Harvey on Industrial Relations and Employment Law

This Bulletin covers material available to **1 March**.

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LEGISLATION

Supporting regulations for the Neonatal Care (Leave and Pay) Act 2023

The Statutory Neonatal Care Pay (Administration) Regulations 2025 SI 2025/206 provide the scheme for employers to be recouped 92% of moneys paid out as Neonatal Care Pay, or 100% if a small employer. The Statutory Neonatal Care Pay (Persons Abroad and Mariners) Regulations 2025 SI 2025/202 make provision for these categories who would not otherwise qualify. The Neonatal Care Leave and Pay (Consequential Amendments to Subordinate Legislation) Regulations 2025 SI 2025/201 make necessary amendments to existing regulations. They all come into force on 6 April and will be incorporated into Div R in Issue 325.

DIVISION AII CONTRACTS OF EMPLOYMENT

Recruitment; application form; employee liability for inaccuracy

AII [6], AII [154], AII [533]

***Easton v Secretary of State for the Home Department* (*Border Force*) *[2025] EAT 15* (*7 February 2025, unreported*)**

Sixteen years ago quite a stir was caused by the case of *Cheltenham BC v Laird* [2009] EWHC 1253 (QB), [2009] IRLR 621, which for the first time raised the question of the potential liability of a job applicant submitting false, misleading or incomplete information on an application form, leading to them getting the job when they would not if the right information had been given. That case (considered at **AII [6]**) was only at first instance and in fact the employer claimant lost its claim on the facts, in particular because it

was held that the employer's questions on the form were so unspecific and ambiguous that the defendant employee did not have to disclose the information in question. However, the decision held that liability *could* arise in such a case. The claim arose because of a failure to disclose a significant health problem and took the form of a tort action for damages. In the years since, there has been no further development of the law here, probably because of the inherent unlikelihood in practice of an employer suing an employee in tort. However, the general issue has now arisen again in the instant case in the EAT before Crowther DHCJ, *but* in a context more likely to arise in practice, namely unfair dismissal and the question whether it is fair to dismiss an employee found to have obtained the employment by inaccurate information in their application.

The claimant employee, a career civil servant, applied for a post with the Border Force in 2019. The application form contained a box to be filled in marked 'employment history'; this had no further instructions. At the end it contained a mandatory declaration that 'I understand that my application may be rejected or I may be subject to disciplinary action if I've given false information or withheld relevant details'. He gave some of his employment history but failed to mention that in 2016 he had been dismissed by the Home Office for gross misconduct; he had contested this in ET proceedings which had been compromised in a COT3. This had led to a three-month gap before becoming employed in another government department. This too was not disclosed on the form. When the employer found this out, he was dismissed. He again brought ET proceedings, arguing that he had had no obligation to make these disclosures, given the open nature of the relevant box. The ET found against him, upholding the employer's decision to dismiss because of the inaccuracy/failure to disclose, as being within the band of reasonable responses.

The claimant appealed to the EAT, at which stage the *Cheltenham* case came into consideration. There were arguments each way on this because the judgment there contained elements favourable to each side. The claimant relied on the holding that ultimately it is for the employer to ensure that application forms are clear and unequivocal (not expecting a candidate to compensate for any ambiguity), and that if there is ambiguity it is enough for the applicant to give either of the possible answers. This indeed had been the basis of the actual decision. However, in rejecting the claimant's appeal here, the EAT pointed out that the *Cheltenham* case (apart from being distinguishable on its facts) also disapproved legally an argument that the only duty on an applicant is to give what they subjectively think deserves to be disclosed; instead, 'the standard by which responses to questions in an employment application process fall to be judged is objective and reflects the duty to take reasonable care to ensure that statements of fact, which are likely to be relied upon, are accurate' (para [64]). Here, the ET had applied that test to the facts and come to a permissible conclusion. In this context it was stressed that the function of the ET in such a case is not to retry the whole thing and decide for itself whether the claimant had been fraudulent/disingenuous/innocent, but to decide if the *employer's* decision (after a proper procedure) had been

within the reasonableness bounds (a more flexible standard than in a tort case such as *Cheltenham* where the court is the primary fact-finder). Again, the ET had got that right.

