

EMPLOYMENT, INCENTIVES AND IMMIGRATION HORIZON SCANNER

31 January 2020 onwards



FUTURE KEY LEGISLATION DEVELOPMENTS

NO.	ACT OR STATUTORY INSTRUMENT	SUMMARY AND IMPACTS	IMPACT DATE
1.	<p>European Union (Withdrawal Act) 2018.</p> <p>The Equality (Amendment and Revocation) (EU Exit) Regulations 2019 SI 2019/305.</p> <p>The Employment Rights (Amendment) (EU Exit) Regulations 2019 SI 2019/535.</p> <p>The Employment Rights (Amendment) (EU Exit) (No.2) Regulations 2019 SI 2019/536.</p>	<p>Britain's withdrawal from the European Union</p> <p>The European Union (Withdrawal) Act 2018 sets out the approach for converting existing EU legislation into UK law when Brexit takes place on 31 October 2019.</p> <p>Currently, 17 sets of regulations been prepared to amend employment-related legislation on exit day under the powers in the Act (three of the key sets of regulations are set out in the column on the left). The regulations specify the technical changes to be made to employment laws post-Brexit. Broadly, the changes are technical in nature only, for example, removing EU-related references that will no longer be valid. The aim of the amendments is to ensure that the existing statutory framework continues to operate effectively in its current form after Brexit.</p> <p>However, as far as European Works Councils (EWCs) are concerned, the Government acknowledges that a reciprocal agreement from the EU would be required for the statutory framework to continue as it presently does. You can read the Government's explanatory note here.</p> <p>The Government has also published a technical notice on the impact of a "no deal" Brexit on workplace rights. The note states that the only potential impacts are in relation to EWCs (i.e. no new requests could be made to set up an EWC or information and consultation procedure) and employer insolvencies (i.e. employees working for a UK employer in the EU may not be protected by the national guarantee fund operating in that country). You can read the technical notice here.</p>	31 January 2020
2.	<p>National Minimum Wage (Amendment) Regulations 2020.</p>	<p>Increases to National Living Wage / National Minimum Wage rates</p> <p>The Government has accepted the recommendations of the Low Pay Commission regarding increases to the National Living Wage (NLW) and National Minimum Wage (NMW), which will come into effect in April 2020, subject to Parliamentary approval. The following changes are set to take effect:</p> <ul style="list-style-type: none"> • The NLW for workers aged 25 and over will increase from £8.21 to £8.72 per hour. • The NMW for 21- to 24-year-olds will increase from £7.70 to £8.20 per hour. • The NMW for 18- to 20-year-olds will increase from £6.15 to £6.45 per hour. • The NMW for 16- to 17-year-olds will increase from £4.35 to £4.55 per hour. • The apprentice rate for those aged under 19 or in the first year of an apprenticeship will increase from £3.90 to £4.15 per hour. 	1 April 2020

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		<ul style="list-style-type: none"> The Accommodation Offset will increase from £7.55 per day to £8.20 per day. 	
3.	Regulations will be required.	<p>Increases to the rates of Statutory Maternity Pay (SMP), Statutory Paternity Pay (SPP), Statutory Adoption Pay (SAP), Statutory Shared Parental Pay (SSPP), Statutory Sick Pay (SSP) and Maternity Allowance</p> <p>The Government has proposed the following new benefit and pension rates for 2020 to 2021:</p> <ul style="list-style-type: none"> the standard rate for SMP will increase from £148.68 to £151.20 per week; the standard rate for SAP will increase from £148.68 to £151.20 per week; the rate for SPP and SSPP will increase from £148.68 to £151.20 per week; the rate for Maternity Allowance will increase from £148.68 to £151.20 per week; and the rate of SSP will increase from £94.25 to £95.85 per week. <p>The amount of the weekly lower earnings limit, that applies to National Insurance contributions, below which employees are not entitled to SMP, SPP, SAP, SSPP and SSP (but remain entitled to Maternity Allowance), and which is currently £118, is yet to be confirmed for 2020–2021.</p>	April 2020
4.	<p>The Employment Rights (Miscellaneous Amendments) Regulations 2019 SI 2019/731.</p> <p>The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 SI 2018/1378.</p> <p>These regulations will amend the ERA.</p>	<p>Written statements of employment particulars</p> <p>From 6 April 2020 written statements of employment particulars will:</p> <ul style="list-style-type: none"> be extended to all categories of worker (currently applies only to employees); become a "Day 1" employment right; and require the following additional information to be included: (i) the days of the week required to be worked; (ii) details of any terms and conditions relating to paid leave; and (iii) particulars of any other benefits, any probationary period and training. 	6 April 2020
5.	<p>The Employment Rights (Miscellaneous Amendments) Regulations 2019 SI 2019/731.</p> <p>These regulations will amend the Information and Consultation of Employees Regulations 2004 (part 4).</p>	<p>Information and consultation of employees</p> <p>The percentage of employees required for a valid request to start negotiating an agreement on informing and consulting employees will be lowered from 10% to 2%.</p>	6 April 2020

