



September employment law round up

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Welcome to month two of the (possibly regular?) employment law round up, an excuse to look at recent employment HR and labour issues from a not-so-legal angle.

The workplace world continues to be preoccupied with the question of remote-working. The two best pieces I've read on the subject this month are, [this](#) research from a journal on human behaviour which suggests that the effects of remote work may make it harder for employees to acquire and share new information across the workplace, and [this](#) nuanced article which examines the extent to which the preference for homeworking splits along generational lines.

Clearly, the demand from employees for a 'new normal' continues apace with talk of the [great resignation](#). I find this concept particularly interesting, because employers have known for a long time that resignations can take on a domino effect. For a decent explainer, look no further than [this](#) article on 'turnover contagion' (did they have to call it that?). It seems to me that the great resignation is the same phenomenon playing out at the macro level. Not everyone is resigning though, apparently more than ever people are working [two jobs at once](#).



Employers continue to source [creative](#) means to tempt their employees back to work (and by creative, I mean 'booze and popcorn'). The final word on remote work for this month is a [venn diagram](#) from Twitter; it remains the most entertaining take on the debate I've seen yet.

In other Covid-19 developments, we have continued to see employers ask whether it's permissible to mandate vaccines for their employees - a return to the office clearly remains on the mind. The answers from a UK perspective are [far from straight-forward](#), and the risk/reward may not make sense for the majority of employers, but it turns out that mandatory vaccines could be [good for the bottom line](#).

In apparent contrast to my bleak prediction [last month](#) that the end of furlough might lead to an unexpectedly high number of redundancies over the coming months, I note that job vacancies hit a [record high](#) in the UK in September, with lots of available roles in the accommodation and food sectors in particular. Haulage too apparently: a UK-based lorry driver disclosed that his pay had increased by [40% an hour](#) overnight this summer due to a shortage of drivers. The same employee also did a fascinating [Twitter thread](#) on his day job (which contains some satisfying insights on the working time directive in action). You might imagine that worker shortage in key industries is a particularly British problem at the moment, but I note that a similar pattern seems to be playing out in the [US](#).

Moving away (finally, you might reasonably suggest) from pandemic-related updates, a podcast this month led me to discover possibly my favourite employment law document ever: the [employee handbook](#) of game-building company Valve. It essentially implements a zero-structure, zero-hierarchy environment that empowers employees to prioritise exactly what they want, when they want, with no management oversight. Possibly a hard sell in many work environments, but it clearly [works for them](#). And staying on the gaming industry for a moment, I learned this month that the industry has a dedicated term - '[Crunch](#)' - for the long hours employees must work in the lead up to a big release. Hopefully any in-house employment lawyers or HR professionals at gaming companies out there know their way around Regulations 4 and 5 of the Working Time Regulations...

Elsewhere, El Salvador has made [Bitcoin legal tender](#), becoming the first nation to do so. They've done so in part with the hope that it will make it easier (and cheaper) for migrant Salvadorans to send money home. It turns out that several ambitious entrepreneurs [tried to do](#) something similar off the coast of Panama in the context of 'Seasteading' in 2020, to disastrous effect. That article is a long one, but a good one.

Changing tack for a moment, this month we got a [headline-grabbing](#) decision from the Employment Tribunal on flexible working requests. The employee received an eye-catching £185,000 for indirect sex discrimination when her employer denied her request, which is being touted as a victory for parents' rights. Interesting, then, to see the Government [launch a consultation](#) on proposals to give the right to request flexible work from the first day of employment. From an employer's perspective, the case is a useful reminder of the need to actively engage with the relevant legislation when considering these types of requests, rather than paying lip-service to it. Of course, women face similar problems every day in the workplace; [this](#) thoughtful article on how to retain more women in law firms tells of the difficulty of reconciling dual priorities of work and motherhood.

Flexible working is certainly important to employee wellbeing, and this month a few notable stories have also focussed on wellbeing initiatives. Nike were reported as giving its head office staff a [week off](#) to prioritise their mental health, whilst the oft-referenced '[many things are okay](#)' note made headlines again. I found [this](#) to be a useful explainer on how employees should engage with their employer on mental health. Also, this article [questions](#) whether we should really be sending emails in the middle of the night (increasingly difficult in a global and/or dispersed workforce).

Some light relief to finish. If anyone out there is shortly appearing as a witness in the Tribunal or elsewhere, then look no further than New Zealand (okay, that's pretty far!) for an [explainer](#) on the importance of acting cooperatively and with integrity in court. The judge makes it crystal clear how little he approved of the witness's evasiveness. Jump to paragraph 191 onwards for the good bit (a.k.a. the utter evisceration of 'Mr Banks'). It's not Employment Law, but it is a fun read.

Another odd story this month is that of the employee who was [awarded](#) £5,000 "after being given three chicken nuggets for £1.99 in his workplace canteen". Of course it turns out to be a story about a [failure of process](#), but it remains a finger-lickin' headline.

Finally, I note that an employee in Ireland was paid his final pay packet in [5 Cent coins](#). My free advice this month is don't be that employer.