



Election fever - what is getting employment lawyers hot and bothered?

By **Paul Quain** - 28 November 2019

Britain goes to the polls in two weeks' time to vote for the fourth time in five years! Whilst we wait to find out how our next parliament will look, our in-house political expert **Paul Quain** takes a look at the key promises around employment and HR issues in the manifestos of the three largest parties in the UK.

Conservatives

Steady as she goes – few changes to the current set up, although a change is proposed in relation to immigration.

Ending with a photo of a group of constructions workers holding a placard stating, “We love Boris”, the Conservative manifesto is light on any detail about plans for employment law. More broadly, the Conservatives are promising to take the UK out of the EU on the deal negotiated firstly by Theresa May and latterly resurrected by Boris Johnson. They say they will take the UK out of the single market, out of any form of customs union and end the role of the European Court of Justice. Specifically, regarding employment law and immigration their manifesto states:

- They will negotiate a future relationship with the EU which will allow them to raise standards in several areas including workers' rights, including the introduction of an Australian Style points-based system;
- No rate increase of income tax, national insurance or VAT;
- Extending the period of leave for unpaid carers;
- Publishing a national strategy for disabled people and will reduce the disability employment gap (although they do not say how);
- Predicting fewer migrants, but again they do not state how this will be achieved (although EU and non-EU citizens will be treated equally)
- Promising that the Conservative government would “make the UK the best place in the world to work” by creating a single enforcement body to crack down on employment law breaches;
- Ensuring workers can request a more flexible contract and can consult on introducing flexible working by default;
- Strengthening redundancy protections for women who return from maternity leave (although the reference to this is very unclear);

- Allowing parents to take extended leave for neonatal care and to introduce the right to one week of leave for unpaid carers.

Labour

A plethora of significant changes to the world of work!

By contrast the Labour party manifesto is packed with proposals for radically changing employment laws in the UK, including the promise to create a Ministry for Employment Rights. The more specific pledges are:

- A real living wage of £10 per hour;
- Extending employment rights from day one of employment (this would remove the current two-year qualifying period to gain rights for unfair dismissal);
- Creating a single status worker right;
- Introducing a right to collective consultation on the implementation of technology in the workplace;
- A ban zero-hours contracts;
- Encouraging sectoral collective bargaining;
- Requiring breaks during shifts to be paid;
- Extending statutory maternity pay from 9 months to 12 months and double paternity leave from two to four weeks;
- Introducing four new bank holidays (for the four patron saints of the countries in the UK);
- Additional statutory bereavement leave;
- Requiring employers to devise and implement plans to eradicate the gender pay gap
- A ban on unpaid internships;
- Keeping employment tribunals free and introducing new labour courts with a role for people with industrial experience on their panels.
- It does not stop there, with more radical changes being a proposal to reduce working hours to an average of 32 hours per week within a decade and an increased role for unions and bargaining councils in the workplace. These would be significant changes to enhance employee rights.

Liberal Democrats

Some changes with a particular focus on the gig economy.

The Liberal Democrats propose to establish an independent review to consult on how to set a Living Wage across all sectors. They promise to pay this Living Wage in all central government departments and their agencies and encourage other public sector employers to do likewise.

They also state that they will set up a new Worker Protection Enforcement Authority to protect those in precarious work. They are further proposing to change the law so that flexible working is open to all from day one in the job, with employers required to advertise jobs accordingly, unless there are significant business reasons why that is not possible.

Of all the parties, they take the closest look at the “gig economy” and propose to modernise employment rights to make them fit for purpose in the “gig economy age” including:

- Establishing a new ‘dependent contractor’ employment status in between employment and self-employment, with entitlements to basic rights such as minimum earnings levels, sick pay and holiday entitlement;
- Reviewing the tax and national insurance status of employees, dependent contractors and freelancers to ensure fair and comparable treatment;
- Setting a 20 per cent higher minimum wage for people on zero-hour contracts at times of normal demand to compensate them for the uncertainty of fluctuating hours of work;
- Giving a right to request a fixed hours contract after 12 months for ‘zero hours’ and agency workers, not to be unreasonably refused;
- Reviewing rules concerning pensions so that those in the gig economy don’t lose out, and portability between roles is protected;
- Shifting the burden of proof in employment tribunals regarding employment status from individual to employer;
- Strengthening the ability of unions to represent workers effectively in the modern economy, including a right of access to workplaces.
- They are also proposing to introduce new skills wallets for individual employees giving them access to £10,000 to spend on education and training throughout their working life.

And the winner is...

YouGov recently published its famous MRP Poll. If you like to understand acronyms, MRP stands for multi-level regression and post-

stratification (the poll which gave the most accurate prediction before the 2017 election). This time it is forecasting a Conservative government with a working majority of 68 seats.

Therefore, the best prediction in our view is that the UK is likely to leave the EU on 31 January 2020 under the renegotiated withdrawal agreement currently before the EU. Changes to future employment rights are likely to be limited, at least in the short term.

However, two weeks can be a very long time in politics and the polls have been notoriously unreliable in recent years. It is worth remembering that if there is a hung parliament with no overall majority then there could be a mix of any of the above proposals from all three parties put forward by a coalition or minority government.

The key issue, and elephant in the room, which is likely to determine the shape of future employment rights is the UK's future relationship with the EU and that at present is still completely unclear.