



Let's talk **people changes**

A new Labour government:
What it means for employers
and their workforce

July 2024

Let's talk people changes...

For the first time in 14 years, Labour will lead the country. What might this mean for employers when it comes to attracting and retaining the best talent?

In the midst of this transition, our report outlines the potential impact of Labour's key proposals for employers and their workforce.

Labour's manifesto proposed reforms that aim to create a fairer and more equitable workplace for all. The potential reforms cover many aspects of employment, including day one rights, workforce benefits, equality provisions, worker status, immigration, remuneration, reward and incentives.

While we await further clarity on the new government's agenda – the King's Speech will be delivered on 17 July – this report outlines the changes we anticipate may be ahead based on Labour's manifesto. Our expert analysis will help you consider the implications for your organisation as we navigate this period of change and opportunity together.



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What's inside...


Reforms to UK employment law

The Labour party's most significant proposals in this sphere are likely to be its plans to have a single status of 'worker' and to grant all workers certain rights from day one of employment. The combined effect of these two proposals is likely to have a significant impact on employers. Its manifesto says that it will be introducing legislation within 100 days, with plans to consult fully with businesses and workers on how to put proposals into practice before this is passed.

Single 'worker' status

Individuals may currently have one of three potential statuses from an employment law perspective, each with different rights (employee, worker or self-employed). However, for employment tax purposes there are only two tests – you are either an employee or you are self-employed. This leads to a considerable amount of uncertainty both for employers and workers and generates a large quantity of litigation regarding employment status and associated rights and/or enforcement action by the tax authorities.

Labour plans to simplify the statuses for employment law purposes, by amalgamating worker and employment into a single status of 'worker', thereby granting everyone who is not self-employed the full suite of employment law rights, including rights to claim unfair dismissal and take family leave (such as maternity leave).



"The combination of a new single worker status and widespread day one employment rights could have a significant impact on employers."

Labour will consult on this proposal before bringing forward draft legislation, so timescales are currently uncertain.

If the proposal is implemented, it is likely to lead to increased cost where employers have previously relied on the more flexible 'worker' engagement model, which currently attracts fewer rights. In some circumstances, 'workers' may have been treated as self-employed for tax purposes under the current regime. However, this proposal to amalgamate the statuses is likely to lead to a re-characterisation of previously self-employed workers as employees for tax purposes, thereby increasing national insurance contributions for the employer. Everyone who is a worker will have the same rights as an employee moving forwards as well, meaning a greater cost for the employer as a result of providing rights such as family leave. It also means employers will have less flexibility in terms of their workforce and engagement models.

Managing talent – day one rights

Labour is proposing to give all employees, from day one, the full range of statutory employment law rights. By implication, if it proceeds with its proposal to create a single status of 'worker' (referred to above), all 'workers' will therefore also receive statutory employment law rights from day one. Some areas – like discrimination – are already day one rights, but the topic attracting particular media attention is unfair dismissal. Currently, in most cases, eligibility is limited to those who have worked for an employer for at least two years.

These new proposals still endorse probationary periods but stress the need

for a fair and transparent basis for bringing probation to an end which, in effect, mirrors the unfair dismissal test. So, although Labour is saying probationary periods are a good thing – and they are – there's no automatic right to part company with employees during this time. The current unfair dismissal standards that kick in after two years are going to apply to everyone from day one.

Labour also proposes to extend the time individuals have to bring unfair dismissal claims from three to six months, and has previously mentioned that it would remove the upper limit on unfair dismissal awards as well. In settlement negotiations – and some 80% of employment tribunal cases typically settle before trial – employers can probably expect a slightly more robust negotiating stance from employees and their representatives, with perhaps an elevated level of demand in terms of monetary compensation.

Planning for change

- Employment contracts and handbooks should be reviewed and more clarity given, where needed, around what could stop successful completion of a probationary period.
- Labour's stated commitment is to creating jobs that provide security and treat workers fairly, and this should be reflected in the transparency of performance reviews.

Expanding workforce benefits

Labour is looking at workforce benefits and leave entitlements for employees, with examples including leave for bereavement and paid carers' leave being enshrined in law for the first time – perhaps less of a shift for many employers that already offer those rights on a voluntary basis.

