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UK EMPLOYMENT LAW IN 2024
A-Z OF WHAT'S HAPPENING



<p>A</p>	<p>is for agency workers and AI.</p> <p>On 16 January 2024, the government’s consultation on the engagement of temporary agency staff during industrial action closed. On 17 January 2024, the EHRC published its response to the consultation. If enacted, employment businesses would be permitted to supply agency workers to hirers to cover strikes in any sector. It would also include supplying agency workers to hirers operating in relevant or important public services. It would be a permissive measure. Employment businesses would be permitted, but not required, to supply agency workers to their hirers to cover strikes. Similarly, agency workers would be free as they are now to turn down any assignment they are offered.</p> <p>By March 2024, UK regulators are to have incorporated the five principles from the AI white paper, <i>A pro-innovation approach to AI regulation</i>, into guidance. Further, the government intends to publish a draft AI risk register for consultation and an updated AI regulation roadmap.</p>
<p>B</p>	<p>is for baldness and bereavement leave.</p> <p>We await the decision of the EAT in <i>British Bung Manufacturing Company Ltd and another v Finn</i>. The employment tribunal held that baldness was much more prevalent in men than women and that it was inherently related to sex. Accordingly, the tribunal upheld a claim for harassment related to sex brought by Mr Finn in relation to an incident in which a colleague admitted calling him a "bald ****" and admitted that he had intended to threaten and insult him in doing so. The tribunal found that this conduct was unwanted and that the words had been used with the purpose of violating Mr Finn’s dignity and creating an intimidating, hostile, degrading, humiliating or offensive environment for him.</p> <p>If elected, Labour proposes to introduce a new bereavement leave. Currently, employees have a right to 2 weeks’ leave if their child dies under the age of eighteen or is stillborn after 24 weeks of pregnancy. This is 'parental bereavement leave' and is also known as 'Jack’s Law'. There’s no legal right to time off if the person who died was not a child or dependant.</p>
<p>C</p>	<p>is for carers and check-off (in the public sector).</p> <p>On 6 April 2024, the Carer’s Leave Regulations 2024, introducing a new statutory right to one week’s unpaid carer’s leave per year, came into force. There is no minimum service requirement – employees are entitled to take unpaid carer’s leave from day one of employment and they are protected from detriment and dismissal where the reason is that they took (or are requesting to take) carer’s leave.</p> <p>On 9 May 2024, restrictions on the operation of check-off in the public sector and associated regulations, will come into force.</p>
<p>D</p>	<p>is for dismissal (and re-engagement) and the right to disconnect.</p> <p>On 19 February 2024, the government published its response to the consultation on the draft statutory Code of Practice on Dismissal and Re-engagement, alongside an updated version of the Code. The Code is expected to come into force in summer 2024. Where employees are dismissed and offered re-engagement, the Code suggests that employers consider:</p> <ul style="list-style-type: none"> • Providing longer notice periods to allow employees to make any necessary arrangements, • Offering practical support to employees (such as career coaching or counselling), • Committing to reviewing the changes at a fixed point in the future, • Phasing in changes, and • Inviting feedback from employees as they adapt to the new working arrangements. <p>Dismissal and re-engagement will come to the foreground in April 2024, when the Supreme Court is scheduled to hear the appeal in <i>USDAW and others v Tesco Stores Limited</i>. The Court of Appeal allowed the appeal and overturned an injunction granted by the High Court that had prevented Tesco from terminating and re-engaging a group of warehouse operatives in order to remove a contractual entitlement to enhanced pay.</p> <p>If elected, Labour has pledged to give workers the right to ‘switch off’ from work and not to be contacted by their employers outside of working hours. Several EU member states have already introduced this right to disconnect albeit Portugal has taken it one step further in prohibiting employers from contacting their employees outside of their working hours altogether.</p>

