



Friday 10 November 2017

A victory for Uber drivers - EAT agrees that they are workers

Uber has lost its appeal against last year's Employment Tribunal decision that its drivers are workers.

What did the EAT decide?

Last year, two Uber drivers brought, and won, a test case in the Employment Tribunal, claiming that they were workers and therefore entitled to holiday and national minimum wage.

Uber appealed and the Employment Appeal Tribunal (EAT) today upheld the Tribunal's decision. The EAT agreed with the Tribunal that the complex contractual documentation describing the drivers as self-employed did not reflect reality so the Tribunal was entitled to look beyond it at what actually happened in practice. The level of control exercised by Uber meant that drivers were workers, and not self-employed.

Uber has said it plans to appeal this decision, so this may not be the end of the story.

What does this mean for employers?

Employment status is under scrutiny more than ever. Many businesses which operate in the growing "gig economy" have faced worker status claims, including Pimlico Plumbers, City Sprint, Excel, Addison Lee and Deliveroo, and the tide shows no signs of slowing.

And it's not just an issue for employers in the "gig economy". This increased focus on employment status means that any business which operates atypical working arrangements (for example, casual or zero-hours workers, freelancers or consultants) could benefit from looking at these more closely.

We have been assisting a number of clients on employment status matters including:

- carrying out an audit of their employment arrangements and contracts to ensure they are appropriate and accurate
- advising (with our tax colleagues) on the correct tax treatment of different worker categories
- defending claims brought by individuals in relation to worker status.

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We have also been working with IPSE (the Association of Independent Professionals and the Self-Employed) in relation to various employment status issues including tax and IR35.

If you would like to discuss how any of these issues affect your business, please get in touch with your usual employment department contact, or any of the employment partners.

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