



# The Global Guide Quarterly - United Kingdom (Quarter 4, 2022)

## United Kingdom

### Employment Relations (Flexible Working) Bill

#### **Proposed Bill or Initiative**

Authors: Hannah Drury, Trainee Solicitor, and Raoul Parekh, Partner

On October 28, 2022, the Employment Relations (Flexible Working) Bill (the Bill) progressed further in the legislative process and gained government support. It will require further votes before becoming law. Under current law, qualifying employees are granted the right to request flexible working and there are limitations on this right. The Bill proposes to (1) introduce a requirement for employers to consult with the employee before rejecting their flexible working request; (2) allow an employee to make two requests for flexible working in any 12-month period (rather than the current one request); (3) reduces the decision period within which an employer is required to consider the employee's request from three months to two months; and (4) removes the requirement that the employee must explain in their request what effect the change would have on the employer and how that might be dealt with. The Bill does not introduce a day one right for employees to request flexible working, but this may follow in subsequent legislation.

### Protection from Redundancy (Pregnancy and Family Leave) Bill

#### **Proposed Bill or Initiative**

Authors: Oliver Moreton, Senior Associate, and Raoul Parekh, Partner

The Protection from Redundancy (Pregnancy and Family Leave) Bill progressed further in the legislative process and gained government support. It will require further votes before becoming law. At present, before dismissing an employee who is on maternity leave, adoption leave or shared parental leave for redundancy, employers are required to offer the employee a suitable alternative role (if one exists). The Bill proposes new powers to extend the protection to pregnant employees (or those whose pregnancy has recently ended), and employees who have returned to work following a period of maternity, adoption, or shared parental leave. If passed into law, further Regulations will provide the detail of the protection.



## Carer's Leave Bill

### **Proposed Bill or Initiative**

Authors: Jessica Lim, Associate, and Raoul Parekh, Partner

On October 21, 2022, the Carer's Leave Bill (the Bill) gained government support. It will require further votes before becoming law. The Bill introduces a statutory leave entitlement for employees of one week of unpaid leave per year to provide or arrange care for a dependent with a "long-term care need." This will be a day one right for employees. As currently drafted, dependents will be considered to have a long-term care need where they require care due to (1) an illness or injury (whether physical or mental) that requires or is likely to require care for more than three months; (2) a disability; or (3) a reason connected with old age. Employees will also be able to take carer's leave flexibly to accommodate their specific caring responsibilities and will not be required to provide evidence to their employer about who the leave will be used for, or how it will be used. Employees taking carer's leave will also be entitled to protection from dismissal or any detriment as a result of taking time off, in a similar way to employees taking other types of family related leave. If passed into law, further Regulations will provide the detail of the leave entitlement.

## Transport Strikes (Minimum Service Levels) Bill

### **Proposed Bill or Initiative**

Authors: Beth Thomas, Associate, and Raoul Parekh, Partner

The UK Government has launched the Transport Strikes (Minimum Service Levels) Bill (the Bill). The Bill has not yet been voted on. It has also been rumoured that the Bill may be amended to extend to other sectors. The Bill is designed to ensure a certain level of transport services will be required to run during transport strikes by imposing minimum service levels. If passed as currently drafted, the Bill will enable the implementation of minimum service levels for certain specified transport services (to be defined in separate legislation) during periods of strike action by amending s.219 of the Trade Union and Labor Relations (Consolidation) Act 1992. This amendment will mean that trade unions will no longer be immune from liability for industrial action if they fail to take reasonable steps to ensure that required persons do not participate in strike action, for the purpose of meeting minimum service levels.

## Proposed Bill Would Expand Employee Protections from Workplace Sexual Harassment and Harassment by Third Parties

### **Proposed Bill or Initiative**

Authors: Ben Smith, Associate, and Raoul Parekh, Partner

The Worker Protection (Amendment of Equality Act 2010) Bill (the Bill) is currently being considered by Parliament, with further stages of consideration required before it becomes law. The Bill as proposed would expand employee protections from workplace harassment in two ways. First, the Bill would allow employees to bring a claim against their employer for workplace harassment by third parties (including but not limited to customers or clients). Employers would be liable unless they were able to prove that they took all reasonable steps to prevent the harassment taking place. This would cover harassment because of any of the nine protected characteristics in UK discrimination law. Harassment by third parties was previously partially covered by UK law until October 2013. The Bill would mark a return to this old law, but also goes further as it does not require the employer to have prior knowledge of previous acts of harassment by a third party to become liable. Second, the Bill would create a new positive obligation on UK employers to take all reasonable steps to prevent sexual harassment of employees in the workplace. This does not create a new claim for employees but would be enforced by the UK's Equality and Human Rights Commission. Also, the Bill provides that if a Tribunal found that an employee had been harassed and this duty had not been complied with, any compensation award could be increased by up to 25%.