<p>E</p>	<p>is for ethnicity pay reporting.</p> <p>On 13 July 2023, the government confirmed that it would not be legislating to require ethnicity pay gap reporting. It suggested that employers should instead have regard to the April 2023 guidance on voluntary reporting. The most recent ONS data confirms that the UK's ethnicity pay gap has persisted since 2012, as some ethnic groups continue to earn less on average than their white British counterparts.</p> <p>If elected in the forthcoming general election, Labour plans to make ethnicity pay gap reporting mandatory for employers with 250+ staff.</p>
<p>F</p>	<p>is for fees and flexible working.</p> <p>On 29 January 2024, the Ministry of Justice launched a consultation on the re-introduction of fees for employment tribunal claims and appeals to the Employment Appeal Tribunal. This is seven years after the Supreme Court quashed the previous charging regime as unlawful. The fees proposed are a £55 issue fee which would be payable on bringing a claim to the tribunal, which would remain at £55 where multiple claimants bring a claim. Each judgment, direction, decision, or order appealed to the EAT would attract a £55 fee. No hearing fees are planned. Based on 2022/23 volumes, the proposed fees are expected to generate £1.3m-£1.7m a year towards the £80m annual cost of the employment tribunals.</p> <p>On 6 April 2024, the Employment Relations (Flexible Working) Act 2023 and the associated Flexible Working (Amendment) Regulations 2023 (SI 2023/1328) came into force. The Act removes the 26-week minimum service requirement for making a flexible working request, which becomes a day-one right. Employers should ensure they consider Acas' updated statutory Code of Practice on handling requests for flexible working.</p>
<p>G</p>	<p>is for gender balance and general election.</p> <p>Whilst the UK is not required to implement the recent EU Directive on improving gender balance among non-executive directors of listed companies, UK companies operating in the EU will need to consider the requirement that at least 40% of non-executive director positions in listed companies are held by members of the under-represented sex by 30 June 2026 or, alternatively, that at least 33% of executive and non-executive director positions in listed companies are held by members of the under-represented sex by 30 June 2026. Companies that do not achieve these objectives must adjust their selection processes.</p> <p>Current predications are that the UK will have a general election in October 2024. This would avoid a clash with the mid-November 2024 US elections and give the Treasury time to complete the review of Whitehall budgets before next spring, making an October date the last time when an election would be possible. If Labour wins a majority at the election, it has committed to work with the trade unions to introduce a new Employment Bill within its first 100 days in office. The repeal of trade union legislation dating from 2016 is widely anticipated.</p>
<p>H</p>	<p>is for holiday pay.</p> <p>On 1 January 2024, the DBT published guidance on holiday rights following Brexit. April 2024 sees a new method of holiday accrual for irregular-hours and part-year workers, and rolled-up holiday pay will be allowed.</p>
<p>I</p>	<p>is for ICO guidance, industrial action and International Labour Organisation (ILO).</p> <p>On 23 February 2024, the ICO published new guidance on biometric recognition. On 1 March 2024, the ICO published new guidance on personal data sharing during workplace mental health emergencies. The ICO also released its revised guidance on subject access requests. On 18 March 2024, the ICO published new data protection fining guidance. Throughout 2024, we can expect privacy and AI to be a key focus for the ICO.</p> <p>On 12 and 13 December 2023, the Supreme Court considered the appeal in Mercer v. Alternative Future Group Ltd and another (Secretary of State for BEIS intervening) concerning whether protection from detriment for participating in industrial action can be read into TULRCA 1992. The Court of Appeal held the EAT was wrong to read protection from detriment for having participated in strike action into TULRCA 1992 because the section was not incompatible with Article 11 of the ECHR, rather there was a gap in provision. A key case for the trade union movement.</p>

