

## EMPLOYMENT LAW: WHAT'S ON THE HORIZON? (1 OCTOBER 2017 ONWARDS)

### FUTURE KEY LEGISLATIVE DEVELOPMENTS

NO.	ACT OR STATUTORY INSTRUMENT	SUMMARY AND IMPACTS	IMPACT DATE
1.	<p>(i) The Trade Union Ballots and Elections (Independent Scrutineer Qualifications) Amendment Order 2017 SI 2017/877</p> <p>(ii) The Recognition and Derecognition Ballots (Qualified Persons) (Amendment) Order 2017 SI 2017 878</p>	<p><b>Trade unions: (i) independent scrutineers of ballots and elections; and (ii) qualified persons for recognition and derecognition ballots</b></p> <p>These reforms:</p> <ul style="list-style-type: none"> <li>Amend the list of bodies that are qualified to supervise certain ballots and elections under trade union law.</li> <li>Amend the list of bodies that are qualified to conduct a ballot on the recognition or derecognition of a trade union for collective bargaining</li> </ul>	<b>1 October 2017</b>
2.	The Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2017 SI 2017/880	<p><b>Whistleblowing: qualified persons for disclosures</b></p> <p>The list of persons a disclosure can be made to by a potential whistleblower will be updated to omit some persons, include another not previously included and to amend the matters for which others are prescribed.</p>	<b>1 October 2017</b>

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3.	<p><b>Cap:</b></p> <p>The Enterprise Act 2016 inserts new sections 153A-C into the Small Business, Enterprise and Employment Act 2015 (<b>SBEEA</b>) which will permit the introduction of new regulations</p> <p>Public Sector Exit Payments Regulations 2016 (draft)</p> <p><b>Repayment:</b></p> <p>The SBEEA (sections 154-157) permits the introduction of new regulations</p> <p>The Small Business, Enterprise and Employment Act 2015 (Commencement No 3) Regulations 2015</p> <p>The Repayment of Public Sector Exit Payments Regulations 2016 (draft)</p>	<p><b>Termination payments: restrictions on public sector exit payments</b></p> <p><b>Cap:</b></p> <p>The Enterprise Act 2016 will introduce a cap on the pre-tax value of public sector exit payments (including voluntary and compulsory redundancy and severance payments) of £95,000. This will apply broadly across the public sector as defined by the list of public sector bodies set down by the Office of National Statistics (although some bodies may be exempted).</p> <p><b>Repayment:</b></p> <p>New regulations will be introduced by way of the SBEEA to require the repayment of exit payments (e.g. redundancy payments) where a high earning public sector employee or office holder (defined as any individual earning above £100,000) is subsequently re-employed in the public sector within 12 months, on a pro rata basis. A consultation on this issue closed on 25 January 2016. Amongst other things, this consultation proposed reducing the minimum earnings threshold to £80,000. Draft regulations have been published but are not yet in force.</p>	<p><b>Date to be confirmed in 2017</b></p> <p><b>Cap:</b></p> <p>The power to make regulations under the Enterprise Act 2016 came into force on 1 February 2017.</p> <p>The Public Sector Exit Payments Regulations 2016 are intended to come into force on a date to be confirmed.</p> <p><b>Repayment:</b></p> <p>Sections 154-157 of the SBEEA were brought into force on 1 January 2016. This gives the Secretary of State the power to make the relevant regulations.</p> <p>It is not yet known when The Repayment of Public Sector Exit Payments Regulations 2016</p>

