

Employment Matters - April 2019

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This month we have seen plenty of case law developments. In this newsletter we cover:

Suspension: The suspension of a teacher in anticipation of a misconduct investigation was not a breach of trust and confidence.

An employer had reasonable and proper cause to suspend a teacher: necessity is not the correct test.

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Suspension and Internal Process: Continuing with internal process before conclusion of criminal proceedings not a breach of contract but suspending a Doctor without pay was.

An NHS employer was entitled to progress internal hearings concerning a doctor although a criminal trial on similar issues was awaited. However, the employer did not have the contractual right to continue to suspend him without pay.

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Disciplinary Discrimination: No discrimination where an employee mistakenly believes that following an instruction would exacerbate her disability

A disciplinary warning for refusal to comply with an instruction was not unfavourable treatment arising because of a disability where the refusal was based on the employee's mistaken belief that compliance with the instruction would exacerbate her disability.

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Disability Discrimination: Reasonable adjustments and dedicated parking spaces.

An employment tribunal was wrong in its approach to reasonable adjustments when considering whether a disabled employee should have been offered a dedicated parking space.

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Discrimination: Disciplinary proceedings and unconscious bias.

A gay headteacher was constructively dismissed because of a flawed disciplinary investigation into his private life. The way in which the investigating officer had conducted himself showed unconscious bias.

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Working Time: Compensation for failure to provide rest breaks

An employment tribunal was entitled to award personal injury damages where an employer's failure to provide rest breaks resulted in the employee suffering physical discomfort

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Discrimination: Positive action

In the first employment tribunal decision on positive action, an employment tribunal found that the police force unlawfully discriminated against a white heterosexual male in its attempts to increase diversity.

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Authors

Ceri Fuller

London - Walbrook

cfuller@dacbeachcroft.com



Zoë Wigan

London - Walbrook

zwigan@dacbeachcroft.com



 DAC BEACHCROFT