

SPOTLIGHT ON EMPLOYMENT RIGHTS 2024

February 2024

With 2024 set to be an interesting year for employment law and practice, we have already seen some changes from 1 January 2024 and there are further changes on the way through this year and into 2025.

We have covered what are some of the important changes that are imminent as well as a very brief look at what is coming later this year and early into 2025. These changes cover a wide range of areas, from atypical working, families and pregnancy, pay and benefits, termination and TUPE to name a few. Employers need to be on top of these changes as many will have long term implications on workforce planning.

ATYPICAL WORKING

Flexible working

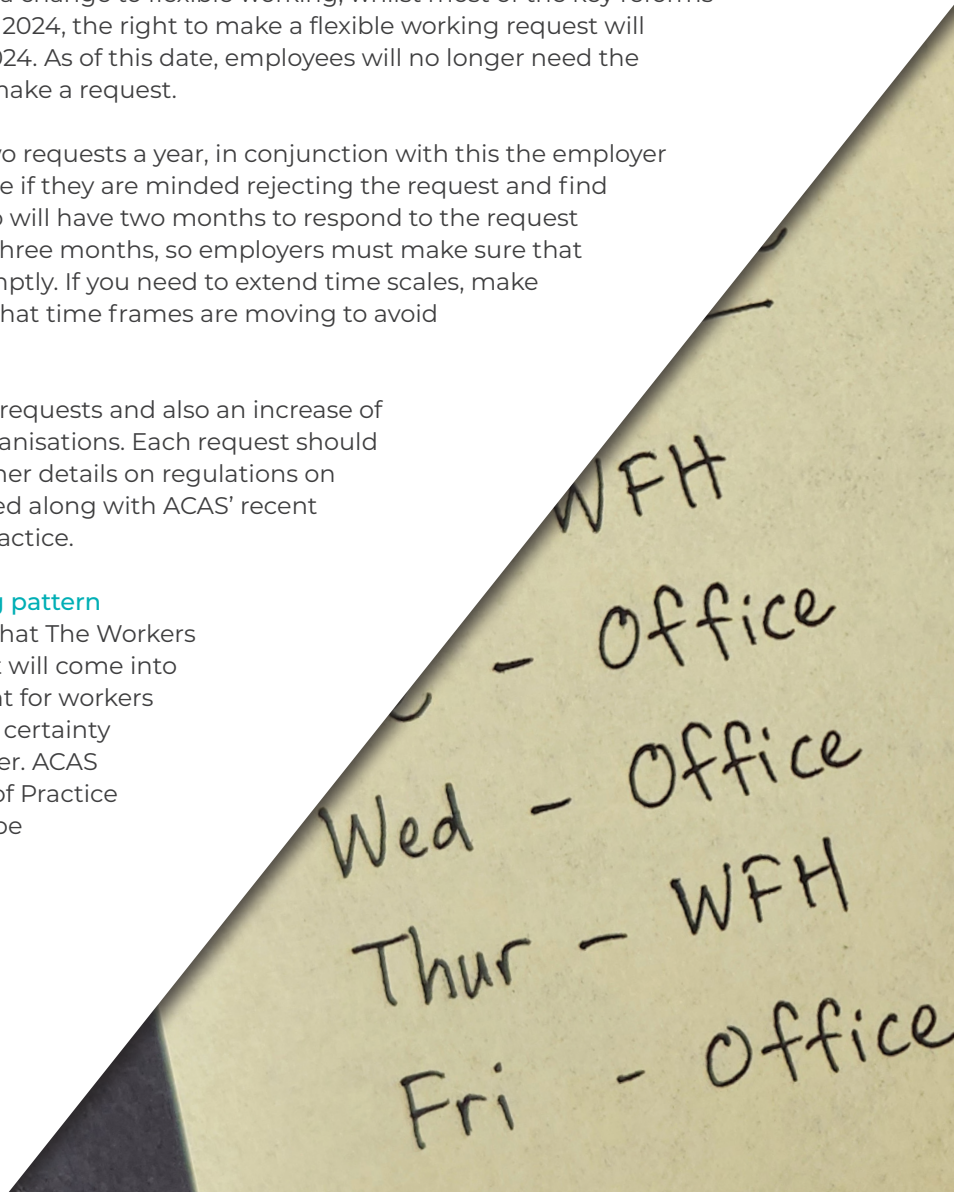
Employers have already been aware of a change to flexible working, whilst most of the key reforms are expected to come into force in July 2024, the right to make a flexible working request will become a day one right from 6 April 2024. As of this date, employees will no longer need the 26 weeks continuous employment to make a request.

Employees will also be able to make two requests a year, in conjunction with this the employer has a duty to consult with the employee if they are minded rejecting the request and find alternative options first. Employers also will have two months to respond to the request (including appeals), this is down from three months, so employers must make sure that these applications are considered promptly. If you need to extend time scales, make sure this is explicitly agreed in writing that time frames are moving to avoid a statutory claim.

