



## Winter Newsletter 2018

### Welcome to the first edition of the Travers Smith Employment Winter Newsletter!

Here we round up key developments in the employment law world, and in our team, in 2018, and take a look at changes coming up in 2019.

#### 2018 ROUND UP

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The year began with a rush of employers publishing their **gender pay gap reports** before the 5 April deadline. Although the pay gap varied widely across employers and business sectors (over 40% in some sectors), the median pay gap across all employers is 18% in favour of men. This gives the UK one of the highest gender pay gaps across Europe, according to Government figures. As part of efforts to help close the gap, employers may be required to include in their [gender pay gap report](#) an action plan for closing the gap and [report on progress annually](#).

There was little time to draw breath before the next big, and long anticipated, change of 2018 finally arrived on 25 May – the **General Data Protection Regulation** (GDPR), which no one could have missed even if they'd tried, as email in-boxes filled up with privacy notices from on-line retailers. We worked with many of our clients on the [HR aspects of the GDPR](#). Although the initial flurry of activity has passed, now that businesses have their policies and processes in place, we are still seeing GDPR questions cropping up regularly, particularly in relation to document retention, and subject access requests.

In the wake of the #MeToo movement, **sexual harassment at work** was in the spotlight all year, as the Equality and Human Rights Commission (EHRC) [asked leading employers how they were addressing the issue](#), and later published its [Turning the Tables report](#) making a number of recommendations to improve protection for victims. In response to concerns that victims had been silenced by non-disclosure agreements (NDAs) or other confidentiality provisions, an [inquiry was launched](#) into their use and it is likely that we will see changes around how these agreements are used. Separately, the Government has just announced further [measures](#) to tackle sexual harassment at work.

As the **gig economy** grows, so do the employment claims which come out of it, as we saw this year with cases involving [Deliveroo](#), [Pimlico Plumbers](#), [Uber](#) and [Addison Lee](#). In almost all cases the claimants were successful in proving that they were actually workers, rather than self-employed, with the notable exception of Deliveroo (mainly due to allowing riders to send substitutes). We wait to see if the tide turns next year when we see the Court of Appeal decision on the Uber claim. Separately the Government has confirmed plans to implement a number of the [Taylor review recommendations](#).

### Coming up in 2019...

- ❖ **1 January** – Companies will have new **corporate governance and reporting requirements** (depending on size/listing) around employee engagement, workforce pay, whistleblowing and diversity
- ❖ **29 March** – UK leaves the EU
- ❖ **30 March** – The **EU Settlement Scheme** for EU nationals living in the UK will be fully open
- ❖ **5 April** – Deadline for publishing **gender pay gap reports** for 2018 pay
- ❖ **9 December** – **Financial services SMCR** extended to all FCA Regulated firms

For more information, [click here](#).

# TRIVERS SMITH

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2018 also saw interesting **cases** on a range of issues including [holiday pay](#) (and [holiday back pay for workers](#)), [right to work](#) checks for the Windrush generation, [changing terms](#), [collective bargaining](#), [whistleblowing](#), [shared parental pay](#) and [clash of discrimination rights](#).

**Brexit** looms larger than ever as 2018 draws to an end and Brexit day on 29 March 2019 approaches. Businesses are facing enormous uncertainty in many ways, not least around immigration issues for both existing staff and future recruits. One thing we do now know is that EU nationals who arrived in the UK by 29 March 2019 will be able to continue to work here, regardless of whether a deal is reached. Everything else depends on what sort of deal, if any, is reached, and we have produced [a guide to cover the possible scenarios](#).

## OUR NEWS

- ❖ At the beginning of the year, we launched our employment law app, **TS EmpLaw**, a handy guide to key employment law facts, figures and latest developments. It has been downloaded by over 500 of our clients and contacts, was featured in an article on top tech pioneers in Legal Week magazine and was shortlisted in the **British Legal Awards 2018 Best Use of Technology** category.
- ❖ On 1 July, **our three employment partners became four**, with the promotion of Adam Wyman. Adam joined the firm as a trainee, and qualified into the department in 2009. Ailie Murray and Alex Fisher are also being promoted to the role of Senior Counsel with effect from 1 January 2019.
- ❖ We held seminar and round table events on various topics during the year, and are grateful to our clients and contacts for attending and making such valuable contributions to the discussions. A highlight was the **mock Employment Tribunal** we held in October, featuring a sexual harassment claim, with our Senior Associates Charmaine Pollock and Alex Fisher playing the claimant and respondent respectively. The claimant won one of her three claims and (most importantly) Charmaine and Alex are still speaking....

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We have a full and diverse programme of events coming up in 2019 ranging from small roundtable discussions aimed at HR Directors, through to large scale seminars.

**Our next seminar will be "Are you ready for 2019?" on 30<sup>th</sup> January 2019.**

**MERRY CHRISTMAS AND SEASON'S GREETINGS!**



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