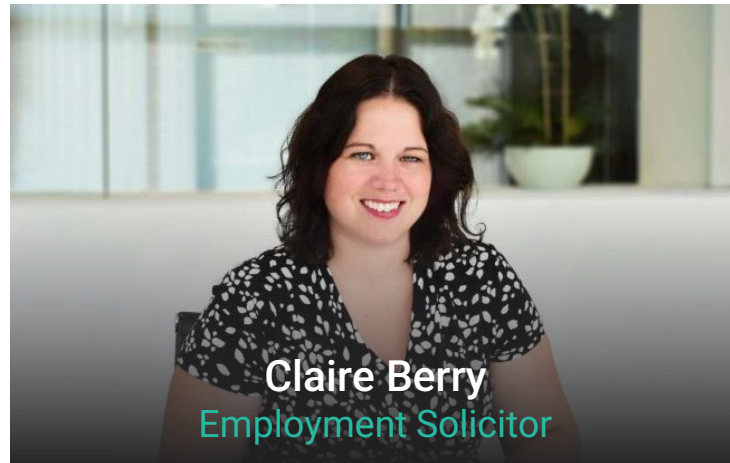


HR/Employment law update



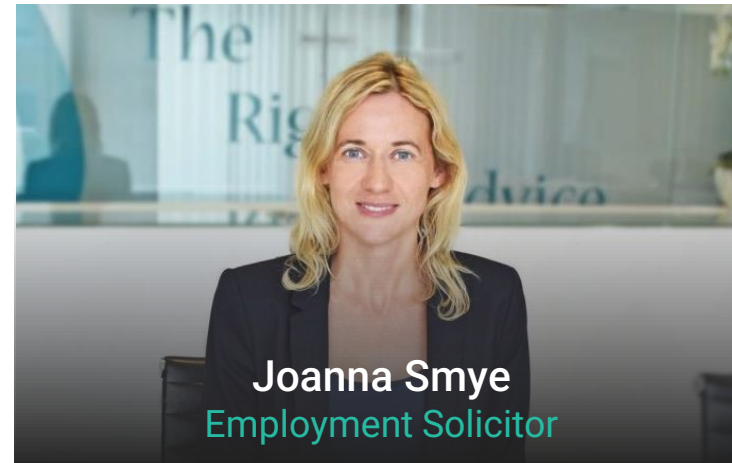
Spring 2025

Our team



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Topics for discussion



Hot Topic

- » Duty to prevent sexual harassment in the workplace- tips for employers.



April Changes, Ongoing Consultation and Review

- » Current rates of pay.
- » Neonatal Care Leave.
- » Equality (Race and Disability) Bill.
- » Review of Parental Leave system.



Recent Cases

- » A round up of the latest key employment cases.



What's On The Horizon- Legislation Update

- » Employment Rights Bill.

New duty to prevent sexual harassment



Recap:

On 26 October, a new duty requiring employers to take reasonable steps to prevent sexual harassment of their employees came into force.

Employers are required to anticipate when sexual harassment may occur and take reasonable steps to prevent it.

Tips on how to approach this new duty:

- » Undertake a **risk assessment** and put together an **action plan**.
- » Put in place a **policy** dealing specifically with **sexual harassment**.
- » **Train** staff.
- » **Communicate** with staff.
- » **Change** the working environment and practices.
- » **Deal** with complaints.
- » **Monitor** and **evaluate** actions.

Case update (1)



For Women Scotland v Scottish Ministers

Supreme Court rules on the definition of sex under the Equality Act

Background

- > The Scottish government was introducing quotas for women on public boards, which included trans women with a gender recognition certificate (GRC)
- > A campaign group took the Scottish government to court regarding its definition of a woman.

Decision

The Supreme Court ruled that the definitions of “woman”, “man” and “sex” in the Equality Act refer to biological sex.

Impact

- Sport
- Education
- The NHS
- Employment

Rights of transgender employees

- > Protected characteristic of gender reassignment
- > Protected characteristic of sex is biological sex, but could claim discrimination by perception
- > Privacy

- > The EHRC has published an interim update.
- > The EHRC interim update includes comments on single sex toilets and facilities.
- > EHRC guidance is that in addition to single-sex toilets, mixed sex toilets should be provided if possible.
- > Statutory and non-statutory codes will be updated. This should provide further guidance for employers.

