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Quarterly Board Briefing

Labour & Employment (UK)

Looking to Q4 2025 and Beyond

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This briefing aims to provide boards with a guide to key legal changes and actions to be taken next quarter and includes additional notes for Legal and HR teams in the Spotlight section at the end. Please note, this document does not cover all legislative changes, just those we view to be of particular relevance to the board.

Topic	Key Date(s)	Overview	Action Required	Risks/Opportunities
Take Action				
Economic Crime and Corporate Transparency Act 2023 Note – Only applies to large corporates and partnerships. "Large" means organisations meeting two out of three of the following criteria – more than 250 employees, more than £36 million turnover and more than £18 million in total assets.	In force – 1 September 2025	The Act creates various new corporate offences, including the offence of failure to take reasonable steps to prevent fraud. For more information, please see our blog UK Failure To Prevent Fraud Offence: Countdown to The 1st of September 2025 – Is Your Organisation Ready? | Global Investigations & Compliance Review.	If organisations have not already done so, they must establish robust fraud prevention procedures. A dedicated fraud-specific risk assessment is crucial to ensure adequate preparation.	Fines for failure to take steps to prevent fraud could be significant, so this needs to be on the board's agenda.
The Worker Protection (Amendment of Equality Act 2010) Act 2023	In force – 26 October 2024	This legislation amended the Equality Act 2010 to place a new pre-emptive duty on employers to take "reasonable steps" to prevent sexual harassment of their employees in the course of their employment. The Equality and Human Rights Commission (EHRC) has updated its Technical Guidance on Sexual Harassment and Harassment in the Workplace to make provision for the new duty. For more information on our recommended steps for employers, see our Relatively Informal Guide to the New Duty on Employers to Take Reasonable Steps to Prevent Sexual Harassment at Work.	• The duty is ongoing, so if employers have not already done so, they must review the steps they currently take to prevent sexual harassment in the workplace and consider whether they need to do more to satisfy this new mandatory duty. • Recent reports suggest that a significant proportion of UK employers are falling short of their obligations, and that there are gaps in compliance. • The EHRC Guidance makes clear that an employer will almost certainly not be able to comply with this new duty unless it has carried out a risk assessment	• An employer that breaches this new duty could face proceedings by the EHRC, as it will have new powers to enforce stand-alone breaches. • If an employee brings a successful complaint of sexual harassment, the employer risks an uplift in compensation of up to 25%, if the Employment Tribunal is satisfied that the employer breached the new duty to take reasonable steps to prevent it. There is no requirement that the employer's breach should have led to the harassment. Note – The Employment Rights Bill includes measures that will shake up the position on harassment still further. For more information on these, please see our alert - The Employment Rights Bill.

Topic	Key Date(s)	Overview	Action Required	Risks/Opportunities
To Be Considered				
Employment Rights Bill	• Published – 10 October 2024 • Anticipated to receive Royal Assent – Autumn 2025	Labour's new Employment Rights Bill sets out close to 30 employment law reforms, some of them pretty momentous. For more information on the proposals, please see our alert on the Employment Rights Bill. We will also be holding a webinar on this topic: The New Employment Rights Act Is Almost Here – What UK Employers Need to Know, on 19 November. For more information and to register, please click here. The latest set of consultations on the changes have recently been released. For more information, please see here.	• Employers should review the proposed changes and consider if any might have a particular impact (adverse or otherwise) on their business. • We recommend that employers engage loudly and comprehensively with any relevant consultation exercises. The government places weight on the number of responses from interested parties on any given point, so employers who consider any of this to be ill-founded would be well-advised to speak up now.	Our key takeaways for employers are: • Individuals will have greater rights • Trade unions will also have greater rights and protections • There are likely to be increased costs and administrative burdens for businesses • There will be more regulation and greater emphasis on enforcement of rights, including increased risk of claims, though no obvious improvements to the Employment Tribunals' resources for hearing them

