

A new Labour government: what next for employers?

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Following last week's election, there's a new Labour government in charge. At the forefront of Labour's election campaign was a promise to deliver "A New Deal for Working People". We explore what this means in the field of employment law and how employers can prepare for Labour's proposed reforms.

Far reaching employment reforms likely under the new Labour government

From new day one rights to broader pay gap obligations, and bolstering enforcement of poor employment practices, the Labour party set out extensive commitments to reform employment law during their election campaign. Labour's ambition is to "Make Work Pay" with plans to deliver "A New Deal for Working People". Labour has an ambitious target to "hit the ground running" and introduce legislation within their first 100 days of government. These are the headline employment law reforms that Labour proposed:

New day one rights

Labour has committed to introducing new basic day one rights for all workers from the first day of employment. We've explained how these will work in practice below....

These relate to:

- 1. sick pay** - removing both the lower earnings limit, and the 4-day waiting period before sick pay is payable.
- 2. protection against unfair dismissal** – scrapping the current two-year eligibility period.
- 3. flexible working** – shifting the entitlement from a right to request flexible working to a default day one right
- 4. parental leave** – this is a broad phrase, and it's not clear whether this relates to all types of family leave (such as paternity and maternity leave which currently require 26 weeks' continuous service) or unpaid parental leave (available after one years' service).

For the individual, these pledges are designed to offer greater flexibility to balance home and work commitments, strengthen employment protection, and provide greater financial support during periods of sickness.

For employers, removing the two-year eligibility for unfair dismissal represents a big cultural change, and one which requires careful employee relations planning. While there are obvious benefits for employees, it will be interesting to see how employers respond with policies around performance and conduct and whether these create more monitored working environments and tighter performance standards.

A drive for equality in the workplace – more reporting and action plans

With the Chancellor Rachel Reeves aiming to close the gender pay gap, equality in the workplace and anti-discrimination measures are a central focus for Labour's workplace agenda.

More pay gap obligations. Large employers (those with 250+ employees) will be required to:

- publish disability and ethnicity pay gap reports, broadening the scope of diversity reporting; and
- develop, publish, and implement action plans to close their gender pay gaps to help drive the gender pay gap down. Further, outsourced workers must be accounted for in gender pay gap reporting, to give a more comprehensive view of pay across the workplace.

A new Race Equality Act. Labour has proposed to draft and implement a new Race Equality Act, which aims to enshrine in law the right to equal pay for ethnic minority workers. Although there is currently no enshrined legal right to make an equal pay claim on the grounds of ethnicity, unequal pay linked to ethnicity can be challenged via a discrimination claim under the Equality Act 2010. More detail is required to assess what practical difference, if any, this proposal would make.

Menopause Action Plans. Along with publishing guidance for employers on menopause-related absence, Labour will require large employers to produce Menopause Action Plans setting out their measures on how they will support employees through menopause.



A boosted National Minimum Wage (NMW) for all adults

NMW is always a hot topic and Labour has pledged to boost the NMW, to help bring about a “genuine living wage” for all ages. To achieve this, Labour first plans to introduce the cost of living as a factor (alongside median pay and economic conditions) that will be considered when determining the NMW.

In a boost for young people, Labour has committed to:

- abolishing NMW age bands for adults, removing the differentiation between 18- to 21-year-olds so that all adults are entitled to the same NMW; and
- introducing a ban on unpaid internships.

A new Fair Work Agency for employment issues

Although consulted upon by the previous government, Labour has set out a firm commitment to create a single enforcement body (to be known as the Fair Work Agency) that will have powers to ensure that worker employment rights are upheld, including sanctioning non-compliance. While the extent of its powers has not yet been defined, Labour makes clear that at the very least this body will have the power to:

1. Inspect workplaces and take actions against exploitative practices;
2. Ensure that Labour’s “genuine living wage” is enforced; and
3. Bring civil proceedings to uphold employee employment rights.

This third item is new and the most significant. Further detail on how this might work in practice is required to understand its potential impact.

Reforms to employment status and contractual rights

Labour’s plans include a focus on reforms to employee rights, the intention being to increase certainty and security of employment. Here are the key takeaways:

A single status of 'worker'. In a shift away from the three main employee statuses (employee, worker, and self-employed contractor), Labour is proposing to create a two-tiered system comprising of workers and the genuinely self-employed. This plan currently lacks detail and Labour have promised “detailed consultations” before making any changes.

Reforms to 'fire and rehire'. 'Fire and rehire' has been a hot topic in recent years and the practice has attracted significant negative attention in the media. Although Labour has pledged to end fire and rehire in its manifesto, the detailed plans reveal it would be permitted but Labour would strengthen protections against the practice, provide effective remedies for abuse of it, and strengthen the current statutory code which it deems inadequate.

An end to “exploitative” zero-hour contracts. Labour has proposed to ban zero-hour contracts which are “exploitative”; however, what “exploitative” means is unclear. Labour was more specific in its manifesto about how it wants zero hours contracts to operate, entitling workers to a contract that reflects their actual working hours on the ground, determined over a 12-week reference period. Again, the detail on how this would be implemented has not yet been provided.

A right to “switch off”?

Looking to follow models in countries like Belgium or Ireland, Labour proposes a new right for workers to “switch off”. Labour has not expanded much on this plan but proposes “constructive consultations” between workers and employers to introduce workable policies.

Further detail on Labour's proposals

Beyond the key headlines we covered earlier, Labour has pledged further reforms, which we have summarised below. To review what the other parties pledged in the lead up to the elections, please click [here](#).

