

April | 2024

Welcome...

...to the latest issue of Dispatches, bringing you recent case news and updates from the world of employment law and business immigration.

Meet the team below – our contact details can be found throughout the newsletter. As always, we're here if you and your business need our support.

At a glance

Cases & news covering:

- April updates
- A warning for sponsors
- Dismissals
- Religious belief discrimination



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Increases to employment tribunal compensation limits

The key increases include:

- The maximum compensatory award for unfair dismissal will go up from £105,707 to £115,115 (or year's gross pay, whichever is lower)
- The maximum amount of a 'week's pay' (used for calculating statutory redundancy payments and the basic award for unfair dismissal, for example) goes up from £643 to £700
- The minimum basic award for unfair dismissal (where the dismissal is for health and safety, trade union membership/activities, employee representative or occupational pension trustee reasons) goes up from £7,836 to £8,533
- The guarantee pay increases (for calculating lay-off payments) goes up from £35 a day to £38 a day.

The new rates apply to dismissals with an effective date of termination on or after 6 April 2024. ■

Seminar: Spring employment law update | 24 April (9am)

Location: DoubleTree by Hilton, Cheltenham, GL53 8EA

Keep on top of fast-changing employment legislation in the UK at this in-person session with the CIPD. Our experienced employment & business immigration lawyers will bring you the latest on legislation, case law and immigration with practical advice for your organisation.

Tickets are available to non-CIPD members, so if you're a HR professional or senior manager, this event will be of interest to you and your business. For more details and to book your place, please visit our website by [clicking here](#).



Health & safety dismissal and detriment



In *Herve v Goldstein*, the claimant refused to attend the workplace during the Covid-19 pandemic, and instead worked from home. She felt that there was no social distancing in the workplace, and she was concerned about travelling on public transport. The claimant resigned after the respondent started to criticise her work and insisted on the claimant attending the office.

Both the employment tribunal and the Employment Appeal Tribunal (EAT) found that she had been automatically unfairly dismissed and subjected to a detriment on the grounds of raising concerns, which she reasonably believed were harmful (or potentially harmful) to her health and safety.

What should you do?

Employees are protected against dismissal and detriment as a result of raising concerns that working conditions are harmful/potentially harmful to health and safety.

If employees raise genuine concerns connected with their work and health and safety, you need to tread carefully when responding. You must act reasonably in all circumstances and consider taking steps to limit risks. You must also ensure that you do not subject the employee to any detriment (criticising their work, commencing disciplinary proceedings, marginalising them, etc.) as a result of raising any such concerns. ■



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Disability discrimination: reasonable adjustments

Mr Miller was employed by Rentokil as a field-based pest controller. Following a multiple sclerosis diagnosis in 2017, he was permanently restricted from working at height and with speed – both crucial to his role. In 2019, Rentokil decided there were no reasonable adjustments that could be made, and that Mr Miller could no longer adequately perform his role.

Mr Miller applied for an administrative role but failed on a written assessment. He was consequently dismissed on grounds of capability and the lack of an alternative suitable role.

Mr Miller pursued a claim for unfair dismissal and for the failure to make reasonable adjustments under the Equality Act 2010. The employment tribunal and the EAT upheld his claim.

The EAT outlined that Mr Miller had demonstrated that the administrative role had the potential to be a suitable alternative, and Rentokil had failed to demonstrate that they had acted reasonably in their omission to offer it to him. Rentokil should have provided at least a trial period and/or training, as doing so may have amounted to a reasonable adjustment.

Additionally, Rentokil should have considered whether the administrative role could have been a reasonable adjustment for Mr Miller, rather than considering whether they wanted to appoint him to the role on the basis of merit.

What should you do?

Failure to make reasonable adjustments under the Equality Act 2010 could result in a disability discrimination claim. Therefore, when considering reasonable adjustments, it is important to ensure you are exploring all options, including – but not limited to – redeployment within your business with adequate training and trial periods. ■



