

Employment Law Timetable

January 2022

Legal Round up

It has been another eventful year and 2022 looks like it will also be a busy one on the employment law front. Whilst we hope that rather than further lockdowns and restrictions the forthcoming year brings us the progression of agile working and more equality and diversity in the workplace instead. The Employment Bill is definitely likely to see some progress this year and in April there will be more mandatory vaccination requirements in the workplace. We also expect to see the return to normal timescales and processes regarding gender pay gap reporting and right to work checks as well as the usual increases in Statutory payments.

Last year a number of proposals were outlined by the Government, including its plan to introduce a proactive duty on employers to prevent sexual harassment in the workplace and to introduce new protections against harassment by third parties. The Menopause (Support and Service) Bill also outlined the requirement of a UK wide cross-government strategy, covering issues concerning menopause. According to the latest research, Employment Tribunal claims referencing menopause have tripled in the last three years, so expect to see increased focus on this topic.

Key Dates

Mandatory vaccinations

1 April 2022 - The Government has confirmed that the same rules that currently apply to the care home sector will apply to all those working in providers of CQC-regulated activities in the health and social care sector, who have face to face contact with patients and service users such as receptionists, ward clerks, porters and cleaners. This will therefore apply not only to NHS bodies but also to private health and social care providers who are regulated. The same rules around exemption will apply and evidence of vaccination or exemption before the relevant person can deliver care/carry out any face-to-face duties will need to be shown to the relevant CQC-registered person.

However, watch this space as the outcome of a judicial review into the lawfulness of the mandatory vaccination rule for care home workers is currently pending.

Gender Pay Gap Reporting

30 March and 4 April 2022 - Something many employers should be aware of is the impending gender pay gap reporting deadline. Organisations with more than 250 or more employees are obliged to publish an annual report containing information on their gender pay gap. Whilst last year the deadline was extended, they are expected to revert to the normal timescales in 2022. Therefore, for public sector employers, the deadline is 30 March 2022 and for the private sector and voluntary organisations the deadline is 4 April.

Return to full right to work checks

5 April 2022 - The Home Office's adjusted right to work checks (brought in place throughout the pandemic) is expected to come to an end. After that date, employers must return to conduct full right-to-work checks, using original documentation.

What to watch out for in 2022

Employment Bill

Expected to progress in 2021, the Employment Bill failed to make it through Parliament as the Government focused on tackling the pandemic. Only time will tell if 2022 will bring the long-awaited Bill to the forefront however, the Government has confirmed the Bill is still very much on their agenda and during the past year has launched and/or responded to a number of consultations in relation to the Bill.

The Bill promises a number of reforms to the employment law regime, including:

- Making flexible working the default position;
- The establishment of a single labour market enforcement agency, responsible for enforcing basic rights for vulnerable workers;
- Requiring employers to pass on all tips and service charges to their workers;
- Extending redundancy protection (i.e the right to be offered suitable alternative employment) to pregnant employees and for six months after the return from maternity leave, as well as to those taking adoption leave or shared parental leave;
- A new right for carers to take one week of unpaid statutory leave each year;
- A new right for parents to take statutory leave of up to 12 weeks for neonatal care; and
- The right for all workers to request a more predictable and stable contract after 26 weeks' service.

Hybrid, home working or 'return to the office'

With a 'work from home if you can' request still in place many employers will be reviewing their stance on hybrid, homeworking or 'return to the office.' Whilst each organisation is different and your customer/client needs will differ, this is an opportunity to get the best of both worlds (and help attract, retain and engage employees in a tough market), but it is also a potential threat, not just in losing staff but also the litigation risks that can arise. This is also given the Government's own enthusiasm for extending flexible working rights of workers.

For most organisations, the introduction of hybrid working will provide other opportunities in terms of reducing estate and facilities costs, enabling employee wellbeing, and support inclusion and diversity however, will require a significant culture shift and establishing new ways of working and associated policies and practices. We can learn some lessons from working from home during pandemic such as there is no single way to implement hybrid working, and its exact form is likely to vary from organisation to organisation.

Any plan for a return needs to include communication and reassurance about Covid-19 safety measures and when developing policies and procedures organisations should consider the following:

- Setting out who (or which role types) is eligible for hybrid working.
- Explaining how to request hybrid working.
- Clarifying roles and responsibilities for hybrid workers and people managers.
- How hybrid working intersects with other forms of flexible working.
- Reviewing other related policies including, for example, expenses, IT usage, homeworking and data protection.

Ethnicity pay gap reporting

The response to the 2018 consultation on mandatory ethnicity pay gap reporting is still awaited. Further guidance is expected in the course of considerations and debates on the Employment Bill.

Sexual Harassment in the workplace

In July of last year, the government published its response to the consultation on workplace sexual harassment. The government has confirmed that they will introduce a duty on employers to prevent sexual harassment and new protections from third party harassers. This means that employers would be required

to take “all reasonable steps” to prevent sexual harassment from occurring and could also be held liable for harassment committed by visitors to the workplace, such as suppliers and customers. To support this, we’re expecting a new statutory Code of Practice and guidance for employers.

The government is also considering whether to extend the time limits for bringing discrimination claims from three months to six months.

Menopause at work

In July 2021, the House of Commons Women and Equalities Committee launched an inquiry into existing discrimination legislation and workplace practices around the menopause. The inquiry has examined the extent of discrimination faced by menopausal people in the workplace, and has investigated how Government policy and workplace practices can better support those experiencing menopause. With increased focus in this area more and more employers are seeking support with policies and training as part of supporting and retaining employees and mitigating risk.

Tribunals

It seems inevitable that more employment cases arising from situations that happen(ed) during the pandemic will continue to reach the Employment Tribunal in 2022. Keep an eye out on future editions of the Employment Law Timetable as we will update you on the important cases when they’re published.

Other Forthcoming Legal Updates

1 April 2022

The National Minimum wage (NMW), National Living Wage (NLW) and National Insurance Contributions (NICs)

From 1 April 2022, the NLW for workers aged 23 and over will rise from £8.91 to £9.50.

NMW rates will also rise as follows:

21-22 = £8.36 to £9.18 per hour

18-20 = £6.56 to £6.83 per hour

16-17 years old: £4.62 to £4.81 per hour

Apprentice rates = £4.30 to £4.81 per hour

3 April 2022

Proposed statutory rate increases

Increase to statutory maternity pay, paternity pay, adoption pay and shared parental pay increasing from £151.97 to £156.66 per week.

6 April 2022

Proposed SSP rate increase

Increase to statutory sick pay (SSP) rate increasing from £96.35 to £99.35.

NIC Increases

The government has announced that NICs will rise by 1.25% for most workers from 6 April 2022, in order to increase funding for the NHS, including the impact of the pandemic and the gap in social care costs.

The changes will affect employees and self-employed individuals earning over the primary threshold/lower profits limit, currently £9,568.

Note: The above guidance was correct at the time of writing this article on 12/01/22.

This information is for educational purposes only and does not constitute legal advice. If you have any questions regarding the content of this newsletter or would like more information to support your business with any of the changes, please get in touch.