

Employment Matters February 2019

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January has seen several important developments in immigration, including the abolition of fees for applications for settlement status applications, the acceptance of online right to work checks, and the release of information about the proposed immigration system that would be used in the event of a no deal Brexit. Please see our article below for more details.

Another Brexit related issue of relevance to employers of professionally registered employees, is the question of whether, and how, professional registration would be recognised in the event of a no deal Brexit.

The Government has prepared draft Regulations to revoke the EU reciprocity/recognition Directives. These draft Regulations need to be approved by both Houses of Parliament before Exit Day: currently 29th March. In a no deal situation, and if these draft Regulations are not approved in time, EU professionals who are not UK qualified and have not applied for their qualifications to be recognised in the UK before 29th March, may not be able to practice in the UK after Exit Day, or there may be limitations on what kind of work they can do. Different restrictions would apply for different professions. We would hope that the Government will manage to have the draft Regulations approved before Exit Day, but if you are concerned about this please contact your usual DACBeachcroft partner.

This month, BEIS opened a consultation seeking views on proposals to extend the redundancy protection of new mothers from the date they tell their employer about their pregnancy to six months after they return from maternity leave. The Consultation closes on 5 April 2019, and the consultation document is [here](#).

In this month's alert, we look at three discrimination claims, including a landmark decision about changes made by the Government to firefighters' and judges' pension schemes, and an important case on the burden of proof. We also consider a whistleblowing claim where the EAT held that employees who make allegations of defamation are potentially protected as whistleblowers, as well as a case about the calculation of holiday pay.

Disability Discrimination: Employer's Knowledge of the disability

An employer had actual and constructive knowledge of an employee's disability months before an OH report stated that her symptoms had lasted for more than a year.

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Discrimination: Burden of Proof

Court of Appeal overturns EAT burden of proof decision.

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Whistleblowing: Is an employee complaint about defamation protected?

The EAT has held that a complaint about defamation is capable of being a qualifying disclosure, and the employee making the complaint might therefore be protected as a whistleblower.

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Discrimination: Judges' and firefighters' pension schemes

In a landmark case, the Court of Appeal has held that the Government has discriminated against firefighters and judges in its changes to their pension schemes.

[Read more](#)

Immigration: January Developments

Settled status fees abolished, right to work checks go digital, and planning for a 'no deal' Brexit.

[Read more](#)

Working Time: Calculation of Holiday Pay

The European Court of Justice considered whether a reduction of pay for statutory holiday to take into account periods on short time working breached the Working Time Directive. The Court's comments about overtime call into question whether non-contractual overtime should be included in calculating holiday pay for annual leave.

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