

Area	Comment
<b>Employment status</b>	The EAT in <i>Sejpal v Rodericks Dental Limited</i> ( <b>22 June 2022</b> ) has provided some clarity on what should be taken into account when considering personal service in the context of employment status. The key question is whether the individual is required to provide "some personal service", and the EAT further suggested that it could be possible for an unfettered right to substitution to exist and the individual still satisfy the requirement for personal service.
<b>ACAS – Hybrid working</b>	New advice has been released by ACAS ( <b>16 June 2022</b> ) following the results of a survey into hybrid working. Along with other topics, the advice includes: <ul style="list-style-type: none"> <li>• What a hybrid working policy should contain</li> <li>• How to respond to requests for hybrid working</li> <li>• Health and safety risks and advice for those working from home</li> </ul>
<b>Fit to Work Statements</b>	From <b>1 July 2022</b> , the number of professions able to sign "fit notes" will expand to include more healthcare professionals. This will give registered nurses, occupational therapists, pharmacists and physiotherapists the power to sign.
<b>Constructive dismissal</b>	The EAT have clarified a point on constructive dismissal in <i>Singh v Metroline West Ltd</i> ( <b>9 June 2022</b> ). A fundamental breach of contract is established where the employer's intention not to comply with the contract is so serious it goes to the root of the contract. It is not required that the employer intended to end the contract. In this case, the employer withheld sick pay in a bid to induce the employee into attending a disciplinary hearing, which was a fundamental breach.
<b>Tribunal – ACAS uplift</b>	When a tribunal considers whether to award the ACAS uplift (for failing to follow the ACAS Code of Practice on Disciplinary and Grievance procedures), the EAT in <i>Rentplus v Coulson</i> ( <b>27 May 2022</b> ) confirmed it should consider the following questions: <ul style="list-style-type: none"> <li>• Is the claim one which raises a matter to which the Code applies?</li> <li>• Has there been a failure to comply with the Code in relation to the matter?</li> <li>• Was the failure to comply with the Code reasonable?</li> <li>• Is it just and equitable to award an uplift because of the failure, and if so, what percentage?</li> </ul>
<b>Covid-19</b>	In <i>Burke v Turning Point Scotland</i> ( <b>27 May 2022</b> ), an employee suffering from long Covid has been found to be disabled under the Equality Act 2010. The employee was diagnosed with post viral fatigue syndrome (and fluctuated in terms of intensity) and had attempted to return to work before suffering a relapse. The tribunal was satisfied the tests for disability had been met, noting that the employer had accepted there was no certain date on which the employee would recover.

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## Current Government Consultations and Policy Papers

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<b>National Minimum Wage (NMW) Enforcement</b>	The Government has released a policy paper on the enforcement of NMW laws, setting out the powers available to HMRC regarding civil and criminal enforcement. The policy paper also sets out the conditions for the “naming scheme” currently in place to publicise the names of employers who breach NMW laws.

## Immigration

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<b>UK Expansion Worker Visa</b>	<p>A replacement immigration route has been introduced by the Government, to replace the current Intra-Company Transfer (ICT) route.</p> <p>The new route, called the Global Business Mobility (GBM) route, has five main categories (however none of the routes will count towards a qualifying period of stay for settlement):</p> <ul style="list-style-type: none"> <li>• Senior or Specialist Worker route</li> <li>• Graduate Trainee route</li> <li>• Service Supplier</li> <li>• Secondment Worker route</li> <li>• UK Expansion Worker route (subject to evidence requirements concerning the business' “UK Footprint”, its overseas trading presence and business plans etc relating to the planned expansion)</li> </ul> <p>All the above routes save for the Secondment Worker will replace the existing routes under the ICT.</p> <p>Workers already in possession of an ICT visa are eligible for extensions and changes of employment under the first two routes, and their dependants may apply to join them via these same routes.</p>
<b>Changes to the Right to Work checks</b>	<p>From <b>6 April 2022</b>, there will be changes to how the Government conducts Right to Work checks for holders Biometric Residence Cards, Biometric Residence Permits, and Frontier Worker Permits.</p> <p>Workers will have to show their right to work in the UK via the Home Office's online service and will no longer be able to provide the physical documents to their employer. Holders of the above who start a new job on or after <b>6 April 2022</b> will need to use the online service to demonstrate their right to work, even if their card or permit expires after this date.</p>

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<b>Ukraine Family Visa</b>	<p>A new Ukraine Family Scheme has been created by the Government to allow Ukrainian refugees to join their families in the UK. Once in the UK, the visa holder is able to work, study, access public funds and extend their permission to stay in the UK. The definition of family is very wide-ranging, covering both immediate and extended family.</p> <p>The applicant must:</p> <ul style="list-style-type: none"> <li>• Be a Ukrainian national (or the immediate family member of a Ukrainian national also applying to this Scheme)</li> <li>• Have been residing in Ukraine on or before <b>1 January 2022</b></li> <li>• Be applying to join a family member who has either British nationality, indefinite leave to remain/settled status/permanent residence., pre-settled status who started living in the UK before <b>1 January 2021</b> or have refugee/humanitarian protection status in the UK</li> </ul>
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## Future Developments

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<b>Industrial action</b>	<p>In light of the rail strikes that took place during the week commencing <b>20 June 2022</b>, the Government have announced plans to change the legislation in order to allow businesses to engage temporary agency staff via an employment business to perform the duties that would ordinarily be performed by those who are out on strike.</p> <p>The Government have also announced their intention to raise the cap on damages for unlawful industrial action, with the maximum award increasing expected to increase from £250,000 to £1 million for the largest trade unions.</p> <p>No timeframe has been announced but the changes are expected “over the coming weeks”.</p>
<b>Bill of Rights</b>	<p>The Bill of Rights Bill has been introduced to Parliament as the Government plans to repeal and replace the Human Rights Act 1998. Under the proposed Bill, the rights currently enshrined in the HRA would continue to be protected (referred to as “Convention Rights” in the Bill) and a variety of different features included, such as:</p> <ul style="list-style-type: none"> <li>• The Supreme Court would be the ultimate judicial authority for questions on Convention Rights,</li> <li>• Greater weight to be afforded to the right to freedom of speech (save in certain situations),</li> <li>• Proceedings against a public authority for breaches of a Convention Right will require permission from the Court they propose to bring proceedings in, which will be granted if they are (or would be) a victim of the breach and have (or would) suffer significant damage.</li> </ul>
<b>Apprenticeships</b>	<p>The publication of the final changes to the Apprentice rules is expected to be published in <b>July 2022</b>, and the system further simplified from <b>August 2022</b>.</p>

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	This simplification process will include greater focus on the provider's assessment of previous experience, specifying the number of hours an apprentice must spend in training, and changes to the English and maths requirements.
<b>4-day weeks</b>	70 companies began taking part in a 6-month trial of the four-day working week, with the trial beginning in <b>June</b> and due to end in <b>December 2022</b> . Workers will receive 100% of their pay in exchange for working 80% of the time, with Oxbridge and Boston College academics reviewing the impact of the trial.

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