DIVISION DI UNFAIR DISMISSAL

Misconduct; importance of a proper investigation; onus on tribunal to consider

DI [1482]

***Elhalabi v Avis Budget UK Ltd [2025] EAT 11* (*7 August 2024, unreported*)**

Although it is a truism that a proper procedure is an essential part of a fair dismissal for misconduct, there is a tension here between two equally fundamental approaches to how an ET should operate in such cases. On the one hand, in spite of the original inquisitorial function of ETs in the earliest days, it is now established that in general the ET is there to rule on the case presented to it; it is not there to go further and make a different case for a party who has not raised it. On the other hand, since the important case of *Langston v Cranfield University* [1998] IRLR 173, EAT it has been established that there are some aspects of an unfair dismissal case that are *so* fundamental that an ET may be expected to consider them off its own bat, even if not specifically raised by the party. *Langston* concerned the basic rules on fair redundancy (see **DI [1682]**) and its decision was upheld by the Court of Appeal in the context of an incapacity case in *Small v Shrewsbury and Telford NHS Trust* [2017] EWCA Civ 882, [2017] IRLR 889 (see **DI [1274.01]**). Into this mix there can be added the separate but linked general question as to the extent to which an ET should give help to a litigant in person. The overall problem is how to tell on which side of this line in the sand any particular case is to fall. The instant decision by Judge Beard in the EAT gives useful guidance on that line in misconduct cases where the question is whether a fair *procedure* has been adopted by the employer; although as always the particular facts of a case will be important, the decision gives a strong steer that in most cases it will be for the claimant to spell out exactly what alleged procedural breach or breaches they wish to rely on, not for the ET to look beyond that.

The claimant was accused of leaving a store unlocked. At the employer's investigation into this, he said that he had CCTV footage that exculpated him, but did not say how he had obtained it. At a further investigation (held remotely because he was off sick) he said that an ex-employee had obtained it for him. When the employer looked into this, that ex-employee denied that he had done so. The employer took the view that the claimant had been dishonest about this. He was dismissed for the original misconduct and this dishonesty. An appeal was turned down. In his claim for unfair dismissal, it was accepted that the dishonesty point had not been put to him until after the dismissal. The problem arose here because the claimant, acting by himself, did *not* expressly rely on this breach of normal procedure in his case. The ET rejected his claim and on his appeal to the EAT he argued that the ET had

erred by not considering the breach of its own motion, on the basis that under *Langston* it was such an obvious breach of normal procedural fairness that the matter should have been at large.

The EAT disagreed. It stated that most of the *Langston*-type cases have concerned redundancy dismissals, where the rules are very well established and 'obvious'. By contrast, misconduct cases and the procedure expected in them are much more varied, more 'nuanced' and with many possible factors. Here, the dominant approach remains the basic one, that it is up to the claimant to set out their case for the ET to adjudicate upon. The EAT did take into account the fact of his being a litigant in person, but also the counterweight that the ET had looked at the case as a whole in some detail and come to a clear decision.

Some other substantial reason; other potentially substantial reasons; mistaken belief in resignation

DI [1871]

Impact Recruitment Services Ltd v Korpysa [2025] EAT 22 (11 February 2025, unreported)

The chapter on SOSR proceeds from the principal category of protection of business interests to consider the ragbag of other possible applications of this residual category. At **DI [1894]** it considers cases where the employer acted on a mistaken belief in the relevant facts, on which there is case law. However, in the instant case before Judge Auerbach in the EAT a variation arose, namely where the employer terminated the employment due to a genuine but mistaken belief that the employee had actually *resigned*, on which there has been a lack of case law. The judgment considers it a priori and sets out the following principles:

(1) in that case, the employer's acts do constitute a dismissal;

(2) the mistaken belief is the 'reason' for the purposes of the ERA 1996 s 98 **Q [722]**;

(3) that is capable of being SOSR, but it still has to be shown that it was on the particular facts, albeit that the bar is low here; in most cases it will succeed unless it is shown that the mistake was capricious or lacking any possible rational basis;

(4) if it does constitute SOSR, the ET will need to go on to consider if the dismissal was reasonable under the s 98(4) test, which may involve considering whether the relevant manager had reasonably held the mistaken belief and whether they had taken the steps that a reasonable manager would take to ascertain if the employee had in fact resigned, before acting on the belief.

The facts of the case show how a problem such as this can arise, over the apparently simple question 'were they dismissed?'. The claimant was employed by the respondent agency, but worked all the time for one client. When the COVID lockdown came, the client said it was shutting down and

that most staff including the claimant were being 'laid off'. Being unsure of her position (including possibly not realising she was actually employed by the agency), the claimant contacted the agency's on-site manager but here recollections varied. She said she had asked for her accrued holiday money and a copy of her contract (to check the notice provision), but the manager said she had asked for these *and her P45*, indicating she had another job lined up. It was on that basis that the employer terminated her employment, in the light of her apparent resignation.