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			will come into force.
4.	Enterprise Act 2016 (section 33, schedule 5)	<p><b>Sunday trading: protection for shop workers</b></p> <p>There will be an extension of rights of shop workers in respect of Sunday working:</p> <ul style="list-style-type: none"> <li>• They will be given the right to opt out of working compulsory additional hours (in excess of normal working hours) on a Sunday.</li> <li>• The duties on employers to notify workers of their rights about Sunday working will be extended.</li> </ul>	<b>Date to be confirmed in 2017</b>
5.	Regulations will be required	<p><b>Caste discrimination: introduction of express statutory protection against caste discrimination</b></p> <p>An order will be introduced to provide for caste to be an aspect of race under the Equality Act 2010. This will provide express statutory protection against caste discrimination. A consultation and feasibility study on measuring caste discrimination was published on 28 March 2017. The consultation closed on 18 September 2017. At the time of writing the order has not yet been made.</p>	<b>Date to be confirmed in 2017</b>
6.	The Trade Union Act 2016 (section 19) will amend the Trade Union and Labour Relations (Consolidation) Act 1992 to allow regulations to be introduced	<p><b>Trade unions: financial penalties</b></p> <p>Regulations will be introduced which will empower the Certification Officer to impose financial penalties of up to £20,000 on trade unions if they fail to comply with certain statutory requirements.</p>	<b>Date to be confirmed in 2017</b>
7.	The SBEEA will amend the Companies Act 2006 (sections 87) and the Company Directors Disqualification Act 1986 (section 108)	<p><b>Company directors</b></p> <p>The following changes will be made:</p> <ul style="list-style-type: none"> <li>• All company directors must be natural persons and not corporate entities (s.87 SBEEA).</li> <li>• The period of time for applying to court for disqualification of an unfit director of an insolvent company will be increased from 2 to 3 years (s.108 SBEEA).</li> </ul>	<p><b>Date to be confirmed in 2017</b></p> <p>Section 87 was due to come into force in October 2016 but was delayed and is now expected to</p>

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			<p>come into force during 2017.</p> <p>Section 108 in force on date to be confirmed in 2017</p>
8.	The Trade Union Act 2016	<p><b>Trade unions: independent review into the use of e-balloting in industrial disputes</b></p> <p>The Trade Union Act 2016 received Royal Assent on 4 May 2016. Under the Act, the Secretary of State was required to commission an independent review on the delivery of secure methods of electronic balloting within six months of the Act being passed (i.e. by no later than 3 November 2016).</p> <p>An independent review on the delivery of secure methods of electronic balloting, chaired by Sir Ken Knight, must report to Parliament by no later than December 2017. The review will address the following issues:</p> <ul style="list-style-type: none"> <li>• The electronic and physical security of e-balloting methods, including risks of interception, impersonation, hacking, fraud or misleading or irregular practices.</li> <li>• If any system can safeguard against the risk of intimidation of union members and protect anonymity of ballot responses.</li> <li>• The security and resilience of existing practices of balloting union members.</li> <li>• The aims of the Trade Union Act 2016 to ensure strikes and related disruption to the public only happen as a result of a clear, positive decision by those entitled to vote.</li> </ul>	<b>Report to be laid before Parliament by December 2017</b>
9.	Regulations will be required.	<p><b>Trade unions: public authorities to be subject to check off restrictions</b></p> <p>Relevant public authorities will be the subject of restrictions on the circumstances in which deductions of union subscriptions from wages may be made.</p>	<b>10 March 2018</b>
10.	The Finance Bill 2017	<b>Taxation of salary sacrifice schemes</b>	<b>6 April 2018</b>