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6.	<p>The Employment Rights (Employment Particulars and Paid Annual Leave) (Amendment) Regulations 2018 SI 2018/1378.</p> <p>These regulations will amend the Working Time Regulations 1998.</p>	<p>Holiday pay: reference periods used for calculating holiday pay</p> <p>Where a worker has variable pay either because:</p> <ul style="list-style-type: none"> • they have no normal working hours; or • they have normal working hours but their pay varies with the amount of work done or the time the work is done, <p>then the reference period to be used for calculating holiday pay will be changed. Where the worker has been employed for at least 52 weeks, the reference period is increased from 12 weeks to 52 weeks. Where the worker has been employed for fewer than 52 weeks then the reference period is the number of weeks the worker has been employed. This reform does not apply to workers who have normal working hours and non-variable pay.</p>	6 April 2020
7.	<p>The Agency Workers (Amendment) Regulations 2019 SI 2019/724. These regulations will amend the Agency Workers Regulations 2019.</p> <p>The Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2019 SI 2019/725.</p>	<p>Agency workers: repeal of the "Swedish derogation" and related rights</p> <p>These regulations will improve rights for agency workers by:</p> <ul style="list-style-type: none"> • removing the equal pay exemption from the Agency Workers Regulations 2010 (known as the Swedish derogation); • requiring the agency to notify the agency worker about their right to be the same conditions as those employed directly by the hirer as of 6 April 2020 (i.e. that the Swedish derogation no longer applies); • introducing a right for the agency worker not to be unfairly dismissed or subjected to a detriment for a reason relating to the Agency Workers (Amendment) Regulations 2019; and • require employment businesses to give a "key information" document to an individual seeking agency work (and this must be given before the business reaches an agreement on terms with that individual). 	6 April 2020
8.	<p>The Finance Bill 2019-2020.</p> <p>Draft clauses were published on 11 July 2019, along with explanatory</p>	<p>Reforms to the operation of the IR35 regime in the private sector</p>	6 April 2020

