



Employment Team Christmas Newsletter





Green Christmas? In Greta we trust

As we come to the end of another busy year, our Christmas newsletter is always an opportunity for everyone in the Muckle LLP Employment Team to think about all things related to HR and employment law a little differently.

Over previous years we've used our end of year newsletters to gaze into the near future and many of the focus areas that we've spoken about have already come to pass. Prescient discussion has included the need to address gender differences in pay, the rise of AI and tech and the increased focus on data management, together with the issues for UK employment law as a consequence of the rise of alternative working arrangements - all prevalent issues today.

In a year when we face the first "Christmas General Election" within a lifetime (let's hope it doesn't turn out to be a Nightmare Before Christmas), it will come to you as no surprise that as a team we could not reach a consensus on what the topic for this year should be (something our political parties have struggled with too). Levity was in short supply and we debated focusing on:

- the further rise of "worker" driven considerations and the evolution of worker hubs such as those provided by WeWork
- the evolution of "gamification" and the increasing use of psychometric and neuroscience based AI decision-making in recruitment, with all the issues that creates for potential indirect discrimination challenges
- growing concerns for the feelings of "isolation" felt by many home or remote based workers



Live and important as these all are, they are not the most serious and difficult issues facing us in our view. Instead we agreed that the environment and how we adapt to the changing world will be the biggest issue for coming generations. It is already clear that environmental issues and considerations will influence all aspects of normal day to day life, including the world of work, and this is where we feel our advice can best help you prepare for the next 12 months.





Environmental considerations for a **‘wonderful’ working life**

As we start to write, there have been substantial floods after unprecedented rainfall centred on the River Don in Yorkshire, huge bush fires threatening suburbs of Sydney and vast areas of California are tinder dry. This follows a year when Arts organisations and charities have declined support and actively disengaged from organisations, such as BP, whose activities are seen as detrimental to the environment. It is also the year where the mass protest movement, Extinction Rebellion, has gathered momentum in major cities throughout the world.

We’ve therefore taken inspiration for our thoughts this Christmas from one of the catalysts of this movement - Greta Thunberg – the young Swedish activist who started the school climate strike protests and whose speeches so far have been printed under the title “No one is too small to make a difference”.

So what does this have to do with work and employment law? The latter has always “followed the curve” struggling to keep up with the pace of change and it is what we will all elect to do in terms of HR practices in coming years that will drive any change in terms of employment protections.

For some time now we have talked about the fact that UK employment law around employment status and unfair dismissal protection (which has its roots in the working world of the 1960s and 1970s) is out of pace with the modern, flexible demands of modern employers and workers alike. For that reason, the eagle eyed amongst you will see that we don’t use “employee” in this note.





Change is needed and legal considerations have to also be considered against cultural, social and benefits policy considerations. How we evaluate work will need to change – whether we “live to work or work to live”, or even how we evaluate the importance of work for filling our time and providing a sense of identity and fulfilment is likely to become a substantial consideration in coming years.

If you consider that a number of the Tech Billionaires/Silicon Valley have been pushing for some time the consideration of a “Universal Basic Income” (**UBI**) - which would provide us all with an equal level of basic guaranteed income, unrelated to work, but would provide a safety net to then pick and choose what work we did and redress the power balance between employer and worker – how we balance AI, work and how we value our time is likely to change further.

The immediate and ever more urgent issues with addressing environmental concerns and the need for us to move to a “zero carbon economy” within the short/medium term are likely, in our view, to speed up consideration of these issues within the world of work.




Do we need a Christmas miracle?

Much of what we've considered so far is how the current situation will drive thoughts around work, but it may be that older considerations such as "localism" and simplifying business dealings and arrangements come back to the fore.

If you go back as far as the fifth century BC, the Chinese philosopher Confucius, shared his thoughts on work, famously saying "Choose a job you love and you will never need to work in your life". Perhaps UBI could finally allow many of us to do this - to work for longer and also free us to make decisions based on the values and approach of the organisations that we work for? Sounds like Utopia and it is likely to be out of reach, but the next generation clearly value work and their expectations differently and we ignore what they want and need as workers at our peril.