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		<p>From April 2017 most salary sacrifice schemes became subject to tax in the same way as cash income. However, some salary sacrifice arrangements are protected for a certain period:</p> <ul style="list-style-type: none"> <li>• All arrangements in place before 6 April 2017 are protected until <b>5 April 2018</b> (or before if the arrangement ends, changes, is modified or due for renewal at an earlier date).</li> <li>• Arrangements in place before 6 April 2017 for cars, accommodation and school fees are protected until <b>5 April 2021</b> (or before if the arrangement ends, changes, is modified or due for renewal at an earlier date).</li> </ul> <p>Therefore, any salary sacrifice arrangements put in place before 6 April 2017 that does not concern cars, accommodation or school fees will become subject to tax by 6 April 2017 at the latest.</p>	
11.	Amendments will be made to the Income Tax (Earnings and Pensions) Act 2003	<p><b>Termination payments: simplification of the tax and national insurance treatment of termination payments</b></p> <p>In July 2015 HM Revenue and Customs and HM Treasury launched a public consultation on the simplification of the tax and national insurance treatment of termination payments. On 10 August 2016, the Government published its response to the consultation, together with a second consultation on the amendments to the law which will be required to implement the planned changes on 6 April 2018.</p> <p>The changes include:</p> <ul style="list-style-type: none"> <li>• Clarifying the scope of the exemption for termination payments to prevent manipulation, by making the tax and National Insurance contributions (<b>NICs</b>) and consequences of all post-employment payments consistent. This will mean that all types of payments in lieu of notice will be taxable and subject to Class 1 NICs.</li> <li>• Aligning the rules for income tax and employer NICs so that employer NICs will be payable on payments above £30,000 (which are currently only subject to income tax). The first £30,000 of any termination payment will remain exempt from income tax and the entirety of the payment will remain exempt from employee NICs.</li> <li>• Removing foreign service relief.</li> <li>• Clarifying that the exemption for injury does not apply in cases of injured feelings.</li> </ul>	<p><b>6 April 2018</b></p> <p>The second consultation closed on 5 October 2016.</p> <p>The new rules are expected to come into force on 6 April 2018.</p>

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12.	Pensions auto-enrolment legislation	<p><b>Pensions: auto-enrolment</b></p> <p>From 6 April 2018 the minimum contribution rates for defined contribution schemes will increase to 2% for employers (previously 1%) and an overall total of 5% (previously 2%) of the jobholder's qualifying earnings.</p>	<b>6 April 2018</b>
13.	<p>General Data Protection Regulation EU 2016/679</p> <p>Data Protection Bill</p>	<p><b>Data protection: compliance with the General Data Protection Regulation (GDPR)</b></p> <p>The GDPR is a directly effective EU regulation which applies from 25 May 2018. It will introduce important changes to data privacy compliance. The Data Protection Bill was published in September 2017. It will implement the GDPR and replace the Data Protection Act 1998.</p> <p>For our guide on the impact of the GDPR on managing employee data, you can read our guide <a href="#">here</a>.</p>	<b>25 May 2018</b>
14.	<p>Trade Secrets Directive (EU) 2016/943</p> <p>If the UK is a member of the EU at the relevant time then domestic legislation will need to be introduced to comply with the Directive</p>	<p><b>Trade secrets</b></p> <p>A new European Directive introducing an EU-wide definition of "trade secret" and setting out rules on the unlawful acquisition, disclosure and use of trade secrets came into force in June 2016. The definition is potentially wider than what is regarded as a "trade secret" under English common law, but somewhat narrower than the types of "confidential information" that may qualify for protection in the domestic courts.</p> <p>The Directive prohibits the acquisition of a trade secret through unlawful access to materials or other conduct which is contrary to "honest commercial practices" (a term that is not defined in the Directive); the use or disclosure of a trade secret where this would breach any contractual or other duty, or where the trade secret was acquired unlawfully; and the exploitation of goods produced using the trade secret where the user (for example, a subsequent employer) knew or ought to have known that the trade secret was acquired unlawfully. The Directive also includes enforcement measures, procedures and civil remedies, including interim injunctions and precautionary seizure of infringing goods. The proposal also covers the preservation of confidentiality during the litigation process.</p>	<p><b>By June 2018</b></p> <p>The Trade Secrets Directive came into force in June 2016.</p> <p>Member States have 2 years from this date to implement the Directive into national legislation, meaning the UK must comply by June 2018.</p>
15.	Various shared parental leave and pay regulations	<p><b>Shared parental leave: extension of leave and pay to working grandparents</b></p> <p>In 2015 the Government announced plans to extend shared parental leave and pay to working grandparents by 2018. A public consultation on this proposal was due to commence in May</p>	<b>During 2018</b>

