

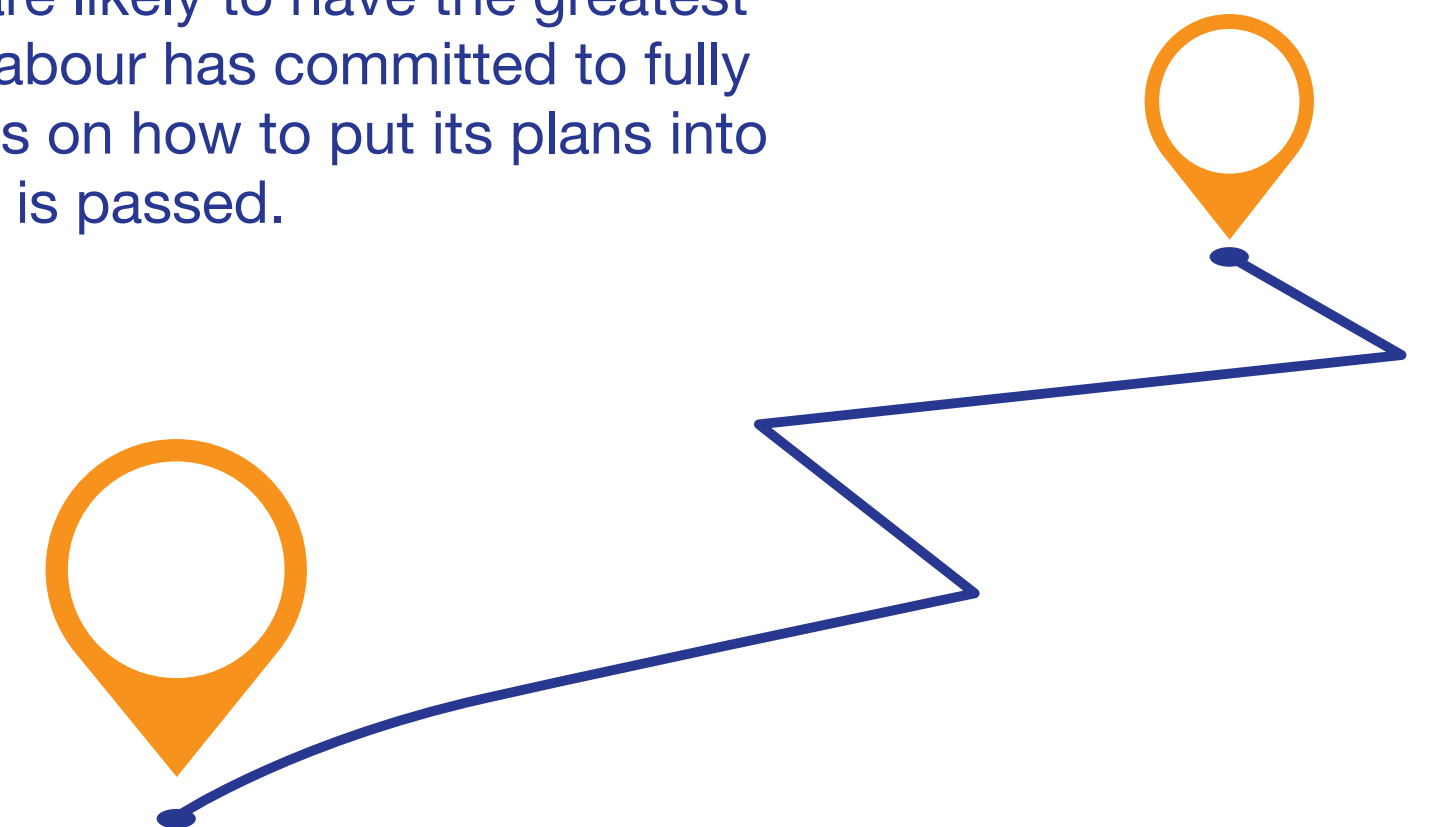
THE ROAD AHEAD:

Post Election Insights
and Support for the Future

THE ROAD AHEAD

Following the Labour victory, employment law reforms could swiftly follow, with Labour promising legislation within the first 100 days. In this document, we set out some key steps HR should take now to prepare for likely changes ahead.

These action points reflect some changes that Make UK anticipates the Labour Government would make in the relatively short term that are likely to have the greatest practical impact on HR. Labour has committed to fully consulting with businesses on how to put its plans into practice before legislation is passed.



PROPOSED CHANGE

EXTENDED PROTECTION FROM UNFAIR DISMISSAL

Labour will remove the qualifying period for individuals to be entitled to basic employment rights such as protection from unfair dismissal. However, there is a suggestion that an employer may have more leeway if the dismissal takes effect during a contractual probationary period in accordance with the applicable contractual terms.

