

Client Newsletter: Labour's Proposed Employment Reforms

The new Labour government have stated that they will put reforms to employment regulations to parliament within the first 100 days in office, 13th October 2024. The proposed changes in the "Plan to Make Work Pay" are numerous but here is a summary of the key changes:

1. Unfair Dismissal – Day One Right

The new Government has promised to give employees protection from unfair dismissal from the first day of their employment. This will be a monumental shift in employment law, as current protection from unfair dismissal only kicks in after two years of continuous employment. This means employers can only terminate an employee's employment lawfully after identifying a fair reason and following a fair process as prescribed by law.

Whilst this change is seemingly good for employees, you will need to recruit with greater thoroughness and consider longer probationary periods with fair and transparent assessment of performance. End of probation processes will need to be reviewed, and you will have to ensure they are adhered to by managers consistently across both good and poor performers.

2. Right to Flexible Working – Day One Right

Labour have said the law will be amended so that flexible working will be the default from day one for all workers "except where it is not reasonably practicable". That's a much narrower exception than the current law (which gives employers 8 different reasons to choose from) and could mean employers are forced to permit hybrid working even where it isn't ideal. The aim is that workers could benefit from

flexible arrangements with a particular emphasis on flexibility for workers with caring responsibilities.

3. Statutory Sick Pay – Day One of Sickness Right

Labour will remove the four-day waiting period so that statutory sick pay (SSP) must be paid from day one of sickness, which will increase employers' costs. The Government has not confirmed if it will increase the rate of SSP, which remains relatively low at £116.75-per week, but it does plan to remove the lower earnings limit.

4. Right to Switch Off

The Government has said it will introduce the 'right to disconnect' (i.e. turn off work devices such as laptops, tablets and mobile phones) outside working hours to promote healthier working practices.

Whilst it is not clear how this will be implemented; Labour plans to give workers and employers the opportunity to collaborate on the development of policies or contractual terms that benefit both parties. You will need assistance with seeking employee input and drafting policies.

5. Family Leave Changes

The Labour Party will review the parental leave system, wanting to make 'parental leave' another day one right. It's unclear if this means parental leave only or other kinds of right for parents to take family leave. For example, paternity leave currently requires six months of employment. It seems highly likely that the Labour Party will scrap this.

In addition, a new law was already introduced this year that means pregnant women who are selected for redundancy have the right to suitable alternative

employment. The Government wants to go further and prevent the dismissal of those returning from maternity leave, except in specific circumstances (to be defined).

The right to one week's unpaid carer's leave came into force in April 2024. The Labour Party would look at making this a paid entitlement but is not promising to do so.

6. Bereavement Leave

Many employers have a policy of compassionate leave already. The Government wants to make this a statutory entitlement extended to all workers bereaved of family members irrespective of the familial relationship. You may need to check your current policy isn't restricted to parents or children.

7. Increased Protection from Sexual Harassment

From October 2024, employers will already come under a new proactive duty to take 'reasonable steps' to protect employees from sexual harassment. However, the Government plans to further extend the protection by requiring employers to take 'all reasonable steps' to stop sexual harassment, including harassment by third parties, such as customers.

8. More Pay Gap Reporting (for Employers with 250+ Employees)

In addition to gender pay gap reporting (which is going to be extended to include outsourced workers), the Government also plans to make ethnicity pay gap and disability pay gap reporting compulsory for employers with at least 250 employees. This is likely to mean a bigger burden on data handling, diversity and inclusion reporting.

9. Race Equality Act

The Government wants to extend the right to make equal pay claims to black, Asian and minority ethnic and disabled workers. It also wants to introduce a right to claim ‘dual discrimination,’ where an individual can claim they have been discriminated against because of having two protected characteristics, such as discrimination based on race and gender.

10. New Single Status of “Worker”

Following consultation, the Labour Party plans to simplify the current multisystem for employment status. It wants to implement a new system where people are designated as either workers or self-employed, eliminating the current legal distinction between ‘employees’ and ‘workers.’

Whilst most will welcome a simpler system, it’s not clear how rights such as sick pay and family leave rights would be delineated, or how people will be taxed. ‘Workers’ are currently taxed as self-employed, but presumably, it wouldn’t work to have two groups of workers with identical employment rights who are taxed differently.

11. Menopause Action Plans

Labour has said that large employers (with more than 250 employees) will need to produce Menopause Action Plans, setting out how they will support employees through the menopause. You’ll need to consider measures such as flexible working, how you record menopause-related leave and absence.

Conclusion:

Until the reforms pass (or fail!) through parliament we cannot say with any certainty what actions you will need to take. However, it is inevitable that policies, handbooks and employment contracts will need to be updated, or created and line managers will need additional training in interviewing skills and effective performance reviews.

Right now, you should review your current talent acquisition processes and consider additional assessments such as behavioural profiles matched to job competencies and assessments to determine team and cultural fit. Don't make a costly mistake, who you are hiring today could be included in the new unfair dismissal legislation!

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