

Forewords	2 Transfers – a question of identity
Key cases	3 Employee ‘too young for the job’ wins age claim Wilkinson v Springwell Engineering Ltd, Newcastle upon Tyne Employment Tribunal. A teenage employee was dismissed because she was too young for the job and her employer had made this clear when terminating her employment. In reaching this conclusion, an employment tribunal rejects the employer’s case that the employee was dismissed for lack of capability. Even if the employee had in fact been dismissed for lack of capability, the employer’s view of her performance was based upon a stereotypical assumption that youth and lack of capability go hand in hand. In such a situation age was the predominant reason for the decision to dismiss.
	5 Age Regulations do not have retrospective effect Standard Life Bank Ltd v Wilson, EAT. A tribunal erred in allowing a claimant to amend his tribunal application form to add a claim of post-employment age discrimination, since the allegedly detrimental act complained of – the failure of the employer to pay pension contributions after the employee’s 60th birthday – occurred during the parties’ employment relationship and prior to the coming into force of the relevant part of the Employment Equality (Age) Regulations 2006.
	7 Claimants can seek declarations that collective terms are void UNISON and anor v Brennan and ors, EAT. An employment tribunal has the power to hear an application by equal pay claimants for a declaration that the terms of a collective agreement are void, even though the claimants can otherwise test the lawfulness of those terms in the context of their equal pay claims.
	9 Preparing to set up in competition breached employees’ duties Crowson Fabrics Ltd v Rider and ors, High Court. Steps taken by two employees who were preparing to set up in competition with their employer on termination of their employment breached the duty of fidelity and – in the case of one employee – the fiduciary duty owed to the employer. Furthermore, information taken from their employer to assist in starting up the new venture could be restrained from being used, even though it was not inherently confidential.
	11 Dismissals before transferee found may be transfer-connected CAB Automotive Ltd v Blake and ors, EAT. Pre-transfer dismissals of employees working for a company put into administration may be by reason of the subsequent transfer, or for a reason connected with it, where, at the time they occurred, transfer was a realistic possibility and the dismissals were made in order to make the business attractive to potential transferees. However, the tribunal in this case had failed to make such findings. Accordingly, its conclusion that the claimants’ dismissals had been automatically unfair under the TUPE Regulations is overturned by the EAT.
Case round-up	14 Guidance on drawing inferences D’Silva v NATFHE (now known as University and College Union) and ors ‘Umbrella approach’ incorrect Augustin v Total Quality Staff Ltd and anor Election delay not unlawful GMB v Corrigan Conduct aids interpretation of terms Beattie v Age Concern Employer’s contract claim allowed Wright v Weed Control Ltd
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