



## Stone King news for the employment sector

This month's bulletin includes the following articles:

- **Five month gap held not to prevent TUPE transfer**
- **Limiting claims in the tribunal**
- **How many times can a disciplinary hearing reasonably be postponed?**
- **Victimisation claims and bad faith**
- **Cover security guard on zero hours contract protected by Agency Worker Regulations**
- **An overview of the School Teachers Pay and Conditions Document 2018 (for school clients only)**

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### Five month gap held not to prevent TUPE transfer

The Court of Justice of the European Union (CJEU) has held in *Colino Siguenza v Ayuntamiento de Valladolid* that a five month gap did not prevent a TUPE transfer. This case concerned the EU Directive which is implemented into UK law through TUPE, and so the principles are the same.

[Read more](#)

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### Limiting claims in the tribunal

The Employment Appeal Tribunal (EAT) upheld an appeal from the Employee against a decision made at a preliminary hearing of the Employment Tribunal. The Judge ordered the Claimant to provide a sample of the ten most serious and recent allegations to pursue. The Tribunal Judge commented that the Claimant could rely on the other events as background or context to the ten allegations the Claimant selected.

[Read more](#)

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## How many times can a disciplinary hearing reasonably be postponed?

The Employment Appeal Tribunal (EAT) rejected an appeal from the Employer concerning an Employment Tribunal decision, which held that although the Employer had shown a potentially fair reason to dismiss the Claimant, the actual decision to dismiss was procedurally unfair and fatally flawed with the Respondent refusing to further postpone the disciplinary hearing to enable the Claimant to be supported by her Trade Union representative - Talon Engineering Ltd v Smith UKEAT/0236/17/BA.

[Read more](#)

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## Victimisation claims and bad faith

The Employment Appeal Tribunal (EAT) allowed an appeal from the Employee against the first decision of the Employment Tribunal in relation to a victimisation complaint. The Employment Appeal Tribunal, argued that although motive could be relevant with bringing a claim of victimisation, the key question should be whether the claimant had acted dishonestly and the requirements of “good faith” in whistleblowing was different to the requirement for a defence to victimisation (i.e making a false allegation in bad faith).

[Read more](#)

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## Cover security guard on zero hours contract protected by Agency Worker Regulations

The Employment Appeal Tribunal (“EAT”) held in Brooknight Guarding Ltd v Matei UKEAT/0309/17 (26 April 2018, unreported) that an employee on a zero hours contract had agency worker status due to the temporary nature of his assignment.

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## School Teachers Pay and Conditions 2018 Update

Please note that this employment update is relevant to our school clients only.

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## GDPR Consent Form

As you will be aware, the new GDPR regulations mean we will need your consent to email you in the future. If you would like to be invited to events and informed of legal updates, you will need to let us know.

We have updated our privacy policy to reflect the changes to UK data privacy law, which you can find [here](#).

Please click the button below to complete a short GDPR consent form, or email [data@stoneking.co.uk](mailto:data@stoneking.co.uk) and let us know what you would like to receive.

[GDPR consent form](#)

# Upcoming Events



Stone King runs a range of workshops and seminars on current legal issues. Click below to see all our upcoming events.

[Click here to see all upcoming events](#)

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If you have any queries or for further information on Employment issues, please contact Peter Woodhouse by email [PeterWoodhouse@stoneking.co.uk](mailto:PeterWoodhouse@stoneking.co.uk) or telephone 01225 326753.



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