There is also a plan to bring a new right for employees so that working from home does not turn homes into 24/7 offices and instead a positive work-life balance is achieved. The plan is to follow the models already in place in countries like Ireland and Belgium.

Planning for change

Employers should assess their existing benefit provision against these new requirements.

Collectivism

Labour has clearly stated its intention to bring in a new partnership between business and trade unions. It wants to simplify the process for trade unions to secure collective bargaining recognition with businesses.

It will bring in a legal requirement to include a statement in every employment contract reminding employees of their right to join a trade union, coupled with an obligation to regularly reinform employees of that right.

There are also plans to introduce sectoral fair pay agreements, initially as a pilot in the adult care sector, covering not only pay and conditions but also benefits and training.

Labour acknowledges that for some industry sectors the agreements will never be the best solution and employers can expect a period of consultation before any proposals are finalised.

Planning for change

Employers who have not previously recognised a trade union will probably choose to consider the implications of these proposals for their employee relations strategies and their associated options.

Equality provisions

There is a trend for increased pay transparency laws across the globe, including a new European Union Directive on this topic (the EU Pay Transparency Directive), which will impact all EU Member States (but not the UK following Brexit). Labour is not proposing to go as far as the obligations in the EU Pay Transparency Directive, but it is proposing to introduce mandatory ethnicity and disability pay gap reporting to mirror the current UK gender pay gap rules.

Disability pay gap reporting may be a particular challenge for employers, as they might not necessarily collect data in an appropriate manner to be able to report in a meaningful way. Data collection of this nature is highly sensitive for employees, involving the disclosure of personal medical data and employers can really only rely on voluntary disclosure. Employees may be reluctant to share information about disabilities with their employer because of the stigma attached, particularly to mental health conditions.

“Ethnicity or disability pay gap reporting relies on employees disclosing their data. If they are reluctant to disclose, employers will not have meaningful data to report. This in itself will reflect on the employer and its culture.”

Employers also need to consider the wider impact: once an employer is aware that an employee is disabled, they have a duty to make reasonable adjustments to the workplace to accommodate that disability.

Current UK gender pay gap reporting does not have consequences for employers (beyond potential reputational issues when the data is published), but Labour is proposing to make it mandatory for large firms (250+ employees) to publish a ‘gender pay gap action plan’ alongside their gender pay gap report. This will drive employers to really think about the steps they are taking to close the gender pay gap in their organisation, and about the diversity, equality and inclusion measures needed to do that.

Planning for change

Employers should be aware of how broad the term disability is under existing equalities legislation (it is likely that the same definition would be used for reporting purposes). Employers may want to start to collect disability and ethnicity data on a voluntary basis (if they do not already do so) and start to drive engagement to increase disclosure rates.

Equal pay

Under current law, employees can bring an ‘equal pay’ claim on the basis of gender, claiming that they are being paid less than someone of the opposite sex doing the same job. However, the current legislation does not explicitly give the same right on the basis of ethnicity or disability. Labour is proposing to change the law, so it states that employees have the right to bring an equal pay claim on these bases.

This isn’t necessarily a significant change because ethnic minorities and disabled employees have been able to bring these sorts of claims under general discrimination legislation to date. However, it would make it procedurally easier to bring an equal pay claim based on ethnicity or disability if the law is changed.

There are also proposals to introduce an enforcement body for equal pay rights. This is likely to drive employers to focus more on equal pay compliance and to consider more carefully their equal pay risk through spot checks or audits.



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Planning for change

- HR talent leaders should think about what data they are collecting about their employees and consider starting a campaign to increase people’s willingness to share that data, to set themselves up for success in light of the proposed enhancements to pay gap reporting.
- Create a culture within the organisation that enables people to understand why this is important and how questions around ethnicity, disabilities and other characteristics help the business and the employees.

Making work pay

“Labour has said it will not bring in any of these laws without effective consultation. It is important that businesses engage with the consultations to ensure they help shape what this new legislation will look like.”



A new single Enforcement Body

Labour's Plan to Make Work Pay outlines a range of new rights and protections for workers. With this comes the promise of a single Enforcement Body to govern many of the changes.

