

## News

## Uber loses appeal over driver employment status

10 Nov 2017

By Annie Makoff

Legal experts advise organisations operating gig economy-type models to ensure contracts are watertight

Uber has lost an appeal against a ruling that its drivers are 'workers', in an eagerly awaited judgment handed down by the Employment Appeal Tribunal (EAT) today (10 November).

The landmark decision is the latest in a long-standing row over Uber and its gig economy business model, under which it classified its drivers as self-employed, meaning they were not entitled to the same employment rights as the business's full-time permanent staff.

In October last year, the employment tribunal ruled that two Uber drivers, James Farrar and Yaseen Aslam, should be treated as having worker status, which entitles them to holiday pay, sick pay and the national living wage, among other protections. Uber took the case to the EAT, arguing that it was primarily a technology company – its apps bring together thousands of self-employed drivers across London – rather than an employer.

Today's tribunal dismissed the appeal and described Uber's assertion that the company was a "mosaic of 30,000 small businesses" linked by a common platform as "faintly ridiculous".

Glenn Hayes, employment partner at Irwin Mitchell, said the decision would have "huge ramifications" for the gig economy. He "fully expects" to see more claims being issued considering Uber alone has a workforce of around 50,000 drivers in the UK.

Both Deliveroo and Addison Lee are currently appealing against similar decisions relating to worker status. And many more companies, including hotel groups and others in hospitality, are watching the ongoing rulings with interest given the prevalence of comparable self-employment models in their industries.

Lee Rogers, associate in the employment team at Weightmans, advised companies operating similar models to Uber and Deliveroo to seek legal advice to ensure their contracts and policies around the engagement of staff were "watertight", while Ian Brinkley, acting chief economist at the CIPD, said companies should adjust their business models to protect them from claims.

The ruling is also likely to have implications for similar employers in terms of reward strategies, Brinkley added, as many would now need to contribute to workplace pensions and pay for holidays, as well as comply with national minimum wage legislation.

But Sean Nesbitt, partner and international head of employment, pensions and mobility at Taylor Wessing, insisted that the judgment would not be the final say in the issue as Uber is widely expected to go to the Supreme Court – skipping the Court of Appeal.

"There is too much at stake for the government, business, unions and increasing numbers of workers in the gig economy for [this] decision to be the end of the road," he said. "The case is economically significant to Uber and other gig economy and mainstream operators that are watching with interest, with some, like Deliveroo, facing their own battles over employment status."

Beth Hale, senior associate at Stephenson Harwood, told *People Management* her firm had already seen a growing number of employment status claims that were likely to increase further, particularly since the abolition of employment tribunal fees. She added that although the ruling gave useful guidance on the factors to be taken into account when assessing employment status, there was still a "lack of certainty" in the area.

"Certainty is required to strike a balance between the economics of entrepreneurialism and avoiding exploitation of workers," she said.

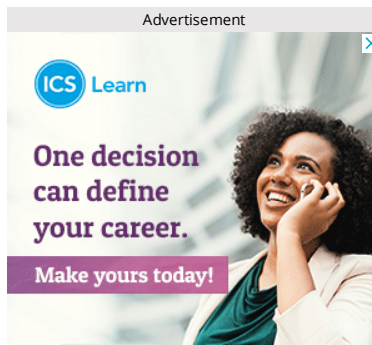
In July, *People Management* reported on the findings of the Taylor review, an independent report into modern working practices that included **replacing 'worker' status with 'dependent contractor'** to make it easier to distinguish between those who are self-employed and those who aren't.

**[Read the full judgment here.](#)**



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