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The View From London: ‘New Deal for Working People’ (Part 2 of 2)

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The UK government elected in July 2024 has directed a flurry of activity toward implementation of its flagship “New Deal for Working People,” which it has billed as the largest strengthening of employment rights in a generation.

Although still within the latter stages of the legislative process, and with many finer points still to be decided, the framework and timing of this “New Deal for Working People” is taking shape. Below, we set out a guide to some of the forthcoming changes, the anticipated timing of their implementation, and some steps employers should consider taking in advance.

The “New”

Protection From Harassment by Third Parties

Currently, employers are only vicariously liable for the acts or omissions of their own employees or agents. In a significant change, employers will now be required to take *“all reasonable steps”* to prevent workplace harassment by customers, clients, or other third parties, and employees could seek compensation if their employer fails to prevent such harassment. This change has given rise to concerns that an employer will be required to police conversations that customers may have amongst themselves, for fear that the conversation could offend an employee overhearing them. This concern presents particular practical difficulties in hospitality settings, such as bars and restaurants. For professional businesses, the risk is more likely to come from client interactions or third parties, such as others who share co-working premises. Additional guidance on the extent of an employer’s responsibilities is expected to be forthcoming.

When and How to Respond

The current implementation timeline indicates that this change will take effect in October 2026. Until guidance becomes available to identify the steps an employer will be required to take to protect its employees (noting that *“all”* reasonable steps is a high threshold), employers should consider whether to include a nonharassment clause in their terms of business with customers. For hospitality settings, employers should consider whether to post appropriate signage alerting customers that the employer will take necessary steps to protect employees from harassment. Employers should also create a system for employees to utilize to alert management to problems, and for management to resolve those problems.

Protection Against Termination and Removal of Compensation Limits

not apply.

Enhanced Flexible Work Rights

New regulations would require employers to have a reasonable basis for denying flexible work requests (such as remote work or adjusted hours). The grounds for denial would remain the same, but employees would have a clearer path to challenge unreasonable refusals. Penalties for violation would remain modest, at up to eight weeks of pay (capped at £751 per week).

Under the current law, employees must have two years of continuous service before they gain termination protection. The "New Deal" will amend that so that employees gain protection from unfair termination after six months of continuous service. After that point, employers will be required to demonstrate both a fair reason for the employee's termination and a fair process. The more significant change for many employers will be the removal of the compensation caps that exist under the current framework. Presently, an employee who is terminated in violation of the law is entitled to the lesser of 12 months' basic salary or £123,543. Under the new formula,

Regulation of Zero-Hours and Low-Hours Contracts

Zero-hour and low-hour contracts (an employment agreement with little or no guaranteed minimum working hours) are prevalent in some sectors, notably gig economy, retail and hospitality. Although there will not be an outright ban, reforms aimed at preventing abuse of these contracts and their perceived "one-sided" nature will require employers to offer guaranteed hours to workers on such contracts at regular intervals. Workers would also have the right to reasonable advance notice of work schedules and any changes or cancellations, with financial penalties applied if the employer fails to provide such notice.

Restrictions on "Fire and Rehire"

Current practice allows employers to force a contractual change by lawfully terminating an existing contract, in combination with offering a new contract on revised terms. By setting the new contract to take effect at the end of the notice period required by the old contract, employers could secure more favourable contract terms without any break in the employee's term of service. Employers' ability to utilize this method will be significantly restricted. Under the new laws, an employer who dismisses an employee for refusing to accept a new, varied contract will be automatically unfair. There are some minor exceptions, such as where the employer is in financial difficulties and the variation would: *"…eliminate, prevent or significantly reduce, or significantly mitigate the effect of, any financial difficulties and the which, at the time of the dismissal, were affecting, or were likely in the*

conversations about underperformance that the manager otherwise might avoid. In addition, the revised six-month time limit means that employers should decide, before January 1, 2027, whether to retain 'borderline' employees with more than six months and less than two years of service, as those employees will gain immediate protection in the new year. For employees hired on or after January 1, 2027, employers may wish to implement a more structured probationary review period and be prepared to make decisions on suitability of performance within the first six months. Some businesses may also decide to revisit their corporate structure and whether a limited liability partnership (LLP) might be preferable (either altogether or as a "warehouse" for higher-paid senior executives) because LLP members do not have employee status and so would not be caught by the change. Such structures are already commonly used in professional and financial services businesses.

