

A 'New Deal' for Workers in the UK?

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Abstract

The potential election of a Labour Government in the UK signals significant changes for employment rights and industrial relations. Keith Harvey assesses the UK Labour party's campaign commitments and the consequences for workers. Labour leader Sir Keir Starmer promises to ban exploitative zero-hours contracts, end 'fire and rehire' practices, and introduce some basic rights from day one, such as parental leave and sick pay. As Harvey discusses, the Labour Manifesto emphasises strengthening the collective voice of workers, including through some level of sector bargaining via Fair Pay Agreements, ensuring a genuine living wage, and creating a single enforcement body for employment rights. Their 'New Deal for Working People' aims to boost incomes, modernise workplace rights, and tackle insecure work, drawing inspiration from international practices to improve worker conditions and economic growth.

Key words

Employment rights, UK Election, labour party policy, UK industrial relations, zero-hours contracts, Fair Pay Agreements, living wage, 'securonomics', trade unions

The (likely) election of a Labour Government at the July 4th ballot in the United Kingdom after 14 years of Conservative Party rule raises a key question: what will this mean for employment rights and industrial relations legislation? Labour leader Sir Kier Starmer (named after Kier Hardie a founder of

political labour in the UK) has campaigned on a simple one-word slogan: Change. But what change does he have in mind?

The 130-page Labour Election Manifesto launched in Manchester spends little time on employment issues.¹ It summarises the Party's employment policies as follows:

... banning exploitative zero hours contracts; ending fire and rehire; and introducing basic rights from day one to parental leave, sick pay, and protection from unfair dismissal. We will strengthen the collective voice of workers, including through their trade unions, and create a Single Enforcement Body to ensure employment rights are upheld. These changes will improve the lives of working people across the entire UK.

Labour will also make sure the minimum wage is a genuine living wage. We will change the remit of the independent Low Pay Commission so for the first time it accounts for the cost of living. Labour will also remove the discriminatory age bands, so all adults are entitled to the same minimum wage, delivering a pay rise to hundreds of thousands of workers across the UK.²

Most importantly, however, the Manifesto promises to implement in full and with alacrity the policies outlined in the May 24th statement '*LABOUR'S PLAN TO MAKE WORK PAY – Delivering A New Deal for Working People*'.³ Some UK unions expected this plan to be watered down prior to the election but the final election Manifesto retained all elements of the original plan:

As the party of working people, Labour is committed to creating jobs that provide security, treat workers fairly, and pay a decent wage. Our New Deal is core to our mission for growth, raising living standards in every part of the country. Because creating well-paid jobs across all parts of our country is what it takes to rebalance our country.

Modernising the world of work will raise standards and tackle undercutting, so businesses are empowered to compete in a race to the top. By boosting incomes, ensuring workplace rights are fit for a modern economy and tackling insecure work, we'll increase productivity and create the right conditions for sustained economic growth.

We will also learn from countries around the world that are looking to boost worker voice in response to economic challenges. Economists across the board also recognise the vital role that workers' voices and unions have in delivering a strong economy and rising living standards.⁴

As might be expected, the May 24th Plan and the Manifesto have some elements that suggest that UK Labour is seeking to be 'all things to all people'. The Plan, for example, states that the Labour Party is both "pro-worker and pro-business" and the "party of the self-employed."⁵ This will be a difficult balancing act.

'Securonomics'

For employees, the Plan calls for the ending of "one-sided flexibility" enjoyed by employers at the expense of workers. The British Trades Union Congress has estimated that up to one in every eight workers – or more than four million people – are in insecure work:

The analysis of official statistics shows the number of people in precarious employment – such as zero-hours-contracts, low-paid self-employment and casual/seasonal work – increased by nearly one million between 2011 and 2023.

Over that period insecure work rose nearly three times faster than secure forms of employment. While the numbers in insecure work increased by 31%, those in secure employment increased by just 11%.

...

However, in some parts of the country, such as the West Midlands and the South West, this number has risen to 1 in 7.