Further complications arose at her ET hearing, where the side members outvoted the EJ. The latter considered that this was a straightforward resignation and so was not an unfair dismissal, but the side members, accepting her version of the facts, upheld her claim. On appeal, the EAT held that the majority had erred in law. They had thought that it was not a resignation, but a dismissal, for which no reason had been shown. That meant that no potentially fair reason had been shown, in which case it followed naturally that it must have been unfair. Having set out the above principles, the judgment goes on to hold that the majority had not considered the key questions of whether it was for SOSR and if so whether the dismissal was within the range of reasonable responses. It cites by analogy two cases on employer mistake as to facts, *Klusova v London Borough of Hounslow* [2007] EWCA Civ 1127, [2008] ICR 396 and *Ely v YKK Fasteners Ltd* [1993] IRLR 500, [1994] ICR 164, CA, both of which are considered at **DI [1896]**, but as stated above this particular head of SOSR is now best treated as separate and subject to its own principles.

DIVISION L EQUALITY

Religion or belief; freedom to hold and manifest; justifiable objection to manner of manifestation

L [212.04], L [212.07], L [213.05]

Higgs v Farmor's School [2025] EWCA Civ 109

This is the awaited appeal in the newsworthy case of the dismissal of a secondary school teacher for online posts she made pursuing her beliefs that gender is binary, not fluid, and that same sex marriage is not equivalent to traditional marriage. The ET dismissed her claim of belief discrimination, but the EAT allowed her appeal, remitting the case for reconsideration. Having won on substance, she appealed against the result of remission and the Court of Appeal have now allowed that appeal and decided the case themselves in her favour.

The lengthy lead judgment of Underhill LJ contains a thorough review of the law here (both domestic and under the European Convention). At the end of it, he very helpfully sums up the position as follows:

'(1) The dismissal of an employee merely because they have expressed a religious or other protected belief to which the employer, or a third

party with whom it wishes to protect its reputation, objects will constitute unlawful direct discrimination within the meaning of the Equality Act.

(2) However, if the dismissal is motivated not simply by the expression of the belief itself (or third parties' reaction to it) but by something objectionable in the way in which it was expressed, determined objectively, then the effect of the decision in *Page v NHS Trust Development Authority* is that the dismissal will be lawful if, but only if, the employer shows that it was a proportionate response to the objectionable feature – in short, that it was objectively justified …

(3) Although point (2) modifies the usual approach under the Equality Act so as to conform with that required by the European Convention of Human Rights, that "blending" is jurisprudentially legitimate …

(4) In the present case the Claimant, who was employed in a secondary school, had posted messages, mostly quoted from other sources, objecting to Government policy on sex education in primary schools because of its promotion of "gender fluidity" and its equation of same-sex marriage with marriage between a man and a woman. It was not in dispute, following the earlier decision of the EAT in *Forstater v GCD Europe*, that the Claimant's beliefs that gender is binary and that same-sex marriage cannot be equated with marriage between a man and a woman are protected by the Equality Act.

(5) The school sought to justify her dismissal on the basis that the posts in question were intemperately expressed and included insulting references to the promoters of gender fluidity and "the LGBT crowd" which were liable to damage the school's reputation in the community: the posts had been reported by one parent and might be seen by others. However, neither the language of the posts nor the risk of reputational damage were capable of justifying the Claimant's dismissal in circumstances where she had not said anything of the kind at work or displayed any discriminatory attitudes in her treatment of pupils …'

Taking up some of these points,

(i) Point (2) raised the 'separability' point, that if the employer was motivated not by the belief itself, but by the allegedly unacceptable way in which it was pursued (especially in a work context) there is scope to argue that that does not invoke the protection of the EqA 2010 (the rule in *Martin v Devonshires Solicitors*, most recently approved and applied in the whistleblowing case of *Kong v Gulf International Bank Ltd* [2022] EWCA Civ 941, [2022] IRLR 854). However, that is complicated because of the applicability to this domestic concept of articles 9 and 10 of the Convention which are qualified rights (ie subject to arts 9(2) and 10(2) ('necessary in a democratic society …' etc)) which, when read together with the 2010 Act, require an employer raising this defence to

show that its actions were proportionate. This however raises a possible principled objection that it at least appears to read into s 13 of the Act on direct discrimination a defence of justification which traditionally has never been available (see **L [213.02]**).

