

Employers cannot necessarily refuse disclosure because it breaches data privacy of others

The Court of Appeal has provided welcome guidance for data controllers in cases concerning mixed data.

Government will not be improving rights for fathers any time soon

The Government has published its response to the Women and Equalities Committee recent report.

Stand by for new rules on shift pay

[et_pb_section bb_built="1" _builder_version="3.0.100" background_image="http://davidk423.sg-host.com/wp-content/uploads/2017/09/bdbf_final-stages-1-4-1.jpg" custom_padding="|||" saved_tabs="all" next_background_color="#ffffff" global_module="2165"] [et_pb_row global_parent="2165"

```
custom_padding="|||" _builder_version="3.0.100"][et_pb_column
type="2_3"][et_pb_post_title global_parent="2165" meta="off"
featured_image="off" text_color="light"
_builder_version="3.0.99" custom_margin="||0px|"
custom_padding="||0px|" /][et_pb_text global_parent="2165"
background_layout="dark" _builder_version="3.0.100"
text_font="|||||||" custom_margin="0px|||"
custom_padding="0px|||"] [post_details] [Social-Share]
[/et_pb_text][et_pb_column][et_pb_column
type="1_3"][et_pb_post_title global_parent="2165" title="off"
meta="off" _builder_version="3.0.99"
/][et_pb_column][et_pb_row][et_pb_section][et_pb_section
bb_built="1" admin_label="section"
prev_background_color="#000000"][et_pb_row admin_label="row"
background_position="top_left" background_repeat="repeat"
background_size="initial"][et_pb_column type="3_4"][et_pb_text
background_layout="light" use_border_color="off"
_builder_version="3.0.106"]
```

The ECJ has once again shaken up rules on working time in a recent employment case on stand by shifts.

Previously, on call or stand by shifts would count as working time only if the employee was required to stay in a location specified by the employer. However, the new ECJ case says that the key factor should be the quality of time that the employee is able to spend while on stand by.

If a worker's freedom to enjoy non-work activities is severely impacted by the constrains involved in being on stand-by, then that will be working time and must be paid.

The facts of the case give a good illustration of the difference in the old and new tests. Mr Matzak was a firefighter working for the Ville de Nivelles in Belgium. He was required to be on stand-by for one week in every four during evenings and weekends. During time spent on stand-by, Mr Matzak was required to remain contactable and, if

requested, report to the fire station within no more than 8 minutes. While there was no specific geographical constraint, in practice, the rules meant that Mr Matzak's activities on stand by were significantly restricted. In particular, it meant that he had to live very close to the fire station and his actions at home whilst on stand-by were limited. The ECJ confirmed that in the degree of restriction meant that the time qualified as working time and must be paid,

This case did not set out a general test as to when a worker's time will be "significantly restricted" by requirements placed on them during periods on stand-by. The broad point of principle established will open the door for arguments on other circumstances that qualify, just as it has done for other aspects of working time, like holiday pay. Employers who impose restrictions that are comparable in their impact will need to consider whether to pre-emptively change their payment policy for on call time or to take a wait and see approach until domestic case law develops and gives a clearer picture of the boundaries. They may get lucky as the UK government's long term opposition to aspects of the European working time law framework could mean that this area will be changed after Brexit. In any event, employers with on call time will want to monitor the position closely.

Ville de Nivelles v Matzak (C-518/15)

[/et_pb_text][/et_pb_column][et_pb_column type="1_4"][et_pb_sidebar orientation="right" area="sidebar-1" background_layout="light" remove_border="off" show_border="on" /][/et_pb_column][/et_pb_row][/et_pb_section]

Surveillance cameras in university auditorium violated professors' human rights

```
[et_pb_section bb_built="1" _builder_version="3.0.100"
background_image="http://davidk423.sg-host.com/wp-content/uploads/2017/09/bdbf_final-stages-1-4-1.jpg" custom_padding="|||"
saved_tabs="all" next_background_color="#ffffff"
global_module="2165"][et_pb_row global_parent="2165"
custom_padding="|||" _builder_version="3.0.100"][et_pb_column
type="2_3"][et_pb_post_title global_parent="2165" meta="off"
featured_image="off" text_color="light"
_builder_version="3.0.99" custom_margin="||0px|"
custom_padding="||0px|" /][et_pb_text global_parent="2165"
background_layout="dark" _builder_version="3.0.100"
text_font="|||||||" custom_margin="0px|||"
custom_padding="0px|||"] [post_details] [Social-Share]
[/et_pb_text][et_pb_column][et_pb_column
type="1_3"][et_pb_post_title global_parent="2165" title="off"
meta="off" _builder_version="3.0.99"
/][et_pb_column][et_pb_row][et_pb_section][et_pb_section
bb_built="1" admin_label="section"
prev_background_color="#000000"][et_pb_row admin_label="row"
background_position="top_left" background_repeat="repeat"
background_size="initial"][et_pb_column type="3_4"][et_pb_text
background_layout="light" use_border_color="off"
border_color="#ffffff" border_style="solid"
_builder_version="3.0.99"]
```

A university's decision to install surveillance cameras in student auditoriums amounted to a breach of their human rights to privacy of the two professors who taught in them.

The University of Montenegro had decided to install surveillance cameras in student auditoriums. It claimed it was doing so for the protection of property and people and in order to monitor teaching. The two affected professors brought claims challenging that decision.

The European Court of Human Rights held that the decision to install the cameras was a breach of the professors' privacy rights. Although Article 8 of the European Convention on Human Rights bestows the right to respect for private and family life, "private life" should be interpreted broadly to include private social lives. This may also include professional activity which takes place in public.

In addition to teaching, the professors interacted with their students socially in the auditoriums. It was therefore like any other workplace, so surveillance of it (whether done openly or covertly) constitutes an intrusion into employees' private lives.

In that case, the university's surveillance could only continue if it went no further than is necessary in pursuit of a legitimate aim. Whilst protection of people and property could be a legitimate aim in the abstract, in this case there was no evidence of people or property being at risk. Therefore, the measures could not be justified by reference to that aim. The monitoring of teaching, on the other hand, was not capable of being a legitimate aim.

Antović and Mirković v Montenegro (Application no. 70 838/13)
[2017] ECHR 1068

[/et_pb_text][et_pb_column type="1_4"][et_pb_sidebar orientation="right" area="sidebar-1" background_layout="light" remove_border="off" show_border="on"]
[/et_pb_column][et_pb_row][et_pb_section]