Case update (2)



Hewston v Ofsted

The Court of Appeal agrees that the inspector's dismissal for gross misconduct was unfair

Background

- > Conduct is a potentially fair reason for dismissal.
- > The employer has to act reasonably in treating the reason as sufficient for dismissal.
- > The decision has to be "in the band of reasonable responses".

Facts

Mr Hewston had been employed as a school inspector since 2007. During an inspection in 2019, a group of pupils had come inside from a rainstorm and Mr Hewston brushed water off the head of a 12-year-old boy, and put his hand on the child's shoulder.

Mr Hewston was dismissed for gross misconduct. Although it was found that there was no safeguarding concern, the letter stated that he had "brought Ofsted into disrepute through this grave error of judgement" and that, having shown no remorse, he had not satisfied them that he would not do something similar again.

Decision

It will not normally be fair to dismiss an employee for an act which they could not reasonably expect the employer to regard as serious misconduct.

Lack of contrition will not normally "bump up" the seriousness of the conduct.

Implications for employers

- > Dismissal for a first offence is normally only fair if the conduct amounts to gross misconduct.
- > Importance of policies and training for specific types of behaviour.
- > Dismissal for repeated misconduct (rather than for gross misconduct) should be based on disciplinary warnings that were subject to correct procedures.

Increases to rates of pay



National minimum wage rates from 1 April

- > National living wage (21 and over): £12.21 (6.7% increase).
- > 18-20 year old rate: £10 (16.3% increase).
- > 16-17 year old rate: £7.55 (18% increase).
- > Apprentice rate: £7.55 (18% increase).



Other rates of pay from 6 April

- > Rate of statutory **maternity, paternity, adoption, shared parental, parental bereavement** pay and **neonatal** pay : £187.18 a week.
- > Rate for **statutory sick pay**: £118.75 a week.
- > Limit on a **week's pay**: £719. (Used for calculating redundancy pay).



Statutory neonatal care leave and pay – 6 April

Neonatal care leave

- > A day one right available to an employee who is a parent of (or has a specified relationship with) a child born on or after 6 April 2025.
- > Applies once a child has received neonatal care for an uninterrupted period of 7 days, not counting the day on which the neonatal care starts (a 'qualifying week').
- > One week of neonatal care leave for each qualifying week, up to a maximum of 12.
- > Must be taken in weekly blocks within the first 68 weeks of a child's birth.
- > There are 2 tiers of leave and notice provisions are specific to each tier:
 - > Tier 1: still receiving neonatal care and includes 1 week after the care has ended. Notice must be given before they are due to start leave.
 - > Tier 2: the period of time which is outside tier 1 and before the end of 68 weeks from the date of the child's birth. Notice required is 15 days for 1 week of leave and 28 days for 2 or more weeks leave.

Neonatal care pay

- > Employees must have 26 weeks continuous service before the relevant week to be eligible for pay.
- > Must comply with notice provisions.
- > Statutory pay is paid at the same rate as statutory paternity pay or statutory shared parental pay, which is currently £187.18 a week.
- > Employer's can enhance pay if they choose.

Further legislation updates



Equality (Race and Disability) Bill

- > The government has published a consultation on how to introduce mandatory ethnicity and disability pay gap reporting for employers with 250 or more employees.
- > Proposal is to use similar framework to gender pay gap reporting. However, employers would also be required to report the overall breakdown of their workforce by ethnicity and disability, and the percentage of employees not disclosing their data.
- > Views are also being sought on whether employers should also be required to produce action plans.
- > Employees would be asked to self-report their ethnicity and disability status, with an option to opt out.

Consultation closes on 10 June 2025 and findings will inform the government's approach to the Bill.

Review of parental leave system

The government is going to review the parental leave system. This will be conducted separately to the Employment Rights Bill.

It is due to commence before the Employment Rights Bill received Royal Assent and it is understood that this will begin in June.

Employment Rights Bill



- > Unfair Dismissal
- > Zero hours
- > Flexible working
- > Family rights
- > Fire and re-hire
- > Protection from Harassment
- > SSP
- > Collective redundancies
- > Equality Action Plans

Thanks for attending



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