

Labour Law Highlights 2021

edited by Rebecca Tuck QC,
Stuart Brittenden & Betsan Criddle



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introduction

Any review looking back at the period from March 2020 to February 2021 brings up a single word. COVID. That in turn brings up depressingly familiar words such as economic downturn and redundancy – but also new ones we have not been familiar with in the UK before, such as lockdown and furlough. Unsurprisingly, a number of cases this year have examined the ‘furlough’ schemes for employees – the coronavirus job retention scheme (CJRS) and for the self – employed, the income protection scheme (SEIPS). As of 15 February 2021, 11.2 million jobs had been furloughed at a cost to the government of around £53.8 billion. In this publication we have not set out the detail of the schemes – which have changed over time – but for those who want to read more, the research briefing produced by the House of Commons Library is a great starting point.¹ There is a great deal of concern about the unequal impact the pandemic and the furlough schemes have had on women who seem to have borne the heaviest home-schooling load. We know already that those aged under 24 had the highest proportion of furloughed jobs, and that among that age group, women are more likely to be furloughed than men.² In the years that follow this pandemic, its impact will continue to be analysed and significant case law is, in our opinion, inevitable.

For those not furloughed, we have been instructed, (three times at the time of writing), that ‘those who can work from home, must work from home’. For employment lawyers this has seen a move from in person hearings, to the adoption of the Cloud Video Platform (CVP) by ETs, and Teams by other courts. Thankfully, no cat filters have been adopted by UK employment lawyers (so far as the authors are aware!), but new presidential guidance and practice directions have been grappled with. For those who cannot work from home, we have had concerns as to the provision of ‘PPE’, and a renewed understanding of the significance of ‘health and safety’ at work – and its application to ‘workers’ as well as employees – as a result of the significant IWGB case.

All this against the background of another word unknown to us just a few short years ago – Brexit – and early threats that we could see

changes to the employment rights previously guaranteed by our membership of the EU.

A brighter note at the time of writing however, is the Supreme Court's judgment in Uber, in which the gig economy drivers were found to be 'workers' entitled to minimum wage, paid holidays and rest breaks.

This publication could not have been put together without the contributions of Madeline Stanley, Ben Jones, Alex Shellum, Camille Ibbotson, and Serena Crawshay-Williams, under the expert guidance of Betsan Criddle and Stuart Brittenden. I am grateful to all of them – when pubs re-open my round is going to be pricey!

Rebecca Tuck QC
March 2021.
Old Square Chambers, London.