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	<p>notes, tax information and impact notes, responses to consultations and other supporting documents. The consultation on the draft legislation ran until 5 September 2019.</p> <p>The Finance Bill 2019-2020 is expected to receive Royal Assent in Spring 2020.</p>	<p>In 2018 the Government announced plans to extend the changes it made to the operation of the off payroll working rules (IR35) in the public sector, to certain medium and large sized private sector businesses.</p> <p>Under the proposed reform, the responsibility for assessing whether the IR35 regime applies will move to the party closest to the personal service company (PSC) in the relevant contractual chain. In a simple chain involving the individual, the PSC and the end-user, this would mean the end-user would have to make that assessment. If the IR35 regime does apply then, in this scenario, the end user would become responsible for deducting income tax and employee NICs and would also be responsible for paying employer NICs.</p> <p>On 22 October 2019, HMRC issued a briefing note "<i>Reform of off-payroll working rules</i>" detailing:</p> <ol style="list-style-type: none"> 1. The off-payroll working rules 2. Reform to the rules 3. Support from HMRC 4. The check employment status for tax (CEST) tool (updated in November 2019): https://www.gov.uk/guidance/check-employment-status-for-tax <p>On 7 January 2020, the Government launched a review about the implementation of changes to the off-payroll working rules. The review is due to be completed by mid-February 2020 and will gather evidence from affected individuals and businesses to ensure smooth implementation of the reforms.</p>	
9.	National Insurance Contributions (Termination Awards and Sporting Testimonials) Act 2019.	<p>Termination payments: changes to the national insurance treatment of termination payments</p> <p>Employer NICs will become payable on all termination payments above £30,000 (which are currently only subject to income tax). The first £30,000 of any termination payment will remain exempt from income tax and the entirety of the payment will remain exempt from employee NICs. This reform was initially due to come into force in 2018. It was delayed until 6 April 2019 and has been further delayed to 6 April 2020.</p>	6 April 2020
10.	<p>Parental Bereavement (Leave and Pay) Act 2018.</p> <p>Parental Bereavement Leave Regulations 2020.</p> <p>Statutory Parental Bereavement Pay (General) Regulations 2020.</p>	<p>New right to statutory parental bereavement leave and pay</p> <p>From 2020, employed parents who lose a child below the age of 18 (including a still birth after 24 weeks) will be entitled to 2 weeks' statutory leave to be taken within 56 days of the child's death. Employees who have at least 26 weeks' service at the time will also be entitled to receive 2 weeks' statutory pay at the lower of either the prescribed rate or 90% of their average earnings. Employers will be able to recover some or all of this payment from the Government.</p> <p>You can read our full report on the proposal when it was at Bill stage here.</p>	<p>April 2020</p> <p>The Act received Royal Assent on 13 September 2018. Supporting regulations have yet to be published. The Act and Regulations are</p>

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			expected to come into force by April 2020.
11.	Regulations will be required.	<p>Confidentiality clauses and non-disclosure agreements</p> <p>In July 2019, the Department for Business, Energy and Industrial Strategy (BEIS) published the Government response to its consultation on changes to regulations on confidentiality clauses, also known as non-disclosure agreements (NDAs). The final proposals include legislating to limit NDAs from restricting disclosures being made to police, regulated health care professionals and legal professionals. The consultation had been launched in response to concerns that some employers had been using confidentiality clauses to “gag” victims of workplace harassment or discrimination.</p> <p>Final proposals in the Government response include:</p> <ul style="list-style-type: none"> • legislating so that limitations in NDAs are clearly set out in employment contracts and settlement agreements • creating guidance for solicitors and legal professionals responsible for drafting settlement agreements • legislating to enhance the independent legal advice received by individuals signing confidentiality clauses • enforcement measures for confidentiality clauses that do not comply with legal requirements in written statements of employment particulars and settlement agreements. <p>Once the draft legislation has been published, employers will need to review confidentiality clauses and settlement agreements to ensure that they comply with the new rules.</p>	Date tbc.
12.	Directive on the protection of persons reporting on breaches of EU law (draft).	<p>Whistleblowing: compliance with new EU directive</p> <p>In April 2019 the European Parliament approved a draft Directive which provides that public and private organisations with more than 50 employees will have to set up internal reporting channels that would allow people to report breaches of EU law within the organisation. In addition, national authorities will have to establish external reporting channels.</p> <p>The draft Directive provides for implementation by EU Member States by 17 December 2021. If Britain is still a member of the EU by this date it will need to implement the Directive. If Britain has left the EU by this date, then the question of whether we need to implement the Directive will depend on the terms of the relationship between Britain and the EU.</p>	The Directive requires implementation by Member States by 17 December 2021 – but for the UK this depends on the terms of a Brexit deal.