Employers will likely see an increase in requests and also an increase of requests from new starters to their organisations. Each request should be considered fully and promptly. Further details on regulations on flexible working requests is still expected along with ACAS' recent consultation on an updated Code of Practice.

Right to request a predictable working pattern

It is expected that in September 2024 that The Workers (Predictable Terms and Conditions) Act will come into force. This will give a new statutory right for workers and agency workers to request greater certainty and predictability of their working pattern. ACAS is currently consulting on a new Code of Practice for handling these requests and it will be published soon.



Wed - Office
Thur - WFH
Fri - Office

FAMILY ORIENTATED RIGHTS

Carer's leave

A new unpaid right to leave is coming into force on 6 April 2024. This new right will add to existing rights and allow employees to take up to a week off (in blocks of half days, full days, or number of days) to allow them to assist dependants with care needs. This right is for needs that can be foreseen, compared to emergency dependants leave which is designed to allow people to deal with unexpected issues. It will be a day one right for employees and employers will need an exceptionally good reason to deny this leave or to even temporarily postpone it. Employees will be protected from detriments for taking or seeking to take carer's leave and will be able to pursue this through claims in the employment tribunal.

The regulations that provide this new coverage, The Carer's Leave Regulations 2024 have been published.

Protection from redundancy

From 6 April 2024, employers will be required to offer suitable alternative employment (where it exists) to a wider ranger of workers who are at risk of redundancy. Currently it is only those who are away from work because they are on maternity, adoption or shared parental leave, have this right. Under the new regulations this right will extend to cover the following:

- **Pregnant employees**

From the date they tell their employer they are pregnant, until their maternity leave starts, or where the pregnancy ends and they are not entitled to maternity leave, until two weeks after the end of the pregnancy

- **On maternity or adoption leave**

For 18 months from the date of expected week of childbirth (or the date of birth if the employer is told) or the date of placement for adoption/child enters Great Britain

- **Shared parental leave**

For 18 months after the child's date of birth or placement, except where they have not taken maternity or adoption leave, they will still be protected by the Shared Parental Leave regime, but will need to have had six continuous weeks of leave also qualify under these new protections

The regulations that provide this new coverage, The Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024, have been published.

Paternity leave and pay

The government have published new regulations on changes on paternity leave and paternity pay. The regulations are expected to come into force on 8 March 2024 for any child born/or placed for adoption on or after 6 April 2024. The new changes will:

- Allow fathers and partners to their leave as two one-week, non-consecutive blocks (currently they must either take both weeks back-to-back, or if they only use one give up the second)
- Allow fathers and partners to take their leave at any point in the first year after birth or adoption (rather than within the current first eight weeks)
- Generally, shorten the notice period required for each period of leave to four weeks allowing for greater accommodation of family needs. There are different notice periods for adoptions due to the inherent fluctuations in the adoption process.
- A father or partner who has already given notice of taking leave, vary the dates if they give 28 or more days' notice of the variation.

DISCRIMINATION AND HARASSMENT

Sexual harassment

2023 saw the introduction of the Worker Protection (Amendment of Equality Act 2010) Act, which establishes a new duty for employers, irrespective of size, to take reasonable steps to prevent sexual harassment of their employees in the course of their employment.

If the employer breaches this duty and cannot show that it took reasonable steps to have tried to prevent the harassment, they could face enforcement action by the Equality and Human Rights Commission as well as an uplift of 25 per cent of any compensation awarded by an employment tribunal, if it finds a breach.

The Commission current technical guidance on sexual harassment and harassment at the workplace is due to be updated to reflect this new duty and steps employers should be taking to comply with it. The new duty will come into force in October 2024.

Case law-based discrimination claims

New regulations came into effect on 1 January 2024 to protect and codify several discrimination claims that were developed under European case law. If it wasn't for these regulations these types of claims would have disappeared at the end of 2023. For further details on what has been covered please read our article [here](#).

TUPE AND WORKING TIME

TUPE

There will no longer be a requirement to elect employee representatives for transfers taking place on or after 1 July 2024. This is where the business has less than 50 employees and also for businesses of any size involved in a transfer of fewer than ten employees. If the unions are recognised unions, they will still be appointed as representatives for employees and should still be consulted.

Holiday pay

There are significant changes for holiday pay coming. The new regulations provide for new 'irregular hours' and 'part year workers' and new rules for calculating holiday pay or using rolled up holiday pay for these workers. These changes take effect for leave years starting on or after 1 April 2024. We have discussed this further [here](#).

PAY AND BENEFITS

One of the biggest rises in basic hourly rates we have seen in several years is on its way.