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To Be Considered				
FCA CP25/18 **Tackling Non-Financial Misconduct (NFM) in Financial Services – Consultation Paper and New Rule** **Note: Relevant for Financial Services only**	• Consultation closed – 10 September • New rule – will apply from 1 September 2026 • Updated Handbook Guidance (if any) expected by end of 2025	• To ensure consistency across the sector, the Financial Conduct Authority (FCA) has confirmed that non-banks will be caught by the FCA's Code of Conduct Rules (COCON), bringing more instances of NFM within the FCA's remit. • In the FCA's own words, "previously it has been unclear when [serious bullying and harassment] would amount to a conduct rules breach in a firm other than a bank". • This change was proposed in the FCA's previous consultation paper CP23/20 and, as it was given what the FCA viewed to be "strong support", it will go ahead without further consultation. • The FCA has confirmed that this will bring an additional 37,000 regulated firms into scope, but notes that firms without a Part 4A permission will remain out of scope – for example, payment and e-money firms, as well as regulated investment exchanges and credit ratings agencies. • In the associated consultation (now closed), the FCA was seeking views on its proposed new Handbook guidance on NFM. The FCA has confirmed that it will only issue the guidance if firms confirm that it would be helpful.	• Review consultation paper and new rule - although the consultation has now closed, it is useful to understand the FCA's approach to NFM. • We advise firms caught by this to review their existing policies and procedures. • While the FCA has said it will not retroactively apply the new duty, firms are advised to ensure their practices are compliant with the COCON and should undertake risk assessments internally to ensure good practice in readiness for the implementation of the new rule.	• The FCA has shown that it takes NFM seriously. In its own words "serious misconduct such as bullying, harassment and violence is a matter of regulatory concern. By aligning the conduct rules in banks and non-banks for cases of serious NFM, we want to: – Give firms confidence to take robust action against serious misconduct – Drive consistency across the financial sector – Make it clearer when NFM can be a breach of our rules". • However, applying the rules is likely to prove challenging for firms, not least because the NFM principles do not always sit very comfortably alongside established employment law principles. • We responded to the consultation in collaboration with various clients, expressing our concerns and outlining the issues we thought any amended guidance needed to resolve. We await the outcome. Please get in touch with your usual firm contact if you would like to see a copy of our consultation response, or would be interested in participating in any of the events we have planned in coming months to help firms to prepare.

Spotlight on:

Tightening the Belt – Alternatives to Redundancy

In August of this year, in its latest Quarterly Labour Market Outlook, the Chartered Institute of Personnel and Development (CIPD) reported that approximately one in four UK employers was proposing to make redundancies within the next three months. The report makes for fairly sobering (if unsurprising) reading overall and includes the comment that "[e]mployer confidence remains low as businesses lick their wounds following a period of rising costs, including the tax rises, which have come into effect from April. While news may have quietened around the 'Trump tariffs', the impact on UK exports to the US was evident, with a fall from £6.1 billion in March 2025 to just £4.1 billion in May 2025".

Given the current economic uncertainty and the raft of employee-friendly rights due under the Employment Rights Bill (many of which will come at a price for employers), it seems unlikely that there is a boardroom in the UK that will not have cost-cutting or efficiencies on its agenda in some way, shape or form over the coming months, with certain sectors more likely to be impacted than others. Further job losses are also expected as the unstoppable rise of artificial intelligence (AI) means that more tasks are being automated.

The irony is, of course, that cutting jobs can lead to more cost, rather than less, if the processes are not managed properly. Redundancy programmes, particularly those which trigger the collective consultation obligations, require a significant amount of managerial time and input and may, certainly in the short-term, have an adverse impact on morale and therefore productivity.

Of course, there are times when making redundancies is necessary, in which case it will be key to ensure a properly-planned, well-run and well-communicated process to mitigate any unnecessary costs/time. However, employers may wish to consider other options as an alternative to (or possibly in combination with) redundancies.

To assist with your strategic planning, here is our guide to some of those alternatives, including a brief summary of some of the commercial implications and legal risks involved with each option.

This guide is for illustrative purposes only, and you should take specific legal advice in relation to any options you are considering implementing.