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		2016, but was postponed until after the EU referendum. It is not yet clear when the consultation will commence.	
16.	<p>Draft Employment Rights Act 1996 (NHS Recruitment – Protected Disclosure) Regulations</p> <p>New regulations will be required to extend the protection to children's social care job applicants</p>	<p><b>Whistleblowing: protection for job applicants for NHS and children's social care positions</b></p> <p>Regulations will be introduced which prohibit relevant NHS and children's social care employers from discriminating against a job applicant because it is thought they have previously made a protected disclosure.</p>	During 2018
17.	Parental Bereavement (Leave and Pay) Bill 2017 - 19	<p><b>Private Members' Bill on statutory parental bereavement leave and pay</b></p> <p>This Private Members' Bill was introduced by Kevin Hollinrake MP and would entitle employed parents who have suffered a child bereavement to statutory leave and pay.</p>	<p>During 2018</p> <p>The second reading of the bill is expected to take place on 20 October 2017.</p>
18.	Unpaid Trial Work Periods (Prohibition) Bill 2017 – 19	<p><b>Private Members' Bill prohibiting unpaid internships</b></p> <p>This Private Members' Bill was introduced by Stewart Malcolm McDonald MP and will prohibit unpaid trial work periods in certain circumstances.</p>	<p>During 2018</p> <p>The second reading of the bill is expected to take place on 27 April 2018.</p>
19.	Employment and Workers' Rights Bill 2017 - 2019	<p><b>Private Members' Bill on Employment and Workers' Rights</b></p> <p>This Private Members' Bill was introduced by Stephanie Peacock MP and seeks to make provision about employment conditions and workers' rights.</p>	<p>During 2018</p> <p>The second reading of the bill is expected to take place on 27 April 2018.</p>

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20.	National Living Wage (Extension to Young People) Bill 2017 - 19	<p><b>Private Members' Bill extending the National Living Wage to young people</b></p> <p>This Private Members' Bill was introduced by Holly Lynch MP and seeks to extend the higher National Living Wage rate (currently £7.50 per hour) to those aged between 19 – 24.</p>	<p><b>During 2018</b></p> <p>The second reading of the bill is expected to take place on 19 July 2017.</p>
21.	Pensions auto-enrolment legislation	<p><b>Pensions: auto-enrolment</b></p> <p>From 6 April 2019 the minimum contribution rates for defined contribution schemes will increase to 3% for employers (previously 2% as of 6 April 2018) and an overall total of 8% (previously 5% as of 6 April 2018) of the jobholder's qualifying earnings.</p>	<p><b>6 April 2019</b></p>
22.	New legislation would be required	<p><b>Restrictive covenants</b></p> <p>On 25 May 2016 the Government published a Call for Evidence seeking views on how non-compete clauses are operating in practice. You can read our report on the Call for Evidence <a href="#">here</a>. The aim is to ensure that when such clauses are used they are: "justified, well-constructed, targeted and reasonable" and fairly balance employer and worker interests.</p> <p>Although the Call for Evidence referred to "non-compete clauses", its scope was not restricted to restrictions preventing workers from working for a competing business. Within the scope of the Call for Evidence are:</p> <ul style="list-style-type: none"> <li>• Restrictions which prevent an ex-worker from working for, or setting up, a competing business (including area-based restrictions).</li> <li>• Restrictions which prevent an ex-worker from dealing with the employer's customers.</li> <li>• Restrictions which prevent an ex-worker from employing employees of the employer.</li> </ul> <p>The Call for Evidence was silent on whether restrictions which prevent the ex-worker from soliciting clients or employees of the employer are covered, although it is likely that the intention is that they will be addressed as part of this review. Confidentiality clauses and intellectual property provisions were not within scope on the basis that these are considered "separate policy areas". If the evidence</p>	<p><b>Unknown</b></p> <p>The Call for Evidence closed on 19 July 2016. Further details are awaited from the Government.</p>



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		received suggests that such clauses are operating as a barrier to flexibility, the Government may introduce legislation designed to regulate the use of such restrictions.	

