

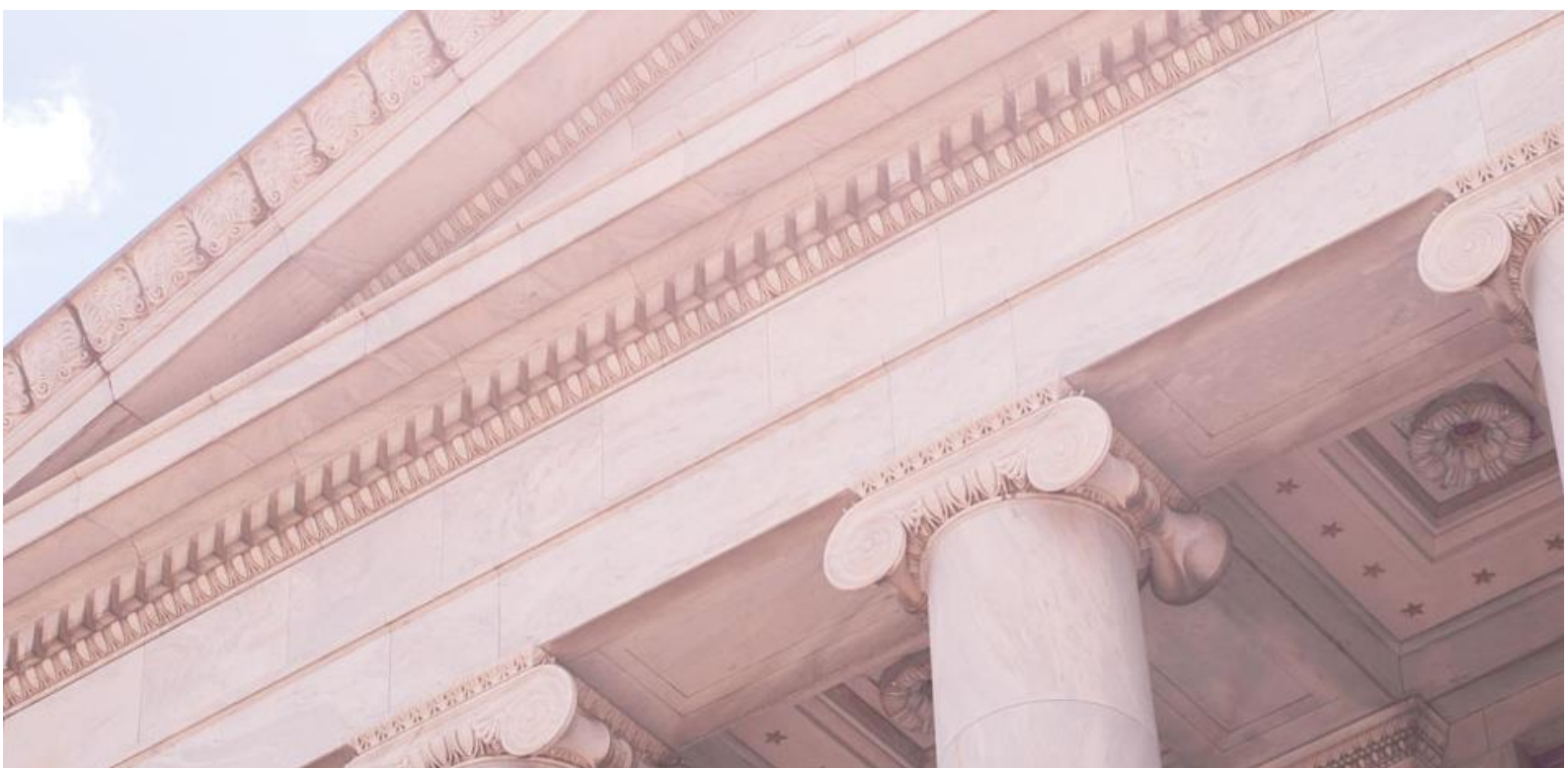
The General Election

What does a new Labour Government mean for employment law?

Following the outcome of the General Election we can expect significant changes in employment law over the coming months.

In '[Labour's Plan to Make Work Pay: Delivering a New Deal for Working People](#)' ("the Plan") there are 20 pages of employment law reforms which Labour confirmed would be introduced in their manifesto [My plan for change – The Labour Party](#) ("the Manifesto"). Although much of the detail is yet to be set out we can expect reform relatively quickly with Labour committing to hit the ground running and introduce legislation within 100 days of entering government. Labour has also committed to full and comprehensive consultation prior to passing any legislation.

