

Changing direction?

Employment law highlights for General Counsel



Recent and forthcoming European employment law highlights for GCs

Key developments summarised	Impact on employers
United Kingdom	
Allegations of sexual harassment are a live issue in the UK, as well as globally. The British equality enforcement body (EHRC) has called for legal change in the workplace, suggesting that the use of confidentiality clauses be restricted and calling for a new mandatory employer duty to take reasonable steps to protect workers from harassment and victimisation	It is unclear how the government will respond to the EHRC proposals. Employers should review their sexual harassment policies and how they are implemented in practice, their training and reporting mechanisms as well as the use of confidentiality agreements and settlement agreements
The countdown to Brexit continues with a transition agreement agreed in principle whereby the UK remains closely tied to the EU until end December 2020	Visit our Brexit hub for our latest news and guidance for employers
The deadline for publishing gender pay gap data expired for private sector employers on 4 April 2018, with enforcement action possible against defaulting organisations	Employers risk reputational damage if they do not explain the reasons for any pay gap and how they are addressing it. A significant pay gap could also spark equal pay claims
European Union	

<p>The General Data Protection Regulations (GDPR) will apply in all member states from 25 May 2018 but their territorial reach is even wider. Visit our GDPR hub</p>	<p>The effects are likely to be extensive in all countries offering services in the EU (including the UK, post-Brexit). Employers should be checking their data protection policies and practices for compliance if high penalties are to be avoided</p>
<p>The EU Commission has published draft legislation aimed at extending minimum standards to new kinds of employment relationships and improving enforcement. The aim is to ensure that every worker has a core set of enforceable rights, regardless of the type of contract or employment relationship</p>	<p>The European employer representative, Business Europe, is concerned that the wording of the draft legislation risks interfering with national law, extends new rights to self-employed workers and should instead focus on employees only. Given disagreements in the EU on this initiative, it is likely to be delayed</p>
<p>The Commission's proposal for new work-life balance legislation is currently under consideration and the aim is to reach final agreement this year</p>	<p>If the work-life proposal is agreed, it will extend parental leave rights and introduce EU wide rights to carer's leave, paternity leave and for parents to request flexible work arrangements</p>
<p>The European Court of Justice has found that "on call" time for firefighters who are at home but are required to respond to calls within 8 minutes is working time under the Working Time Directive</p>	<p>This decision clarifies but also changes the understanding of "on call" time in some EU countries. Employers with staff who are required to be on stand-by at home will need to review their practices</p>
<p>France</p>	
<p>Many "Macron" reforms are in force and introduce significant changes relating to dismissals, severance payments, staff representation and collective bargaining agreements</p>	<p>The reforms have reshaped France's social model and introduce greater flexibility for employers. We are holding a webinar exploring the Macron reforms on 18 April. Book your place here</p>
<p>Germany</p>	
<p>Following last year's national election, a new coalition agreement proposes employment changes including: restricting the use of fixed-term employment contracts, new entitlements to part-time work for limited periods, changes to support flexible working and to works councils</p>	<p>The most important change relates to restrictions on the duration and renewal of fixed-term contracts and quotas controlling the overall number of such contracts at larger employers where there is no objective reason for the fixed term. If enacted this change is expected to reduce the use of fixed-term contracts</p>
<p>Ireland</p>	

<p>Ireland is taking steps to introduce a new duty on larger employers to publish their gender pay gap data. A draft bill providing for employer disclosure has cross-party support and is likely to be enacted, although the timing is currently unclear</p>	<p>Given the reputational repercussions experienced by some British employers following the introduction of a similar duty, affected employers should assess the implications of this new legislation while they have time to respond</p>
<p>Italy</p>	
<p>New legislation has introduced whistleblowing protection for employees in the private sector. The aim is to protect reports of wrongdoing in the workplace by ensuring such disclosures are treated confidentially and anonymously and that the discloser is protected from discrimination or retaliation at work</p>	<p>Employers need to act to provide specific channels for workers to file a complaint against illicit conduct and to prohibit any retaliatory measure against the whistleblower. Read our briefing</p>
<p>Netherlands</p>	
<p>After months of negotiations, a new government has published its coalition agreement which lasts until 2021. The agreement proposes changes to employment law, including a new cumulative ground for dismissal and changes to: statutory severance payments, fixed term and zero hour contracts, probationary periods, family leave and the self-employed</p>	<p>As these proposals will need to go through the legislative process, it is not clear yet to what extent and when employment law will eventually change as a result of the coalition agreement. Read our briefing</p>
<p>Spain</p>	
<p>A legislative vote is expected in 2018 on proposed changes to the law which aim to add clarity and to equalise key employment terms for outsourced workers when compared to the principal company's employees. However, the proposal has not been enacted as of yet. Employment law does protect such outsourcing, but it lacks clarity and differences in working conditions between outsourced and regular employees have been criticised</p>	<p>If enacted, the equal treatment requirement will increase the costs of those outsourced services affected</p>

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