



— SOLICITORS —

BPE Solicitors & C2S

Round up in Employment law

— Heyma Holmes
Partner

Employment Team at BPE

- Tier 1 in Gloucestershire, Somerset and Wiltshire in Legal 500; Band 4 in South West in Chambers and Partners
- Heyma Holmes named as a Leading Individual and Chris Aldridge named as a Rising Star by Legal 500; Nick Rowe named as Notable Practitioner by Chambers and Partners
- Team of 10 people with over 67 years' worth of combined experience dealing with contentious and non-contentious employment law
- Expertise on whole spectrum of legal and HR issues, ranging from the beginning of the employment lifecycle through to employment tribunals, trade unions and restructuring / redundancy.



Protection from Detriment in Health and Safety Cases

- s. 44 and 100 ERA 1996 protect e/ees against detriment
 - ‘reasonably believed to be serious and imminent and which they could not reasonably be expected to avert, he left or ... (while the danger persisted) refused to return to his place of work’
- IWGB v Secretary of State for Work and Pensions HC held Gvt failed to implement Health and Safety Framework Directive
- E/ers need to ensure reasonable steps taken to protect e/ess and workers from H&S issues
- ACAS guidance has been updated

Ethnicity pay gap reporting

- Calls to make ethnicity pay gap reporting mandatory
- Official consultation ended January 2019
- 13 of FTSE 100 currently publish
- CIPD called for implementation by 2023
- Problem areas?
 - Wide range in ethnic groups – white/BAME, or all 18 ethnic classifications?
 - Habit of overcomplicating? Something better than nothing?
 - Context – geography data highly relevant



The Health and Social Care Levy Bill 2021-2022

- April 2022
- National Insurance contributions (NIC) will be increased by 1.25%
- Increase will apply to classes 1 (employee and employer) and 4 (self-employed)
- Wage bill will increase
- Factor for the rise in expenditure in 2022 budget
- Includes bonuses
- Rise in employee share plans and/or salary sacrifice arrangements



Flexible Working Consultation

- Consultation open until December 2021
- Currently 26 week right
- Day 1 right?
- Curtail permissible reasons for employers to turn down a request?
- Reduce 3 month deadline to respond?
- More than 1 request per year?



Carers Leave Consultation

- Day one right to statutory carer's leave
- Leave is unpaid
- spouse, partner, civil partner, child, parent, a person who lives in the same household or a person who reasonably relies on them for care.
- Individual must have a long-term care need (mental or physical) or old age
- Employees can self certify
- leave may be taken flexibly, in either individual days or half days, and up to a block of one week
- notice which is twice the length of the leave being requested, plus one day
- A leave request may not be denied, but may be postponed by an employer



Employment Tribunals / ACAS

- Huge delays in both Employment Tribunals and ACAS
- Clients reporting no contact from ACAS before EC expires
- Tribunal cases being listed for 2023
- Average 42 weeks to hearing
- 45,000 individual cases
- 6,300 multiple cases involving 500,000 individuals

Employment tribunals at ‘breaking point’ with six-month delays

A long wait and backlogs in the system can lead to unfair settlements for employees

No Jab, No Job!

- CIPD, the Equality and Human Rights Commission and ACAS all advising against such a policy
- EHRC warned that blanket mandatory vaccination policies applied inflexibly, are "likely to be unlawful" due to vaccination not being suitable for everyone as well as the discrimination risks
- Legal requirement for certain industries
- a survey by HRLocker in January 2021 revealed that 23% of employers planned to make vaccination mandatory, and 49% of recruiters admitted they would prioritise vaccinated applicants during recruitment
- If implementing, ensure that any mandatory vaccination requirement is justifiable as a proportionate means of achieving a legitimate aim.



Care home vaccinations

- Health and Social Care Act - care home workers other visiting professionals fully vaccinated against covid, unless exempt by 11 November 2021
- 88% of NHS double jabbed
- DHSC launched consultation on mandatory vaccinations for all frontline healthcare staff (ends 22 October 2021)
 - Ministers: 7% of CQC-registered care home staff (40,000) will refuse vaccine
 - Care England: policy would deepen sector's staffing crisis could force some homes to close



Employment Bill

- Currently going through House of Commons
- First employment bill since Brexit
- Extend maternity protection for 6 months after maternity ends
- Tips to go to workers in full
- Workers rights including definition of a worker
- More predictable contract for zero hours workers after 26 weeks
- Single labour market enforcement body for individuals
- Employee representatives on company boards



Thank you

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