

Employment Matters - January 2019

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A very happy new year to all our readers.

Just before Christmas we alerted you to a couple of employment law related developments including the Government's publication of "The Good Work Plan", which sets out how the Government will implement most of the recommendations of the Taylor Review of Modern Working Practices. [Please see our alert about this here.](#)

The Government have now also published regulations giving us more guidance on how the Good Work plan will be implemented - see below.

Just before Christmas the Court of Appeal dismissed Uber's appeal on worker status. [Our alert about this is here.](#)

The Government also announced just before Christmas that it will work with the Equality and Human Rights Commission to introduce a new Statutory Code of Practice on sexual harassment at work. More detail on this is covered in this alert.

We also cover a case about the difficult issue of dismissing employees for ill health when they are receiving long term disability benefits. We also look at two disability discrimination cases, both of which provide some good news for employers, and a case on litigation privilege.

New Work Plan: Government issues further guidance

The Government has laid the first statutory instruments in relation to its proposals under the Good Work Plan. Most of the changes do not come into force until April 2020. In the important area of aligning the legal framework for tax and employment status no timescale has been set

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National Minimum Wage: Consultation

The Government has launched a consultation on National Minimum Wage rules about salaried workers and the operation of salary sacrifice schemes. The consultation closes on 1 March 2019.

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Dismissal while on PHI benefit: Restriction on dismissing employee receiving long term disability benefits

The EAT has held that, given the drafting of a particular contract, a term should be implied to restrict the employer from dismissing an employee who was receiving long term disability benefits. This was the case despite the fact the contract contained an express right to terminate on notice.

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Disability Discrimination: What is "unfavourable" treatment?

The Supreme Court has agreed with the Court of Appeal that advantageous treatment because of a disability does not amount to unfavourable treatment.

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Disability Discrimination: Employee was dismissed for a tendency to steal, and could not claim disability discrimination

An employee was dismissed for a tendency to steal, which is excluded from being a "disability" under the legislation. He could not therefore claim disability discrimination.

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Privilege: Emails about commercial settlement of a dispute were not covered by litigation privilege

Emails between board members and board members and stakeholders were created for the dominant purpose of discussing a commercial settlement and were not protected from disclosure by litigation privilege.

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Workplace Sexual Harassment: Government to introduce statutory code of practice

The Government has published its response to the Women and Equalities Select Committee's report of July last year on sexual harassment at work. It is agreed that a new statutory Code of Practice which Tribunals should take into account should be introduced.

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