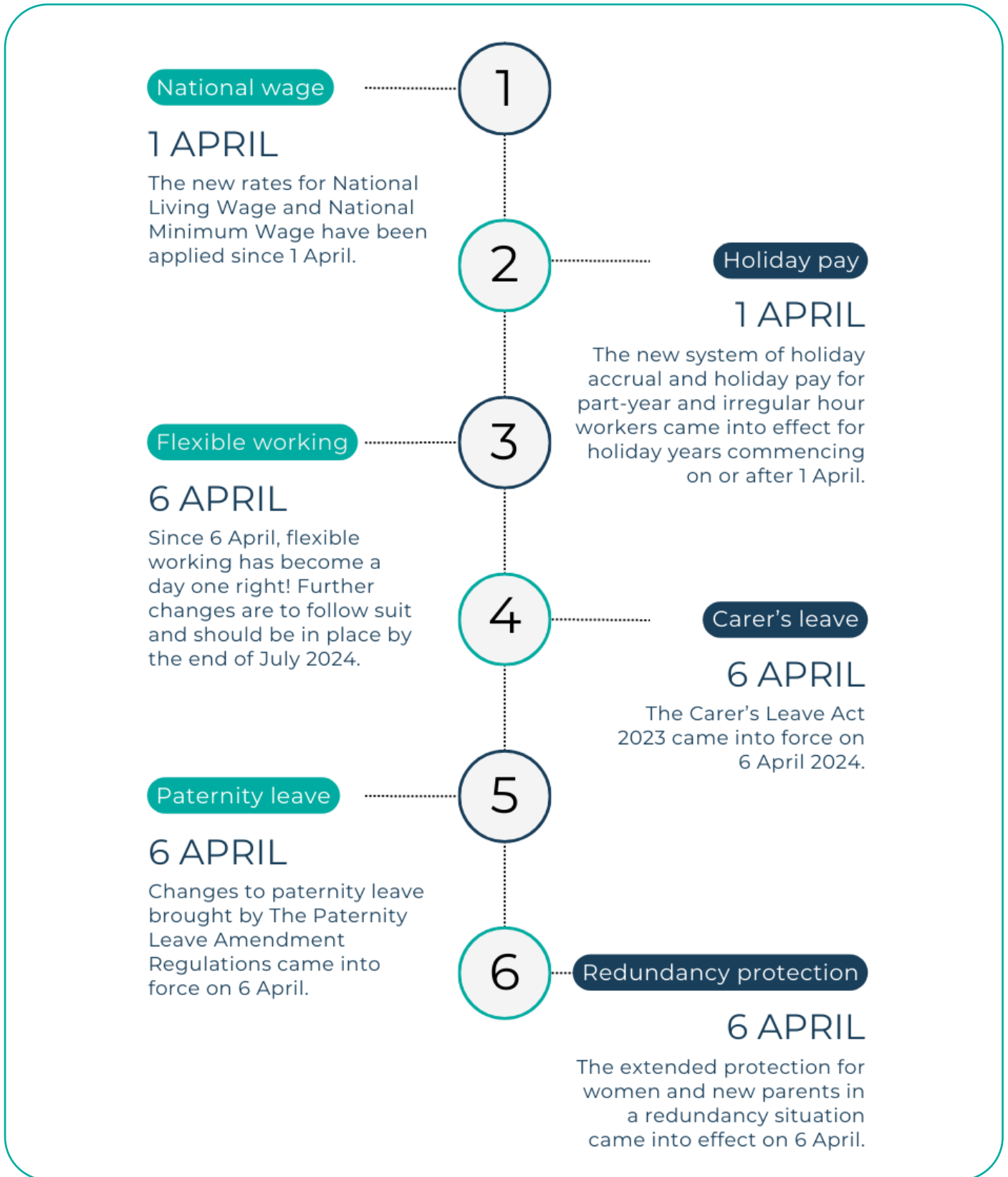
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Employment law: Changes we've seen in April

This month, employment law has seen a number of changes. Below is a short summary of what we've seen so far in April 2024:



*1, 4, 5 & 6 - find out more in our [February issue of Dispatches](#).

** 2 - more information can be found in our detailed [report](#).

*** 3 - employers may wish to review the ACAS guidance [here](#), or you can read our latest article covering the update on [our website](#).

Religious belief discrimination: Christian actor dismissed following a 'media storm'



The EAT recently rejected an appeal brought by a Christian actress dismissed from her role following a media backlash over an old Facebook post expressing her anti-gay views.

Ms Omooba was given a leading role in the production of *The Color Purple*. The part offered is typically seen as a lesbian role, but Ms Omooba didn't know this when she signed her contract.

Soon after her casting was announced, an old Facebook post expressing her belief that homosexuality is sinful resurfaced, starting what can only be depicted as a 'media storm'. Consequently, she was dismissed by both the theatre and her agency.

She brought tribunal claims for religion and belief discrimination, harassment and breach of contract. Later, she mentioned that upon reading the script, she wouldn't have taken on the role regardless.

