

Employment Matters August 2018

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This month, the Court of Appeal held that workers on sleep in shifts are only entitled to the national minimum wage in respect of hours in which they were required to be awake for the purposes of working, not for the whole shift ([please see our alert here](#)).

In this month's alert, we look at a tribunal case where a woman suffering severe symptoms of menopause was protected by disability discrimination legislation, and an unsurprising EAT decision relating to disability discrimination and part time working

We also look at the leading case on subject access requests for mixed data, and two cases relating to appeals against dismissals. In one of these cases, the EAT made it clear that employers should offer a right of appeal where an employee is dismissed for failing to give evidence of their right to work. Also this month, the Women and Equalities Committee has published its report on sexual harassment in the workplace. They are calling on the Government to adopt a five point plan which includes introducing a new duty on employers to prevent harassment. And lastly, in a case on the gig economy, an employment tribunal has held that Hermes couriers were workers, although their written contracts were drafted to reflect self-employment.

Disability Discrimination: Failure to consider part time working

An employment tribunal erred in not considering whether part-time working as an alternative to dismissal was a less discriminatory means of achieving a legitimate aim

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Unfair Dismissal and Immigration: Employer should have allowed employee a right of appeal when he had been dismissed for failing to show his right to work.

The EAT has held that the dismissal of an employee for failing to provide evidence of his right to work was unfair because the employer did not allow him to appeal his dismissal.

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Employment Status: Employment Tribunal find Hermes couriers were workers

Following on from the Pimlico Plumbers case, an employment tribunal has found that couriers of Hermes, classed as "self employed", were workers.

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Data Protection: Disclosure of mixed personal data

The Court of Appeal has considered the circumstances under which personal data which relates to a third party as well as the individual making the request should be disclosed as part of a subject access request.

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Sexual Harassment in the workplace

Far reaching proposals for reform would, if adopted, bring significant changes for employers.

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Menopause: Is it a disability?

A Scottish tribunal case has highlighted that women who have the symptoms of the menopause may be protected by discrimination legislation.

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Unfair Dismissal: No dismissal where the employee successfully appealed under a contractual disciplinary policy

The Court of Appeal has upheld the EAT's decision that an employee who successfully appealed their dismissal under a contractual disciplinary procedure had not been dismissed and could not claim unfair dismissal.

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