This article outlines some of the key employment law changes we can expect.



Ending "one-sided flexibility"

Zero hours contracts

Labour has committed to end "one-sided" flexibility and ensure all jobs provide a baseline level of security and predictability by:

- banning "exploitative" zero hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period;
- ensuring all workers get reasonable notice of any change in shifts or working time, with compensation that is proportionate to the notice given for any shifts cancelled or curtailed.

Anti-avoidance measures will be implemented where necessary.

Fire and rehire

In addition, the rules surrounding 'fire and rehire' (where employees who do not accept contractual changes can be dismissed and re-engaged on the new contract) would be made more difficult, although the practice would not become completely impossible. Labour recognise that restructuring can be necessary for the business to remain viable and to preserve the workforce, when there is genuinely no alternative. With the aim of putting an end to poor practices of fire and rehire, Labour has committed to reforming the law to provide effective remedies against abuse and replace the "inadequate" statutory code with a strengthened code of practice.

Basic day one rights

The Plan announced basic individual rights from day one for all workers including protection against unfair dismissal, parental leave and sick pay. Making unfair dismissal a day one right is significant for employers. The detail is not set out in the Plan however it appears that probationary periods will play a greater role in helping to assess new hires with transparent rules and processes.

Single status of worker

There is also an intention to remove the difference in legal status between an employee and a worker. Going forward, Labour propose to simplify the law surrounding employment status by categorising an individual as either self-employed or a worker. Presumably this will lead to giving workers the full quota of rights currently enjoyed by "employees" (such as the right to claim unfair dismissal).

Redundancy

Changes to collective redundancies would be introduced, with the aim of triggering collective consultation rights more easily in circumstances where a certain number of employees are made redundant across a whole business, rather than the current 'one workplace' rule.

Family friendly rights

Flexible working

Labour have gone further than the previous government, in connection to its recent changes to flexible working. Where the previous government has recently created the right to request flexing working arrangements from day one of employment, Labour have outlined that they expect it to be the default position from the first day (except where it is not reasonably feasible).

Parental rights

Parental leave will become a day one right as set out above.

Maternity discrimination

Labour has committed to strengthening protections for pregnant women by making it unlawful to dismiss a woman who is pregnant for six months after her return, except in specific circumstances.

Carer's leave

Labour will review the new legislation for unpaid carer's leave and examine the benefits of introducing paid carer's leave, while being mindful of the impact of any change on small employers.

Bereavement leave

Labour will clarify the law and entitlement, introducing the right to bereavement leave for all workers.

Right to switch off

With a commitment to promoting a positive work-life balance for all workers Labour will bring in the "right to switch off" so that working from home does not result in homes turning into 24/7 offices.

Technology and surveillance

Recognising the benefits new technologies, including automation and AI, have to boost wages, drive up productivity and empower workers, they also pose risks to jobs and livelihoods. Labour has committed to protect good jobs, ensure good future jobs, and ensure that rights and protections keep pace with technological change – with a particular mention of safeguarding against discrimination. We will have to wait and see what this means in practice.

Fair pay

Genuine living wage

Labour has stated that it will ensure the National Minimum Wage ("NMW") is a real living wage that people can live on. The key steps set out in the plan to achieve this are:

- The Low Pay Commission's remit will be extended to ensure the NMW takes into account increases in the cost of living.
- The "discriminatory" age bands will be removed to ensure every adult worker benefits from the NMW.
- The Single Enforcement Body and HMRC will be given the powers necessary to make sure the genuine living wage is properly enforced, including penalties for non-compliance.

Fair tips

In the Plan Labour commits to ensuring hospitality workers receive their tips in full and workers decide how tips are allocated. It is unclear at this stage whether Labour will bring into force the remaining provisions of the Employment (Allocation of Tips) Act 2023.

Voice at work

Trade unions

Highlighting the extensive strike action over the past decade, Labour has committed to reduce red tape on trade union activity that works against their core role of negotiation and dispute resolution. Labour will repeal a number of pieces of legislation which it considers has attacked rights at work, including the Trade Union Act 2016 (implemented restrictions on the organisation of lawful industrial action) and the Strikes (Minimum Service Levels) Act 2023 (implemented powers for the government to set minimum service levels in certain industries).

The Plan sets out further extensive amendments to help create "a new era of partnership" that sees employers, unions and the government work together in co-operation and through negotiation.

Equality at work

Equal pay

Labour has committed to tackling the gender pay gap "which is narrowing too slowly", putting in place measures to ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay and implementing a regulatory and enforcement unit for equal pay with involvement from trade unions.