KEY ACTION POINTS FOR HR

Recruitment and contracts for new hires

- ▶ Review your recruitment practices (e.g. selection/ interview) and carefully train those involved in your recruitment decision-making processes. Greater due diligence will be needed to ensure new hires are well-suited to your organisation.
- ▶ Include probationary periods in contracts for new hires and make active use of them.

Day-to-day HR

- ▶ Before the two years' qualifying service period is removed, consider whether it is appropriate to review the performance of, and/or your requirement for, any individuals who have less than two years' service.
- ▶ Ensure your performance management and probationary processes are rigorous enough to support capability dismissals from day one of employment and that your managers are welltrained.

HOW MAKE UK CAN HELP

- ▶ Support with recruitment, regular appraisals, performance management and disciplinary processes (e.g. consultancy support, training for line managers/HR and HR policy reviews).
- ▶ Review the template contract you use for new hires to ensure it is as robust as possible.
- ▶ Support with your training needs analysis to ensure that adequate training is provided for your new hires.

PROPOSED CHANGE

LENGTHENING OF TRIBUNAL LIMITATION PERIODS

The time limit for individuals to bring most employment tribunal claims will be extended from three months to six months.

KEY ACTION POINTS FOR HR

- ▶ Prepare for a likely increase in tribunal claims. Bolster HR records to guard against the impact of memories/recollections fading over time.
- ▶ Consider the impact of this change on data protection policies, data retention periods and HR/payroll software.

HOW MAKE UK CAN HELP

- ▶ Review document retention policies.
- ▶ Make UK can handle your tribunal claims from start to finish.
- ▶ Mock tribunal training.
- ▶ Support with settlement negotiations, including drafting of settlement agreements and provision of mediation services.

PROPOSED CHANGE

STRENGTHENING THE COLLECTIVE VOICE OF WORKERS, INCLUDING VIA TRADE UNION RIGHTS, AND BANNING “FIRE AND REHIRE”

Labour has outlined extensive plans to remove current restrictions on trade union activity:

- Repeal: Labour will remove the Conservative Government’s legislation on ballot thresholds and minimum service levels.
- Simplify: The union recognition process will be streamlined.
- Access: Unions will gain greater workplace access.
- Inform: Employers will have a duty to inform new employees of their right to join a union and regularly update existing staff.
- Restrict Fire and Rehire: Labour will strengthen the code of practice to limit fire and rehire practices.

KEY ACTION POINTS FOR HR

- Carefully train your managers on how to work successfully with trade unions, including negotiation skills and managing conflict.
- Consider pro-active introduction of works councils to improve engagement with your workforce.

HOW MAKE UK CAN HELP

- Employee representative training (including managing the election process and developing and designing works council constitutions).
- Make UK offers a range of training courses for managers (e.g. on Working successfully with trade unions).
- Specialist ER and trade union support with tactical and legal advice, drafting documentation, understanding any collective agreement(s) in force and attendance at a variety of meetings (including in relation to pay negotiations, industrial disputes and union recognition).
- Support with contractual change programmes.

PROPOSED CHANGE

CHANGES TO COLLECTIVE REDUNDANCY RULES

An organisation will be required to consult collectively if it proposes 20 or more redundancies within a 90-day period across its business, even if the redundancies will be split over multiple sites.

KEY ACTION POINTS FOR HR

- ▶ Review and update training and knowledge for line managers/HR on key matters such as information sharing across sites, timing of implementation for redundancies, managing the collective consultation process, etc.
- ▶ If you have multiple sites/groups, establish a central database/point of contact for keeping track of the number of redundancies across the business and ensuring careful data management, etc.

HOW MAKE UK CAN HELP

- ▶ Make UK Redundancy training for line managers/HR on how to undertake collective redundancies (including taking active steps to ensure efficient communication across the business).

PROPOSED CHANGE

BROADENING OF STATUTORY SICK PAY (SSP) ENTITLEMENT

Labour will make SSP available from the first day of sickness absence and remove the lower earnings limit.

KEY ACTION POINTS FOR HR

- ▶ Review attendance management procedures including relevant trigger thresholds. SSP from day one could result in more short-term absences, so you may need to undertake more attendance management processes. Look at how you handle persistent absence and the return-to-work process.
- ▶ Consider whether your policies need updating to reflect employees' entitlement to SSP from day one of their absence (and work with payroll to adjust the mechanics of payment). Calculate the extra cost of this for your organisation, if applicable.

HOW MAKE UK CAN HELP

- ▶ Support with HR policy review and updates (e.g. attendance management).
- ▶ Training for managers on operating attendance management processes (e.g. return-to-work interviews, handling difficult conversations).
- ▶ Strategy workshop to better understand your workforce absence profile.