## FUTURE KEY CASES

NO	CASE	SUMMARY AND IMPACTS	DATE JUDGMENT HANDED DOWN / EXPECTED
1.	Pimlico Plumbers v Smith	<p><b>Employment status: were plumbers self-employed, workers or employees?</b></p> <p>This case concerns whether plumbers engaged by Pimlico Plumbers were employees, workers or neither. The Court of Appeal held that the claimant was a worker under the Employment Rights Act 1996 and an employee for the purposes of the Equality Act 2010 (which uses an extended definition of employment covering workers). You can read our detailed report on this decision <a href="#">here</a>.</p> <p>The employer has appealed to the Supreme Court.</p>	<p>The Court of Appeal judgment was handed on <b>10 February 2017</b>.</p> <p>Supreme Court hearing to be take place on 20 and <b>21 February 2018</b>.</p>
2.	The Sash Window Workshop Ltd v King	<p><b>Holiday entitlement: can a worker carry over paid annual leave where they have been deterred from taking it because it is unpaid?</b></p> <p>The Advocate General issued a non-binding opinion concerning the carry-over of paid annual leave. The opinion provides that where a worker is deterred from taking annual leave because it is unpaid they can say that they have been prevented from exercising their right to paid leave. In such circumstances, the right will accrue and carry forward, without limitation, until the worker is permitted to exercise the right. A limitation on carry over would only be lawful where the employer had permitted the worker to take paid annual leave. This opinion could mean that workers are entitled to payments in lieu of accrued annual leave for the entirety of their engagement. In this case, this could potentially span a period of 13 years. You can read our detailed report on this decision <a href="#">here</a>.</p> <p>The ECJ's judgment is awaited.</p>	<p>The ECJ hearing took place on <b>29 March 2017</b>.</p> <p>The Advocate General's Opinion was delivered on <b>8 June 2017</b>.</p> <p>The ECJ's judgment awaited.</p>
3.	Brierley v Asda Stores Limited	<p><b>Equal pay: large-scale claim against private sector employer</b></p>	<p>EAT judgment handed down on <b>31 August 2017</b>.</p>

NO	CASE	SUMMARY AND IMPACTS	DATE JUDGMENT HANDED DOWN / EXPECTED
		<p>This case concerns whether women working in Asda stores should be paid the same as men working in its distribution warehouses on the grounds that the roles are of equal value. The case is notable as it is the first large-scale equal pay claim brought against a private-sector employer.</p> <p>A Preliminary Hearing was held in June 2016, and judgment delivered in October 2016, where it was decided that the female retail workers were entitled to compare themselves to the male depot workers. You can read our briefing on the Tribunal's decision <a href="#">here</a>. The Tribunal's decision was subsequently upheld by the EAT who decided that the male depot workers were appropriate comparators for an equal value claim both under the Equality Act 2010 and under EU law.</p> <p>Asda has applied for permission to appeal to the Court of Appeal.</p>	<p>Awaiting decision on permission to appeal to the Court of Appeal</p>
4.	Independent Workers of Great Britain and Roofoods Ltd t/a Deliveroo	<p><b>Employment status: are Deliveroo riders workers?</b></p> <p>The Independent Workers of Great Britain trade union has applied for trade union recognition by Deliveroo. A preliminary issue to be decided is whether riders engaged by Deliveroo are workers or self-employed contractors.</p> <p>The CAC outcome is awaited.</p>	<p>The CAC hearing took place on <b>23 to 25 May and 26 June 2017</b>.</p> <p>CAC outcome awaited.</p>
5.	Royal Mail Group Ltd v Jhuti	<p><b>Whistleblowing: was dismissal automatically unfair?</b></p> <p>The EAT held that an employee was automatically unfairly dismissed for making protected disclosures despite the fact that the dismissing officer had no knowledge of the protected disclosures.</p> <p>The employer appealed to the Court of Appeal and judgment is awaited.</p>	<p>The Court of Appeal hearing took place on <b>28 and 29 June 2017</b>.</p> <p>Judgment awaited.</p>