	<p>On November 10, 2023, the ILO requested an advisory opinion from the International Court of Justice (ICJ) on interpreting the disputed “right to strike” provision in ILO Convention 87. The ILO designated its request as “urgent,” which under the rules requires the ICJ to accelerate the proceeding. The ICJ order set a deadline of May 16, 2024, for written submissions by the interested parties, and a deadline of September 16, 2024, for any written comments on those written submissions. At the conclusion of the comments period, the ICJ will schedule and hold a public hearing, after which it will issue its advisory opinion. That advisory opinion could lead to many national governments, including the UK, having to amend their national strike laws and practices to be compliant with their international treaty obligations.</p>
J	<p>is for judicial review.</p> <p>On 27 January 2024, the Public and Commercial Services union announced that it will seek a judicial review against the government over the Strikes (Minimum Service Levels) Act on the basis that it contravenes the right to strike under Article 11 of the European Convention on Human Rights (ECHR).</p>
K	<p>is for kinship carers in the workplace.</p> <p>In December 2023, the Department for Education published Kinship carers in the workplace: guidance for employers. The guidance recommends that employers can make their workplaces kinship-friendly environments through creating a culture of support, adapting workplace policies, and enabling managers to support kinship carers. On 6 March 2024, during a debate on the Kinship Care Strategy in the House of Commons, the Parliamentary Under-Secretary of State for Education, indicated that the government “continue[s] to explore what [it] can do” regarding statutory kinship leave.</p>
L	<p>is for Labour’s green paper, A New Deal for Working People and for litigation.</p> <p>If elected, Labour intends to create a single worker status, with the same basic rights to sick pay, holiday pay, parental leave, and unfair dismissal protection, and remove qualifying periods for these rights.</p> <p>In the context of litigation, if elected, Labour proposes to extend the time for bringing claims to an Employment Tribunal.</p>
M	<p>is for menopause and modern slavery.</p> <p>On 21 February 2024, the EHRC published guidance for employers on menopause in the workplace. The new guidance refers to research published by the Fawcett Society and the Chartered Institute of Personnel and Development. The guidance clarifies an employer’s legal obligations and provides practical tips on fostering positive conversations about menopause between employers and workers.</p> <p>The House of Lords Select Committee on the Modern Slavery Act 2015 was appointed on 24 January 2024. It will consider the impact of the 2015 Modern Slavery Act, and its effectiveness in achieving its aims. It will report by 30 November 2024. The Committee will, amongst other things, be considering whether the Act has kept up to date with developments in modern slavery and human trafficking, both within the UK and internationally, as well as the efficacy of the provisions of the Act relating to supply chains.</p>
N	<p>is for national living wage, national minimum wage, national insurance, and neuroinclusion.</p> <p>Increases in the rates of the National Living Wage (NLW) and National Minimum Wage (NMW) came into force on 1 April 2024. These increases reflect the recommendations of the Low Pay Commission.</p> <p>In the recent budget (and in anticipation of a 2024 general election), the Chancellor announced that from 6 April 2024, National Insurance contributions for employees would be cut from 10 per cent to 8 per cent, while self-employed contributions would be slashed to 6 per cent. The 2p cut amounts to an extra £248.60 a year - or £20.72 a month - for someone earning £25,000 and a near £450 a year boost for someone on £35,000. However, the Office of Budget Responsibility estimates that by 2028/29 the freezing of tax thresholds will see approximately four million more taxpayers, three million moved to the higher rate of tax, and a further 400,000 paying the additional rate.</p> <p>In February 2024, the CIPD published a report on neuroinclusion at work. The findings encourage neuroinclusion to be a key part of an organisation’s equality, diversity, and inclusion efforts as well as its wellbeing approach.</p>