Alternatives to Redundancy

Option	Commercial Implications	Legal Risks
Option One: **Terminate Agency Staff/ Contractors/Consultants**	• Could create valuable cost savings • Consider impact on business strategy, future viability and flexibility going forward	• Ensure you comply with the termination provisions in contract(s) to avoid breach of contract claims. • Be careful to ensure you comply with any applicable "worker" rights (some individuals may have statutory rights as a "worker" even if they are not employees). • If you are bringing certain outsourced services back in-house, consider whether the Transfer of Undertakings (Protection of Employment) Regulations (TUPE) service provision change rules would apply.
Option Two: **Pay Freezes/Cuts/Reduction in Benefits Packages**	• Immediate cost savings • Can be implemented across the business, or just in parts (but partial pay freezes undermine the commercial rationale and so make obtaining employee "understanding" more difficult) • Negative impact on morale/market reputation post-crisis • Communication is key – the message will need to be managed carefully, to show that the business is taking steps to avoid/ reduce redundancies, to show this as a preferable alternative • Not viable as a long-term option – risk of losing staff/restrict ability to attract new staff	• There is no legal obligation to increase pay each year in absence of express/implied contractual obligation to do so (if you have collective agreements, carefully check the pay review arrangements to determine whether there are any express obligations to increase each year). • Achieving a pay cut/reduction in benefits provided is likely to be commercially more challenging and riskier from a legal perspective than pay freezes – including risk of unfair dismissal and unlawful deductions claims. • To achieve any pay cut or removal of any contractual benefits schemes, the business would need express agreement or employee consent. Failing this, the business would need to terminate existing contracts (on notice) and re-engage on the new terms (including the lower pay/reduced benefits) (known as "dismissal and re-engagement" or "fire and re-hire"). • Please see Can you just impose the change? for further information on dismissal and re-engagement.
Option Three: **Overtime Ban**	• Only likely to be relevant in certain industries/sectors, but where this is relevant, it could lead to immediate cost savings • Consider impact on ability to meet demand/flexibility	• Consider whether scope under the contract(s) to do this – if so, you can proceed on reasonable notice. • If employees have a contractual right to work a certain amount of overtime you will require consent or, failing that, you will have to terminate (on notice) and re-engage on new terms to implement the new overtime arrangements. • Please see Can you just impose the change? for further information on dismissal and re-engagement. • Risk of unfair dismissal or unlawful deductions claims. • Is consultation with a union required? Carefully check any overtime arrangements in collective agreements, as well as employment contracts.

Option	Commercial Implications	Legal Risks
Option Four: **Short-time Working and Temporary Lay-off**	• Traditionally more likely to be used in certain industries/sectors (e.g. manufacturing), but we have seen an increase in use in "white collar" workplaces, given the economic climate. • Suitable for short-term downturn in work only • Retain valuable staff	• A business cannot lay staff off unless there is a contractual right to do so, or you obtain the affected employees' express agreement to change their contracts to implement these changes. • Employees are normally resistant to such changes, but may be more agreeable to these arrangements if it means avoiding/reducing actual redundancies. • Employees will usually only agree to such arrangements if they are given assurances that they will be used with reasonable discretion, and for as short as period as possible. • Need not be imposed across the whole business, merely the affected areas. • Employees are more likely to agree to lay-off arrangements if the employer agrees to pay part of their salary/wages to cushion the financial blow of not working the normal hours. • Risk of constructive dismissal/unlawful deduction from wages claims if imposed. • Employees may become eligible for statutory guarantee payments. The maximum payment is currently £39 a day and is usually limited to five days in any three-month period.
Option Five: **Flexible Working, e.g. Working Part-time and Job Sharing**	• Could be introduced as a temporary measure • Effective means of reducing costs while retaining valuable staff	• Generally, the business will require employees' consent to change. • Be clear about terms, for example whether permanent or temporary, for how long, etc. • Ensure no discrimination in way scheme is implemented. • Part-time Workers Regulations – ensure that any part-time staff are not treated less favourably.
Option Six: **Sabbaticals/Secondments**	• Suitable for short-term downturn in work • May be attractive to staff looking for lifestyle change • Retain valuable staff and increase staff skills	• Generally, requires employees' consent to change. • Need to be clear about terms of sabbatical or secondment, e.g. whether unpaid or on reduced pay, what happens to employee status and what happens on return/maternity/termination?
Option Seven: **Re-deployment/re-training/ intragroup transfers/relocation**	• May be appropriate if some parts of the business are flagging, while others are doing well • Increase staff skill base • Positive impact on employee motivation • Recruitment savings (though may be additional costs of re-training)	• Consider terms of employment, whether temporary/permanent measure. • Check contract to see if scope to move employee – otherwise consent required, though less likely to be refused if terms and conditions are preserved and redundancy is the alternative.