(ii) It is the important case of *Page v NHS Trust Development Authority* [2021] EWCA Civ 255, [2021] IRLR 391 (**L [213.04]**) which holds that the articles *are* to be read alongside s 13 (ie to 'co-exist') and to introduce this further element. This case is subject to lengthy consideration in the judgment (at [68]–[97]). It clearly caused difficulty and some disagreement as to whether it is right and if so on what juristic basis and the possibilities are canvassed (which may be of significance if there is a further appeal or a future case goes to the Supreme Court), but ultimately here the ratio is that *Page* is binding and was to be applied.

(iii) With regard to point (5), the particular factors that convinced the court that the dismissal here was not proportionate and hence a breach of the Act were that: (a) her language may have been intemperate, but it fell short of being grossly offensive; (b) in fact most of the language was contained in the other postings which she had adopted, which again fell short; (c) the online account was a private one with a restricted circulation; (d) there was no evidence of *actual* reputational damage to the school or that she had *actually* let her beliefs influence her teaching; and (e) care must be taken with vague accusations such as 'lacking insight' or reliance on failure to admit fault, especially where sincerely held beliefs are in issue.

(iv) The court had referred to the guidance given by Eady P in the EAT in this case; although it was unnecessary to do so (and emphasising her warnings against one-size-fits-all solutions in this area), the judgment does express agreement with it; see **L [213.05]** where it is set out in full.

(v) There was also discussion in the appeal of the danger of stereotyping a person such as this claimant; while it was not necessary to decide the appeal on this point, the judgment at [172] sets out the opinion of the EHRC (an intervener) on the law on this and approves it.

(vi) In a short concurring judgment, Falk LJ expresses a strong view that where words are in issue, it is important that they be taken in their actual objective meaning. To place emphasis instead on what other people might consider they mean and take objection to them could be dangerous to basic ideas of freedom of speech.

(vii) On that point, it is interesting that in the lead judgment there is citation of a dictum of Sedley LJ in *Redmond-Bate v DPP* [1999] EWHC Admin 733 that arguably goes to the heart of some of this (before proceeding to the inevitable complications): 'Free speech includes not only the inoffensive, but the irritating, the contentious, the eccentric, the heretical the unwelcome and the provocative … Freedom only to speak inoffensively is not worth having …'

Indirect discrimination; evidence of disadvantage; use of judicial notice

L [327]

***Marston* (*Holdings*) *Ltd v Perkins [2025] EAT 20* (*19 February 2025, unreported*)**

The claimant was a senior employee with caring responsibilities for two young children. Her contract nominated her place of work as fixed in one place. However, following a reorganisation she was informed that in future she would have to undertake some significant travelling to execute her duties. She objected that this would not be possible because it could not be fitted around even quite extensive childminding arrangements. This eventually led to her being faced with a choice between agreeing to it or 'taking redundancy'. She left on that basis and claimed unfair dismissal and indirect sex discrimination. The ET upheld both claims and the employer appealed.

The case, before Eady P in the EAT, raised several issues, including (on unfair dismissal) the complaint that the case had initially been heard on the agreed basis that the reason was for redundancy, but the ET had held that this was not correct and proceeded on another basis, according to the employer without it being given a chance to address this. The appeal was allowed on this point. However, it is in connection with the indirect discrimination finding that the judgment is of legal interest. Among other points (including justification), the main issue was how the ET had applied the requirement of evidence of group disadvantage. Clearly, she was herself disadvantaged by the PCP of being made to undertake travelling, but would others have been? This raised the well-known 'child care disparity', ie that in practice most childcare is provided by women, which arguably should be taken into consideration, *but* how is it to be done?

The judgment applies and quotes extensively from what it considers the leading case here, *Dobson v North Cumbria Integrated Care NHS Foundation Trust* [2021] IRLR 729, [2021] ICR 1699, EAT, which is considered at **L [327]**. This held that judicial notice may be taken of the realities here to show group disadvantage in relation to childcare, as well as forms of actual proof (see [56] of the *Dobson* judgment). However, in the instant case the employer argued successfully that the ET had applied *Dobson* wrongly by holding that, in effect, it was *bound* to take judicial notice of it and find for the claimant without any further investigation. Even taking into account the need to read ET judgments realistically and without nitpicking, this was enough of an error to allow the employer's appeal. The key point is that what *Dobson* allows is a 'more nuanced approach' which may start generally with judicial notice, but may then have to consider if there are any factors on the facts of the particular case that might show that that inference should not apply. That was the bit that the ET (considering the link between the childcare disparity and being a woman was 'intrinsic' (see [83]–[87])) had failed to take into account.