<p>O</p>	<p>is for occupational health.</p> <p>In the summer of 2024, the DWP's new voluntary OH framework is expected to be published setting out the recommended level of OH services that employers should adopt to keep workers healthy. Other plans the DWP intends to pursue include a digital marketplace where SMEs can pool their purchasing power to buy OH services, and fit note reform.</p>
<p>P</p>	<p>is for paternity and picketing.</p> <p>On 8 March 2024, we saw reform of family-related leave and pay via the Paternity Leave (Amendment) Regulations 2024. Employees will have new rights where a baby's Expected Week of Childbirth (EWC) is on or after 6 April or, for children expected to be placed with an adopter, where the placement occurs on or after that date. From 6 April they will have the right to take paternity leave as two separate one-week blocks. The leave can then be taken at any time in the 52 weeks after birth or adoption. They will only need to give 28 days' notice of their intention to take paternity leave.</p> <p>On 11 March 2024, the revised Code of Practice on Picketing came into force, to include signposting the provisions on picketing in the Code of Practice on Reasonable Steps to be taken by a Trade Union (MSLs).</p>
<p>Q</p>	<p>Is for qualifying periods.</p> <p>If elected, one of Labour's proposals is to remove the qualifying periods for basic rights so that workers – in the wider sense (see 'w' below) - will benefit from their protection from day one of employment, subject to certain exceptions regarding a probationary period. This includes unfair dismissal protection which, at present, is only afforded to employees after two years' service.</p>
<p>R</p>	<p>is for redundancy and religion.</p> <p>On 6 April 2024, the Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024, extending the protected period during which certain employees are entitled to be offered suitable alternative vacancies in a redundancy situation, came into force. If elected, Labour has committed to strengthening protections for pregnant staff by making it unlawful to dismiss an employee while pregnant or for six months after their return, except in specific circumstances.</p> <p>In October 2024, the Court of Appeal is scheduled to hear the appeal in Higgs v Farmor's School. This case involves an employment tribunal deciding that a Christian employee's beliefs that gender cannot be fluid and that an individual cannot change their biological sex or gender were worthy of respect in a democratic society and could therefore be protected beliefs under the Equality Act 2010 (EqA 2010). However, the employee had not been directly discriminated against or harassed because of those protected beliefs. She had been disciplined and dismissed because of the inflammatory language used in her Facebook posts which could have led readers to believe that she held homophobic and transphobic beliefs. The EAT subsequently upheld Higgs' appeal, finding that the employment tribunal had failed to engage with the "reason why" question, to determine whether the school's treatment was because of, or related to, the manifestation of her beliefs or because she had manifested her beliefs in a justifiably objectionable way. The EAT set out five basic principles for assessing the proportionality of any interference with a claimant's rights to freedom of religion and belief, and freedom of expression.</p>

<p>S</p>	<p>is for sexual harassment duty and Stonewall.</p> <p>In October 2024, a new law is expected to place a separate legal obligation on all employers to take proactive measures to prevent sexual harassment. The Equality Act 2010 will be amended so a claim for breach of the new duty can be made in the Employment Tribunal, but it must be 'attached' to a claim for sexual harassment. If an employee succeeds in a claim, and the employer is found to have breached its duty to take reasonable steps to avoid the sexual harassment, the Employment Tribunal will be able to uplift compensation by up to 25%.</p> <p>In May 2024, the EAT is scheduled to hear the appeal in Bailey v Stonewall Equality Ltd. An employment tribunal found that barrister Allison Bailey suffered discrimination and victimisation by Garden Court Chambers because of her gender critical philosophical beliefs. The tribunal held that the EqA 2010 protected not just the belief that women are defined by biological sex rather than gender identity, but also Bailey's belief that gender theory, as proselytised by Stonewall, is severely detrimental to women and to lesbians. The claims centred around proposed reforms of the Gender Recognition Act 2004 and Stonewall's campaign in favour of gender self-identity, which Ms Bailey opposed. Bailey was awarded damages for injury to feelings and aggravated damages, but no loss of earnings. Claims against Stonewall for instructing, causing, or inducing discrimination were dismissed.</p>
<p>T</p>	<p>is for tips, TUPE and trade unions.</p> <p>By May 2024, the Employment (Allocation of Tips) Act 2023 is expected to be brought into force. It regulates how employers allocate tips among workers by introducing obligations to ensure that workers receive "tips, gratuities and service charges" in full, and that those tips are allocated in a fair and transparent way.</p> <p>On or after 1 July 2024, the provisions of the Employment Rights (Amendment, Revocation and Transitional Provision) Regulations 2023 come into force for TUPE transfers taking place on or after 1 July 2024. It allows consultation directly with employees (where no existing representatives) where the organisation has fewer than fifty employees, or where fewer than ten employees will transfer.</p> <p>In Labour's green paper, <i>A New Deal for Working People</i>, the Labour party states that, if elected, they intend to repeal the Trade Union Act 2016, simplify the recognition process, allow electronic balloting, and strengthen collective bargaining, including establishing "fair pay agreements."</p>
<p>U</p>	<p>is for umbrella companies and unfair dismissal.</p> <p>The consultation on tackling non-compliance in the umbrella company market closed on 29 August 2023. The government's response is awaited. In the meantime, supply teachers are exploring "Post Office-style" group litigation to take on umbrella companies over unlawful deductions from their salaries and missing holiday pay.</p> <p>If elected, Labour has suggested that it will remove the statutory cap on compensation for claims of unfair dismissal. In the meantime, from 6 April 2024, the maximum compensatory award for ordinary unfair dismissal is increasing from £105,707 to £115,115.</p>
<p>V</p>	<p>is for voluntary AI regulatory regime and visas.</p> <p>On 6 February 2024, the Department for Science, Innovation and Technology published a response to the artificial intelligence (AI) White Paper consultation. The response confirms the government's plans to introduce a voluntary regulatory regime for AI, despite other jurisdictions, notably the EU, opting for binding rules. The government is adopting a non-statutory, contextual, cross-sectoral principles-based approach, as detailed in the white paper. Certain regulators, including the ICO, the FCA and the LSB must publish an outline approach to AI regulation by 30 April 2024.</p> <p>From 4 April 2024, sponsors need to pay the overseas workers they wish to sponsor on a skilled worker visa a minimum of £38,700 per year. This is an increase of nearly 50 per cent from the previous minimum salary of £26,200 per year.</p>

