

AUDIT • TAX • ADVISORY



Solutions

Monthly Newsletter

July 2024

Following the King's Speech on 17 July, this month we focus on some of the proposed changes the Labour Government intend to make over the coming months and how this might impact on your business.

Potential impact to Employment law under a Labour Government

Labour have indicated that they will look to implement most of the proposed changes to employment law that was outlined within their manifesto ([Labour's Plan to Make Work Pay: Delivering A New Deal for Working People – The Labour Party](#)). Their plan is to implement many of these within 100 days. Some of the key areas of proposed changes include.

Single Worker Status

Labour plans to create a single status of "worker" for all but the genuinely self employed. This aims to ensure that all workers have the same basic rights and protections, including sick pay, holiday pay, parental leave and protection against unfair dismissal without a qualifying period (see below). This would be a significant change to day one employment rights and is also likely to include a further change to the Flexible Working Regulations.

Enhanced Unfair Dismissal Protections

With the proposed day one qualifying period amendment there would be a removal of the two-year service requirement for unfair dismissal claims. This would strengthen the protection for employees by removing the qualifying period for claims, extending protection to all workers, not just employees, removing the statutory caps on compensation and extending the time limit for bringing claims to the Employment Tribunal from three to six months.

Ban on Zero-hours Contracts

Zero-hours contracts would be banned under Labour's proposals, with workers on regular hours for 12 weeks or more gaining the right to a stable contract. This change aims to enhance job security but may reduce flexibility for employers.

If you need support reviewing your existing zero-hours contracts, we could with work you to update these documents or provide new contracts.

End to Fire and Rehire Practices

Labour intends to outlaw "fire and rehire" practices, where employers dismiss employees to re-employ them on less favourable terms. This would involve improving consultation processes and adjusting unfair dismissal and redundancy laws.

We could support you with proposed redundancies including consultation, compliant documentation and advise as required.

Right to Switch Off

A new "right to switch off" outside normal working hours would be introduced, allowing workers to disconnect from work obligations. This mirrors practices in some EU countries and is commonly known as the right to disconnect.

Strengthened Family-Friendly Rights

Labour proposes extending statutory maternity and paternity leave, introducing bereavement leave rights, enhancing protections for pregnant women, and reviewing shared parental leave arrangements.

Trade Union Reforms

There are considerable changes proposed in relation to Trade Unions including repealing recent trade union laws, simplification of union recognition processes, the requirement for employment contracts (section 1 statements) to inform individuals of their right to join a Trade Union. Additionally it is proposed that Trade unions will be given the right to access workplaces for recruitment and organising Trade Union activities.

Additional Considerations

Employers will also need to consider mandatory reporting of ethnicity and disability pay gaps for large employers, adjustments to minimum wage policies, enhanced protections against workplace harassment (including third-party harassment), establishment of a single enforcement body for workers' rights, and a review of health and safety laws focusing on mental health and neurodiversity.

We currently support clients with Gender Pay gap reporting and will introduce support for ethnicity and disability pay reporting should the legislation change.





What does this mean for you.

Most significantly the proposal to give full employment rights on day one for all workers could see an increase in unfair dismissal claims. Currently employees are unable to bring a claim of unfair dismissal until they have two years' service, except in specific instances of;

- Asserting rights under the National Minimum Wage or Working Time Regulations.
- Acting as an employee or trade union representative.
- Reporting health and safety concerns at work.
- Making a protected disclosure (whistleblowing)

This proposed amendment could see claims arising where a proper process has not been followed leading up to the termination of an employee. Currently, for example, you may have an underperforming employee with less than two years' service and rather than go through a full capability dismissal process you could terminate with limited risks to the business (where there are no protected characteristics). Going forward it is likely that you may need additional support when managing performance and how to fairly terminate if the individual is not capable of meeting the requirements of the role.

These coming months could have lasting impact on employment legislation and we will be sure to update you via the monthly newsletters.

Case law updates

Holiday pay and Working time

In the case [British Airways PLC v Ms T De Mello and Others](#) when the claim arose British Airways Cabin Crew received numerous allowances, in addition to basic pay, payable under various circumstances. The dispute focused on which allowances should be included in statutory holiday pay, particularly according to EU Law principles. British Airways provided a fixed meal allowance to cabin crew to simplify expense management, with both parties agreeing that this allowance exceeded the actual cost of meals. The tribunal determined that the meal allowance, or a portion of it, should be considered as normal pay for holiday purposes, as it was directly related. The Employment Appeal Tribunal (EAT) ruled that the meal allowance given to cabin crew may need to be included in the calculation of statutory holiday pay. The EAT stated that payments closely linked to job duties must be considered in holiday pay calculations, whereas those meant for incidental expenses should be excluded.

