Party conferences – employment law proposals

Over the last month, the major UK political parties have been hosting their annual party conferences. With the general election in May 2015, the policies proposed and debated during this year’s conference season are of particular significance.

This update explores some of the key employment law changes proposed by the Conservatives, Labour, the Liberal Democrats and UKIP.

Hot topics
Zero hours contracts (ZHCs)
All of the main parties have taken a stand against ZHCs. The Government is proposing to introduce legislation banning exclusivity clauses in ZHCs, which effectively prevent workers from looking elsewhere for work during periods when the employer is not offering them work. However, given the limited amount of parliamentary time before the election, there is no certainty that this ZHCs provision will be in force by the end of next year.

Regardless of whether it comes into force in 2015, and whoever wins the election, ZHCs are likely to be an issue that will rumble on and on. Inevitably, unions have become very interested in this issue, and because of press interest, the feeling of injustice of ZHCs among the public has grown significantly in the last couple of years, and the political parties have responded to that.

Labour and UKIP have suggested substantial changes, with Labour’s shadow business secretary, Chuka Umunna, pledging to ban ZHCs. At the TUC conference in early September he outlined his plans, that employees who are on ZHCs for a single employer for more than 12 weeks would have the automatic right to a full-time contract based on the average time worked over that period.

In proposals similar to Labour’s, UKIP announced that they would devise a code of conduct that would give ‘large employers’ a duty to offer contractual fixed hours to workers who have been employed on a ZHC for a year. However, UKIP did not explain what a ‘large employer’ is, or what penalties there would be for breaching the code.

Extending employment rights
The idea of extending employment rights enjoyed by employees to other workers was raised by both Labour and the Liberal Democrats. Ed Miliband talked about equal rights for self-employed people, and vowed to “end this 21st century modern discrimination” but he did not explain what his proposals were, and whether he was talking about workers generally or just the self-employed.

During the Liberal Democrat conference, Vince Cable spoke about extending employment rights to workers. The department for Business, Innovation & Skills (BIS) subsequently announced a “wide-ranging” review of the employment status of workers, with the findings due to be reported in March 2015. Among other things, the review will consider the conditions of workers who do not qualify for full employment rights.
Currently, rights which workers are not entitled to include unfair dismissal protection, statutory redundancy pay, TUPE protection, statutory maternity leave rights and the right to request flexible working. Extending these rights to workers would have significant implications for employers in terms of how employers decide to structure their workforce, as well as them facing increased employment costs and potentially more tribunal claims.

Employment Tribunal fees
Although no reference was made to reforming the tribunal fees system at the Labour party conference, at the TUC Congress last month, Chuka Umunna said that “affordability should not be a barrier to workplace justice” and that Labour would abolish the current system and reform employment tribunals, but he did not give any details of what this would involve. It could mean Labour plans to abolish tribunal fees entirely, or to abolish certain fees, or that fees will just be payable by those on higher incomes. We are also completely in the dark as to what other tribunal reforms they are contemplating.

Promoting equality for job applicants of different social backgrounds
Labour’s Shadow Minister for Women and Equalities called for companies to monitor social background in the same way that they monitor race, gender and disability for job applicants. It is not clear how employers would be expected to categorise different types of social background in their diversity monitoring forms as this is subjective - different people define their backgrounds in different ways. However, some employers already monitor social background and this can be done, for example, by asking whether the applicant:
- Went to a state school
- Was the first generation in their family to go to university

Promoting diversity in the boardroom
Vince Cable has written to companies amid concerns that the government target of 25 per cent female representation on boards by 2015 will not be met by a number of the FTSE 250 companies. He is also preparing to launch a review into the lack of ethnic minority directors in Britain’s boardrooms, and has said he is confident that a voluntary campaign could begin to reverse the lack of diversity in boardrooms.

Labour’s position on diversity is similar, with an announcement by Chuka Umunna that if Labour wins the election, he will commission a report into boardroom diversity, in the context of female and ethnic minority representation, and that he would not take “quotas off the table”.

The gender pay gap
Labour also proposes to require companies with more than 250 employees to publish average pay figures, so that women can compare their pay to that of male colleagues.

So what does this mean?
What was significant about the Conservative party conference was the lack of proposed employment law changes, their only proposal being that a Conservative government would make it more difficult to take industrial action, by requiring a recent ballot in which there was a minimum 50% turnout.

By contrast, Labour and the Liberal Democrats outlined significant changes. Perhaps the most ground-breaking proposal is the idea of extending employment law rights to workers and the self-employed. Their plans for tribunal reforms could also have a substantial impact on businesses. With both parties likely to reform fees, an increase in tribunal claims would seem inevitable should they form, or be part of, the next government.