

Employment Matters - October 2021

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DAC Beachcroft's Employment Matters focuses on some of the most interesting cases and events occurring within the Employment Law sector.

Case law developments this month include:

1. Whistleblowing: The motivation behind a whistleblowing dismissal, and whether whistleblowing can be separated from the employee's conduct.

The Employment Appeal Tribunal (EAT) has upheld a Tribunal judgment that a whistleblower who was dismissed for criticising a colleague was not automatically unfairly dismissed, and confirmed that when determining the reason for dismissal, only in very rare instances will the motives of anyone but the decision maker be attributed to the employer.

[Read more.](#)

2. Age discrimination: Justifying a compulsory retirement age.

The EAT has upheld opposing Tribunal decisions on justification of the same compulsory retirement policy.

[Read more.](#)

3. Privilege: Employer's email demonstrating a desire to dismiss protected by litigation privilege.

An email between an HR consultant and an employer suggesting a pre-determined decision to dismiss has been held by the EAT to benefit from litigation privilege and not fall within the "iniquity principle".

[Read more.](#)

4. New legislation: Carer's leave.

The Government has confirmed that it will introduce a statutory right to carer's leave.

[Read more.](#)

5. Flexible working: Government consultation.

The Government has launched a consultation on making flexible working the default position, proposing various reforms to employees' rights to flexible working.

[Read more.](#)

6. New legislation: Tips, gratuities and service charges.

The Government has confirmed that it proposes to legislate to prevent employers making any deductions from tips received by their staff other than those required by tax law.

[Read more.](#)

7. COVID-19: Updated guidance follows end of shielding.

The COVID-19 guidance for people previously considered clinically extremely vulnerable has been updated following confirmation of the end of the shielding programme.

[Read more.](#)

8. Data protection: Consultation on the Information Commissioner's Office Employment Practices Code.

The ICO is planning to update its Employment Practices Code and has issued a "call for views" from interested parties.

[Read more.](#)

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