

Navigating employment law changes post-election

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The image features a background of shredded white paper strips, some of which contain faint, illegible text. A large, dark blue arrow points from the left side of the image towards the right, partially overlapping the shredded paper.

Previous Plans

The Conservative and Unionist Party
Manifesto 2024

CLEAR PLAN
BOLD ACTION
SECURE FUTURE

The Employment Allocation of Tips Act

- Passed on May 2023 and is expected to come into force on 1 October 2024, once approved by Parliament.
- Under the Act employers will have a duty to ensure that all of the qualifying tips are allocated fairly to workers (including agency workers) and that employers make payment in full no later than by the end of the month in which the tip was paid. Alternatively, if it is fair, an employer can pay the tips to an ‘independent tronc operator’ (a body acting independently of the employer) who will then allocate to workers.

The Worker Protection (Amendment of Equality Act 2010) Act

- Received Royal Assent on 26 October 2023 and will come into force on 26 October 2024.
- **This Act introduces a new duty on employers to take reasonable steps to prevent sexual harassment of its employees during the course of their employment.**
- The Act also gives employment tribunals the power to uplift sexual harassment compensation by up to 25% where an employer is found to have breached the new duty to prevent sexual harassment.

Previous Plans

Fire and Re-hire

- A new code of practice on dismissal and re-engagement ('fire and rehire') was expected to come into force on 18 July 2024.
- The Department for Business & Trade had stated that the Code is expected to have a low level impact on businesses because the Code does not impose any new legal obligations and operates within the current legal framework with which employers are already required to comply.
- However, Labour have stated in their manifesto that they would implement an outright ban on fire and re-hire practices.



The Future

A stylized graphic of the Union Jack flag, featuring red, white, and blue geometric shapes that form the flag's pattern. The graphic is positioned on the right side of the image, partially overlapping the red background.

LABOUR'S PLAN TO MAKE WORK PAY

Delivering A New Deal for Working People



LABOUR'S PLAN TO MAKE WORK PAY

Delivering A New Deal for Working People

Labour's New Deal for Working People is a core part of our Mission to grow Britain's economy and raise living standards across the country. A Labour Government will need to hit the ground running. **That is why we will introduce legislation in Parliament within 100 days of entering government.**



LABOUR'S PLAN TO MAKE WORK PAY

Labour is pro-worker and pro-business, and we will work in partnership with trade unions and business to deliver our New Deal. That is why we are committed to following a proper parliamentary process for our legislative proposals, with a full and comprehensive consultation on the implementation of the New Deal. We will invite businesses, trade unions, and civil society to input on how we can best put our plans into practice. The legislation will then continue the parliamentary process in both Houses, with an implementation period as is standard following Royal Assent. These are necessary and vital reforms to achieving our five Missions, so would be a top legislative priority for an incoming Labour Government.



LABOUR'S PLAN TO MAKE WORK PAY

Delivering A New Deal for Working People

We have acknowledged that there are other areas of the New Deal that will take longer to review and implement. We will carry out full and detailed consultation on our plans to move towards a single status of worker **and we will conduct a review of parental leave within the first year of a Labour government.**



LABOUR'S PLAN TO MAKE WORK PAY

Delivering A New Deal for Working People

There are other policies that will not need primary legislation to be put into effect. We will implement each of these through different routes. For example, we will write to the Low Pay Commission to change its remit requiring it to take account of the cost of living.

Day One Unfair Dismissal Rights

- Labour has stated they want to introduce day one rights to all workers.
- Ending the two-year requirement.
- Unfair dismissal rights from day 1.
- This would be the most radical change to unfair dismissal laws in over twenty years.
- There are proposed to be probationary period related exceptions by the details are lacking:

The Manifesto

“Our New Deal will include basic individual rights from day one for all workers, ending the current arbitrary system that leaves workers waiting up to two years to access basic rights of protection against unfair dismissal, parental leave and sick pay.”

*This will not prevent fair dismissal, which includes dismissal for reasons of capability, conduct or redundancy, **or probationary periods with fair and transparent rules and processes.***

We will ensure employers can operate probationary periods to assess new hires.

"However, the changes will help to ensure that newly hired workers are not fired without reason or cause and will help drive up standards in workplaces.”

Banning zero hours contracts

- Labour describe zero hour contracts as “exploitive”.
- This is because these contracts offer no guaranteed hours of work, creating uncertainty and financial instability for workers.
- Labour argues that banning these contracts will promote fairer and more stable employment conditions.
- They propose the introduction of new regulations that ensure workers receive predictable and guaranteed hours.
- They also propose new laws on proportionate compensation if shifts are cancelled.
- Again, we are lacking any specific details at this time.

