workload among the team and reducing costs of using more senior nurses at the weekend. An employer's needs as a whole must sometimes prevail and the principle of allowing flexible working cannot be applied too strictly. Preliminary hearing heard by the EAT on 3 September 2024. Awaiting listing for full hearing.	Preliminary hearing heard on 3 September 2024. Awaiting listing for full hearing.

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9.	Bailey v (1) Stonewall Equality Ltd (2) Garden Court Service Company (3) representatives of Garden Court Chambers	**Religion and belief: did a barristers' chambers discriminate against a barrister due to her 'gender critical' philosophical beliefs and did the organisation Stonewall instruct, cause or induce that discrimination?** An employment tribunal held that Garden Court Chambers had discriminated against a barrister for holding 'gender critical' beliefs and for expressing misgivings about Stonewall's policy aims, but rejected the claimant's claim against Stonewall for instructing, causing or inducing that discrimination. The employment tribunal found that the communications from Stonewall relating to the claimant were just a protest and not sufficient to amount to an inducement, or attempted inducement, of any particular course of action by Garden Court. On appeal, the EAT concluded that the employment tribunal had not erred in rejecting Ms Bailey's claim against Stonewall. A £20,000 costs award was made against representatives of Garden Court Chambers for unreasonable conduct of their solicitor in preparing the trial bundle in the employment tribunal case. Application for permission to appeal to the Court of Appeal was lodged in September 2024. Awaiting judicial decision on the papers.	Permission to appeal to the Court of Appeal sought in September 2024. Awaiting decision on the papers.
10.	For Women Scotland Ltd v Scottish Ministers	**Equality Act 2010: Definition of "woman"** The Inner House of the Court of Session confirmed that the definition of "woman" in the Equality Act 2010 includes trans women with a gender recognition certificate. The appeal is due to be heard in the Supreme Court on 26 and 27 November 2024.	Case to be heard by the Supreme Court on 26 and 27 November 2024.
11.	Sullivan v Isle of Wight Council	**Whistleblowing: Can an external job applicant bring a whistleblowing claim?** The EAT has held that the Employment Rights Act 1996 should not be interpreted to allow an external job applicant to bring a whistleblowing claim. The case is due to be heard by the Court of Appeal and due to float on 18 or 19 February 2025.	The case is due to be heard by the Court of Appeal and due to float on 18 or 19 February 2025.
12.	(1) Ryanair DAC, (2) Storm Global/MCG Aviation v Lutz	**Employment status** The EAT has upheld the tribunal's decision that a pilot supplied to Ryanair by an aviation recruitment company on a five-year contract through a service company was an agency worker under the Agency Workers Regulations 2010 and not a self-employed contractor. Due to be heard by the Court of Appeal on 1 or 2 April 2025.	Due to be heard by the Court of Appeal on 1 or 2 April 2025.

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13.	SPI Spirits (UK) Ltd v Zabelin	**Compensation: agreed contractual compensation payment** The EAT held that an agreed contractual compensation clause purporting to limit financial liability of the employer on termination of employment cannot operate to cap compensation awarded by a tribunal in a whistleblowing claim. It held it would not be just and equitable to do so as the effect would be to exclude or limit the employee's statutory employment rights. The EAT also held that the disciplinary provisions of the ACAS Code on Disciplinary and Grievance Procedures can apply to a whistleblowing dismissal. The case is due to be heard by the Court of Appeal by 10 April 2025.	The case is due to be heard by the Court of Appeal by 10 April 2025.
14.	Jiwanji and others v East Coast Main Line Company Ltd and others	**Trade Unions: Inducements relating to collective bargaining** An employment tribunal ruled that a pay award put directly to rail workers did bypass collective bargaining and was an unlawful inducement under s145B TULRCA. It concluded that when the offer was made to staff there was no impasse in the negotiations and there was a realistic chance of the terms being agreed collectively. It held that the employer decided unilaterally to end collective bargaining because it no longer wished to participate in it. On the question of the employer's sole or main purpose for making the offer, it was held that the offer was not a result of a genuine belief on management's part that collective bargaining was already at an end and the employer's purpose was to achieve the result that the terms would not be collectively bargained. The EAT granted permission to appeal on 21 March 2024 and the case is due to be heard on 1 May 2025.	The EAT granted permission to appeal on 21 March 2024. Due to be heard on 1 May 2025.
15.	Melki v Bouygues E&S Contracting UK Ltd	**Tribunal Practice and Procedure** Judgment delivered by the EAT on 13 March 2024. The EAT held that the claimant's failure to attach grounds of resistance to his Notice of Appeal was more than a minor error under the Employment Appeal Tribunal Rules and the EAT could not extend time for the claimant to present his appeal. Due to be heard by the Court of Appeal by 25 June 2025.	Due to be heard by the Court of Appeal by 25 June 2025.