Employment rights

Labour has committed to bring in a plethora of new employment rights including:

- New day one rights for: unfair dismissal protection, parental leave, statutory sick pay and flexible working.
- Reforming 'fire and rehire' and 'fire and replace' by bringing in a new strengthened statutory code of practice and by preventing abuse of such practices.
- Strengthening redundancy rights and protections by guaranteeing the right to collective redundancy consultations by reference to a threshold number of people affected across an entire business rather than one individual workplace.
- Except in specific circumstances, making it unlawful for employers to dismiss a woman who is pregnant within six months of their return.
- Introducing the right to bereavement leave for all workers.
- Strengthening protections and rights for workers who have been transferred under TUPE.
- Ensuring zero-hour workers have the right to a contract which reflects their actual regular working hours, determined by looking at a 12-week reference period.
- Encouraging employers to sign up to a "Dying to Work" charter.

Pay & tax

Labour has proposed interesting reforms in the 'pay & tax' area, including:

- Ensuring that NMW calculations for a given period consider the cost of living.
- Ensuring all adults are entitled to the same minimum wage by removing age bands for adults.
- Not increasing National Insurance.
- Removing the lower earnings limit for SSP so that it is available to all workers.

Diversity, Equality & Inclusion ('DE&I') and Reporting Requirements

Labour has set out numerous policy proposals for increasing DE&I in the workplace. These proposals include:

- A new Race Equality Act which will codify the right to equal pay for ethnic minority workers.
- A full right to equal pay for those who are disabled.
- Measures to ensure that employers can no longer outsource services to avoid equal pay for equal work to women.
- New mandatory ethnicity and disability pay gap reporting for large employers.
- Mandatory action plans for large employers to close their gender pay gap.
- A requirement for large employers to publish and implement a Menopause Action Plan detailing how they will support those currently going through menopause.
- Updating and strengthening protections for women who report sexual harassment at work.

Trade unions and industrial action

Labour has set out the most extensive reforms in this area including:

- A Fair Pay Agreement for those in the adult social care sector which will facilitate fair pay and fair terms and conditions, via collective agreement.
- A plan to extend strengthened trade union rights to self-employed workers.
- Repealing Conservative trade union legislation including their Minimum Services Levels (Strikes) Bill.
- Introducing a new continuing duty on employers that they must inform their employees of their right to join a union.
- Providing representation to trade unions in their new single enforcement body.

Immigration

Although not part of Labour's headline pledges, they have put forward some commitments and pledges on immigration, including:

- No tolerance for employers or agencies who abuse the visa system, including a ban on employers who do not comply with the rules from hiring from abroad.
- Reforming the points-based immigration system, including linking skills policy with immigration policy.
- Strengthening the Migrant Advisory Committee, including implementing a framework for joint working with UK skills bodies.

Enforcement and tribunals

Labour's key pledge is to create a new Fair Work Agency that will have powers to ensure that worker employment rights are upheld, but some other pledges here are:

- Implementing anti-avoidance policies to prevent "exploitative" zero-hour contracts.
- Establishing a regulatory and enforcement unit for equal pay.
- Increasing the time limit employees can make a claim to an Employment Tribunal from three months to six months.

What should employers do now?

Labour has committed to bring in legislation within their first 100 days of government, but we do not have visibility on what would be prioritised first. We recommend employers closely monitor which reforms will be implemented first, so that you can respond effectively. In the meantime, we suggest taking some practical steps to prepare for the financial impact and practical changes on the horizon.

- **NMW.** Consider the commercial impact of Labour's proposed changes to NMW. We anticipate Labour would seek to introduce the cost of living into the next NMW increase in April 2025, and this would affect all employers. For businesses with large populations of workers aged between 18 and 21, the removal of the adult bandings will increase compliance costs further.
- **Day one rights.** Further information is required to plan for the proposed day one rights, and so there is limited preparatory work at this stage. However, employers can start to think about how unfair dismissal protection might impact existing policies and procedures (whether formally documented or not), particularly for employees with short service. Once the detail is available, employers will need to review their policies and set-up training and support for line managers so that there is consistency between the documentation and practical working arrangements. .
- **Flexible working.** Many employers have just worked through a round of policy reviews to accommodate the previous government's version of flexible working from day one. The focus of this review is to ensure flexible working is a genuine default option, except where it is not reasonably feasible. This change could raise expectations amongst the workforce on ways of working, challenging employers to frame policy decisions which are consistent, suit business need and can be extrapolated across multiple individuals.
- **Pay reporting.** Determine whether you have the data available to meet the new reporting requirements: if you don't capture data on ethnicity and disability, or the proportion of the workforce who provide that information is low, plan the communications and engagement exercise to gather a comprehensive data set. Start working on action plans to address any pay gaps and ensure that these will narrow your gaps. The initiatives described in gender pay gap reports are always valuable and an important part of a business' diversity and inclusion strategy, but they may not necessarily drive changes in pay gaps in the short or even long term
- **Consult.** Many of the proposed changes will be subject to consultation with businesses, workers and civil society before legislation is passed. This certainly applies to the proposed reforms to worker status and we also expect Labour's planned Fair Work Agency to be subject to consultation before changes are made. Employers should be ready to express a view and engage in such consultation processes. Typically, KPMG responds to government consultations in its capacity as a professional advisor and we welcome any input from clients, whether on an anonymous basis or otherwise.

Contact us

There are a lot of new initiatives, some which will have a bigger impact than others. If you need help understanding how these proposals might impact your business, and what actions you should prioritise, please get in touch.



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