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13.	Directive on work-life balance for parents and carers	<p>Work-life balance for parents and carers</p> <p>This draft Directive is designed to increase the participation of women in the labour market and provides for an individual right to four months of parental leave, from which two months are non-transferable between the parents, paid at a level set by Member States, and also introduces carers' leave so that workers caring for relatives in need are able to take five working days per year for that purpose. The Directive will come into force 20 days after publication in the Official Journal of the EU and must be implemented by Member States within three years thereafter. If Britain has left the EU by this date, then the question of whether we need to implement the Directive will depend on the terms of the relationship between Britain and the EU.</p>	The Directive came into force on 1 August 2019 and must be implemented by Member States within three years thereafter. For the UK, this depends on the terms of a Brexit deal.
14.	Extending redundancy protection for women and new parents	<p>Extending redundancy protection for women and new parents</p> <p>In response to a consultation, the Department for Business, Energy and Industrial Strategy (BEIS) announced in July 2019 that it intended to enhance redundancy protections for pregnant women and new parents. This had been a commitment in the Government's Good Work Plan (their response to the Taylor Review) and had also been raised by the Women and Equalities Select Committee. In July 2019, the Government committed to:</p> <ul style="list-style-type: none"> • ensure that the redundancy protection period applies from the point the employee informs the employer that she is pregnant, whether orally or in writing; • extend the redundancy protection period by/to six months once a new mother has returned to work; • extend redundancy protection into a period of return to work for those taking adoption and shared parental leave; and • establish a taskforce of employer and family representative groups (to make recommendations on what improvements can be made to the information available to employers and families on pregnancy and maternity discrimination and develop an action plan on what steps Government and other organisations can take to make it easier for pregnant women and new mothers to stay in work). <p>The Government said that it intended to bring forward legislation "<i>when Parliamentary time allows</i>", although this was before the general election on 12 December 2019. In the Queen's Speech on 19 December 2019, the Government announced that a new Employment Bill would be brought forward which would include extending redundancy protections to prevent discrimination against pregnant employees and mothers.</p>	Date tbc.

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15.	Employment Bill	<p>In the Queen's Speech on 19 December 2019, the Government announced that a new Employment Bill would be brought forward, to seek to protect and enhance workers' rights post-Brexit. The Bill is aimed at promoting fairness in the workplace, such as by establishing a single enforcement body to make it easier for workers to get redress for poor treatment and offering greater support to working families in various other ways.</p> <p>The main elements of the Bill are:</p> <ul style="list-style-type: none"> • creating a new, single enforcement body to offer better protection for workers; • ensuring that workers receive the tips left for them in full; • introducing a new right for all workers to request a more predictable contract; • extending redundancy protections to prevent discrimination against pregnant employees and mothers; • allowing parents to take extended leave for neonatal care; • introducing an entitlement to one week's leave for unpaid carers; and • subject to consultation, making flexible working the default unless employers have good reason not to. 	Date tbc.
16.	Immigration Bill	<p>In the Queen's Speech on 19 December 2019, the Government announced details of a new Immigration Bill which will have the purpose of:</p> <ul style="list-style-type: none"> • bringing an end to free movement and ensuring that the Government can deliver a new Australian-style points-based immigration system from 2021; • making EU citizens arriving from 2021 subject to the same UK immigration controls as non-EU citizens, to enable the Government to deliver a single global immigration system based on people's skills; • protecting the long-standing immigration status of Irish citizens when free movement ends; and • enabling the Government to deliver future changes to social security co-ordination policy. 	Date tbc.
17.	Office of the Whistleblower Bill	<p>This Private Members Bill had its first reading in the House of Lords on 28 January 2020 and will make provision for an Office of the Whistleblower. The second reading is due in the House of Lords on a date to be confirmed.</p>	Date tbc.