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6.	Gallop v Newport City Council	<p><b>Disability discrimination:</b></p> <p>The EAT held that an employee's dismissal was not direct disability discrimination because the dismissing officer had no knowledge of the employee's disability. It was also found that the knowledge of the employer's occupational health advisor could not be imputed to the dismissing officer.</p> <p>The employee appealed to the Court of Appeal and judgment is awaited.</p>	<p>The Court of Appeal hearing took place on <b>6 July 2017</b>.</p> <p>Judgment awaited.</p>
7.	Donelien v Liberata UK Ltd	<p><b>Disability discrimination: constructive knowledge of disability</b></p> <p>The EAT held that an employer was not fixed with constructive knowledge of an employee's disability despite a failure to follow up on a weak occupational health report. Overall, the employer had taken reasonable steps to reach a decision on the employee's disability status. Whilst a different employer may have chosen to revisit the unanswered questions posed to the occupational health advisor, the failure to do so was not fatal. The test was one of reasonableness, not perfection.</p> <p>The claimant appealed to the Court of Appeal and judgment is awaited.</p>	<p>The Court of Appeal hearing took place on <b>6 July 2017</b>.</p> <p>Judgment awaited.</p>
8.	Aslam and others v Uber	<p><b>Employment status: are Uber taxi drivers workers?</b></p> <p>The Employment Tribunal decided that taxi drivers engaged by Uber were workers, rather than self-employed contractors. The consequence is that the drivers will be entitled to certain employment rights such as to be paid in accordance with the National Minimum / Living Wage and protections under the Working Time Regulations (e.g. rest breaks and paid holiday).</p> <p>The employer appealed to the EAT and judgment is awaited.</p>	<p>The EAT hearing took place on <b>27 and 28 September 2017</b>.</p> <p>Judgment awaited.</p>

NO	CASE	SUMMARY AND IMPACTS	DATE JUDGMENT HANDED DOWN / EXPECTED
9.	Morris-Garner v One Step (Support)	<p><b>Restrictive covenants: the scope of Wrotham Park damages</b></p> <p>The Court of Appeal upheld findings of breaches of non-compete and non-solicitation covenants connected to the sale of a business and made an award of damages on a "Wrotham Park" basis. The Court held that Wrotham Park damages are not restricted to exceptional cases and/or cases where there is no identifiable financial loss. Instead, the test is whether an award on such a basis would be a just response.</p> <p>An appeal of the decision will be heard by the Supreme Court in 2017.</p>	The Supreme Court hearing is due to take place on <b>11 October 2017</b> .
10.	Carreras v United First Partners Research	<p><b>Disability discrimination: whether expectation of working long hours amounts to a PCP?</b></p> <p>The Employment Tribunal decided that an informal expectation that an employee work long hours was capable of amounting to a PCP requiring adjustment for the purposes of a claim for failure to make reasonable adjustments. You can read our briefing on this decision <a href="#">here</a>.</p> <p>The employer has appealed to the Court of Appeal.</p>	The Court of Appeal hearing is due to take place on <b>1 and 2 November 2017</b> .
11.	Ali v Capita Customer Management	<p><b>Shared parental leave: is it directly discriminatory to pay enhanced maternity pay to women and statutory shared parental pay to men?</b></p> <p>An Employment Tribunal held that an employer directly discriminated against a male employee by paying enhanced pay to women on maternity leave and statutory pay only to men on shared parental leave. The Tribunal took the controversial step of allowing the claimant to compare himself to a woman on maternity leave, rather than confine him to a comparison with a woman on shared parental leave. They also held that after the compulsory two-week period, the purpose of maternity leave was detached from pregnancy and childbirth and so the special treatment derogation did not apply. You can read our detailed report on the decision <a href="#">here</a>.</p> <p>The employer has appealed to the EAT.</p>	The EAT hearing is due to take place on <b>20 and 21 December 2017</b> .