Harassment; related to the prohibited ground

L [426]

Governing Body of Windsor Clive Primary School v Forsbrook [2024] EAT 183, [2025] IRLR 186

The text at **L [426]** makes the point that in the statutory definition of harassment in the EqA 2010 s 26 **Q [1479]** the pre-2010 requirement that the impugned conduct be 'on the ground of' the protected characteristic (a causative element) was replaced by the wider 'related to' test. In this case Judge Beard holds that, although this is a broader requirement, it is 'not so broad as to be meaningless' and it must be established on the facts (citing particularly *Hartley v Foreign and Commonwealth Office* UKEAT/0033/15 (27 May 2016, unreported) which is considered at **L [426.03]**). The case is of specific interest in that, rather unusually, it arose from a *mistake* made by the employer, not deliberate conduct.

The claimant was disabled by asthma. After earlier absence, a meeting put this down to the asthma and the decision was to ignore it and not issue a caution. However, due to an inputting error the digital records recorded a caution. This meant that, when she was again absent, the system initiated stage *two* of the absence procedure. She was informed of this and a stage two meeting arranged, which she said caused her considerable distress. In fact, when the truth was discovered the record was corrected, with an apology. The claimant brought proceedings for harassment. The ET held that it had been established that an intimidating environment had been created and upheld the claim.

The employer appealed and the EAT allowed the appeal. The basis for this was that there was insufficient reasoning in the ET's judgment as to *how* this error and the subsequent procedure had 'related to' the disability in question. It had indeed been an error, it had lasted only a short time and had been removed as soon as it was recognised. The ET had not set out the statutory provision and any relevant case law, which compounded the problem why it had found the necessary connection with the asthma. In spite of arguments by the respondent that the EAT should simply dismiss the case off its own bat, the judge decided that further facts may be necessary and so the case was remitted for reconsideration.

DIVISION PI PRACTICE AND PROCEDURE

Action after a claim is received; transfer between hearing centres; objection by the claimant

PI [300.02]

***Ramos v Wolf Data Systems Ltd [2025] EAT 16* (*31 January 2025, unreported*)**

This case before Eady P in the EAT concerned the relatively unusual question of a challenge to the *location* at which an ET case is to be heard. It arose in an equally unusual context. The claimant is a serial litigant, bringing actions

against respondents (usually small firms) who, he says, have published job adverts which contain elements of discrimination (eg seeking a female assistant); he brings such actions even though he has not applied, and does not intend to apply, for the jobs themselves, claiming damages for financial loss and injury to feelings. On the two occasions when his cases have reached the EAT on the substantive points in them, he has lost; see *Ramos v Lady Coco Ltd* [2023] EAT 99 (13 July 2023, unreported) and *Ramos v Nottinghamshire Womens Aid Ltd* [2024] EAT 67 (30 April 2024, unreported). The instant case concerned nine of his subsequent cases. They had been started in three London regions, but the REJs in question considered that they should be heard together at the Watford centre. The claimant objected to this and appealed against it.

The text at **PI [300.02]** points out that where a case is to be heard is subject to no formal provision in the ET Rules. It is done as a matter of discretion by the REJ and there is no right to have the hearing at any particular venue or (normally) to object to a transfer. This is made clear in *Faleye v UK Mission Enterprise Ltd* UKEAT/0359/10 (8 September 2019, unreported) and *Berrendero v Suffolk Area Health Authority* UKEAT/0365/81, both of which are cited in the text. However, as the instant case shows, there may be two qualifications to this:

(1) as said in *Faleye*, this broad discretion is 'subject only to any question of the transfer giving rise to injustice'; and

(2) the ET Rules at rr 60 and 62 (now rr 58 and 60 of the 2024 Rules) state that if a decision is taken without a hearing it must be communicated to the parties, naming the EJ who took it and must contain reasons (though it is expressly provided that these should be proportionate and may be short).