From 1 April 2024 the new rates will be:

- **National Living Wage (21 and over)**
£11.44 (9.8 per cent increase), the age threshold has also lowered from 23 to 21
- **The National Minimum Wage**
This will increase as follows:
 - 18 - 20 year old rate £8.60 (up 14.8 per cent)
 - 16 - 17 year old rate £6.40 (up 21.2 per cent)
 - Apprentice rate £6.40 (up 21.2 per cent)

Employers will need to ensure that they have planned for this wage increase (especially where age thresholds have changed) and pay their workers the relevant rate of pay per hour from 1 April 2024.

Fit notes

The Government plans to consult on reforming the fit note system, with the intention that individuals whose health affects their ability to work have easy and rapid access to specialised work and health support.

Statutory sick pay

Expect a new inquiry into the effectiveness of Statutory Sick Pay (SSP) and how it might be reformed to better support the recovery and return to work of those who claim it. A call for evidence issued by the Work and Pensions Committee will look at the level of SSP, the three-day waiting period and eligibility criteria.

TERMINATION

Fire and rehire

The final version of the Statutory Code on the use of dismissal and re-engagement to bring about unilateral changes to employees' terms and conditions (otherwise known as 'fire and rehire' practices), and the government's response to its earlier consultation are expected in Spring 2024. The new Statutory Code of Practice will set out how businesses can hold 'fair, transparent, and meaningful' consultation when changing employment terms. It will also include practical steps that employers should follow. In any related tribunal claims, the tribunal will have power to apply an uplift of up to 25 per cent of any employee's compensation where the Code applies and the employer unreasonably fails to follow it. Standard practice is often to use threat of dismissal to pressurise employees into accepting new terms. The draft Code makes it clear that threats of dismissal should not be used as a negotiating tactic, so the question that employers will be keen to understand is whether this is reflected in the final code.

Non-compete clauses

Whilst there is no current time frame on the implementation of this, there is consideration that all employment and worker contracts will have a maximum non-compete clauses of three months.

OTHER POSSIBLE CHANGES

2024 will be an election year and with any election cycle there is always uncertainty as to what direction a re-elected or new government will take.

Whilst not manifest pledges or policy at this point, the Labour Party has set out what they consider they would look at if they are elected. Some of these could be big changes to employment law and have the potential to radically change employment situations.

It will be very much a 'watch this space' year, but some of the topics they have outlined in recent conferences are set out below:

- To ban zero-hours contracts
- To end 'fire and rehire'
- To widen the pool of workers eligible for sick pay
- To grant 'basic rights' from day one
- To update trade union laws, including granting trade unions a legal right to access workplaces
- To implement a provision of the Equality Act requiring political parties to publish anonymised candidate diversity data

- To increase the National Living Wage to a rate that 'working people can actually live on' and to expand the Low Pay Commission's remit so that the NMW would for the first time take account of the cost of living
- To repeal the Minimum Service Levels Act, 'stamp out' blacklisting, and simplify the statutory recognition process to ensure gig economy and remote workers can organise through trade unions
- Various measures to tackle sexual harassment
- To honour the UN Convention for the Rights of Disabled People and to introduce mandatory disability pay gap reporting for larger businesses and facilitate workers securing reasonable adjustments from their employers
- To introduce a new Race Equality Act to tackle structural racial inequality, which when first announced in 2020 included tackling the issue

of low pay for ethnic minorities, with fines for organisations not taking appropriate action on their pay data

- To implement the Equality Act socio-economic duty on certain public bodies, which will require these bodies to adopt measures to address inequalities resulting from occupation, place of residence, education or social class

This article is for general awareness of upcoming changes to employment law. If you wish to discuss any of these topics and how they will affect your workforce, please contact our employment team.

Employment: Julie Bann

Contributor: David Leach

MEET THE TEAM

For further information, please contact:



Julie Bann

Partner

jbann@sharpepritchard.co.uk



David Leach

Associate

dleach@sharpepritchard.co.uk



Christian Grierson

Junior Associate

cgrierson@sharpepritchard.co.uk



Madina Sakhi

Paralegal

msakhi@sharpepritchard.co.uk



Tiah Weekes

Trainee Solicitor

tweekes@sharpepritchard.co.uk

 **020 7405 4600**

 **[sharpepritchard.co.uk](https://www.sharpepritchard.co.uk)**

 **[@sharpepritchard](https://twitter.com/sharpepritchard)**

Sharpe Pritchard LLP Elm Yard 10-16 Elm Street London WC1X 0BJ

The articles in this publication are for general awareness only and do not constitute legal or professional advice. The law may have changed since these articles were first published. For further information and advice, please call us on 020 7405 4600.

Sharpe Pritchard LLP is a limited liability partnership registered in England and Wales (reg no.: OC378650). It is authorised and regulated by the Solicitors Regulation Authority.