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18.	Equal Pay Bill	<p>This Private Members Bill is sponsored by Baroness Prosser and:</p> <ul style="list-style-type: none"> • provides for a right for employees to obtain information relating to the pay of a comparator; • reforms remedies and time limits relating to equal pay; • provides a right to equal pay where a single source can rectify unequal pay; • amends the statutory statement of particulars to include equal pay; and • sets out requirements for certain employers to publish information about the differences in pay between male and female employees and between employees of different ethnic origins. <p>This Bill had its first reading in the House of Lords on 28 January 2020. The second reading is due in the House Of Lords on a date to be confirmed.</p>	Date tbc.

FUTURE KEY CASES

NO	CASE	SUMMARY AND IMPACTS	CURRENT STATUS
1.	Uber B.V. v Aslam	<p>Worker status: are Uber taxi drivers workers?</p> <p>The EAT decided that taxi drivers engaged by Uber were workers, rather than self-employed contractors. The consequence is that the drivers will be entitled to certain employment rights such as to be paid in accordance with the National Minimum / Living Wage and protections under the Working Time Regulations 1998 (e.g. rest breaks and paid holiday). You can read our full report on the decision here.</p> <p>The Court of Appeal upheld the decision, but granted Uber permission to appeal to the Supreme Court. Uber lodged their appeal at the Supreme Court on 30 January 2019.</p>	Due to be heard on 22 and 23 July 2020.
2.	Addison Lee v Lange, Olszeski and Morahan	<p>Worker status: are Addison Lee drivers workers?</p> <p>The EAT upheld an ET decision that private hire drivers were 'workers' entitled to be paid the national minimum wage and receive holiday pay for the periods that they were logged onto Addison Lee's internal driver portal system.</p> <p>Addison Lee were granted permission to appeal to the Court of Appeal on 19 March 2019, but the case was stood down on 21 March 2019 to await decision in another Supreme Court case due to be heard in March 2020.</p>	Awaiting judgment in another Supreme Court case.
3.	Various claimants v WM Morrison Supermarkets Plc	<p>Vicarious liability: was the employer liable for a data breach committed by a rogue employee?</p> <p>The High Court held that the employer was vicariously liable for a data breach committed by a rogue employee which resulted in the personal data of almost 100,000 of the employer's staff being shared online. The information shared online include employees' bank, salary and national insurance details. The Court of Appeal upheld the decision.</p> <p>An appeal was heard by the Supreme Court in November 2019 and the judgment is awaited.</p>	Supreme Court heard the case on 6-7 November 2019. Judgment is awaited.
4.	Barclays Bank v Various Claimants	<p>Vicarious liability: was the employer liable for alleged assaults on employees by an independent contractor carrying out medical examinations requested by the employer?</p>	The Supreme Court heard the case on 28 November 2019. Judgment is awaited.

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		<p>The Court of Appeal has upheld a decision of the High Court that the employer was liable for any such assaults that were proved. The Bank appealed to the Supreme Court and the case was heard in November 2019. Judgment is awaited.</p>	
5.	Royal Mencap Society v Tomlinson-Blake	<p>National minimum wage: was there a requirement to pay care workers for hours spent sleeping during sleep-in shifts?</p> <p>The Court of Appeal held that workers are not entitled to be paid the national minimum wage for sleep-in shifts where the expectation is that they will sleep but be on-call to deal with emergencies. This meant that the worker was only entitled to be paid for the hours in which they were awake for the purpose of working. It was irrelevant that they may have been required to have a "listening ear" for any issues requiring their attention. Nor was it relevant that their liberty was restricted. You can read our report on the Court of Appeal's decision here.</p> <p>The employee has appealed to the Supreme Court, with a hearing listed for 12-13 February 2020.</p>	Supreme Court hearing listed for 12-13 February 2020.
6.	Asda Stores Ltd v Brierley	<p>Equal pay: female supermarket workers able to compare themselves to male depot workers</p> <p>This case concerns whether women working in Asda stores should be paid the same as men working in its distribution warehouses on the grounds that the roles are of equal value. The case is notable as it is the first large-scale equal pay claim brought against a private-sector employer.</p> <p>A Preliminary Hearing was held in June 2016, and judgment delivered in October 2016, where it was decided that the female retail workers were entitled to compare themselves to the male depot workers. The Tribunal's decision was subsequently upheld by the EAT (read our report on the EAT decision here) and the Court of Appeal who both agreed that the male depot workers were appropriate comparators for an equal value claim both under the Equality Act 2010 and under EU law. An appeal of the decision is due to be heard by the Supreme Court in 2020.</p>	Supreme Court hearing listed for 14-15 July 2020.
7.	Hextall v Chief Constable of Leicestershire Police	<p>Sex discrimination and shared parental leave: is it discriminatory to pay enhanced maternity pay to women and statutory shared parental pay to men?</p> <p>The Court of Appeal recently held that employers who pay enhanced contractual maternity pay but only statutory Shared Parental Pay for fathers taking Shared Parental Leave do</p>	The Court of Appeal hearing took place on 1 May 2019.