The details are yet to be confirmed, but for employers it's likely to mean more rigorous compliance activity from the new Enforcement Body through detailed inquiries and reviews. The body will most likely drive compliance with targeted activities, in a similar way that HMRC enforces the National Minimum Wage. Penalties could include significant fines, worker remediation payments and public naming, something that has been effective for the government in its National Minimum Wage enforcement activity.

The National Minimum Wage

Labour has committed to making the National Minimum Wage a genuine 'real living wage' that people can live on, and introducing a single rate of National Minimum Wage for all 'adults', although it is not yet clear at what age that will apply. There is also an intention to change the remit of the Low Pay Commission, which currently determines the thresholds.

We expect further increases in the rate, which will put more money in the pockets of our lowest paid people. However, many companies, for example in the hospitality sector, run on very small margins and these changes may present a significant affordability challenge. A single rate for all adults may inadvertently push businesses to hire more experienced workers, making it more difficult for younger people with less experience to enter the jobs market.

The Apprenticeship Levy

Labour has stated its commitment to reform the Apprenticeship Levy, creating a flexible Growth and Skills Levy, with Skills England consulting on eligible courses to ensure qualifications offer value for money. However, there is little detail on what that entails. This is likely to be welcomed by companies that have experienced difficulties accessing levy funds to deliver the kind of training they need for their workforce, and so they see the current levy as another tax on business.

Planning for change

- It will be imperative that businesses think critically about their pay policies, processes and systems to make sure they are compliant with new rules and address any issues in advance of the single Enforcement Body being established. Falling foul of these could have a considerable impact on a company's finances and brand.
- We expect the new government to share more information and launch the planned consultations on these issues within its first 100 days. Employers need to engage with the process if they want to make sure their voices are heard.



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Remuneration, reward and incentives

“The Labour government will have to work out how to keep the younger generation interested because many of them do not want the traditional jobs we have. They want to be entrepreneurs; they want to be successful in their own right.”

Executive pay and bonuses

With the new Labour government, we expect a continued focus on the competitiveness of the UK capital markets. In the last 12-18 months, we have seen calls for more open conversations with investors, proxies and governance bodies around the role of pay and governance in this area, and the debate is expected to continue to play out in the coming year.

This focuses on the need to balance flexibility required within company pay structures to recruit and retain the right talent with the appropriate level of governance. Already, companies have been evolving their pay arrangements, particularly the UK's largest global businesses, and we expect to see more changes over the next 12 months.

Planning for change

Companies will have to be really thoughtful about what they need to meet their business and talent strategies. They should also reflect on how to achieve that and how to engage stakeholders to deliver on that.

While not formally part of the manifesto, Labour has indicated as part of press interviews that it has no plans to reinstate the bankers' bonus cap, which was lifted from 31 October last year.

While only affecting a specific group of firms, proposed special measures to 'clean up our water' would also give regulators new powers to block bonuses for water company executives 'who pollute our waterways'.

All Employee Share Plans

Although it isn't included in the Labour manifesto, we do expect the topic of All Employee Share Plans to make its way back on to the table.

Last June, in a call for evidence, the Conservative government asked for views on Save As You Earn (SAYE) and the Share Incentive Plan (SIP). Both schemes – with the SAYE running predominantly over three years and the SIP over five – are a tax-efficient way for employees to save and, through stock ownership, are designed to spread wealth creation and build a more engaged workforce.

With the General Election having been announced after the call for evidence closed,

the previous government appeared to have put this on the back-burner. However, we feel Labour is likely to revisit this.

At the time, we shared our views with the Treasury, which included recommendations for refreshing these plans so they appeal to a different generation of workforce, with the average employee tenure at a company now just two years. The plans are complex, so difficult for smaller enterprises to introduce. One option would be a portable, shorter-term scheme, like the US Employee Stock Purchase Plan.

Enterprise Management Incentives (EMI)

This is another topic that, while not included in the manifesto, could still surface. The last government's 2023 Spring Budget included changes to simplify the process for small businesses granting options under the EMI scheme. A welcomed amendment would be to allow companies with more than 250 employees to participate in this arrangement, given how many people it really takes to build a successful enterprise in the current environment.

Carried interest

Labour has pledged to change the taxation of carried interest, remarking in its manifesto that, 'Private equity is the only industry where performance-related pay is treated as capital gains. Labour will close this loophole'. Exact details of how Labour intends to tax carried interest are still to come, but a move away from taxing returns as capital gains (currently

at a 28% rate) would be a significant change for the sector. It would also make the UK an outlier, with most European countries and the US offering preferential rates.

