

UK Government publishes flurry of new employment measures

July has been a busy month on the employment law front. Over the last few weeks, the UK government has announced a number of proposed changes to employment law, from changes to confidentiality clauses to a possible overhaul of family-friendly legislation. Below, is a short summary of the various consultations/responses to keep you fully up-to-date with employment law developments.

Consultation: Sexual Harassment in the Workplace

This consultation on sexual harassment in the workplace is designed to help the government understand whether the current laws are operating effectively. It invites views on:

- Whether there should be a mandatory duty on employers to protect employees from harassment
- Whether employers should be required to publish or report on any prevention and resolution policies publicly, with board sign off, to ensure that companies are engaging with this problem at an appropriate senior level
- How best to strengthen and clarify the laws in relation to third-party harassment
- Whether volunteers and interns should have the same protection against discrimination, harassment and victimisation as others in the workplace
- Whether the time limit for bringing discrimination, harassment or victimisation claims should be extended, e.g. to six months.

The consultation closes on 2 October 2019.

Response to consultation: changes to confidentiality clauses

The government has issued its response to its consultation on proposals to prevent misuse of confidentiality clauses in situations of workplace harassment or discrimination. It now intends to:

- Legislate to ensure that a confidentiality clause (whether in an employment contract or a settlement agreement) cannot prevent an individual from making disclosures to the police, regulated health and care

professionals or legal professionals

- Legislate to ensure that the limits of a confidentiality clause are clearly explained in a settlement agreement or written statement of particulars
- Legislate to ensure that individuals receive advice not only on the nature of the confidentiality requirement, but also on the limitations of confidentiality clauses
- Produce guidance on drafting requirements for confidentiality clauses
- Introduce new enforcement measures for confidentiality clauses that do not comply with the legal requirements.

We do not yet have draft legislation or details of when the changes will be implemented.

Response to consultation: new parents to get enhanced redundancy protections

The government is taking forward its proposals to give new parents greater protection in a redundancy situation. Key changes include:

- Extending the redundancy protection period to six months once a new mother has returned to work
- Giving parents returning from adoption leave and shared parental leave similar protection

There are no details yet as to when these changes will be implemented.

Consultation: Proposals to support families

This consultation aims to explore “high-level” options for reforming family leave and pay arrangements to ensure they support employees

to balance work and other commitments and responsibilities. The consultation document contains the following three key strands:

- **Parental leave and pay entitlements** – The consultation document invites views on reforming paternity leave, maternity leave, shared parental leave and parental leave, including whether employers would be in favour of more radical change and an overhaul of the current model for leave and pay – potentially moving to a single “family” set of leave entitlements. This part of the consultation closes on 29th November 2019.
- **Neonatal leave and pay** – Proposals for a new leave and pay entitlement (“Neonatal Leave and Pay”) for parents of babies that require neonatal care after birth. Eligible parents would receive one week of Neonatal Leave and Pay for every week their baby is in neonatal care, up to a maximum number of weeks. This part of the consultation closes on 11 October 2019.
- **Transparency** – Whether large employers (those with 250 or more employees) should be required to publish their family-related leave and pay and flexible working policies, and whether employers should have a duty to consider if a job can be done flexibly and make that clear when advertising a role.

This part of the consultation closes on 11 October 2019.

To register a new claim or for any legal advice call UnionLine on:

0300 333 0303



@UnionLineNews



www.facebook.com/UnionLineNews

UNIONLINE

Two million workers robbed of legal holiday entitlement

A new TUC analysis has revealed that 1 in 14 UK workers are not getting their legal holiday entitlement. The TUC estimates that nearly two million employees (1.960 million) are not getting the minimum paid leave entitlement they are due. And over a million (1.145 million) are not getting any paid leave at all. Women workers (8.3 per cent) are worse affected than men (5.9 per cent).



The number of people taking unpaid holiday claims to tribunals has more than doubled since tribunal fees were abolished in 2017. The majority of holiday pay rulings are in the claimant's favour. The TUC says the main reasons people are missing out are unrealistic workloads that do not allow time to take leave, employers deliberately denying holiday

requests and managing out people's leave or employers not keeping up to date with the law. The TUC warned that people who work excessive hours are at risk of developing heart disease and stroke, stress, mental illness and diabetes with this also impacting on co-workers, friends, and relatives. It is also linked to work-related suicide.

TUC general secretary Frances O'Grady said: "British workers put in billions of pounds worth of unpaid overtime as it is. Employers have no excuse for robbing staff of their leave. The government must toughen up enforcement to stop bosses cheating working people out of their holidays. And ministers must not resurrect tribunal fees which stopped people enforcing their rights."



Equality law enforcement not fit for purpose, say MPs



Relying on individuals to enforce equality law is outdated and will not result in systemic change, an investigation by MPs has concluded. According to the Women and Equalities Committee, regulators should compile a 'critical mass' of casework in order to drive 'strategic litigation' that could set legal precedents or change court procedures.

The committee's report, suggests that 10 maternity leave claims against the same employer, for example, could have significantly more impact than multiple one-off cases. The committee, which launched its inquiry in July 2018, said: 'While individuals must still have the right to challenge discrimination in the courts, the system of enforcement should ensure that this is only rarely needed.'

The committee also found 'example after example' of mainstream enforcement bodies failing to meet their duties in respect of the Equality Act 2010. On sexual harassment, regulators displayed 'passivity and indifference,' it claimed. Consequently, the report recommends that each government department be legally bound to ensure that the enforcement bodies for which they are responsible are using their powers to secure compliance with rights

under the act. Committee chair Maria Miller MP said: 'The government must act on its own obligations. It must embed compliance and enforcement of the Equality Act into its most significant strategies. That it has not yet done so beggars belief.'

The committee is also critical of the Equality and Human Rights Commission (EHRC), a national body with the power to fund discrimination cases. The report notes that the commission has seen a 'significant decrease in activity over time' and has mishandled disputes with its own staff. One EHRC employee told the committee that staff who were made redundant were treated 'like common criminals' and were disadvantaged in finding new jobs by administrative decisions on payment in lieu of notice. The committee said that the EHRC 'must refocus its work and be bolder in using its enforcement powers'.

UnionLine are here to help you – call us on: 0300 333 0303



@UnionLineNews



www.facebook.com/UnionLineNews

UNIONLINE