Alex Leonhardt

Year of Call: 2018
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Employment and discrimination

Alex is frequently instructed across the full range of Employment Tribunal and civil court employment matters, and is a frequent contributor to 3PB's Employment Newsletter. He has particular experience in acting for schools, universities and education professionals, informed by his education law practice.

He also acts in Equality Act claims brought in the County Court and First-tier Tribunal outside of the employment context, and has experience of claims on behalf of both employers and employees arising from restrictive covenants and non-poaching clauses.

His recent cases include:

- Obtaining a finding that a claimant's belief in English nationalism was not a protected belief for the purposes of a discrimination claim brought against a university employer
- Successfully representing a claimant in a redundancy claim, on the basis of superficial consultation with employees and the recognised trade union
- Securing an order that a claimant pay 100% of the costs of the Respondent in an unmeritorious and unreasonably brought discrimination claim
- Acting pro bono to assist an ex-employee obtain a £15,000 settlement following a failure by an employer to offer contractual hours
- Advising and pleading in a disability discrimination claim brought against a community sports club operating as an unincorporated association
- Providing advice and drafting on jurisdiction issues arising from the State Immunity Act
- Disability discrimination claims arising from "mask mandates" imposed by shops during the coronavirus pandemic.

Articles

Alex Leonhardt considers the case of ONEA v Contingent and Future Technologies Ltd [2023] EAT 125, in which the EAT issues its second reminder this year (following Lycatel Services Ltd v Schneider [2023] EAT 81) that applications to stay need to be determined following a decision on which forum the dispute would be "most conveniently and appropriately be tried" as per Bowater Plc v Charlwood [1991] ICR 798, and also considers the relationship between that test and a presumption against the High Court being bound by prior findings of the Employment Tribunal.

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Alex Leonhardt reviews the case of Steel v Spencer Road LLP [2023] EWHC 2492 (Ch), in which the High Court decided with some certainty that though a bonus scheme conditional on the employee remaining in employment for a specified time acts

as a disincentive to that employee resigning, it does not constitute a restraint of trade.

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Alex Leonhardt reviews the case of McNicholas v (1) Care and Learning Alliance (2) CALA Staffbank [2023] EAT 127, in which the EAT considered whether a regulator's decision that there was a case to answer, following initial reports made in retaliation for a protected disclosure, constituted an "intervening act" in assessing damages.

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Alex Leonhardt reflects on the case of Jackson v The University Hospitals of North Midlands NHS Trust [2023] EAT 102, in which the EAT considers the application of Hogg v Dover dismissals to an employee in a contractual redundancy situation. The EAT gives guidance on how such claims are to be determined by Employment Tribunals.

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Alex Leonhardt reviews the case of Mrs Kristie Higgs v Farmor's School (The Archbishop's Council of the Church of England intervening) EA-2020-000896-JOJ in which the EAT considers a case involving dismissal on the basis of the manner a protected belief was manifested by an employee in social media posts, and guidance on the question of proportionality in such cases.

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Alex Leonhardt considers the case of Mr J Edward v Tavistock and Portman NHS Foundation Trust [2023] EAT 33, in which the EAT carefully considered the relevant principles for approaching questions of failure to mitigate losses, and in particular where percentage reductions similar to "loss of chance" cases are appropriate.

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Alex Leonhardt looks at the case of *Earl Shilton Town Council v Miller*, in which the EAT considered the application of direct discrimination in circumstances where both staff of both sexes shared nominally the same toilet facilities.

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Alex Leonhardt considers the Supreme Court's decision in McCue v Glasgow City Council, a claim against a local authority's decision to not disregard certain disability-related expenses from a means-testing assessment.

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Alex Leonhardt analyses the case of Nexus v RMT & Unite the Union [2022] EWCA Civ 1408, in which the Court of Appeal considered the application of the contractual doctrine of mistake - both common mistake and unilateral mistake - in the context of a collective bargaining agreement, and its potential consideration by Employment Tribunals.

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Alex Leonhardt analyses the case of Hilco Capital Limited v Denise Harrington [2022] EAT 156, in which the EAT considered the evidential burden in respect of claims that an ex-employee suffers disadvantages in the labour market arising from stigma related to whistleblowing or bringing claims against their former employers.

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Alex Leonhardt reviews *Department for Work and Pensions v Mrs Susan Boyers* [2022] EAT 76, in which the EAT gives useful advice on the above matters (for the second time in the same case).

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Alex Leonhardt analyses ***Clark v Middleton and anor [2022] EAT 31***, a case in which the EAT considered the ET's discretion to make (or not make) an award of compensation for breaches of TUPE Regulations, and the effect of withdrawal of a claim on a defendant's liability to pay compensation, in circumstances where the claimant has no freestanding right to bring a claim against

them.

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Alex Leonhardt analyses USDAW & Ors v Tesco Stores Limited [2022] EWHC 201 (QB), in which the High Court considered the restraints on the ability of employers to terminate with notice in order to impose new terms, in circumstances where there had been a prior commitment to keep a particular term.

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Chell v Tarmac Cement and Lime Ltd [2022] EWA Civ 7,

Alex Leonhardt reviews *Chell v Tarmac Cement and Lime Ltd* [2022] EWA Civ 7, in which the Court of Appeal considers both vicarious liability for employees' practical jokes or "horseplay" and a purported direct duty on employees to prevent the same, with some useful commentary on the relevance of tension or animosity between staff when that contributes to an employees' wrongdoing.

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Alex Leonhardt reviews A v Burke & Hare (EA-2020-SCO-0000067-DT), a case in which the EAT concludes that applications for anonymity orders need to be supported by robust evidence on harm that will arise to the party, going beyond mere embarrassment or social opprobrium, with evidence of impact on labour market outcomes potentially considered relevant and sufficient.

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Mallon v AECOM Ltd, UKEAT/0175/20/LA (V)

Employment and civil law barrister Alex Leonhardt analyses Mallon v AECOM Ltd, UKEAT/0175/20/LA (V), a case in which the EAT again urged caution in the use of strike-out applications in discrimination cases, and warned against only considering the first of the three duties under s20 of the Equality Act in reasonable adjustment claims.

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Academic qualifications

- Bar Professional Training Course, Cardiff University 2017-18 (Very competent)
- Graduate Diploma in Law, Cardiff University, 2016-17 (Distinction)
- MA Political Philosophy, University of York, 2011-2012 (Distinction)
- BA (Hons) Philosophy, University of Cambridge, 2005-2008

Scholarships

- Astbury Scholarship (Major Award), Middle Temple
- Harmsworth Entrance Exhibition, Middle Temple
- Campbell Foster Prize for performance on the BPTC, Middle Temple