



The Business Services Association
130 Fleet Street,
London.
EC4A 2BH

BSA Briefing

Labour's 'Plan to Make Work Pay'

Background

Ahead of the General Election, Labour re-published its plan to deliver a New Deal for Working People. This includes a plan to introduce legislation within 100 days of entering government with a commitment to “consult fully with businesses, workers and civil society on how to put our plans into practice before legislation is passed”.¹

The plan acknowledges that whilst some reforms may take longer to implement there are many that they are able to move quickly on and include in the proposed Employment Rights Bill. This includes creating a single enforcement body and removing the lower earnings limit on statutory sick pay. Other reforms will not require primary legislation such as writing to the Low Pay Commission to change its remit requiring it to take account of the cost of living.

The key points are included below.

Public Procurement, Insourcing, and Social Value

Labour have pledged to “learn the lessons from the collapse of Carillion and bring about the biggest wave of insourcing of public services in a generation”.

A Labour government would extend the Freedom of Information Act to apply to “private companies that hold contracts to provide public services, exclusively with regard to information relevant to those contracts”.

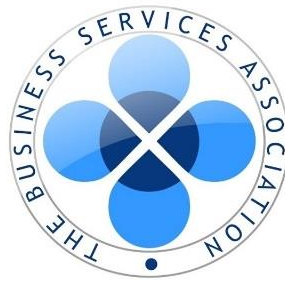
The Act will also be extended to apply to publicly funded employers associations, where not already covered.

Labour would also examine public services that have been outsourced “as part of our drive to improve quality, design better services to meet changing needs, ensure greater stability and longer-term investment in the workforce, and deliver better value for money”.

It would also work with local government to build on their experience and expertise around procurement, drawing on best practice from local government.

“Before any service is contracted out, public bodies must carry out a quick and proportionate public interest test, to understand whether that work could not be more effectively done in-house”. The test will evaluate value for money, impact on service quality and economic and social value goals holistically.

¹ [LABOURS-PLAN-TO-MAKE-WORK-PAY.pdf](#)



Labour would also reinstate and strengthen the two-tier code. The scope of the two-tier code and the public interest test will apply to wholly owned subsidiary companies.

Social value would be made mandatory in contract design. The examples cited in the Plan include “organisations that create local jobs, skills and wealth and treat their workers well and equally, including on matters such as pay, conditions, trade union access, recognition and provision for collective bargaining arrangements, effective equality policies, adherence to high environmental standards and tax compliance”.

Labour have also pledged to “make sure that trade union recognition and access is valued and considered as part of the process of awarding public contracts and determining strategic suppliers, alongside other factors that demonstrate a commitment to good jobs”.

The Plan also says that a Labour government would take inspiration from the Social Partnership Act introduced by the Labour government in Wales.

A new Fair Work Standard would be introduced to “ensure the best employers get the recognition they deserve”. This would be created and upheld by a new Social Value Council - inspired by the Wales Social Partnership Council - made up of public, employer and trade union representatives.

The Council will also be tasked with reviewing how social value can be better strengthened and delivered in public contracts.

Zero-hours contracts and ‘fire and rehire’

Labour has committed to ending ‘one sided’ flexibility and to ensure that all jobs provide a baseline level of security and predictability. This includes banning “exploitative zero hours contracts” and ensuring that everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period.

“We have an ongoing commitment to protect the integrity of these policies and will put in place anti-avoidance measures where necessary. We will ensure all workers get reasonable notice of any change in shifts or working time, with compensation that is proportionate to the notice given for any shifts cancelled or curtailed”.

Labour have also pledged to end ‘fire and rehire’ and ‘fire and replace’ by reforming the law to provide effective remedies against abuse and replace the current statutory code with a strengthened code of practice.

Basic day one rights

The New Deal will include basic individual rights from day one for all workers. This will not prevent fair dismissal, which includes dismissal for reasons of capability, conduct or redundancy, or probationary periods with fair and transparent rules and processes.

“We will ensure employers can operate probationary periods to assess new hires. However, the changes will help to ensure that newly hired workers are not fired without reason or cause and will help drive up standards in workplaces”.

Single Worker Status



Labour has pledged to move towards a single status of worker and transition towards a “simpler two-part framework for employment status”. The details will be consulted on including how to develop a simpler framework that differentiates between workers and the genuinely self-employed “which can also capture the breadth of employment relationships in the UK, adapt to changing forms of employment and guard against a minority of employers using novel contractual forms to avoid legal obligations”.

Redundancy rights and TUPE

Labour has committed to strengthening redundancy rights and protections, for example, by ensuring that the right to redundancy consultation is “determined by the number of people impacted across the business rather than in one workplace”.

Labour have also pledged to strengthen “the existing set of rights and protections for workers subject to TUPE processes”.

Whistleblowers

Labour have committed to increase protection for whistleblowers, including by “updating protection for women who report sexual harassment at work”.

Self-employment

A Labour government would “strengthen rights and protections to help self-employed workers thrive in good quality self-employment, including the right to a written contract, action to tackle late payments, and by extending health and safety and blacklisting protections to self-employed workers.

Flexible working

A Labour government would make “flexible working the default from day one for all workers, except where it is not reasonably feasible”.

Parental rights

Labour have pledged to review the parental leave system within the first year of a Labour government. A Labour government would also “ensure that parental leave is a day one right”.

