

At a glance: key Labour Party employment reform proposals

FAMILY-FRIENDLY RIGHTS AND EQUALITY

JUNE 2024

WHAT'S THE PROPOSAL?	HOW?	WHAT WOULD EMPLOYERS HAVE TO DO?
Better family leave rights		
<ul style="list-style-type: none"> ♦ Parental leave would become a day one right. ♦ There would be a new right to bereavement leave. ♦ The right to unpaid carers' leave could become a paid right. ♦ Flexible working rights could be further improved to make flexible working "a genuine default...except where not reasonably feasible". 	<ul style="list-style-type: none"> ♦ Labour would review current entitlements. The parental leave system would be reviewed within one year. ♦ The law on bereavement leave would be clarified. ♦ It is unclear whether Labour's intention is to create a new right to work flexibly, or just to strengthen the right to make a request to work flexibly. 	<ul style="list-style-type: none"> ♦ Budget for extra compliance costs, although you may already provide some of these entitlements. ♦ Update family-friendly policies to reflect new entitlements.
Improved maternity return protections		
<ul style="list-style-type: none"> ♦ It would be made unlawful to dismiss a pregnant woman within six months of her return to work, except in specified circumstances. 	<ul style="list-style-type: none"> ♦ There is no guidance on the exceptions. ♦ This would be in addition to the changes that took effect from 6 April 2024, giving women rights to be offered suitable alternative employment for an 18-month period following their return to work. 	<ul style="list-style-type: none"> ♦ Exercise caution if dismissing in these circumstances, given the risks of (automatically) unfair dismissal and maternity discrimination claims.
Stricter duty to prevent sexual harassment		
<ul style="list-style-type: none"> ♦ Employers would be subject to a stronger legal duty "to take all reasonable steps to stop sexual harassment before it starts". 	<ul style="list-style-type: none"> ♦ A new statutory duty is already due to take effect from October 2024. It is unclear whether Labour would implement this in its current form, or whether further steps would be required of employers. 	<ul style="list-style-type: none"> ♦ Continue preparatory work towards the new duty with the aim of showing that all reasonable steps are being taken to prevent and tackle sexual harassment. Bolster training, policies and procedures as necessary,

WHAT'S THE PROPOSAL?	HOW?	WHAT WOULD EMPLOYERS HAVE TO DO?
Measures to prevent third-party harassment		
<ul style="list-style-type: none"> There would be measures to prevent harassment by third parties in the workplace. 	<ul style="list-style-type: none"> This suggests that the new “reasonable steps” duty would be extended to prevent harassment by third parties. 	<ul style="list-style-type: none"> Update policies and procedures to refer to third-party harassment. Consider measures with third parties, for example, a contractual term notifying them of your sexual harassment policy and requiring them to adhere to it.
New equal pay and discrimination protection		
<ul style="list-style-type: none"> Equal pay rights would be extended to Black, Asian and other ethnic minority workers and to disabled workers. There would be stronger protections against “dual discrimination”, maternity and menopause discrimination. 	<ul style="list-style-type: none"> A Race Equality Act would be introduced to implement the equal pay right based on ethnicity. It is unclear whether the protections against maternity and menopause discrimination refer to the improved maternity return protections (see above) and the “Menopause Action Plan” obligation (see below), or whether there would be further measures. 	<ul style="list-style-type: none"> Anticipate the risk of equal pay claims based on ethnicity and disability as well as gender. Be prepared for complex litigation, given the difficult legal tests for equal pay claims and their application to new protected characteristics.
Wider pay gap reporting		
<ul style="list-style-type: none"> Large firms would be required to develop, publish and implement action plans to close their gender pay gap. Outsourced workers would need to be included in gender pay gap and pay ratio reporting. Ethnicity and disability pay gap reporting would be mandatory for employers with more than 250 staff. 	<ul style="list-style-type: none"> It is unclear how these stricter obligations would be enforced and whether there would be sanctions for non-compliance. Given the complexities around ethnicity reporting, we would expect detailed consultation on this proposal. 	<ul style="list-style-type: none"> Prepare and implement meaningful action plans to close gender pay gaps - many employers do this already. Expand systems to collate, analyse and report data on ethnicity and disability – reporting to date has been voluntary. Anticipate the risk of claims, as more data would be disclosed about pay disparities.
Support in menopause		
<ul style="list-style-type: none"> Employers with more than 250 employees would have to produce “Menopause Action Plans” setting out how they would support employees through the menopause. 	<ul style="list-style-type: none"> These are described as being much like “gender pay gap action plans”. There is already considerable best practice guidance (including from ACAS and the EHRC) on how employers can support women affected. 	<ul style="list-style-type: none"> Have policies, procedures and action plans in place to support women who are affected – many larger employers already do so. Anticipate the risk of discrimination claims.

A&O Shearman means Allen Overy Shearman Sterling LLP and/or its affiliated undertakings. Allen Overy Shearman Sterling LLP is a limited liability partnership registered in England and Wales with registered number OC306763. Allen Overy Shearman Sterling (Holdings) Limited is a limited company registered in England and Wales with registered number 07462870. Allen Overy Shearman Sterling LLP (SRA number 401323) and Allen Overy Shearman Sterling (Holdings) Limited (SRA number 557139) are authorised and regulated by the Solicitors Regulation Authority of England and Wales. The term partner is used to refer to a member of Allen Overy Shearman Sterling LLP or a director of Allen Overy Shearman Sterling (Holdings) Limited or, in either case, an employee or consultant with equivalent standing and qualifications or an individual with equivalent status in one of Allen Overy Shearman Sterling LLP's affiliated undertakings. A list of the members of Allen Overy Shearman Sterling LLP and of the non-members who are designated as partners, and a list of the directors of Allen Overy Shearman Sterling (Holdings) Limited, is open to inspection at our registered office at One Bishops Square, London E1 6AD. A&O Shearman was formed on 1 May, 2024 by the combination of Shearman & Sterling LLP and Allen & Overy LLP and their respective affiliates (the legacy firms). This content may include or reflect material generated and matters undertaken by one or more of the legacy firms rather than A&O Shearman.

© Allen Overy Shearman Sterling LLP 2024. This document is for general information purposes only and is not intended to provide legal or other professional advice. | UKS1: 2016678732.1