Capital gains tax

Labour has pledged not to increase VAT, national insurance or the basic, higher or additional rates of income tax. It has also pledged to cap corporation tax at the current (main) rate of 25%. Labour's manifesto does not contain a pledge about capital gains tax rates, and so changes could be made without breaking any manifesto pledges.



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Global mobility

“We’ll see individuals coming to the UK for shorter periods of time than we do now, and planning the timing of their stay much more carefully.”

Non-domicile changes

The new government is proposing to abolish the non-domicile regime and replace it with a regime for new arrivers to the UK. Although no formal announcement has been made since the Election, the Labour manifesto broadly supported the previous government’s key proposals for reform, but with caveats on the proposed transitional measures. We understand the government will adopt the proposal of a new four-year arrival window so that after this period, worldwide income and gains would be subject to tax in the UK. This would mean foreign income and gains (FIG) being exempt from UK tax for the first four years of UK residence, but only for individuals who have had 10 complete tax years of non-residence before their arrival in the UK. The key part is that there is no requirement to keep the money offshore, whereas previously there was.

If individuals opt into using this new FIG regime, they will forfeit the income tax personal allowance and capital gains tax annual exemption. They can continue to claim overseas workday relief, which is essentially tax relief for working abroad. It applies for the first three years of tax residence and is something a lot of individuals use.

The new government also plans to change the inheritance tax rules that apply to non-

domicile individuals including the use of offshore trusts. The new government has announced that it will include all foreign assets held in a trust within UK inheritance tax, whenever they were put into trust. It is not exactly clear how this would operate but likely would have a tax impact for some individuals.

Reporting requirements

The new rules providing a full exemption for foreign income and gains received by new arrivers to the UK within their first four tax years of residence would be simpler to apply and administer than the existing remittance basis rules that can apply to non-UK domiciled individuals. However, individuals who have been UK resident for more than four tax years could face higher tax costs under these new rules, plus additional reporting if worldwide income and gains must be disclosed on UK tax returns for the first time. Alongside this, there are much more complex reporting requirements to consider, and a carve out in the current law that often means non-working spouses of expatriate employees do not need to file tax returns is not being retained (at least on the basis of announcements made so far).

Labour will not support the previous government’s proposed transitional rule

relating to a 50% exemption on the taxation of foreign income in 2025/26 for individuals who would fall under the new FIG regime from 6 April 2025. However, it will consider whether there should be an investment incentive during the four-year window and explore ways to encourage people to remit stockpiled FIGs to the UK.

Existing non-domiciled individuals will need to evaluate the application of the proposed rules to their personal circumstances and determine whether they wish to remain in the UK if the proposed rules are introduced. This could impact the breadth of international experience, talent and diversity available in the UK. However, if tenures become shorter it could lead to more opportunity to bring new individuals into previously longer-held roles.

Individuals planning short-term employments and assignments to the UK will likely benefit from these new rules and it could make the UK more attractive for short-term talent placements of up to four years. Individuals with more complex FIGs may choose to leave the UK during their fourth year of tax residence.

Individuals who are considering establishing UK tax residence should carefully consider their tax position, including the income tax and capital gains tax position that could apply during the first four tax years of residence under the proposed new regime, and the inheritance tax consequences of establishing UK tax residence. Individuals will need to consider both their own tax position and the potential impact on any trusts that the individual has added property to or can benefit from (depending on the details of the operation of a new regime).

Planning for change

- Those not eligible for the new regime may need to file tax returns reporting worldwide income and gains following the introduction of a new regime, which could mean tax returns could be more complicated than previously.
- Businesses with assignees in the UK covered by tax equalisation policies will need to review these in light of the changes and consider the support they may offer to those impacted.
- Companies with global assignment programmes should ensure information is disseminated across their UK businesses and global headquarters, so people are aware of the changes and the likely implications and can plan effectively for potential UK secondments.
- Employers will want to review their assignment policies to take account of the impact of these new rules. In particular, how and to what extent these changes impact existing talent in the UK and future talent retention strategy.



