

Employment Matters December 2017

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This month, holiday pay has been back in focus as a result of a European judgment about a worker who had been misclassified as self-employed. This case opens the door to holiday claims going back years, as we explained in our alert earlier this month which can be viewed [here](#).

Worker status has also been a key development this month with the EAT agreeing with an employment tribunal that Uber drivers are workers, a CAC decision about Deliveroo riders (which went the other way), a combined report from two House of Commons Select Committees on modern working practices, and budget announcements about IR35 reform in the private sector. We cover all of these developments below.

Most employers have turned their attention to preparing for the implementation of the General Data Protection Regulation ("GDPR"). In this alert we look at subject access requests in the context of GDPR.

Sticking with data protection, the High Court has handed down a judgment in the first ever group litigation data breach case to come before the courts. The issue was whether the defendant data controller was in principle liable for the actions of a rogue employee who had, as an act of malice directed at his employer, taken payroll data relating to some 100,000 employees and published it online. The court concluded that, despite itself having been entirely innocent of the misuse, the employer was in principle vicariously liable to compensate all 5,500 claimants in the group. This judgment has enormous implications for data controllers, which we will explore in more detail in a future alert.

Employer's false explanation that the reason for dismissal was reorganisation, when it was poor performance, breached the implied term of trust and confidence.

Wrongful constructive dismissal: don't give misleading reasons for dismissal

The Government has published the second Finance Bill of 2017 which contains provisions relating to the taxation of termination payments.

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Unfair dismissal: dismissing for illegality

An employer cannot fairly dismiss an employee for illegality simply because they do not provide the correct right to work documentation.

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Reimbursement of Employment Tribunal and Employment Appeal Tribunal fees: refund scheme now rolled out in full

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Increases to family leave and statutory sick payments announced

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The gig economy and worker status developments

Uber: EAT upholds Employment Tribunal's decision that Uber drivers are "workers".

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Deliveroo: The CAC decides that riders are not "workers" and not entitled to trade union recognition

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Report on modern working practices published

Tax and employment status: government reforms

A combined report from two House of Commons Select Committees has been published, recommending changes in legislation to "take forward the best of the Taylor Report recommendations".

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Subject access requests under the GDPR: much ado about nothing?

There is no denying that the General Data Protection Regulation ("GDPR") will have far reaching consequences for how data is processed but, within the employment context, is the hype really justified?

For instance, how will the data subject access request ("DSAR") regime change under GDPR and how will this impact employers?

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