

## Car valeters set alarm bells ringing for employers

Firms who hire self-employed sub-contractors may need to re-evaluate some of their contracts following a landmark case in the Court of Appeal involving 20 car valeters.

The valeters were taken on as self-employed contractors by a company specialising in car cleaning services. They had signed contracts which described them as self-employed sub-contractors. Later, after they had been working for the company for several years, they argued that they were effectively employees and so should be given the same rights as other employees, including holiday pay etc.

The company was able to point to its written contract but that wasn't enough to convince the Court of Appeal.

The Appeal Court judges said the

issue was whether the written contract represented the true nature of the working relationship, not only at the time it was drawn up but later when that relationship may have evolved and changed.

In this case it was clear that the valeters were not in business on their own and did not have any customers of their own. They were expected to turn up for work to meet the requirements of the company's customers and the reality of their situation was that they were employees, despite what a contract drawn up several years ago might say.

The case obviously has serious implications for companies hiring contractors. It's important to have a written contract but it's also essential to ensure that it reflects the reality of the working relationship. Otherwise

employers may not be able to rely on some written contracts in the event of a dispute as it could be ruled invalid.

If that happens then sub-contractors could gain full employment rights including holiday pay, maternity entitlement, unfair dismissal protection and so on. There may also be tax implications for the employer.

It would be wise for employers to review the contracts periodically, especially those drawn up several years ago, to ensure they reflect the current working practices and can still be relied upon in the event of a dispute.

Please contact **Susan Ball** (023 9238 0112) or **John Taylor** (023 9226 5251) if you would like more information on this article or any aspect of employment law.

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Verisona Solicitors and Advocates is a new law company incorporated in October 2008 following the merger of two south coast solicitors, Dyer Burdett and Gray Purdue. Both had been operating in excess of thirty years, and were well established in their specialist fields.

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Verisona's key areas of business include: Employment, Family Law, Commercial Law, Residential Conveyancing, Commercial Property, Mediation Services, Marine Law, Wills, Estates and Probate and Personal Injury and the business operates from offices in the newly refurbished Lakeside building in North Harbour, Portsmouth, and also at offices in Havant and Waterlooville.