In the Manifesto Labour has committed to introduce the full right to equal pay for disabled people.

Pay gap reporting

Large firms will be required to develop, publish and implement action plans to close their gender pay gaps.

The publication of ethnicity and disability pay gaps will also be made mandatory for employers with more than 250 staff.

Menopause in the workplace

Large employers (more than 250 employees) will be required to produce Menopause Action Plans setting out how they will support employees through the menopause.

Gender recognition

Labour has committed to modernising, simplifying and reforming the "intrusive and outdated" gender recognition law in the Manifesto. They have also stated that it is proud of the Equality Act 2010 and the rights and protections it affords women and that it will continue to support the implementation of its single-sex exceptions.



Rights at work

Single Enforcement Body

Labour proposes to introduce a Single Enforcement Body for workers' rights which would "better support businesses who want to comply with the rules, create a strong, recognisable single brand so individuals know where to go for help and lead to a more effective use of resources and coordinate enforcement action." According to the Plan the Body would not only help enforce workers' rights but would also include strong powers to inspect workplaces and take action against exploitation.

Time limits

Labour has also proposed an extension to the time period for raising a claim in the Employment Tribunal; changing the current three month time limit to that of six months for all claims. This will have a substantial impact on risk management for employers.

Collective grievances

The ability of employees to lodge collective grievances through ACAS would also be implemented; giving employees another formal avenue of mediation in workplace disputes.

Harassment

The Plan references tackling workplace harassment, including by third parties. Labour has committed to strengthening the legal duty for employers to take preventative action to prevent sexual harassment in the workplace.

Comment:

With change around the corner, it is essential for employers to take steps to prepare for what is arguably the biggest raft of employment law reform in decades. Employers should be taking the opportunity now to carry out extensive audits. The employment status of the current workforce should be considered and employers should seek to clarify who may fall into the single worker status and who is genuinely self-employed. Cost analysis can then be carried out to help budget for the forthcoming changes. Policies and procedures should also be audited in light of the proposals set out in the Plan. For example, recruitment strategies, notice periods and performance procedures may need to be revisited to help manage the proposal of unfair dismissal becoming a day one right. Robust, clear and fair processes will leave employers in a position of strength.

We are eagerly waiting to see what the Labour government will prioritise and inevitably we can expect extensive consultation as the detail of the high level policies is thrashed out.

As always, workplaces with a positive culture and a sense of "we're in this together" will be able to navigate the period of change better and minimise risk.

If you need any assistance with the issues raised in this update please do not hesitate to get in touch. If you'd like to be kept up to date with new developments in Employment Law, [join our email list](#) to receive updates on relevant news and events.

Contacts



Ann Frances Cooney

Partner

M +44 7542 854632

E AnnFrances.Cooney@dwf.law



Julie Sabba

Senior Associate

M +44 7922 591715

E Julie.Sabba@dwf.law



Charlotte Lloyd-Jones

Professional Support Lawyer

T +44 161 838 0478

M +44 7715 423551

E Charlotte.Lloyd-Jones@dwf.law



DWF is a leading global provider of integrated legal and business services.

Our Integrated Legal Management approach delivers greater efficiency, price certainty and transparency for our clients. All of this, without compromising on quality or service. We deliver integrated legal and business services on a global scale through our three offerings; Legal Services, Legal Operations and Business Services, across our eight key sectors. We seamlessly combine any number of our services to deliver bespoke solutions for our diverse clients.

[dwfgroup.com](https://www.dwfgroup.com)

© DWF, 2024. DWF is a global legal services, legal operations and professional services business operating through a number of separately constituted and distinct legal entities. The DWF Group comprises DWF Group Limited (incorporated in England and Wales, registered number 11561594, registered office at 20 Fenchurch Street, London, EC3M 3AG) and its subsidiaries and subsidiary undertakings (as defined in the UK's Companies Act 2006). For further information about these entities and the DWF Group's structure, please refer to the Legal Notices page on our website at www.dwfgroup.com. Where we provide legal services, our lawyers are subject to the rules of the regulatory body with whom they are admitted and the DWF Group entities providing such legal services are regulated in accordance with the relevant laws in the jurisdictions in which they operate. All rights reserved. This information is intended as a general discussion surrounding the topics covered and is for guidance purposes only. It does not constitute legal advice and should not be regarded as a substitute for taking legal advice. DWF is not responsible for any activity undertaken based on this information and makes no representations or warranties of any kind, express or implied, about the completeness, accuracy, reliability or suitability of the information contained herein.