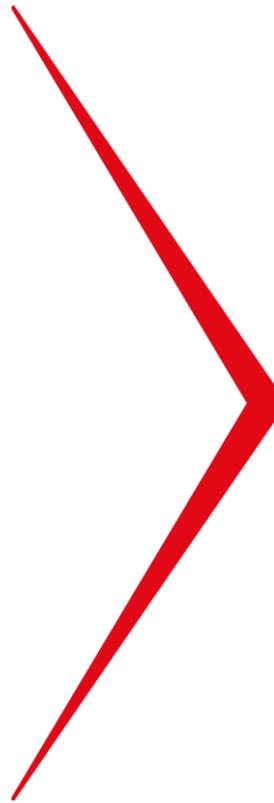


Business & Management



Employment law update

27 FEBRUARY 2019

The webinar will begin shortly...

Business & Management
60 minute webinar: Employment law update



Beth Hale
CM Murray LLP

CM Murray LLP

ICAEW

Employment Law Update

27 February 2019

“An Outstanding Boutique”

“A reputation that can’t be beaten for **senior executive work**”

“International strength transfers to the firm’s employer practice.. **Multinationals with UK operations..**”

“Top notch boutique offering expert counsel to **Professional Services and Hedge Fund clients**”

(Legal 500, Chambers & Partners)

Key themes

- Employment status
- Whistleblowing
- #MeToo and NDAs
- Gender Pay Gap Reporting
- Data Protection
- Restrictive Covenants
- Shared Parental Leave
- Brexit

Employment Status

- Employee/worker/self employed
- Uber:
 - Drivers are workers when app is switched on
- Pimlico Plumbers:
 - Reality of relationship made plumber a worker in spite of contractual agreement
- Deliveroo:
 - Substitution clause fatal to worker status

Employment Status

- Taylor Review/Good Work Plan:
 - Improving the clarity of status tests
 - Right to request fixed working pattern
 - Day one right to written statement of terms and conditions for workers and employees
 - Name and shame scheme for employers who don't pay tribunal awards
 - Stronger sanctions for repeat offenders

Employment Status

- Practical tips:
 - Ensure documentation is tight
 - But – more importantly – ensure the documentation reflects the reality
 - Substitution clause?
 - If you want personal service and control – employ?

Whistleblowing

- What is a protected disclosure?
- Public interest test
 - Relatively low bar
 - If employee raises complaint which concerns others, consider whistleblowing
- Individual liability for managers

- Investigations
- Confidentiality
- Historic allegations
- How to manage risk
 - Policies
 - Reporting
 - Training
 - Support

- Confidentiality provisions in settlement agreements
- What are their limitations?
- Can they still be used?
- Legislative change?

Gender Pay Gap Reporting

- First reports published by April 2018
- What did we learn?
 - Explanatory narrative?
 - Steps to resolve?
 - Increase in claims?
- Deadline for year two April 2019

Data Protection

- GDPR – 25 March 2018
- Potential fines – maximum of the greater of EUR20million or 4% of worldwide turnover
- Relevance to employment law:
 - processing employee data
 - the problem with consent
 - vicarious liability and Morrisons

Restrictive Covenants

- Void as restraint of trade unless:
 - go no further
 - than is necessary
 - to protect legitimate business interests
 - of the employer
- Widely enforced when properly drafted
- Egon Zehnder v Tillman:
 - “*concerned or interested in...*”
 - Awaiting Supreme Court decision

Shared Parental Leave

- Low uptake of right to share leave
- *Capita v Ali/Hextall v Leicestershire Police*
 - Both cases at EAT found no discrimination where SPL pay did not mirror maternity pay
 - Both are appealing to Court of Appeal
 - Watch this space

- TBC...
- Status quo remains for now

Contact Details

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Business & Management Webinars and events – [icaew.com/bamevents](https://www.icaew.com/bamevents)

Free 60 minute webinars – 10.00am

Business VAT update
20 March

Manage change effectively
1 May

Economic update
5 June

Dealing with difficult conversations
3 July

Free 20 minute webinars – 12.30pm

How to choose the right NED
13 March

GDPR update
17 April

AML update – What every business needs to know
8 May

Influencing and persuading – Promoting your brand
15 May

Free event – 6.00pm

Why don't staff always do what you want them to do?
23 April

Online e-learning – 9.30am

Rapid month-end reporting – by day three or less
21/22 May

Business & Management

THANK YOU FOR ATTENDING

Contact the Business & Management Faculty

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