

The Impact of Brexit: How will UK employment law be affected?

Once the dust settles and the likely terms for exit negotiations are confirmed, we should have a greater understanding of how UK employment law will be affected by Brexit. While a significant amount of UK employment legislation is derived from EU laws, including rights and protections relating to discrimination, working hours, holidays, atypical workers and family friendly leave, at this stage, it is not clear how much of this law would be reconsidered or removed. This is partly because much may depend on the terms of any trade deal done between Britain and the remaining EU countries.

At the time of writing, David Cameron is due to step down by October and hand over the negotiations to leave the EU to fresh leadership. Whether David Cameron's successor will seek to unpick the above laws remains to be seen. In the short term, there is unlikely to be significant change. In the longer term, however, once Britain leaves the EU key areas of employment right may be up for discussion:

- Working time - The UK's opposition to the 48 hour working week is well known, so this might be a contender for abolition. There may also be some scope to reverse key holiday cases (e.g. accruing holiday during long-term sick leave). Recent ECJ rulings that a 'week's pay' includes commission may also be revisited.
- TUPE - The current TUPE Regulations, which protect employees in connection with business transfers and service provision changes, may be subject to a degree of change. For example, we may see the removal of the restriction on harmonising terms and conditions post-transfer. We think parties to outsourcing arrangements may want to insert clauses expressly dealing with what will happen if there is a significant change in this area of the law during the lifetime of the contract.
- Discrimination - The UK has had established discrimination laws for a number of protected characteristics prior to the EU. It is unlikely our discrimination laws would be removed in their entirety. However, we may see renewed calls for a cap on discrimination compensation.
- Collective redundancy consultation - This could be watered down or scrapped completely but is unlikely to be prioritised.
- Agency workers - The regulations protecting agency workers, which implement a EU Directive, may be repealed.

The Brexit vote has already led to a number of developments today, not least in the leadership of the Conservative Party. It is therefore unsurprising that we will simply need to watch this space. Few changes are likely in the short term, and wholesale changes to employment law are unlikely in the medium term, but the devil is often in the detail. It is only once the terms of our negotiated exit become clearer that we will know the true implications for UK employment law and any timescale for change.

If this update is of interest and you would like to discuss it with us, please contact.

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