The Manifesto

“We are committed to Securonomics, which will give working people security in their day-to-day lives – this involves banning exploitative zero hours contracts and ending fire and rehire.”

“Zero hours contracts and one-sided flexibility

- *Labour will end ‘one sided’ flexibility and ensure all jobs provide a baseline level of security and predictability, 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.*
- *We have an ongoing commitment to protect the integrity of these policies and will put in place anti-avoidance measures where necessary.*
- *We will ensure 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.*

The Manifesto

- *Workers will continue to have the right to be paid overtime rates as now.*
- *Our plans will not prevent employers from offering fixed-term contracts including seasonal work.*

Fire and rehire

- There is some confusion here. This has been talked about as a ban on fire and rehire.
- Not just a code of practice but a ban.
- However, the manifesto pledge is not for an outright ban just strengthened remedies and processes.

The Manifesto

“‘Fire and rehire’ is the practice of an employer making an employee redundant and then re-engaging them on reduced terms and conditions. The threat of fire and rehire is often enough to ensure employees are ‘voluntarily’ agreeing to lower pay and reduced terms and conditions. Good businesses rightly do not want to be associated with practices like fire and re-hire.

It is important that businesses can restructure to remain viable, preserve their workforce and the company when there is genuinely no alternative, but this must follow a proper process based on dialogue and common understanding between employers and workers.

***Labour will end** the scourges of ‘fire and rehire’ and ‘fire and replace’ that leave working people at the mercy of bullying threats.*

We will reform the law to provide effective remedies against abuse and replace the inadequate statutory code brought in by the Government, with a strengthened code of practice.

The Manifesto

Ending fire and rehire** means workers can be safe in the knowledge that terms and conditions negotiated in good faith **can't be ripped up under threat of dismissal.

Workers will be able to plan and save for the future with security in their pay and terms.

Good employers will also know that they will not be undercut by competitors who only engage staff under threat of the sack.”

Sick Pay

- Not clear why the Manifesto refers to this a day one right as it already is.
- Pledge is to remove waiting days. Currently first 3 days of absence.
- Statutory Sick pay from day one.
- Will this increase absence?
- Will this impact your company sick pay schemes?
- SSP funded largely by employers.

The Manifesto

“The pandemic exposed just how precarious work and life is for those on acute low incomes, with many forced to choose between their health and financial hardship.

*It is simply unacceptable that the safety net of sick pay should not be available to those who need it most, and so a Labour government would strengthen statutory sick pay, **remove the lower earnings limit to make it available to all workers and remove the waiting period.***

We will ensure the new system provides fair earnings replacement for people earning below the current rate of statutory sick pay.”

National Living Wage

- Commitment to remove the lower age bands
- One National Living Wage
- Will increase costs for those employing under 25 year old employees.
- Also proposing to bring cost of living into evaluation of the rates of NLW.
- Likely to further increase costs.

The Manifesto

“The next Labour government would go further and make sure the minimum wage is a real living wage that people can live on.

To achieve this, we would change the Low Pay Commission’s remit so that alongside median wages and economic conditions, the minimum wage will for the first time reflect the need for pay to take into account the cost of living.

We will remove the discriminatory age bands to ensure every adult worker benefits, and we will work with the Single Enforcement Body and HMRC and ensure they have the powers necessary to make sure our genuine living wage is properly enforced, including penalties for non-compliance.”

Unpaid internships

- To be banned.

“Labour will ban unpaid internships except when they are part of an education or training course. This will be good for social mobility, ensuring that the talent of tomorrow get the vital skills and experience they need to succeed.”

Union Rights

- Large section of the Manifesto dedicated to this area.
- Various pledges across a wide variety of issues including:
 - Vague commitment to “*strengthening the rights of working people by empowering workers to organise collectively through trade unions.*”.
 - Material changes to compulsory recognition tests and thresholds are planned to make it much easier for trade unions to gain formal recognition.
 - Trade Union Act 2016, the Minimum Service Levels (Strikes) Bill and the Conduct of Employment Agencies and Employment Businesses (Amendment) Regulations 2022 – to be repealed

Union Rights

- Labour will introduce rights for trade unions to access workplaces in a regulated and responsible manner, for recruitment and organising purposes.
- Labour will ensure reasonable access within workplaces by introducing a transparent framework and clear rules, designed in consultation with unions and business, that allow unions officials to
 - meet,
 - represent,
 - recruit and
 - organise

members, provided they give appropriate notice and comply with reasonable requests of the employer, as in other models already present in successful economies.