In terms of environmental considerations, we already know that the next generation of workers want the workplace to be:

- an experience filled with hospitality
- a place where they can make friends and feel more engaged
- "a corporate campus", where the canteen provides for those whose dietary choices are dictated by ethical, environmental and sustainability factors (soy latte, anyone?), access to life-enhancing facilities and lifelong learning opportunities with an organisation whose leadership and culture is authentic and matches their own view of life



We also know that banks and institutional investors are already basing their investment decisions on the environmental credentials of organisations. International standards accreditation for environmental responsibility will increase the pace of these considerations further, with supply chain providers including advisers such as lawyers, accountants and other professionals in turn being required to have their own clear environmental strategies to be considered for appointment.

In the same way that the public sector equality duty drove change for the implementation of discrimination provisions more than 10 years ago, it seems likely that we will see public opinion plus potentially a new public sector environment duty gradually translate changes of approach down to us all.



What can we expect for **Christmases yet to come**

- **Future workers will make decisions on who they want to work for based on the organisation's environmental credentials** – there are already signs that many prospective workers will look at an organisation's gender pay gap report before considering applying to work for them.

With the likelihood for all employers to need a clear environmental strategy, we see the environmental culture and footprint of an organisation as being a key recruitment tool. Many future workers may potentially be turned off by swanky, air-conditioned, city centre offices and will want to understand the carbon footprint that they will have in relation to their work.

- **The rise of “Green Reps” amongst workforces** – this is an area where the TUC is already lobbying for progress across all employers. We've had a Green Team at Muckle for several years – drawn from a cross-section of the firm it helps set the agenda on what we do from clothes collections and swaps, to the approach to our [ethical Christmas tree](#).



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- **A reduction in business related travel and an increased use in virtual technologies** – the word “flygskam” has become a recent addition to the Swedish language. Translated as “flight shame” it reflects research that an increasing number of travellers are beginning to turn their backs on air travel over concerns for the environment. That in turn is pushing airlines such as Easyjet (who are saying that they intend to operate on a net-zero carbon basis) and BA (who will change fuelling practices) to redefine their businesses.

The days of the jet-setting, high powered executive may therefore be numbered, with workers questioning the value and need for travel which adds little to the business and detracts from its environmental goals. Video-conferencing services and highly targeted meeting arrangements are becoming the norm, with local management capability becoming increasingly important and valued.




- **A move away from the provision of benefits such as company cars, car-parking, frequent mobile telephone/technology upgrades etc. to workers valuing more environmentally friendly offerings** – this may start with providing hybrid and pure electric vehicles, but it is likely to move to a focus on whether travel is needed at all and whether workers need to be present every day to carry out their roles. It's also likely to increase the pace of employers acting as catalysts for individual worker initiatives intended not just to help their work, but also to address their own needs at home.

As an extreme example, will the employer of the future facilitate the bulk-buying and distribution of key foodstuffs to workers to save on packaging and transport? Social initiatives are likely to also rise, for example where technology needs to be replaced can this be repurposed or recycled for use by other organisations, particularly those in the charitable or third sector.

- **The employer rewarding environmental effectiveness/initiatives in the same was as any other business improvement** – as well as presenting threats, the environmental challenges clearly also provide opportunities to many employers to change working practices or diversify. Harnessing workers by allowing them to benefit personally from identifying and making savings which improve the organisation's environmental footprint must help speed up change.

As we move through the final month of 2019 and look forward into 2020, the future does look quite scary. We are all likely to need to substantially change how we live our lives and evaluate our priorities. For employers, having a clear understanding of what the organisation and its workers want is a starting point. Many organisations undertake environmental audits, but for all employers remembering that no one is too small to make a difference is the starting point.

Perhaps adopting a question which has crept into usage at home amongst my teenage children may be the most simple thing to do for now? So, if you are making a business decision in early 2020 the first question to ask yourself may be: "What would Greta do?"



Finally. We would like to thank you all for your support this year
and wish you every happiness for Christmas and a New Year



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