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12.	Hextall v Chief Constable of Leicestershire Police	<p><b>Shared parental leave: is it directly discriminatory to pay enhanced maternity pay to women and statutory shared parental pay to men?</b></p> <p>An Employment Tribunal held that a police force's policy of paying enhanced pay to women on maternity leave and statutory pay only to men on shared parental leave was discriminatory.</p> <p>The employer has appealed to the EAT.</p>	The EAT hearing is due to take place on <b>16 January 2018</b> .
13.	International Petroleum v Osipov	<p><b>Whistleblowing: are non-executive directors personally liable for detriment claims</b></p> <p>The EAT held that a fellow worker, including a non-executive director, could be liable for whistleblowing detriment where the detriment is a dismissal. This was the case where the non-executive directors were instrumental in the decision to dismiss the employee who had made the protected disclosure. You can read our detailed report on the decision <a href="#">here</a>.</p> <p>The employer has applied for permission to appeal to the Court of Appeal</p>	Awaiting decision on permission to appeal to the Court of Appeal
14.	Bellman v Northampton Recruitment Limited	<p><b>Vicarious liability: was employer liable for assault on employee at ad hoc drinks party following official Christmas party?</b></p> <p>The High Court held that an employer was not liable for an assault by an employee on a co-worker at a drinks party which took place directly after the official Christmas party at a separate location. Although many employees were present, attendance was voluntary and third parties were also present. You can read our detailed report on the decision <a href="#">here</a>.</p> <p>The employee has applied for permission to appeal to the Court of Appeal</p>	Awaiting decision on permission to appeal to the Court of Appeal
15.	Lock v British Gas Trading Limited	<p><b>Holiday pay: inclusion of commission in holiday</b></p> <p>The Court of Appeal ruled that the Working Time Regulations can be interpreted to provide that holiday pay must include relevant commission payments. The Court decided that when faced with</p>	Awaiting Employment Tribunal listing

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		<p>the question of whether a conforming interpretation can be adopted, the Courts should not confine themselves to the literal meaning of the legislation, but should consider whether such an interpretation is in line with the "grain" of the law. The Court decided that it could be presumed that the UK Government intended to fulfill entirely the obligations arising under the Working Time Directive, including those which were not apparent at the time the Directive was implemented such as the requirement for holiday pay to be "normal pay". You can read our briefing on the decision <a href="#">here</a>. British Gas was refused permission to appeal to the Supreme Court.</p> <p>The case will return to the Employment Tribunal to assess how Mr. Lock's holiday pay should have been calculated.</p>	
16.	Boxer v CitySprint	<p><b>Worker status and TUPE: was cycle courier a worker or self-employed and, if a worker, did he automatically transfer under TUPE?</b></p> <p>A claim has been lodged by a cycle courier seeking determination of whether he had worker status and, if so, whether he automatically transferred to the transferee under the TUPE regulations.</p>	Awaiting Employment Tribunal listing

If you would like more information on the above, please contact **Amanda Steadman**, Professional Support Lawyer at [amanda.steadman@addleshawgoddard.com](mailto:amanda.steadman@addleshawgoddard.com) or on 020 7160 3310 or **Helen Almond**, Professional Support Lawyer at [helen.almond@addleshawgoddard.com](mailto:helen.almond@addleshawgoddard.com) or on 0161 934 6243.

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