Here Are Our Top Five Things to Think About When Proposing to Implement Any of These Changes

1. What is the business case for the change?

You should spend time at the outset thinking about the business case for any proposed change, and how this should be presented to the workforce. Effective communication is the key to implementing any changes smoothly. If employees understand the commercial drivers behind a proposed change, then they are more likely to agree to it – furthermore, any dismissals that arise as a result of employees refusing to agree to the change are more likely to be fair.

If you can win the battle of the minds at the outset it will make the process of introducing the change easier. Employees are likely to want to avoid being dismissed, as it may be more difficult for them to find alternative employment. This may mean that they are more willing to agree to changes to their terms and conditions of employment (even unfavourable ones), as this is better than being without a job at all.

2. What type of change do you want to make?

The nature of the proposed change will determine the process and ease with which you can make it.

Some changes, such as termination of agency staff, do not require any change in employees' terms and conditions of employment and can therefore be implemented immediately, and without employees' consent.

If the change will amount to a change in an employee's terms and conditions of employment, then things become more complicated because generally an employee's contractual terms can only be changed if they agree to the change – for more information see Can you just impose the change?.

Don't forget – a term may be contractual even if it is not expressly stated to be so. For example, a term may have become contractual by inclusion in the staff handbook (if stated to be contractual), by incorporation from a collective agreement or by custom and practice. You need to be cautious and should not simply assume that a term, policy or procedure is non-contractual.

3. Have you got any flexibility with your existing terms?

Some contracts contain an express power to change an employee's terms and conditions. It may say something like: the "Company reserves the right to vary the terms of this contract from time to time". However, you cannot rely on such a vague clause to make any fundamental changes to an employee's terms and conditions of employment. Such clauses only give employers the right to make minor and/or non-fundamental changes, changes they could probably make without that wording.

You will also be under an obligation not to act, even notionally in line with that clause, in such a way as to undermine the duty of trust and confidence that is implied into every contract of employment.

4. Can you just impose the change?

Not without risk. As stated above, the general rule is that an employee must agree to any changes to their terms and conditions of employment. If you impose a change you run the risk of the following claims: constructive dismissal, unfair dismissal, breach of contract or unlawful deduction from wages.

Obtaining an employee's agreement to any change will not be a problem if the change is to the employee's benefit, but clearly it may prove more difficult if the change is to their detriment, for example, a reduction in wages or a change in hours. This is why it is important for you to explain the business rationale for any change.

If employees are unwilling to accept proposed changes to their terms and conditions of employment, then the only "safe" way to make the change (from a contractual point of view at least) is to serve notice to dismiss them in accordance with their terms and conditions of employment, and then offer to re-engage them on the new terms and conditions when their notice expires. You can take a chance and rely on employee inertia to prevent claims being made, but how well that works will depend on the nature of the change and of your workforce. Organised workforces are generally less likely to let things go in this way.

Note: A Statutory Code of Practice on Dismissal and Re-engagement came into force in July 2024, which sets out the steps that employers should follow where the parties are unable to agree to changes to terms and conditions and the employer then goes down the dismissal and re-engagement route.

The government is proposing to legislate on/further restrict so-called "fire and re-hire" arrangements in the new Employment Rights Bill, which includes a change to the law on unfair dismissal so that dismissals for failure to agree to "restricted variations" (including any reduction in pay, changes to pensions and changes to hours of work) would be treated as automatically unfair, unless the employer can demonstrate financial difficulties such that the need to make the restricted variation in contractual terms was therefore unavoidable. A different test of fairness for unfair dismissal purposes would apply to non-restricted variations. For more information, please see our alert on the Employment Rights Bill. These changes are proposed to come into force in October 2026.

Termination and re-engagement count as a "dismissal" for collective redundancy purposes, so if applies to 20+ employees at one establishment in a 90-day period it will trigger collective consultation obligations.

5. When do you want to make the change?

The proposed timing of any change will always be important.