Union Rights

- Labour will introduce a new duty on employers to inform all new employees of their right to join a union, and to inform all staff of this on a regular basis.
- They will require this as part of the written statement of particulars that all new workers already receive when starting a new job.
- Labour will ensure there is sufficient facilities time for all trade union reps so that they have capacity to represent and defend workers, negotiate with employers and train.

Right to Switch off

- Labour's manifesto also stated they will act to promote a positive work-life balance for all workers.
- They will bring in the 'right to switch off', so working from home does not become homes turning into 24/7 offices.
- They say they will follow similar models to those that are already in place in Ireland or Belgium, giving workers and employers the opportunity to have constructive conversations and work together on bespoke workplace policies or contractual terms that benefit both parties.
- Not likely to be a clear legal ban.

Technology and AI

- The Manifesto states they will work with workers and their trade unions, employers and experts to examine what AI and new technologies mean for work, jobs and skills, and how to promote best practice in safeguarding against the invasion of privacy through surveillance technology, spyware and discriminatory algorithmic decision making.
- At a minimum Labour will ensure that proposals to introduce surveillance technologies would be subject to consultation and negotiation, **with a view to agreement** of trade unions or elected staff representatives where there is no trade union. Where there is a collective agreement relating to surveillance this will not override it.

Pay Gap Reporting

- Large firms will be required to develop, publish and implement action plans to close their gender pay gaps.
- Labour will ensure outsourced workers are included in their gender pay gap and pay ratio reporting.
- **The publication of ethnicity and disability pay gaps will also be made mandatory for employers with more than 250 staff.**

Menopause Action Plans

- **Labour will require large employers with more than 250 employees to produce Menopause Action Plans.**
- These will have to set out how they will support employees through the menopause, apparently much like gender pay gap action plans.
- In addition, they will publish guidance, including for small employers, on measures to consider relating to uniform and temperature, flexible working and recording menopause-related leave and absence.

Tribunal Time Limits

- In line with the Law Commission recommendation in April 2020, Labour would increase the time limit within which employees are able to make an employment claim from three months to six months.
- This would bring the time limit for all claims in line with the time limit for statutory redundancy and equal pay claims.
- They believe this will help with the tribunal backlog but we are not convinced this will be the case.

Collective Grievances

- Labour will make it easier for workers to raise collective grievances about conduct at work.
- **Labour will enable employees to collectively raise grievances about conduct in their place of work, to ACAS.**
- This will be in line with the existing code for individual grievances.

Equal Pay

- Equality Impact Assessments for public sector bodies will be strengthened.
- Labour's manifesto says they recognise that the current equal pay framework is inaccessible, for example due to very long employment tribunal backlogs, and the lack of access to pay justice for women.
- **Labour will therefore implement a regulatory and enforcement unit for equal pay with involvement from trade unions.**

Flexible Working

- Labour intends to make flexible working the default option for all jobs, aiming to support better work-life balance.



**What can you do to
prepare?**

What can you do to prepare?

- Sick Pay review how day 1 sick pay may interact with company sick pay schemes.
- UD rights? Clean house now?
- Hire and re-fire – act now?
- NMW – can work out the likely costs now – anticipate a material increase next 1 April.
- 2025 likely to be a heavy year for legislative change – budgets?
- Union strategy – do you have one – do you need to have one?

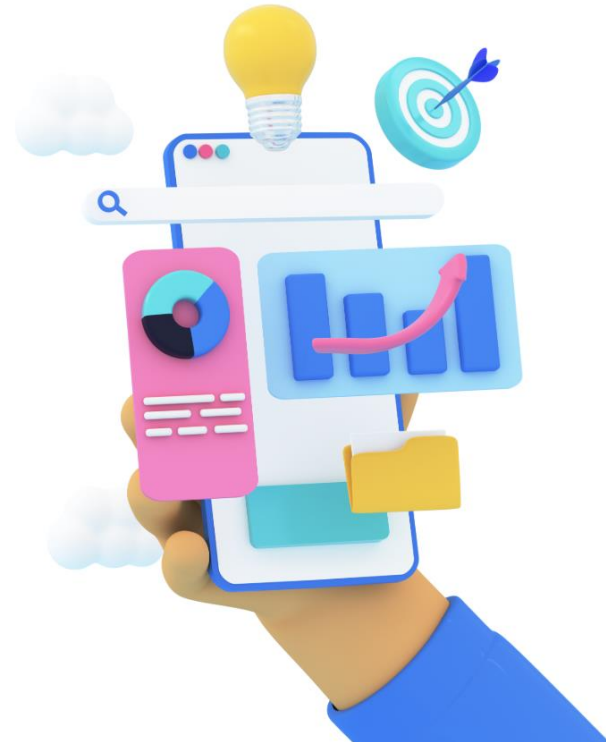


Questions

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