PROPOSED CHANGE

BANNING “EXPLOITATIVE” ZERO HOURS CONTRACTS AND MAKING CHANGES TO SECURE MORE PREDICTABLE WORKING PATTERNS

Labour would ensure everyone has the right to a contract reflecting the number of hours they regularly work and the right to reasonable notice of any change in shifts/working time (with compensation that is proportionate to the notice given for any shifts cancelled or curtailed).

KEY ACTION POINTS FOR HR

- Review your use of zero hours contracts. Are there other approaches you could take to offer workers greater security as regards working hours, etc. while still meeting your business needs?
- Review notice provisions around shift changes.

HOW MAKE UK CAN HELP

- HR consultancy support.
- Support with contract review.
- Strategy workshop on workforce planning.

PROPOSED CHANGE

PLANS TO ENSURE EQUAL PAY AND INCREASE EMPLOYER PAY REPORTING OBLIGATIONS

- Require “large employers”* to publish their ethnicity and disability pay gaps, as well as action plans to close their gender pay gaps.
- Introduce a new Race Equality Act (giving the full right to equal pay for Black, Asian and other ethnic minority people).
- Introduce the full right to equal pay for disabled people.

* “Large employers” currently means those with 250 or more employees, although HR initiatives to address gender/disability/ethnicity pay parity and menopause can generate significant benefits for any organisation, irrespective of the size of the workforce.

KEY ACTION POINTS FOR HR

- Take stock now of what your gender, ethnicity and disability data looks like (including from recruitment, promotion and pay perspectives).
- Consider what impact the planned inclusion of outsourced workers would have on your gender pay gap reporting.
- Review any gender pay gap action plan that you already have in place. If you do not currently have one, start thinking about what it will look like.

HOW MAKE UK CAN HELP

- Support with understanding the diversity profile of your workforce including ethnicity and disability pay gap audit and action plans.
- Support with gender pay gap audit and action plans.
- Training on unconscious bias to support recruitment.
- Support with HR policy review and updates (e.g. Equality Policy).

PROPOSED CHANGE

NEW REQUIREMENT FOR LARGE EMPLOYERS* TO PUBLISH “MENOPAUSE ACTION PLANS”

These action plans will set out how employers will support employees through the menopause.

* “Large employers” currently means those with 250 or more employees, although HR initiatives to address gender/disability/ethnicity pay parity and menopause can generate significant benefits for any organisation, irrespective of the size of the workforce.

KEY ACTION POINTS FOR HR

- Consider what steps you can take now to prepare for this mandatory requirement (e.g. menopause policy, menopause awareness training for all staff, menopause training for managers etc.)

HOW MAKE UK CAN HELP

- Menopause awareness training.
- Menopause policy and support creating a menopause action plan.

PROPOSED CHANGE

NEW 'RIGHT TO SWITCH-OFF'

Workers will be entitled to disconnect and not be contacted by their employer outside of working hours.

KEY ACTION POINTS FOR HR

- ▶ Prioritise the mental health and wellbeing of your workforce and train your line managers/HR on this important topic. Take active steps to help your workforce to manage stress and avoid “burnout”. Do you have mental health first aiders? Do you have an employee assistance line?

HOW MAKE UK CAN HELP

- ▶ Training for managers/HR on supporting employee health and wellbeing.
- ▶ Review your staff wellbeing offering.
- ▶ Support with HR policy review and updates.

PROPOSED CHANGE

OTHER SIGNIFICANT CHANGES

- Make flexible working the default from day one for all workers (employers will still be able to decline requests which are “not reasonably feasible”).
- Make it unlawful to dismiss a mother in the six months following return from maternity leave, subject to certain exceptions.
- Make parental leave a day one right.
- Introduce a new statutory right to bereavement leave.
- Update protections for those who report sexual harassment at work and strengthen the legal duty for employers to take all reasonable steps to prevent sexual harassment.
- Change the remit of the Low Pay Commission to take account of cost of living.

KEY ACTION POINTS FOR HR

- Consider the potential benefits of flexible working for your organisation and the types of flexibility you could accommodate.
- Review your current policies and practices in relation to family leave and compassionate leave.
- Consider further steps you could take to tackle sexual harassment in the workplace (e.g. HR policies and training).
- Review your whistleblowing policy. (Large employers could consider introducing a whistleblowing hotline.)
- Any increase in NMW would have cost implications.

HOW MAKE UK CAN HELP

- Support with recruitment practices, including job design, and training for managers on handling flexible working requests.
- Support with HR policy review and updates.
- Sexual harassment survey.
- Training on preventing sexual harassment in the workplace (including micro videos).



NAVIGATE THE EVOLVING LANDSCAPE

We're working hard to keep you informed and provide support to help empower businesses through the changes.

FIND OUT MORE

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