This change takes effect on January 1, 2027, and will make termination more costly, less financially predictable, and more expensive, particularly when terminating high-earning employees or those with large bonus or equity plans, who may be able to claim losses with respect to those plans. In preparation for this change, employers should assess their internal appraisal and performance management processes, as these will take on a greater significance in justifying termination in the future. Employers should ensure sufficient emphasis on accurate and timely completion of performance management and appraisal processes, and reinforce with managers the need to have difficult

This change is expected to take place in 2027. Given the limited scope of the change, employers may not need to implement any changes to their policies or practices.

These changes are expected to take effect in 2027. Many of the finer points are still subject to the legislative process; employers should wait until the full requirements are known before assessing their situation and determining any required steps.

These changes are expected to take effect in 2027. Employers contemplating any changes to contractual terms should make those changes as soon as possible, particularly if the varied terms are likely to create employee objections.

immediate future to affect the employer's ability to carry on the business as a going concern" and "*in all the circumstances, the employer could not reasonably have avoided the need to make the variation."* This is a high threshold and is likely to apply only where an employer is on the verge of insolvency.

Employment Tribunal Time Limits

Primary time limits to bring claims in the employment tribunal will increase from the current three-month limit to six months. Breach of contract claims arising or outstanding on termination of employment are currently excluded from the revised time limit.

These changes are expected to occur in October 2026. Employers may wish to enhance internal investigation processes (taking statements at an early stage) to account for claims which may be made long after incidents occur. It is expected the act will be amended in due course to include breach of contract claims in the revised time limit.

Trade Unions

The bill introduces a significant strengthening on union rights, including: **Workplace Access:** Trade Union officials will have a wider scope of rights to access workplaces (physically and virtually) by way of "access agreements" to be approved by the employer or the Central Arbitration Committee (CAC). The CAC will be empowered to order employers to take necessary steps to allow unions access and/or impose very significant fines of up to £75,000 for a first offence, £150,000 for a second offense, and up to £500,000 for a third offense.

Statement of Rights: Employers will now be required to provide workers with a written statement to inform them of their right to join a trade union. Failure to do so can subject employers to penalties, which are currently set at two to four weeks of pay for the affected worker.

Recognition: The bill also gives the government power to lower the required threshold to apply for statutory union recognition for collective bargaining from 10% to as low as 2%. The 40% voting threshold that allows the CAC to order recognition will also be removed.

Additional Rights: Trade Union members will be granted additional rights, including protection against detriments short of dismissal for taking part in industrial action, provision of facilities for equality representatives to carry out duties, extended protections against blacklisting, and permitted time off for equality representatives.

These changes are expected to take effect in October 2026. The secondary legislation is expected to outline the finer details of the extended rights package being granted to unions. Employers should review their industrial relations strategies and prepare to take a more proactive approach in engaging with unions. HR and in-house legal teams with little experience dealings with unions may require training and resources to adequately prepare.

Tips

Existing tipping legislation will be strengthened by the new law, requiring employers to consult trade unions or elected representatives (and, failing this, workers) before introducing any written tipping policy. Tipping policies will need to be reviewed every three years from implementation and employers must take anonymous feedback into account.

These changes are expected to take effect in October 2026. Employers should review their existing tipping policies and ongoing compliance with The Employment (Allocation of Tips) Act 2023.

A detailed list of the measures and the full implementation timetable may be accessed at:

https://assets.publishing.service.gov.uk/media/686507a33b77477f9da0726e/implementing-the-employment-rights-bill-roadmap.pdf

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