

# Client Alert

Global Human Capital and Compliance

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## Newsflash - UK Employment Law Changes Confirmed

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The UK's new Labour government has unveiled a package of new workers' rights today (Thursday 10 October 2024), with wide-ranging ramifications for employers. Whilst the majority of measures will not be implemented until 2026 at the earliest, employers will need to use that time for active planning. They should also use the opportunity to contribute to the government consultations which will take place for the most significant plans.

We expect the following to be most relevant to K&S clients:

### UNFAIR DISMISSAL RIGHTS FROM DAY ONE

No sooner than Autumn 2026, unfair dismissal protection will apply from day one of employment, which is currently subject to two years' seniority. This will be subject to a statutory probationary period and a 'lighter-touch' process for employers to follow to dismiss an employee who is not right for the job within that initial period. But a fair reason will still be needed – and this will not include redundancy/job elimination. And notably unfair dismissal protection will apply *before* Day One for certain protected grounds, including whistleblower status and retaliation.

Still for consultation are the length of the probationary period (with the government proposing 9 months), the dismissal process required to terminate during that initial period, and whether the usual unfair dismissal compensation would be reduced during this period.

Despite the caveats, this represents a major change to how employers handle short-tenured employees and track the reasons for termination.

### BANNING ZERO-HOURS CONTRACTS

All workers who are on zero-hours contracts or contracts with a 'low' number of guaranteed hours will have a right to be offered guaranteed hours based on their average working hours over the prior reference period (which is reported to be 12 weeks but is not confirmed). If average



hours increase, subsequent reference review periods will provide workers with the opportunity to acquire this as a contractual right. The government has said it will consult on how these subsequent review periods should work, on what constitutes 'low hours' and how these measures will be adapted and applied to agency workers.

There is no outright ban, so that workers who want the flexibility of zero-hours contracts can still opt to this. But there will be an onus on employers to offer minimum hours. For zero and low hour workers, there will also be a right to 'reasonable' notice of shift changes or cancellations, and a right to compensation. The details will be key here – still subject to consultation – but this could represent a real shift in workforce structures and planning, with a higher fixed hour and cost work base. There may be some flexibility to bring workers outside of these rules, but the government has said it will adapt them if it sees anti-avoidance.

#### MAKING FLEXIBLE WORKING 'THE DEFAULT'

This change has been mis-sold – the government says only that the changes will “ensure more requests are agreed”. Employees will still only have a right to request flexible working, but to reject a request, employers will have to show both a specific valid ground (as currently) but also that the rejection is reasonable. So there will still be no legal right to flexible working (outside of disability accommodations and similar discrimination categories). But building on increased flexibility post-pandemic, we expect employers to face more pressure to agree flexible arrangements, such as remote working and compressed hours.

#### STRENGTHENED RIGHTS FOR PARENTS

Unpaid parental and 2 weeks' paternity leave will apply from day one, as will a right to one week's parental bereavement leave. However, an entitlement to statutory maternity pay from day one of employment, rather than from six months as currently, and broader changes to parental leave, are for consultation so some time away. Parents will also be protected from dismissal for 6 months after their return to work after leave with specific exceptions which will be outlined in separate regulations. If the regulations are similar to existing redundancy protections for employees on relevant family leave, the protection will in fact be limited.

#### END OF FIRE AND REHIRE AND STRENGTHENED COLLECTIVE REDUNDANCY RIGHTS

The scope for 'fire and hire' (as a way of forcing employers onto less generous contracts), is radically curtailed, by requiring employers to show the business is effectively in jeopardy, and also that they have consulted staff, considered alternatives and looked to mitigate the impact on staff. This practice is likely to revert to being a rare exception rather than a tactic to force through changes where employees will not agree. The government has committed to consulting on lifting the cap on the protective award (currently 90 days' pay) if an employer is found to not have properly followed the collective redundancy process as well as scope of an injunction to delay the employer's action in 'fire and rehire' scenarios.

The headcount threshold triggering collective consultation will also be more easily met as the employer's staff at different workplaces will now be aggregated.



### ACTION PLAN TO ADDRESS GENDER PAY GAP AND SUPPORTING EMPLOYEES THROUGH MENOPAUSE

A requirement to produce annual action plans to address gender pay disparities rights builds on existing gender pay reporting, and again applies only to larger employers (with 250+ employees). Interestingly, the information required will potentially extend to outsourced workers, although it is unclear whether this will be limited to the public sector. Policies to support employees going through the menopause will not be legally binding and will apply only to large employers. Again, however, these changes may reinforce existing cultural changes, which include recent recognition that menopause symptoms can constitute a legal disability.

### TRADE UNION CHANGES

A number of changes will make it easier for trade unions to access members and call industrial action, including preventing employers from replacing striking workers with agency staff. A number of these simply reinstate the previous rules which were abolished under the last government, but some are new and see a more central role for unions in the workplace – an example being the duty to consult any union recognised by the employer on its tip-sharing policy, in the hospitality sector.

### DISABILITY AND ETHNICITY – EQUAL PAY AND REPORTING

An Equality (Race and Disability) Bill is to follow by Spring 2025, which will extend gender pay gap reporting to ethnicity and disability for employers with more than 250 staff. This will be subject to an extended consultation period, given this is a complex area – but the government's starting point is to mirror existing gender pay rules, potentially with new requirements to publish and implement action plans to close any identified pay gaps. The government also intends to require equal pay and reporting where services are outsourced, although it seems this will be limited to the public sector, at least initially.

### FURTHER REFORMS OUTSIDE OF THE EMPLOYMENT RIGHTS BILL

Some notable pledges from the election campaign are missing from the Employment Rights Bill. This includes extending time periods for employment litigation, for which the timing is unclear. And some of the changes will be covered under Codes of Practice, meaning they are not legally binding, including the right to 'switch off' outside of core work hours.

The government has published a [Next Steps paper](#) which puts the following reforms in the 'longer-term' bucket:

- Review and extension of parental leave and carer's leave;
- A move towards a single status of 'worker', moving dependent contractors to full employment status, and only the genuinely self-employed without worker rights to benefits;
- A call for evidence to 'holistically' examine TUPE, which may lead to simplification;
- Enabling employees to collectively raise grievances about conduct in the workplace.

### NEXT STEPS

The above is a high level summary. For questions on how these changes will impact your UK business, and practical steps which employers can take in anticipation, please reach out to your usual K&S contact.



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