NO	CASE	SUMMARY AND IMPACTS	CURRENT STATUS
16.	Augustine v Data Cars Ltd	**Employment status** Although a part-time private hire driver was treated less favourably that a full-time comparator, it did not breach the Part-Time Workers (Less Favourable Treatment) Regulations 2000. The EAT felt bound to follow the ruling of the Court of Session (though not strictly bound by the Court's decisions) which applied a "sole reason" test. The EAT preferred a construction which considered the "effective and predominant cause" of the less favourable treatment. The case has been appealed to the Court of Appeal to be heard by 7 July 2025.	To be heard by the Court of Appeal by 7 July 2025.
17.	Corby v ACAS	**Belief discrimination: opposition to critical race theory** An employment tribunal held that a claimant's opposition to critical race theory (as opposed to his anti-racist beliefs based on the ideas of Martin Luther King Jr) is a protected belief under the Equality Act 2010. The claimant's beliefs passed all five stages of the *Grainger* test and were therefore capable of protection under the EqA. An appeal has been lodged and the case is due to be heard on 4 September 2025.	The case is due to be heard in the EAT on 4 September 2025.
18.	Rice v Wicked Vision Ltd	**Whistleblowing detriment** The EAT considered that in a whistleblowing claim it was only possible to bring a claim that dismissal amounted to a detriment under s47B ERA if it was not possible to bring a claim for dismissal for making a protected disclosure under s103A ERA. Due to be heard by the Court of Appeal on 14 or 15 October 2025.	Due to be heard by the Court of Appeal on 14 or 15 October 2025.
19.	Groom v Maritime & Coastguard Agency	**Employment Status** The EAT held that a volunteer was a worker when attending activities for which they were entitled to remuneration. Permission to appeal granted on 12 August 2024. The case is due to be heard by the Court of Appeal on 18 or 19 November 2025.	Due to be heard by the Court of Appeal on 18 or 19 November 2025.
20.	Thandi and others v Next Retail Ltd and another	**Equal Pay** An employment tribunal found that the retailer Next breached equal pay law by paying its warehouse staff more than its shop-floor sales staff, despite the jobs being of equal value.	Next has announced it is appealing the decision.

NO	CASE	SUMMARY AND IMPACTS	CURRENT STATUS
		The tribunal determined that the material factors relied on by Next to justify the pay disparity for basic pay, including market forces, indirectly discriminated against female employees, who predominantly worked in sales roles. Next's argument that the pay difference was motivated by cost-cutting measures was rejected, as cost-cutting alone was not a legitimate aim. For the time being, this is an employment tribunal decision, so it is not binding on future tribunals. If it is not overturned on appeal, it could have significant ramifications for employers who want to defend equal pay claims on the basis they are paying market rate for certain roles. Next has announced it is appealing the decision.	
21.	Hewston v Ofsted	**Unfair dismissal: Reason for dismissal** The EAT upheld an appeal of a school inspector who was unfairly dismissed following an investigation and disciplinary process looking into an inspection visit where some children came in soaking from the rain and the claimant brushed some water off a pupil touching the child's head and shoulder. The tribunal failed to consider properly the fact that the claimant had not been told, by a written policy, training or otherwise, that a single incident of physical contact could result in his dismissal. The tribunal had also not made it clear, in the claim of wrongful dismissal, that it had considered whether the claimant's conduct amounted to a repudiatory breach and/or why. The Court of Appeal has dismissed Ofsted's appeal and upheld the EAT's decision that Ofsted acted unfairly when it dismissed the school inspector. This was an extemporary judgment and we await the written reasons.	The Court of Appeal delivered an extemporary decision at the hearing on 17 October 2024. We await the written reasons.

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