Following the thorough review of the evidence, the tribunal found that her dismissal was not because of the expression of her belief, but due to the concerns over the effect of the adverse publicity on the commercial success of the production, audience reception and the producer's reputation. Similarly, her agency dismissed her due to the concerns over their reputation. She therefore failed in her discrimination and harassment claims.

Her claim for breach of contract also failed because the theatre paid her fee in full. However, even if they had not, she stated that she would not have taken the role, and therefore would not have suffered any loss. The claimant appealed.

The EAT sided with the tribunal and rejected her appeal. The claimant is now seeking a leave to appeal to the Court of Appeal.

What should employers do?

Dealing with conflicting rights in the workplace is always difficult. While the legal position is not straightforward, case law now offers guidance on how to navigate such conflicting situations and balancing the rights of those with protected beliefs against the rights of others.

It will need to be dealt with on a case-by-case basis, and you should take legal advice in these situations, but proportionate action is the key. ■



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Vento bands: annual update

Used by employment tribunals when awarding compensation for injury to feelings and psychiatric injury, the latest vento bands were revealed in [the seventh addendum to Presidential Guidance](#) on 25 March.

There will be an increase in line with inflation.

Claims made on or after 6 April 2024 will see an increase as follows:

Band	Criteria	Award range
Lower band	Less serious cases	£1,200 to £11,700
Middle band	Cases falling above the lower band but below the upper band	£11,700 to £35,200
Upper band	Serious cases	£35,200 to £58,700
Exceptional cases	Cases which exceed the seriousness of the upper band	Above £58,700

Automatic unfair dismissal for seeking to take parental leave

The dismissal of an employee will be deemed automatically unfair if the sole or principal reason for the dismissal was that the employee 'took or sought to take' parental leave.

In the absence of a clear definition of what it means to 'seek parental leave', it falls to case law to fill in the gaps. In a recent decision, the EAT confirmed a formal application to take parental leave is not needed to establish the basis of a claim in this respect.

In *Hilton Foods Solutions v Wright*, the claimant informed his employer of his intention to take parental leave. Subsequently, he was dismissed on the grounds of redundancy. He claimed that the redundancy was not the genuine reason for his dismissal, and that he was actually dismissed because he had communicated his intention to take parental leave.

The respondent applied for the claim to be struck out on the basis that, in the absence of a formal application for parental leave, the claim had no real prospect of success. However, the tribunal disagreed, stating that by communicating his desire to take parental leave he effectively sought to take such leave. The EAT upheld this decision.

What should employers do?

This serves as a timely reminder that employees seeking various types of leave are protected from dismissal by legislation, even when they do not have the required two years of service. It is also important to note that a formal application is not required to trigger such protection. ■

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April 2024 business immigration summary

On 14 March 2024, the Home Office published a statement of changes further to the 'five-point plan' announced last December.

We have put together a summarised table of these changes so you can stay up to date:

If you would like further information on the above, please do not hesitate to get in touch with our business immigration experts. Additionally, please see a more detailed article of these changes [here](#). ■

Date	Changes
2 April 2024	Defined Certificate of Sponsorship applications outstanding after 7pm were cancelled.
2-4 April 2024	The Sponsor Management System was closed for maintenance work from 2 April 2024 (at 7pm) to 4 April 2024 (at 9am).
4 April 2024	The minimum salary for new applications via the skilled worker route increased to £38,700.
4 April 2024	Introduction of the new Standard Occupational Classification 2020 system (note: there were changes to some occupation codes & job descriptions).
4 April 2024	Introduction of the interim Immigration Salary List (note: there was a reduction in occupations and a removal of the 20% salary discount).
11 April 2024	The minimum income requirements for settled/British citizens who want to bring family to the UK increased to £29,000.

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Warning for sponsor licence holders



We've become aware of cases where scammers approached sponsor licence holders in an attempt to gain access to their sponsor management systems (SMS). They typically approach sponsors via phone and often possess specific details about the licence.

It's crucial to note that the Home Office primarily communicates with sponsors through email or letter. In the event of a phone call, sponsors should avoid disclosing any information and instead request communication in writing.

Key personnel are reminded to keep their login details to the SMS secure. Sharing password information is considered a

severe breach of sponsor duties and could lead to the revocation of the sponsor licence.

If you have doubts about any communication from the Home Office or encounter similar issues, please don't hesitate to contact us. ■



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More news on our website www.willans.co.uk

Contact

For advice on any of the issues covered in this bulletin or any other area of law, please contact these people in the first instance.

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