Taking the latter first, the question was whether the REJs' determination of Watford as the appropriate venue was a 'decision' for this purpose, in particular whether it was a case management decision. The respondent argued that it was simply an administrative function, like the initial placing of an application with a particular ET. However, the EAT took a more subtle approach. At [72] and [73] the judgment states that the initial placement is purely administrative and further accepts that some transfers will retain that character, eg if an office closed and the cases had to be transferred, *but* where 'the transfer results from some *active judicial intervention*, then we consider that is a case management decision' (emphasis added) 'which should thus be communicated in writing to the parties' (identifying the EJ) and reasons supplied. On the facts here, that had not been done and the claimant's appeal was allowed on that point. That, however, raised the question what should be done about it. That in turn raised the first question as to whether any injustice had been caused to the claimant in order to overturn the REJs' decision. In spite of his submissions on this, the EAT held that no substantive injustice had been caused and so it proceeded (as envisaged in *Faleye* at [19]) to exercise its power under the ETA 1996 s 35 to simply re-make the transfer

order, rectifying the earlier errors. There were sound reasons for the transfer and hearing this latest tranche of cases together and so the transfer was in line with the overriding objectives.

As said at the beginning, this was an unusual case, but arguably it is of more general importance under the ET Rules for its discussion of a fundamental question – what is a 'decision', a term used throughout the Rules?

Equal value claims; expert evidence

PI [1216]

***Tesco Stores Ltd v Element [2025] EAT 26* (*27 February 2025, unreported*)**

In the previous appeal to the EAT in this major equal value claim (now concerning some 50,000 claimants) a case management decision to take the defence of material factor before the initial question of equal value was upheld on the facts of the case (see **PI [1206]** and **Bulletin 554**). The instant appeal, before Judge Tayler, followed on from that decision because it concerned an application by the employer to bring expert evidence, largely related to the economic effects of granting equality. The EJ rejected that application and the employer appealed.

There is no general provision in the ET Rules (now the 2024 Rules) on expert evidence, but there is specific provision in the equal value schedule r 10 **R [3704]** which states: 'The tribunal must restrict expert evidence to that which it considers is reasonably required to resolve the proceedings'. This mirrors CPR 35.1, on which there is case authority which is applicable under the equal value equivalent. The judgment here relies particularly on the judgment of Warren J in *British Airways plc v Spencer* [2015] EWHC 2477 (Ch), [2015] Pens LR 51 where he laid down a threefold test: (1) is it necessary to have such evidence before the relevant issue can be resolved? If it is necessary (as opposed to merely helpful) it must be admitted; (2) if it is not necessary, would it be of assistance in resolving the issue?; (3) in that case, a court could determine the issue without it and so the court should consider whether, on a balance of relevant factors, the evidence is reasonably required to resolve the proceedings; this may involve factors such as the value of the claim, the effect of a judgment either way on the parties, who is to pay for it and any delay that it might give rise to.

In the instant appeal, while the EAT accepted that normally case management orders are very much for the ET and will not easily be upset on appeal, in this case the EJ had made a legal error because, having cited the statutory formulae, he had concentrated instead on a separate concept of the *relevance* of the expert evidence. This was not the same as the *British Airways* test (being more amenable to a strike out application or consideration at a full hearing) and on that basis the employer's appeal was allowed and the case remitted for reconsideration.

There was one other element of the ET's judgment that was commented on unfavourably by the EAT. Having heard arguments, the EJ said that he

needed to go away and research the case law. The EAT said that even though this is particularly challenging litigation, carrying out independent legal research after the hearing is likely to result in error and/or unfairness if the parties are not given an opportunity to make submissions on any fruits of that research. This was compounded by the fact that counsel on both sides had largely agreed as to the applicable law, and where such counsel of great expertise and experience in equal pay litigation have done so 'very great care should be taken before deciding that they are all wrong and that a different test is to be applied.'

REFERENCE UPDATE

Bulletin	Case	Reference
552	*Taylors Services Ltd v HMRC*	[2025] IRLR 201, EAT
552	*Lobo v University College London Hospitals NHS Foundation Trust*	[2025] IRLR 192, EAT
554	*BA plc v Rollett*	[2025] ICR 242, EAT
556	*Amber v West Yorkshire Fire and Rescue Service*	[2025] ICR 228, EAT
556	*Haycocks v ADP PRO UK Ltd*	[2025] ICR 265, CA
557	*PCSU v Secretary of State for Environment, Food and Rural Affairs*	[2025] ICR 291, SC
557	*Carozzi v University of Hertfordshire*	[2025] IRLR 179, EAT
558	*Davda v Institute and Faculty of Actuaries*	[2025] IRLR 220, CA

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