



Employment Law Update

November 2020

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Updates to HMRC furlough guidance for employers and further Treasury Direction

As mentioned in the October 2020 update, the government has extended the Coronavirus Job Retention Scheme (CJRS) in light of England's second lockdown which began on 5 November 2020. The Chancellor has since announced that the CJRS will officially be extended until 31 March 2021, despite original plans to end it in 2020.



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Failure to act may amount to a breach of the implied duty of trust and confidence

In *Nair v Lagardère Sports and Entertainment UK* the High Court confirmed that an employer could potentially be in breach of the implied duty of trust and confidence by failing to take action to ensure that an employee received a contractual bonus due from other companies in the same group.



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Failure to return to work was communication of acceptance of breach

In the case of *Chemcem Scotland Ltd v Ure* the Employment Appeal Tribunal (EAT) held that an employee's failure to return to work after her maternity leave amounted to communication of her acceptance of her employer's repudiatory breach for the purposes of an unfair dismissal claim.



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National minimum wage (NMW): training costs can be reductions

The case of *HMRC v Ant Marketing* has highlighted that, when calculating whether the NMW has been paid, deductions for the cost of training is classed as expenditure "in connection with employment" and as such it may be treated as "reductions". Accordingly, if training costs are deducted and this takes an employee below the NMW, the employer will be in breach.



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