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		<p>not directly or indirectly discriminate against men and are not in breach of equality of terms (equal pay) legislation (see our report here). The Claimant is appealing to the Supreme Court on the basis that the claim was properly characterised as an equal terms/pay claim under section 66 of the Equality Act 2010, rather than an indirect discrimination claim under section 19.</p>	<p>Permission to appeal to the Supreme Court granted on 23 October 2019. A hearing date is awaited.</p>
8.	Dawson-Damer v Taylor Wessing	<p>Data protection: subject access requests and the meaning of "relevant filing system"</p> <p>A dispute arose between the law firm acting for the trustees of some family trusts and the beneficiaries of the trusts (Claimants). The Claimants brought a DSAR seeking all data held by the law firm of which they were the subject. The law firm argued that the documents were all privileged, complying would involve disproportionate effort and that the request was motivated by a desire to obtain the documents for use in Bahamian legal proceedings, which was not a proper use of DPA 1998.</p> <p>The Court of Appeal held that the privilege exemption applies only to documents privileged for the purposes of English law, it hadn't been shown that compliance would involve disproportionate effort and the DSAR shouldn't be refused just because the Claimants wanted the documents for use in foreign proceedings. On remission, the High Court found that: (i) paper files constituted a "relevant filing system" for the purposes of DPA 1998; (ii) the law firm was entitled to assert privilege in relation to some of the documents (because there was no right of the beneficiary to override the trustee's privilege in Bahamian law); but (iii) the law firm had breached DPA obligations by refusing to carry out some searches and by redacting some passages. The law firm appealed to the Court of Appeal and the hearing was due to be heard on 29 January 2020.</p>	<p>Due to be heard in the Court of Appeal on 29 January 2020 – awaiting further information.</p>
9.	Kostal UK v Dunkley	<p>Collective bargaining: a temporary direct contractual offer to circumvent collective bargaining was not a "prohibited result" under TULR(C)A 1992</p> <p>The Court of Appeal recently ruled on the meaning of the "prohibited result" for the purposes of section 145B of the Trade Union and Labour Relations (Consolidation) Act 1992 (TULR(C)A 1992) and found that a direct offer made by an employer in connection with pay and changes to terms of employment was not unlawful because it was intended to bypass collective bargaining on a temporary basis only. An unlawful "prohibited result" would only occur where the purpose of the offer was to permanently stop collective bargaining in relation to those terms. Unite (the union representing the Claimants) has applied for permission to appeal to the Supreme Court.</p>	<p>Awaiting decision on permission to appeal application to Supreme Court.</p>