<p>W</p>	<p>is for worker status.</p> <p>If elected, one of Labour’s proposals is to create a singular ‘worker’ category for all staff, except those who are genuinely self-employed. This would provide all those in the single worker category the same basic rights and protections.</p> <p>It is notable that Europe is struggling to build the necessary political consensus to give gig economy workers at online platforms such as Uber and Deliveroo greater social and labour rights.</p>
<p>X</p>	<p>is for X (formerly Twitter) funded litigation.</p> <p>Last year, Elon Musk, announced via a post on X, formerly known as Twitter, that he will help people treated “unfairly” by their employer due to posts they have put on platform by paying their legal expenses.</p> <p><i>“If you were unfairly treated by your employer due to posting or liking something on this platform, we will fund your legal bill.”</i></p> <p><i>“And we won’t just sue, it will be extremely loud, and we will go after the boards of directors of the companies too.”</i></p>
<p>Y</p>	<p>is for Youth Mobility Scheme.</p> <p>In the November 2023 Autumn Statement, the Chancellor of the Exchequer, announced that the government expected to sign and expand new and existing Youth Mobility Schemes in 2024. As of 31 January 2024, new rules have been implemented, meaning that nationals of Australia, Canada, and Republic of Korea, alongside New Zealand, can apply up until the age of thirty-five.</p>
<p>Z</p>	<p>is for zero-hours contracts.</p> <p>If elected, one of Labour’s proposals is to ban the use of zero-hour contracts, not least due to widespread trade union concerns arising from the publicised misuse by some employers. That said, business groups such as the CBI are lobbying for a softening of Labour’s plans amid business concerns that the measures could undermine economic growth.</p> <p>In the meantime, a new statutory right to request a predictable working pattern is due to come into force towards the end of 2024. This will allow workers to apply for a change to their terms and conditions to obtain a more predictable working pattern. It applies if there is a “lack of predictability” in respect of any part of the working pattern, meaning it will apply to zero-hours workers.</p>

