

Q&A

What does the change in government mean for HR?

Does the removal of the 2-year qualifying period for unfair dismissal mean the redundancy rules might change for people with under 2 years of service?

At present, to claim a statutory redundancy payment an employee must have been employed for a continuous period of two years and be dismissed by reasonable redundancy.

The government's proposal to remove the qualifying period for claiming unfair dismissal will apply to redundancy dismissals, but there is no indication yet if the qualifying period for claiming statutory redundancy pay will be removed or reduced in line with this.

Will the removal of the 2-year qualifying period for unfair dismissal mean the end of probationary periods?

No – Labour has made it clear that employers will still be able to operate probationary periods and dismiss employees during this time. However, there is no detail at this stage as to whether they might mandate what a fair probationary period would look like.

Advice is to look at what a fair probationary period is for the roles that you recruit for. If employers start to impose unrealistic probation periods, this might result in shorter terms being mandated.

Example – If you put in a 6-month probation period for a warehouse operative, would this be reasonable? Probably not. It would be realistic to presume that you should be able to evaluate the capacity of a new joiner in this type of role quite adequately in 3 months unless there are other mitigating circumstances.

Will the change to the waiting period for SSP also change the qualifying days?

Labour's proposals include requiring statutory sick pay to be paid from day one of sickness rather than day four, so this will involve removing the three-day waiting period, and the four or more days of incapacity, along with the lower earnings limit for eligibility. This would mean all employees will be entitled to SSP from their first day of sickness absence and there will be no earnings requirement to be eligible.

There was mention on the slides of the requirement for Employers to create and maintain workplaces free of harassment including by third parties. What does this mean for us?

Currently, employers are not liable for 3rd party harassment, that is harassment by anyone not employed by them. New laws are due to come into effect on 26 October 2024, but these may get a further review under the new government. The revised legislation (as it stands) will require that employers will have a greater duty of care placed on them to take reasonable steps to prevent sexual harassment, and if they are not seen to take sufficient action on this, they may face uplifted fines through an employment tribunal.

Our advice is to think about the roles that you have where there may be a risk of this occurring and look at what measures you can put in place to circumvent this.

Example: If you are employing bar staff, what can you do to reflect and educate employees and patrons about a “Zero tolerance” approach to your employees being harassed?

What policies do you have in place to deal with this and are employees educated on how they report these issues?

Do you know if changes (like the change for Day 1 rights) will be retrospective and apply to people who joined prior to the new legislation coming into effect?

There is no way of second-guessing this. Regrettably, this is one area where we will have to “wait and see”.

What are the reporting requirements that you mentioned on the slides for large businesses?

The government has said that they are committed to championing the rights of disabled people and will introduce a disability and ethnicity pay gap reporting requirement on top of the one that already exists for gender pay gap reporting.

What methods or tools can I use to assess a job role and determine the key criteria or qualifications for the ideal candidate?

This sounds like a good topic for another webinar!

Typically, you would start the process with a “clean sheet of paper” and build the role description – not around the existing role or existing employees, but around a role that you develop that is aligned with the company and department/team objectives.

The question is “What tasks need to be performed to meet the objectives?”

Then it comes down to “What level of proficiency do you need for those tasks”.

This of course is just a starting point....

What policies do I need to revise or what new ones should I create in response to these changes?

Until the legislation is implemented, there is no need to modify policies, but as we said in the webinar – start to think about the impact of these and what you can start to do to pre-empt some of these. The Presenter notes that you receive might give you a heads-up on this as a starting point.

Clients of Cintra HR Outsourcing have access to a complete suite of policies that they can customise to ensure that they are compliant, and of course, they are updated as and when legislation changes.