

Liability issues impact Uber business model

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Recent claims and allegations against Uber and other gig businesses could require a change of business model to remain within the law.

LIABILITY ISSUES COULD FORCE UBER TO ADAPT ITS BUSINESS MODEL

The gig economy treats its workforce as a collection of self-employed individuals; to create a business model those within the industry believe is what the modern economy needs. In recent times, certain gig economy businesses including Uber and CitySprint have experienced legal claims against them regarding liability for paying minimum wage, holiday pay and accepting responsibility for discrimination.

These have presented a challenge not just for the individual businesses, but for the wider gig economy as a whole. Successful claims against Uber by their own drivers have led to others working in the gig economy to take action against their employers, with the potential for more such instances to occur in the coming few months. Eventually this could result in Uber and others being forced to adapt their business models.

WORKERS' RIGHTS

Uber was launched as an alternative to taxis and unlicensed minicabs, creating a safe, cheaper way for cities to 'move, work and thrive'. The business model involves flexible working schedules for drivers who are paid. Legal issues first emerged as Uber claims drivers working for them are its partners or should be classed as self-employed contractors, while many drivers and legal experts believe they are workers.

In October 2016, [a London employment tribunal ruled](#) that Uber drivers have the right to be classed as workers. The ruling accused Uber of 'resorting in its documentation to fictions, twisted language and even brand-new terminology'. It also said: 'the notion that Uber in London is a mosaic of 30,000 small businesses linked by a common 'platform' is to our mind faintly ridiculous'.

The ruling means that Uber drivers are now entitled to paid rest breaks, holiday pay and the national minimum wage. Uber has vowed to appeal the ruling, though many claimed this ground-breaking decision exposed the dark side of not just Uber but the gig economy. Since then, a similar claim from Mags Dewhurst has been brought against CitySprint, which employs 3,500 cycle couriers. She claims that CitySprint should be liable for the same workers' rights, as they exercise control over the way in which she works.

CONTROVERSIAL CEO

Another liability issue recently emerging around Uber concerns their newly ex- CEO [Travis Kalanick and allegations of sexual harassment](#). The allegations forced Kalanick to resign from his position, with many female customers deleting the app in protest and Uber's only female board member, Arianna Huffington, taking on a greater role in the aftermath.

[Brooke Schneider](#), an associate in the employment practice of Withers Bergman, said: 'Anything that taints or tarnishes the reputation [of a company] is important for shareholders'. She added: 'There is a concern about legal liability here. If there are employees who feel they have been discriminated against, they may use this as leverage to bring a lawsuit.'

Especially given the previous ruling that Uber drivers are workers, this provides them with greater power to take such action, if deemed necessary. So far, there has been no legal action taken regarding the sexual harassment allegations, but there is still time for a lawsuit to be brought against Uber.

BUSINESS MODEL CHANGES

If Uber wishes to class its drivers as self-employed and remove some of the liability, they will need to assess and amend the amount of control they maintain. This is the most important indicator of worker/employment relationships. Only levels of control which are consistent with the safety of drivers, passengers and others on the roads will be required.

This would mean cutting back on existing rules Uber enforces, which demonstrate a lot of control, including requirements on the make of car drivers use, routes they must take and discipline regarding logging them off the app temporarily or permanently should they break such rules. Current practices of issuing receipts and invoices between passengers and drivers should also be stopped.

The employment tribunal itself stated that Uber could have devised a business model not involving them employing drivers, but the model they have chosen to use simply fails to achieve this. Either accepting that they employ workers or adapting their business model if they wish to truly challenge the ruling, seem to be their next options.

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