You should bear in mind that if the strategy is that any employees who refuse to accept proposed changes to their terms and conditions will be dismissed as a result (either on redundancy grounds or via the termination and re-engagement route), this may trigger the obligation to consult collectively under the Trade Union and Labour Relations (Consolidation) Act 1992. The collective consultation obligations are triggered where it is proposed that there will be 20 or more redundancy dismissals at the same establishment in any 90-day period.

The rules require 30 days' collective consultation where there will be 20-99 redundancies, rising to 45 days where there will be 100+ redundancies. Please note, changes are proposed to these thresholds under the new Employment Rights Bill, although these are not due to come into force until 2027. Please see our alert on the Employment Rights Bill for more information.

From a practical point of view, if you think it is going to be difficult to obtain employees' consent to the changes such that it may be necessary to dismiss more than 20 of them at any one establishment, you should consider commencing collective consultation at the outset.

How We Can Help

Including Access to our New Global Guide on Redundancies

This Spotlight provides an overview of the alternatives to redundancy in the UK. We recognise, however, that many of our global clients may be having to make cost-savings across a number of different countries at the same time, which can further complicate matters.

We are pleased to provide you with access to our latest Global Guide on Redundancies, with the aim of answering the key questions that multinational businesses are likely to have when considering and/or implementing redundancies in specific jurisdictions, and to assist in their strategic planning. Every year our team of experts successfully manages more than 400 such multi-jurisdictional projects. These projects demonstrate our ability to navigate complex multi-jurisdictional challenges while delivering strategic outcomes efficiently. We understand the nuances between global and local requirements and act as the crucial connector between them, ensuring seamless management of global employment projects. We excel not only in legal expertise but also in strategic insight, practical guidance and client focussed solutions.

If you would like to discuss a potential restructuring or redundancy programme either in one location or across multiple locations, please speak to your usual contact in the Labour & Employment team or any of the experts named within this Board Briefing or within the Guide.

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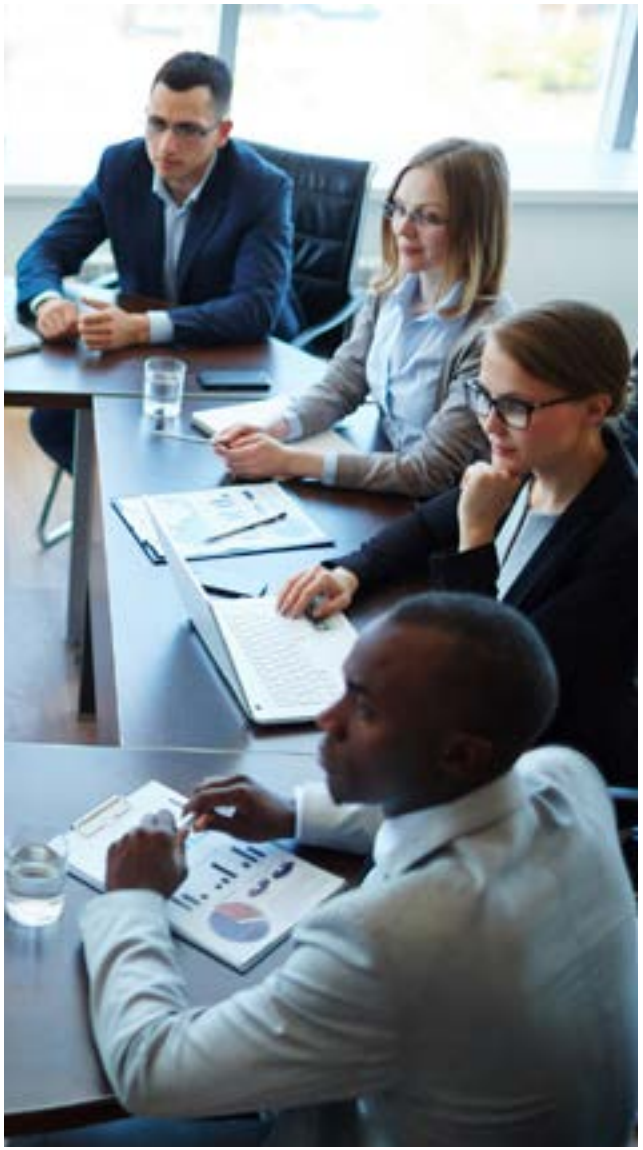

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