



Legal update — February 2018

Employment

Good Work Plan: A squandered opportunity?

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Will there be a welcome simplification to the complex, and much litigated, area of employment status now that the government has published its response to the Taylor Review? Sadly it seems that the answer is probably not. The aim expressed in the Taylor Review "that the legislation does more of the work and the courts less" is not due to come to pass anytime soon.

So what are the government's proposals? They include the following:

- Enforcing vulnerable workers' holiday and sick pay.
- Ensuring that all workers (including casual and zero-hour workers) have day-one rights, including holiday and sick pay entitlements and a new right to a payslip.
- Providing a right for all workers to request a more stable contract, providing more financial security for those on flexible contracts.

There is currently no detail of what a "more stable contract" constitutes so presumably more information about this will follow at a later date.

The government has taken on board the Taylor Review's recommendation that employment status legislation and tax status legislation should be aligned. It will launch a detailed consultation "examining options, including new legislation, to make it easier for both the workforce and businesses to understand whether someone is an employee, worker or self-employed – determining which rights and tax obligations apply to them". It may be that this consultation will result in changes to the law on employment status, but, if it does, these changes are unlikely to happen any time soon.

The government states that it will seek to protect workers' rights by:

- Taking further action to ensure unpaid interns are not doing the job of a worker.
- Introducing a new naming scheme for employers who fail to pay employment tribunal awards.
- Quadrupling employment tribunal fines for employers showing malice, spite or gross oversight to £20,000 and considering increasing penalties for employers who have previously lost similar cases.

Other measures proposed include:

- Providing all agency workers with a clear breakdown of who pays them and any costs or charges deducted from their wages.
- Asking the Low Pay Commission to consider the impact of higher minimum wage rates for workers on zero-hour contracts.
- Defining "working time" for flexible workers who find jobs through apps or online so they know when they should be being paid.
- Making sure that new and expectant mothers know their workplace rights and raise awareness amongst employers of their obligations.

The government has stated that it will launch four separate consultations today on:

- Enforcement of employment rights recommendations
- Protecting agency workers
- Measures to increase transparency in the UK labour market
- Employment status

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So do we have the relatively substantial shake-up of employment practices recommended by the Taylor Review? Certainly those hoping for clarity in relation to employment status will be disappointed. Much hangs on the outcome of the consultations that the government has pledged to launch, but it is not a foregone conclusion that they will result in legislative change.

For the moment, it seems, it's business as usual!

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