



*This Week in Employment Law*

**01.08.2022**

## New guidance published on employment status

**The government has released new guidance to help employers to better understand the employment status of their teams. We look at the key implications for employers.**

- There are different rights depending on whether an individual has the status of employee, worker or self-employed. As such, it's important employers know what category their staff members fall into.
- The government confirmed that status tests will not be aligned for tax and employment purposes, they will stay different.
- Previous consultations looked at removing "worker" status and just having "employee" and "self-employed" status, but this was also rejected. As such, there are no major changes to the way status is currently assessed.
- However, status is, undoubtedly, one of the more difficult areas of employment law which organisations have to contend with.
- Due to the complexities involved with determining status, this new guidance will be welcome news for employers, which pulls together case law and other resources into one main document.
- Employers should keep in mind that the ramifications when status is applied incorrectly can be significant. In essence, it could lead to an employee missing out on statutory entitlements, such as sick pay, holiday pay and redundancy pay.
- Therefore, it is essential to ensure the correct status is applied from the commencement of employment, and regularly reviewed throughout the working period, to avoid tribunal claims and costs arising.

### No extra bank holiday to celebrate Women's Euro win

The government has confirmed there will not be an extra bank holiday to commemorate the Lionesses' Euro 2022 triumph on Sunday. The England team's success showcased the benefits of strong leadership and teamwork. Taking time to applaud hard work and determination can help to develop positive relationships in the workplace and improve satisfaction and motivation. Being transparent and earning the respect of your team are key.

#### Did you know?

Employers should take a zero-tolerance approach to any behaviour in the workplace relating to the football that can cause a hostile, intimidating or offensive environment for employees.

### Planned school strikes in Scotland

Council workers in Scotland are set to strike over pay disputes which means hundreds of schools may have to shut at the start of the new school year. Employers should prepare to deal with more absences of employees with children. Options could include working from home or agreeing annual leave. Employees may be able to take time off for dependants, which will be unpaid unless their contract says otherwise.

#### Did you know?

More dates have been set for rail worker strikes on Saturday 13 August and Thursday 18 August 2022. Employers will once again have to manage absence and lateness, or agree other arrangements.

### Medical capability dismissal after grievance was unfair

The employment tribunal has found that a medical capability dismissal without showing the findings of a grievance investigation was unfair. The supermarket employee went off sick after she confronted a shopper who refused to wear a mask. The tribunal concluded that it was outside the band of reasonable responses to dismiss without sharing the findings about the issues she had raised in relation to her personal safety.

#### Did you know?

The claimant's compensation has not yet been decided but it will be reduced by 25% as the tribunal found it was likely she would have eventually been dismissed in any event.

Applying the incorrect employment status to an individual can lead to costly employment tribunal claims and reputational damage. Contact our 24-hour Advisory Service for up-to-date guidance on employment status and more.

Please contact the 24 Hour Advice Service for advice on your specific situation before acting on the information in this publication.