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A fair and properly managed immigration system



“Labour has attempted to link migration and skills with economic growth, yet the key will be ensuring the UK’s skills shortage is addressed at a grass roots level. This means aligning the UK’s education system with the skills needed for the future world of work and through skills-led apprenticeships, for example.”

Legal skilled migration plays a vital role in ensuring employers and businesses globally are able to access the talent they need. Throughout this General Election, there has been a focus on the routes employers use to hire overseas talent, the impact this is having on net migration figures and how these numbers can be brought down. With this in mind, it’s vital that employers remain compliant, while ensuring they are attuned to the needs of their workforce and any next steps government announces to tackle net migration.

Net migration

Labour plans to reform the UK’s current points-based immigration system to ensure it is ‘fair and properly managed’. As part of this, it has pledged to reduce net migration and although it does not go as far as stating that immigration will be capped, the phrase ‘appropriate restrictions’ certainly does not rule out a cap.

In order to deliver on the above, Labour has pledged to develop a strengthened Migration Advisory Committee (MAC) to engage with businesses when considering the impact of revised migration policy. The MAC will establish a framework for collaboration with skills bodies across the UK, the Industrial Strategy Council and the Department for Work and Pensions. Labour has indicated that it would ask the MAC to review the impact of raising the Skilled Worker salary threshold to £38,700.

A further commitment has been made to address ‘excessive recruitment from overseas’ within specific sectors. This suggests it will attempt to streamline visa routes to focus on the sectors most in need – agriculture, hospitality, construction, health and social care, for example.

Upskilling the domestic workforce

A Labour commitment to analysing and assessing overseas recruitment triggers the introduction of workforce training plans for specific sectors. This aligns with Labour’s aim to look more holistically at skilled migration, linking skills policy more broadly with how employers recruit overseas talent. Analysis of sectoral reliance on migrants from outside the UK will be matched with plans to upskill the domestic workforce in that field.

Planning for change

- Employers should identify where the greatest skills shortages are in their workforce, and the types of upskilling programmes that can be implemented to train domestic talent.
- Consider the implications of a likely rise in visa fees across all routes.
- Feed in evidence to relevant MAC commissions as appropriate.



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Pensions



“While Labour is committed to reviewing the current state of the pensions and retirement savings landscape, any reforms resulting from this review will take some time to come to life. In the short term, any changes to the pensions tax landscape is likely to involve further tinkering with tax reliefs on contributions into pension schemes.”

Labour’s manifesto sets out a commitment to ensuring workplace pension schemes take advantage of consolidation and scale, to deliver better returns for UK savers and greater productive investment for UK PLC.

Some of that happens today through master trust arrangements, whereby multiple workplace pension schemes can benefit from, for example, shared administration costs and pooling of investments. As we have seen a trend towards that in recent years, it is unlikely that this element of the new government’s

measures will result in significant change. Nonetheless, it is interesting to note that giving increased powers to the Pensions Regulator to bring about consolidation is likely to further catalyse this trend.

The new government has also promised a wider review of the pensions ecosystem that will involve working with industry and consumer groups. The review will look across all aspects of pensions (whether defined contribution, defined benefit or public sector schemes) at corporate sponsors, asset

managers, venture capitalists and private equity. This review is focused on benefiting both retirees and UK PLC.

Similar conversations around pension reforms have been raised by previous governments over the past decade or more, but nothing radical has happened in recent years. Given this history, and the need for proper consultation with all stakeholders, it is unlikely there will be much impact on employers in the short term, even if these reforms create a case for change.

In March 2023, the former government announced it would abolish the lifetime allowance cap from April 2023. At the time, Labour promised to reintroduce it if the party got into power. However, it has since dropped that plan, announcing more recently that it would focus on ensuring the post April 2023 regime is implemented correctly.

Criticism in the past has revolved around the absence of a stable pensions tax regime to help people engage with pensions in a confident manner. This change of direction on the lifetime allowance cap, while welcome news for pension savers, will only add to the challenges of creating that stability.

Planning for change



The decision not to reinstate the lifetime allowance cap will likely result in further questions from pension scheme members affected by the measures. Employers can get on the front foot by supporting employees to understand what the regime now looks like and how it could impact them. Employers will need to keep an eye out for other tweaks to the regime, which history tells us are likely to happen.



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