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Employment Law BULLETIN

Welcome to our January employment law bulletin.

This has been a bumper month for legal developments. On 15th January the European Court of Human Rights delivered its judgements in *Eweida and Others v The United Kingdom* in the four lead cases concerning the right of employees to manifest their religion and beliefs, and on 17th January the Government made a number of announcements about proposed employment law changes. Finally, we include our usual round-up of cases in the EAT.

May I remind you of our forthcoming events:

Click any event title for further details.

TUPE: The latest developments in law and practice

• Breakfast Seminar, 12th February 2013

In-House Investigations

• A practical HR workshop, 5th March 2013

and in conjunction with ACAS in the North East:

Understanding TUPE: A practical guide to business transfers and outsourcing

• Full Day Practical Workshop, 6th March 2013

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Click on any of the headings below to read more

- 1 : Employment law announcements
- 2 : When assessing whether an employee is disabled should a tribunal concentrate on those activities which the employee cannot do rather than those which he can do?
- 3 : Can the reason for dismissal be redundancy, even though the employer had issues about the employee's capability or conduct?
- 4 : TUPE Transfers: No Double Compensation
- 5 : When, after an internal appeal against dismissal, a lesser penalty was imposed, did that expunge the earlier dismissal?
- 6 : The right to manifest religion or belief: a fundamental but not unqualified right
- 7 : Government publishes its consultation on proposed changes to the TUPE Regulations



Wherever you see the BAILII logo simply click on it to view more detail about a case

1: Employment law announcements

[▲ BACK TO TOP](#)

As part of its *Red Tape Challenge* and as a follow up to the *Resolving Workplace Disputes* consultation a number of important announcements were made on 17 January 2013. These are:

- A proposal to cap the unfair dismissal compensatory award at the lower of one years pay and the existing limit on compensation of £72,300 (£74,200 from 1 February). The Government's thinking is that this will lower expectations of employees in negotiating settlement deals and will encourage more settlements.
- The Government has issued a consultation paper: [Early Conciliation: A Consultation on Proposals for Implementation](#). This puts more flesh on the bones of the proposal that pre-claim conciliation through ACAS will be mandatory before an employment tribunal claim can be submitted.
- There are to be more radical changes than anticipated to the TUPE Regulations 2006, including a proposal to remove the service provision change rules altogether. We cover the substance of these proposals in more detail later in this Bulletin.
- The Government has decided to implement many of the recommendations in the 2011 report: *Health at Work: An Independent Review of Sickness Absence* by Dame Carol Black and David Frost CBE. The most significant of these is to create a health and work assessment and advisory service by 2014.
- There are also proposals to simplify the regulations of the recruitment sector by repealing the Employment Agencies Act 1973 and the Conduct of Employment Agencies and Employment Business Regulations 2003 and replacing them with a new, much simpler, regulatory framework.

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