AUTHOR

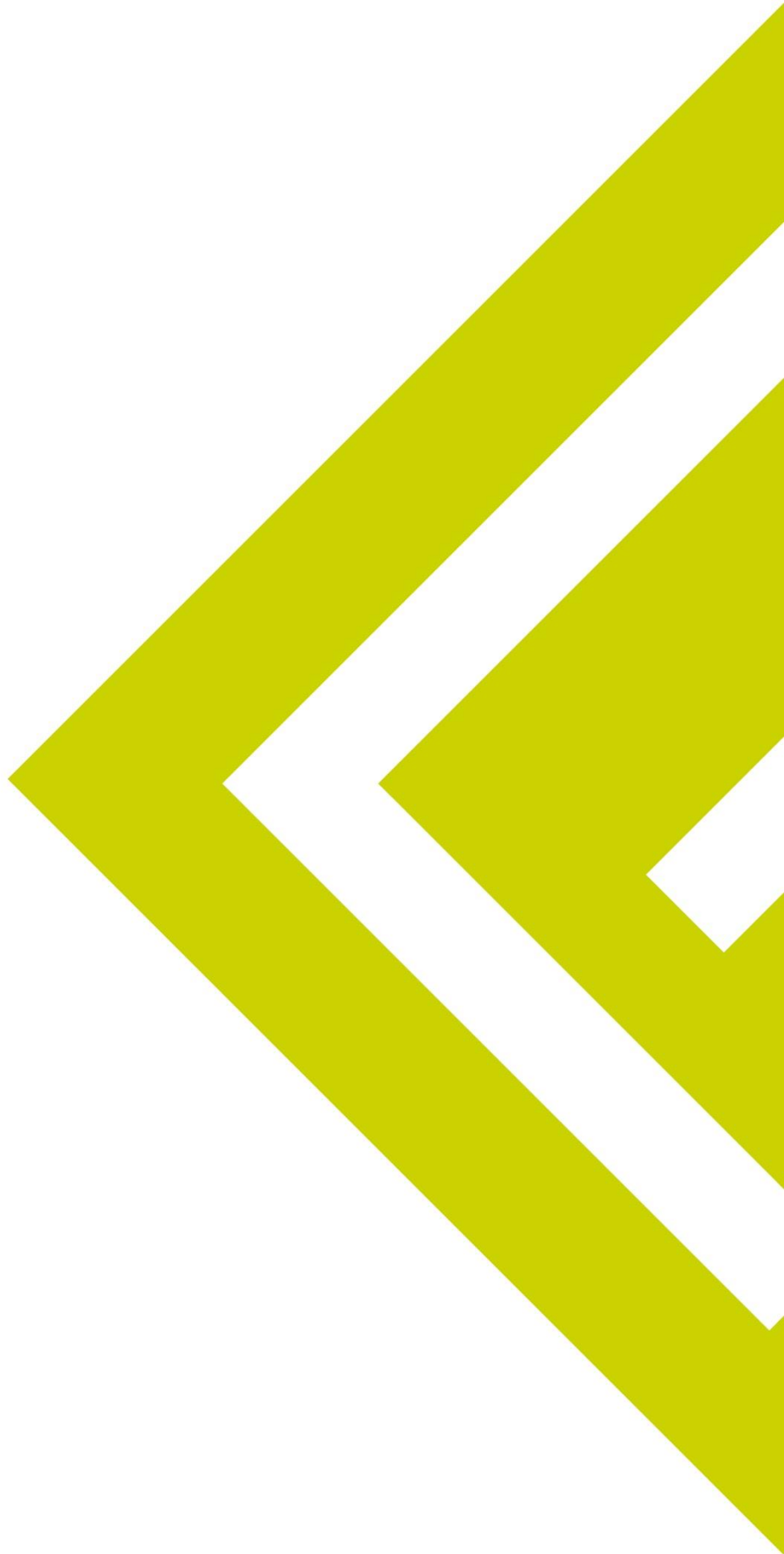


CHRIS SYDER
PARTNER

T: +44 (0)20 7753 7559
E: chris.syder@penningtonslaw.com



**PENNINGTONS
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COOPER**



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