



Our monthly review of key cases and new law affecting employers

General Election 2015 – What do the manifestos say?

With only 2 days to go to the General Election, this month's Employment Round-Up takes a look at the recently published party manifestos and the employment related issues these raise. The Conservatives, Liberal Democrats and Labour parties have all published manifestos making various pledges which impact on employment law. These include pledges in relation to pay transparency, zero hours contracts and equality in the workplace, but what do these key policy statements mean for employers and those dealing with HR related issues?

The Labour Party published its manifesto on 13 April 2015, following its two previous manifesto papers. This manifesto promises to *"push up standards and boost activity by implementing commitments in Labour's Workplace and Business manifestos"* with the foreword alleging that *"Britain will only succeed when working people succeed"*. The Conservative Party released its manifesto on 14 April 2015, stating that its aim is to achieve full employment in Britain and attain the highest employment rate of any major economy, proposing *"strong leadership"* and *"a brighter, more secure future"*. The Liberal Democrats ("Lib Dems") published their manifesto on 15 April 2015, promising a more equal society in which there are *"more jobs in our economy, with steadily higher wages and better employment rights"*, with Nick Clegg depicting the Party as the *"heart to a Conservative Government and a brain to a Labour one"*. So, how do these outlines translate for employers?

Zero Hours Contracts

Zero hours contracts are a hot topic across all three manifestos, with all parties intending to introduce some form of regulation. The Conservatives pledge to eradicate exclusivity in zero hours contracts through a provision in the Small Business, Enterprise and Employment Act, which will render exclusivity clauses in zero hours contracts unenforceable and with further regulation intended to impose financial penalties on employers and requiring employers to pay compensation to zero hours workers. Labour are proposing a ban on exploitative zero hours contracts in their manifesto and promise that where a zero hours worker works *"regular hours"* for more than 12 weeks, they will have a right to a *"regular contract"*. Labour's manifesto promises to introduce new legal rights for zero hours workers, preventing employers from cancelling shifts at short notice without compensation and forcing zero hours workers to be available at all times. The Labour manifesto also details the Party's intention to monitor employment policies to see whether employers are increasing the use of short term contracts. The Lib Dems promise to eradicate the abuse of zero hours contracts by giving workers a formal right to request a fixed contract and their manifesto refers to their plans to consult on introducing a right to make regular patterns of work contractual after a period of time.

Zero hours contracts are controversial, not least in relation to whether they do in fact provide a flexible solution for employers and employees or whether they are abused in practice. Given the focus on eradicating exclusivity and introducing regulation, it is likely that they will remain a key focus area for any new Government.

National Minimum Wage And The Living Wage

In relation to pay, all parties have expressed their support for the National Minimum Wage (the “NMW”), as well as the Living Wage. The Lib Dems have promised to tackle low pay by asking the Low Pay Commission to consider ways of raising the NMW without damaging employment opportunities. They have promised to improve enforcement action, particularly in respect of abuses by employers seeking to avoid paying the NMW by treating employees as workers or self employed. The Lib Dems also propose to achieve this by reviewing practices such as unpaid internships. As part of their plan to help family finances, the Lib Dems have pledged to establish an independent review to consult on how to set a “fair” Living Wage across all sectors and this Living Wage will be paid in all central government departments and executive agencies from April 2016 onwards with the hope of encouraging other public sector employers to follow suit.

Labour have promised to raise the NMW to more than £8 an hour by October 2019 bringing it closer to average earnings and to provide local authorities with a role in strengthening enforcements taken against those paying less than this. The Labour manifesto also refers to using government procurement to promote the Living Wage, alongside wider social impact considerations, requiring publicly listed companies to report on whether or not they pay the Living Wage. Additionally, Labour pledges to give employees a voice when executive pay is set by requiring employee representation on remuneration committees. As to the Living Wage, the Labour manifesto sets out the Party’s plans to introduce “Make Work Pay” contracts, with these contracts providing tax rebates to companies that commit to paying the Living Wage in the first year of a Labour Government. Labour will also require publicly listed companies to report on whether they are paying the Living Wage.

The Conservatives have promised to support the NMW with a view to increasing the NMW to £8 an hour by the end of 2020, with the Personal Allowance rising automatically in line with this to £12,500 such that people working 30 hours a week on NMW will no longer pay any Income Tax at all. The Conservatives have also pledged to support the Living Wage and will be encouraging businesses to pay it if they can afford it.

Pay Transparency And Equality In The Workplace

There are a range of proposals in the manifestos relating to pay transparency and gender equality. For example, the Conservatives, Labour and Lib Dems have all made promises to address the gender pay gap and require large companies to publish details around the pay gap and the difference between average pay of male and female employees. Labour have also pledged to improve the link between executive pay and performance, promising employee representation on remuneration committees and requiring companies to publish the pay of the 10 highest paid earners outside of the boardroom, as well as the ratio of the top earner’s total pay compared to the average employee’s pay.

The parties will also aim to promote working families and full gender equality, with Labour strengthening the law on maternity discrimination, increasing free childcare hours and doubling paid paternity leave. The Conservatives have promised to increase women on boards, as well as pledging to increase the entitlement to free childcare for working parents. The Lib Dems aim is to have a million more women in work by 2020 with a move towards at least 30% of board members being women; to ensure that paternity and shared parental leave become “day one” rights; to introduce tax-free childcare; and to encourage employers to provide more flexible working. The Lib Dems have also addressed race equality in the workplace in their manifesto, promising to monitor and tackle the BAME pay gap and encourage businesses to ensure that at least one place on their board is filled by a BAME candidate.

On disability, all three parties have pledged to improve the numbers of disabled people in the workplace – the Lib Dems pledge to encourage employers to shortlist qualified disabled candidates and also help young people obtain work placements that are tailored for those with disabilities or mental health problems; the Conservatives aim to halve the disability employment gap; and Labour will introduce a support programme to ensure that disabled people who can work get tailored help.

Employment Tribunal Fees And Reforms

Given the controversy surrounding Employment Tribunal fees, it is not surprising that they feature in the manifestos. Labour states that it will “*abolish the Government’s employment tribunal fee system as part of wider reforms to make sure that affordability is not a barrier to workers having proper access to justice, employers get a quicker resolution, and the costs to the tax payer do not rise*”. In its workplace manifesto, Labour added that “*[The current system] represents a significant barrier to workplace justice, and has failed to raise any money...We will ask ACAS to oversee a process led by the CBI [Confederation of British Industry] and the TUC [Trade Union Congress] to agree reforms to the system*”. Although it is not entirely clear whether Labour want to abolish the fee system completely, or just the current system and replace it with another, its proposals regarding the wider reforms and involving ACAS, CBI and the TUC may mean that any such reforms are unlikely to be concluded quickly.

Vince Cable of the Lib Dems has made it clear that introducing Employment Tribunal fees was “*a very bad move*”. They have pledged to undertake a review of the fee system in a bid to improve the enforcement of employment rights and to ensure that the fees are not a barrier to the Employment Tribunal system.

What Next?

Although each of the parties have many similar issues on the agenda, there is not sufficient detail to predict how they will operate in practice and, without a majority government, we cannot be certain how each of the above pledges will play out. The past 5 years have seen significant changes in the employment law arena, many of which were not foreseen in the 2010 manifestos. It therefore remains to be seen what the election results will bring and the extent to which the employment law landscape will change in the next five years.

Please speak to your usual contact in the Employment Group if you have any questions on any of the issues in this update.

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