

MMD

MONDAY MORNING DISPATCH

BY Chadwick Lawrence

An important topic this week – time off in lieu (TOIL)! Sam & Nils are back with the Legal Alternative discussing the impact of TOIL on national minimum wage breaches, and also answer a question regarding right to work checks and gig economy workers. Daniel's video goes into further detail about the approach businesses may take to TOIL policies. Our news article this week explores an appeal allowed against a disability finding.



THE LEGAL ALTERNATIVE



THE MEDIA HUB



WHAT'S GOING ON



UPCOMING EVENTS

THE LEGAL ALTERNATIVE PODCAST

8. TOIL, National Minimum Wage Issues and Right to Work Checks for Gig Economy Workers

In this episode Sam & Nils discuss the implications of time off in lieu (TOIL) on national minimum wage breaches, and the importance of right to work checks in the gig economy. They emphasise the technical nature of wage breaches and the need for employers to be vigilant in compliance to avoid penalties.



[Watch on Youtube](#)

[Listen on Spotify](#)

THE MEDIA HUB

Can I operate a time off in lieu policy?



In this video, we discuss the approach businesses may take to time off in lieu policies as an alternative to overtime payments. We consider important National Minimum Wage implications, as well as dealing with accrual on termination of employment and the complication of hybrid working.

WHAT'S GOING ON

Robinson v Nottinghamshire Healthcare NHS [2025]: Appeal Allowed Against Disability Finding



Background

The Employment Appeal Tribunal (EAT) has overturned a previous Employment Tribunal (ET) decision which found that the claimant was not disabled under the Equality Act 2010. The case concerned Ms. Robinson, a temporary staffing administrator employed from September 2020 until her resignation in June 2022. During her employment, Ms. Robinson raised concerns about her inability to wear a face mask amid the COVID-19 pandemic, citing her diagnoses of generalized anxiety and panic disorder.

Ms. Robinson brought claims of disability discrimination based on her mental health conditions. However, the original Tribunal rejected her claim, concluding she did not meet the legal definition of disability.

Key Issue

The main issue on appeal was whether the Employment Tribunal had properly evaluated the evidence regarding Ms. Robinson's disability. The EAT examined whether the ET conducted a fair and reasoned assessment of the claimant's evidence and any challenges thereto.

EAT's Findings

The EAT allowed the claimant's appeal, holding that the ET had failed in its fundamental task:

- The ET did not adequately consider the claimant's evidence or address any disputes over it.
- The ET failed to make clear findings of fact regarding the claimant's evidence or assess her credibility which undermined the fairness of the original decision.

The EAT clarified that while the ET could have concluded the claimant's evidence was unreliable, factually incorrect, or that she was mistaken despite genuinely believing her account, such conclusions must be supported by explicit reasoning and clear findings.

Legal Principles Highlighted

- Duty to assess evidence and credibility: Employment Tribunals are required to explicitly consider witness evidence, address inconsistencies or disputes, and explain their credibility assessments.
- Definition of disability: The decision reiterates that diagnosed mental health conditions may constitute a disability under the Equality Act 2010.

Significance

This ruling underscores the necessity for employers to follow a fair and proper procedure when managing their employees. It also highlights that tribunals cannot dismiss a claimant's evidence without proper explanation or reasoned analysis.

UPCOMING EVENTS

Seminars & Events

We're now on our summer break for seminars, but keep an eye out for our Autumn/Winter programme coming soon.



Mental Health Awareness Sessions

Mental Health Training

We're partnering with **Tailored Learning Solutions** to offer two day, in person, accredited Mental Health First Aid courses at our **Wakefield office**.

Accredited by MHFA England® and the Royal Society for Public Health, MHFAiders will improve knowledge and develop skills to support someone who may be struggling and what to do with crisis support.

25-26 June | 24-25 September



NEW

Neurodiversity in the Workplace Training

Tailored Learning Solutions will be running a 1 hour webinar – Neurodiversity in the Workplace Aware – on Tuesday, 02 September, at 9.30 a.m. This short webinar aims to increase awareness/understanding and explain the correct terminology to use whilst also looking at common myths around neurodiversity.

This will be followed by a one-day in-person workshop – Neurodiversity in the Workplace for Managers – which takes place on Friday, 05 September, at 9.30 a.m., Chadwick Lawrence, Paragon Point, Wakefield, WF1 2DF. The aim of the workshop is to gain understanding around neurodiversity and to gain practical tools to create a more inclusive workplace. For further details on this workshop, please contact: ken@tailoredlearningsolutions.co.uk or carolgledhill@chadlaw.co.uk.

Please note that, in order to attend the workshop you must register for and attend the one-hour webinar on 02 September. The cost for the webinar is £65 plus VAT and the fee to attend the webinar and the one-day workshop is £250 plus VAT. The course is CPD certified and, when completed, attendees will have access to the learning portal for 3 years.

Details & booking: [Tailored Learning Solutions](#)

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