Maternity discrimination

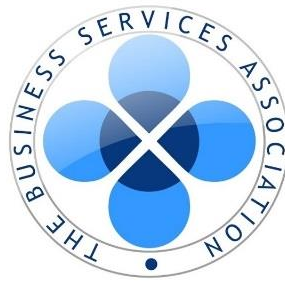
Labour have committed to making it unlawful to dismiss a woman who is pregnant for six months after her return, “except in specific circumstances”.

Bereavement leave

Labour would introduce the right to bereavement leave for all workers.

Right to switch off

A Labour government would bring in the ‘right to switch off’, following “similar models to those that are already in place in Ireland or Belgium”.



Technology and surveillance

Labour has pledged to work with workers, trade unions, employers and experts to examine what AI and new technologies mean for work, jobs and skills, as well as how to promote best practice in safeguarding against the invasion of privacy through surveillance technology, spyware and discriminatory algorithmic decision making.

“At a minimum Labour will ensure that proposals to introduce surveillance technologies would be subject to consultation and negotiation, with a view to agreement of trade unions or elected staff representatives where there is no trade union. Where there is a collective agreement relating to surveillance this will not override it”.

Genuine living wage

Labour have pledged to change the Low Pay Commission’s remit so that alongside median wages and economic conditions, the minimum wage will take into account the cost of living.

Age bands would be removed and additional powers provided to both the Single Enforcement Body and HMRC, including penalties for non-compliance.

Labour would also work with these bodies to ensure that the National Minimum Wage regulations on travel time in sectors with multiple working sites is enforced and that workers’ contracts reflect the law.

Sick Pay

A Labour government would strengthen statutory sick pay, remove the lower earnings limit to make it available to all workers and remove the waiting period.

Fair tips

Labour have pledged to strengthen the law to ensure that hospitality workers “receive their tips in full and workers decide how tips are allocated”.

Unpaid internships

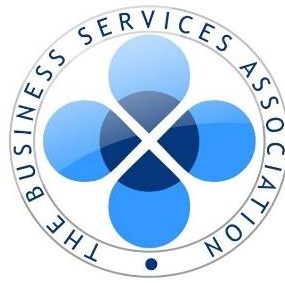
Labour have pledge to ban unpaid internships “except when they are part of an education or training course”.

Social Care

Labour would introduce a New Deal for Social Care Workers, to ensure that care workers are “treated with dignity and respect and that they have a route to better conditions, training and progression”.

This would include a new Fair Pay Agreement, “empowering workers and the trade unions that represent them to negotiate fair pay and conditions, including staff benefits, terms and training, underpinned by rights for trade unions to access workplaces, in a regulated and responsible manner, for recruitment and organising purposes”.

This will be consulted on in advance.



Reinstating the School Support Staff Negotiating Body

This new body will be tasked with establishing a national terms and conditions handbook, training, career progression routes, and fair pay rates for support staff.

Trade unions

Labour are committed to updating trade union legislation “removing unnecessary restrictions on trade union activity and ensuring industrial relations are based around good faith negotiation and bargaining”.

Labour would simplify the process of union recognition and the law around statutory recognition thresholds. This includes remove the rule that unions must show that at least 50% of workers are likely to support their claim.

Recognition votes would also only require a simply majority and there would be rights for trade unions to access workplaces “in a regulated and responsible manner, for recruitment and organising purposes”.

A Labour government would also introduce “a new duty on employers to inform all new employees of their right to join a union, and to inform all staff of this on a regular basis”. This will be required as part of the written statement of particulars that all new workers already receive when starting a new job.

There would also be new rights and protections for trade unions representatives including strengthening protection against unfair dismissal. Labour would introduce statutory rights for trade union equality representatives.

Labour would also update regulations to “outlaw the use of predictive technologies for blacklisting and safeguard against singling out workers for mistreatment or the sack without any evidence of human interaction”.

Equal Pay

Labour would introduce measures to ensure that “outsourcing of services can no longer be used by employers to avoid paying equal pay, including for work of equal value, to women”.

Terminal illness

Labour “encourages employers and trade unions to negotiate signing up to the Dying To Work Charter - a charter with best practice for employing workers with terminal illness”.

Socioeconomic duty

A Labour government would enact the socioeconomic duty under Section 1 of the Equality Act. The duty will apply to public bodies.



Pay gap reporting

Under a Labour government “Large firms will be required to develop, publish and implement action plans to close their gender pay gaps, and we will ensure outsourced workers are included in their gender pay gap and pay ratio reporting”.

The publication of ethnicity and disability pay gaps would also be made mandatory for employers with more than 250 staff.

Menopause

Labour would require large employers with more than 250 employees to produce Menopause Action Plans, much like gender pay gap action plans, setting out how they will support employees through the menopause.

Guidance will also be published on measures to consider relating to uniform and temperature, flexible working and recording menopause-related leave and absence.

Enforcement Body

Labour have pledged to establish a single enforcement body “to enforce workers' rights, including strong powers to inspect workplaces and take action against exploitation”.

Employment Tribunals

Labour are committed to the further digitalisation of employment tribunals will improve and strengthening enforcement through tribunals.

In line with the Law Commission recommendation in April 2020, the time limit within which employees are able to make an employment claim would be increased from three months to six months, bringing the time limit for all claims in line with the time limit for statutory redundancy and equal pay claims.

Safer workplaces

A Labour government would review health and safety guidance and regulations “with a view to modernising legislation and guidance where it does not fully reflect the modern workplace”.

It would also require employers to create and maintain workplaces and working conditions free from harassment, including by third parties, and strengthen the legal duty for employers to “take all reasonable steps to stop sexual harassment before it starts”.