

Employment Law Agenda 2012: Key developments to have on your radar

2012 is set to bring with it some important changes to UK employment law. There are some key dates that employers should ensure they have in mind and are prepared for. These are outlined below. Employers also need to be alert to the large number of proposals still under consideration by the Government, which are expected to be implemented later this year.

February

- **Increased rates**

From 1 February, the cap on the amount of an employee's week's pay, which employers use to calculate statutory redundancy payments, will increase from £400 to £430. It follows that the maximum statutory redundancy payment an employee can receive will be increased from £12,000 to £12,900. The maximum payment would only be achievable where an employee worked for 20 years whilst s/he was aged 41 or over.

- **Unfair dismissal**

From 1 February, the maximum basic award an Employment Tribunal can award to a successful unfair dismissal claimant will increase to £12,900. The maximum compensatory award will increase from £68,400 to £72,300. These increased figures will be relevant to claims involving dismissals which take effect on or after 1 February.

April

- **Tribunal procedures**

Significant changes to the Tribunal process will be introduced from April. The maximum sum which a Tribunal can order to be paid by a Claimant by way of a deposit, as a condition for being allowed to continue with their Tribunal claim, will increase from £500 to £1,000. There will also be an increase from £10,000 to £20,000 for the maximum costs which can be awarded against a party who has acted

unreasonably in conducting their claim. Tribunals will also be granted the power to order a losing party to pay the other side's witnesses' costs. These are all measures which are designed to weed out weak or unmeritorious claims.

- **Increased rates**

The weekly rate for statutory maternity, paternity and adoption pay will increase from £128.73 to £135.45 on 1 April. Statutory sick pay will increase to £85.85 from £81.60 per week on 6 April.

- **Unfair dismissal**

The qualifying period for an employee bringing an unfair dismissal claim against their employer is set to increase from one year to two. The change is scheduled to take effect on 6 April 2012 and will not apply retrospectively. It will only be relevant to those employees who start a new job on or after 6 April. The Government hopes that the increase will encourage employers to recruit and reduce the number of Tribunal claims. There is a question mark over whether, in reality, these aims will be achieved. Employers should be alive to the fact that employees may look for ways around the increased qualifying period by instead bringing claims which do not have a limitation period e.g. whistle blowing or discrimination claims.

June

- **Queen's Jubilee**

Tuesday 5 June 2012 will be an additional bank holiday for the Queen's Diamond Jubilee. The late May bank holiday will be moved to Monday 4 June to create a long weekend. Many employees' contracts will provide that they are entitled to a certain number of days holiday, plus bank holidays. In such cases, employers will be obliged to allow employees the extra time off, however those whose contracts are not drafted in this way may not have the same entitlement.

July

- **The Olympics**

This summer's Olympics may cause a number of issues which employers will need to give advance consideration to. Employers should be alert to unauthorised absences and consider how best to control them. Some employees may act as volunteers at the Games and will need to arrange time off during what will be the busy summer holiday period. London based businesses may also need to consider travel disruption that could affect employees' commutes or clients' access to their offices. Acas have published some guidance for employers to consider prior to the Games. To view the guidance, please follow the link: <http://www.acas.org.uk/index.aspx?articleid=3392>.

October

- **Pensions**

From 1 October, new legislation will come into force which will require employers to enrol eligible employees automatically into a pension scheme and make mandatory employer contributions. Implementation will take place over four years with larger employers being affected first. This will change the way employers provide pensions for their employees and employers must ensure they are ready.

Further changes under consultation

There are various ongoing Government consultations and new changes to employment law which have not yet been implemented. Such developments include: financial penalties for employers who breach employment legislation, the introduction of a fee in order for a Claimant to bring a Tribunal claim, an increased role for mediation in employment disputes and the early involvement of Acas conciliation prior to a claim being presented to the Tribunal. The Government is also consulting on proposed changes to simplify TUPE and collective consultation laws. There are currently no set time scales for the implementation of these changes although many are expected during the course of 2012.

For more detail on the potential changes subject to further consultation and awaiting implementation, please see our earlier briefing on the topic, a link to which can be found [here](#).

Key Cases in 2012

Some important decisions expected from the courts in 2012 include:

- **Collective redundancies:** The case of the USA v Nolan has been referred to the European Court to determine whether the obligation to carry out collective consultation arises as early as when an employer proposes to make a strategic decision which could lead to redundancies.
- **Justification for age discrimination:** The Court of Appeal's decision in the case of Woodcock v Cumbria Primary Care Trust is due this year as to whether age discrimination can be justified on the basis of cost to the employer, or whether other factors must be present. In addition, the Supreme Court will rule in the case of Seldon v Clarkson Wright and Jakes (A Partnership) as to what an employer will need to show in order to justify a mandatory retirement age of 65.

If you would like more information on any of the points mentioned above or would like to talk through the key challenges likely to affect your organisation in 2012, please contact:

Christopher Fisher

Partner
+44 20 3130 3724

Katherine Fox

Associate
Tel: +44 20 3130 3169