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10.	Chief Constable of the Police Service of Northern Ireland v Agnew	<p>Working time: a 3 month gap in a series of unlawful deductions does not necessarily break the series</p> <p>The Northern Ireland Court of Appeal has upheld a Northern Ireland Industrial Tribunal decision that a series of deductions is not ended, as a matter of law, by a gap of more than 3 months between unlawful deductions, nor is it ended by a lawful payment. In their opinion, there just has to be a sufficient similarity of subject matter, such that each event is factually linked with the next (in the alleged series) in the same way as it is linked with its predecessor.</p> <p>The PSNI has applied for permission to appeal to the Supreme Court.</p>	Awaiting decision on permission to appeal application to Supreme Court.
11.	Independent Workers of Great Britain (IWGB) v Central Arbitration Committee (CAC) (Rooffoods Ltd t/a Deliveroo)	<p>Worker status: cycle couriers engaged by Deliveroo in the Camden and Kentish Town area are <u>not</u> workers, but self-employed</p> <p>The CAC has held that the Deliveroo cycle couriers are not workers, the IWGB applied for judicial review, but the High Court dismissed the application for judicial review. The IWGB is seeking permission to appeal to the Court of Appeal.</p>	The Court of Appeal will hear the case by 23 March 2020.
12.	IWGB v CAC (University of London)	<p>Union recognition: application for TU recognition was inadmissible against end user in an outsourcing arrangement</p> <p>The High Court has dismissed a judicial review challenge to a decision by the CAC that an application for TU recognition was inadmissible because it was made against the end user (University of London) in an outsourcing situation, rather than the employer (Cordant Security). IWGB applied for permission to appeal to the Court of Appeal on 25 April 2019. Adjourned on papers on 5 November 2019 – PTA hearing in CA to be held.</p>	Seeking permission to appeal to the Court of Appeal.
13.	Harpur Trust v Brazel	<p>Working time: whether part-time workers should have their holiday entitlement pro-rated to reflect their part-time status</p> <p>The Court of Appeal held that ET was wrong to find that "part-year workers" i.e. those working only part of the year (in this case a visiting music teacher) should have their annual leave right capped at 12.07% of annualised hours as advised in the ACAS Guidance.</p>	Awaiting decision on permission to appeal application to Supreme Court.
14.	Raj v Capita Business Services	<p>Burden of proof: does the burden shift simply because of a finding that an unwanted conduct had been committed?</p>	Awaiting decision on permission to appeal

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		No, was the answer by the ET and agreed by the EAT. EAT held that ET was entitled to find that an unwanted conduct had occurred i.e. the claimant's team leader had massaged him on his shoulders on a few occasions, but that this was not related to his sex and therefore dismissed the sexual harassment claim.	application to Court of Appeal.
15.	East of England Ambulance Service NHS Trust v Flowers	<p>Working time: whether voluntary overtime should be construed as normal pay</p> <p>Whether CA was correct to approve the EAT's decision that voluntary overtime which extends over a sufficient period of time on a regular basis should be construed as 'normal' pay and included when calculating statutory holiday pay under WTR. CA dismissed the respondent Trust's appeal and upheld the decision of the EAT.</p>	Awaiting decision on permission to appeal application to Supreme Court.
16.	B v Yodel Delivery Network	<p>Worker status: does contractual right to substitute negate worker status?</p> <p>Whether a contractual right to substitute means an individual cannot be classed as a 'worker' in a claim under WTR. Reference has been made by Watford ET to ECJ.</p>	Application to the ECJ lodged on 19 September 2019.
17.	Dronsfield v The University of Reading	<p>Unfair dismissal: amendment of investigation report did not render dismissal unfair</p> <p>Whether the removal of evaluative conclusions from a draft investigation report after the investigating officer received advice from the in-house legal team rendered the dismissal unfair. EAT held it was not unfair that the investigator altered his report on the recommendation of the employer's in-house solicitor.</p>	Awaiting decision on permission to appeal application to Court of Appeal.
18.	Casamitjana v League Against Cruel Sports	<p>Discrimination: was a claimant treated less favourably because of his belief in ethical veganism?</p> <p>An Employment Tribunal ruled on 3 January 2020 that ethical veganism is capable of being protected as a philosophical belief. Written reasons were published on 21 January 2020. Next, the Employment Tribunal will consider in February 2020 whether or not the claimant was treated less favourably because of his ethical veganism belief.</p>	<p>ET ruled that veganism capable of being a protected belief on 3 January 2020 and written reasons were published on 21 January 2020.</p> <p>Merits hearing due to be heard in February 2020.</p>

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