This decision outlines the approach to determining what constitutes normal pay, especially when there is a question of whether an allowance should be considered a performance payment and part of normal pay, or an expense payment and excluded from normal pay. It also examines the current legal stance on the concept of a "series" of deductions, in light of the Supreme Court decision in *Chief Constable of the Police Service of Northern Ireland v Agnew* [2023] UKSC 33; [2024] ICR 51.

If you need support in understanding which payments should be included within the calculation for holiday pay, we can advise and complete calculations where required.

Please see below some examples of the work that we have completed recently.

 **London**

Support with an Application for a Sponsor Licence.

 **Milton Keynes**

Drafting of three additional policies for the employee handbook.

 **Maidenhead**

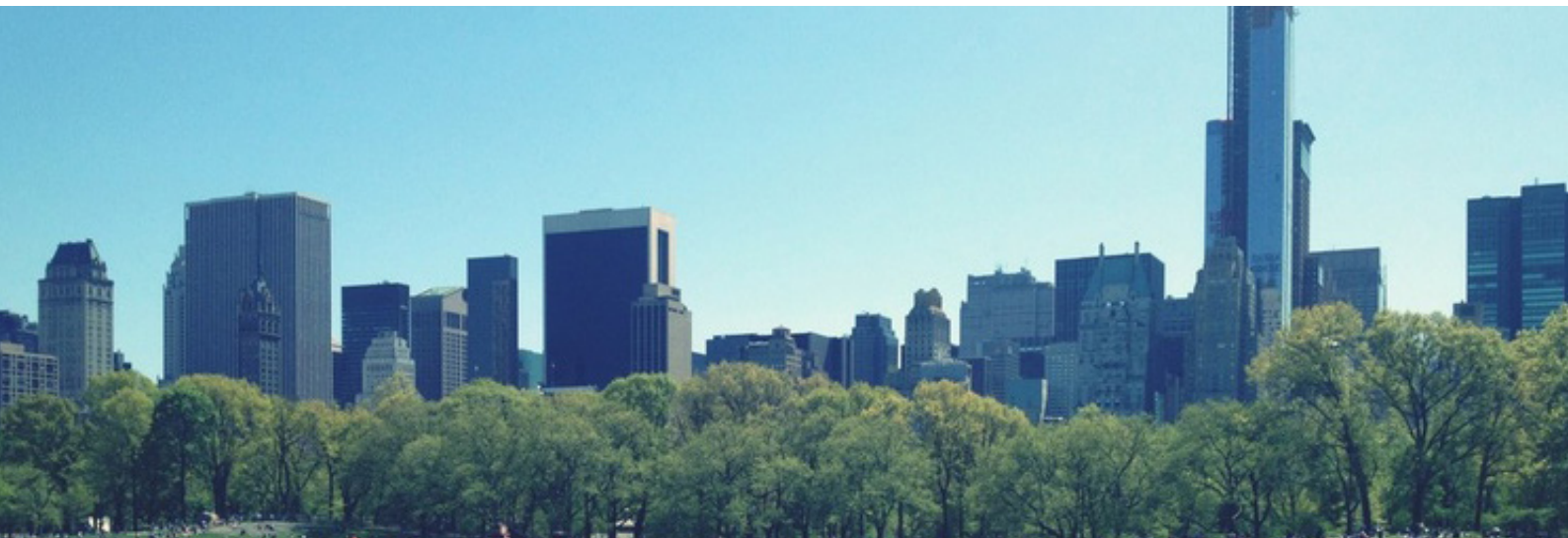
Advice on the management of an individual on Long Term Sick leave.

 **Peterborough**

Drafting of the contract of Employment, Employment Handbook and Privacy notice, along with additional policies as required.

 **Milton Keynes**

Review of a Settlement Agreement.



How we can help?

If you require HR support, please contact us at HRsolutions@mha.co.uk to discuss how we could assist you.

We can provide support on an hourly, fixed-fee or retainer basis so there are a number of options available according to your needs; as you can see from the above examples, we can assist with a large project or a one-off piece of advice.



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