Low-paid industries have fuelled most of the growth.

The growth in insecure work since 2011 has been fuelled mainly by lower-paid sectors of the economy.

In care, leisure, service occupations and elementary occupations the number of people in precarious employment has rocketed by over 600,000 (+70%) since 2011.⁶

Labour's Make Work Pay plan promises to rectify the consequences of this trend, coining a novel word to describe their objective:

We are committed to Securonomics, which will give working people security in their day-to-day lives – this involves banning exploitative zero hours contracts and ending fire and rehire.

...

Labour will end 'one sided' flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period.

...

'Fire and rehire' is the practice of an employer making an employee redundant and then re-engaging them on reduced terms and conditions. The threat of fire and rehire is often enough to ensure employees are 'voluntarily' agreeing to lower pay and reduced terms and conditions. Good businesses rightly do not want to be associated with practices like fire and re-hire.

...

Labour will end the scourges of 'fire and rehire' and 'fire and replace' that leave working people at the mercy of bullying threats. We will reform the law to provide effective remedies against abuse and replace the inadequate statutory code brought in by the Government, with a strengthened code of practice.

...

Our New Deal will include basic individual rights from day one for all workers, ending the current arbitrary system that leaves workers waiting up to two years to access basic rights of protection against unfair dismissal, parental leave and sick pay.⁷

Bogus self-employment

The UK, like Australia and other advanced economies has been plagued by so-called independent contractors, including gig workers in food delivery and other sectors, who are employees in all but name

but lack employment rights. The Labour Plan seeks to remedy this. The Plan notes that in the UK, there is a 'three-tier' employment system of employees, the self-employed and workers. The distinctions between the three categories are complex and difficult to understand. The Plan notes:

In some extreme cases, the ambiguity has been deliberately used to cut costs and avoid legal responsibilities. Labour believes our three-tier system of employment status has contributed to the rise of bogus self-employment, with some employers exploiting the complexity of the UK's framework to deny people their legal rights. The complexity has meant businesses and workers are reliant on lengthy legal processes to resolve issues.

Therefore, we will move towards a single status of worker and transition towards a simpler two-part framework for employment status. We will consult in detail on a simpler framework that differentiates between workers and the genuinely self-employed.

We will consult in detail on how a simpler framework that differentiates between workers and the genuinely self-employed could properly 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, while ensuring that workers can benefit from flexible working where they choose to do so. We will also evaluate the way flexibility of 'worker' status is used and understood across the workforce and the way it interacts with and is incorporated into collective agreements.⁸

Low Pay and Fair Pay Agreements

A previous Labour Government established the Low Pay Commission, which has been a significant boost for low paid workers. The Conservative party manifesto for the 2024 election points to increases in the value of the UK Minimum Wage as one of its central achievements in employment matters.

We introduced the National Living Wage in 2016 and this year achieved our ambition of raising it to two thirds of median earnings –increasing it to £11.44 per hour and extending it to cover all workers aged over 21. This ended low pay for those on the National Living Wage, with someone working full-time receiving a pay rise

worth £1,800. As a result of our personal tax cuts and increases in the minimum wage, the take-home pay of someone working full time on the National Living Wage has gone up by 35% in real terms since 2010.

We will maintain the National Living Wage in each year of the next Parliament at two-thirds of median earnings. On current forecasts, that would mean it rising to around £13 per hour, up from a minimum wage of £5.80 under Labour in 2010.⁹ [Incidentally, by comparison, the Australian Fair Work Commission in its 2024 Annual Wage Review Decision estimated that the Australian Federal Minimum Wage is 55.2% of Australian median earnings].¹⁰

The UK Labour Plan seeks to further improve the UK Living Wage, tasking the Low Pay Commission with improving the adequacy of minimum pay standards, by requiring the Commission to specifically include consideration of cost-of-living in its deliberations and calculations. Moreover, the Labour Party has clearly taken notice of low pay developments in other parts of the world, including in far-flung New Zealand where the Ardern Labour Government legislated to allow Fair Pay Agreements across industry sectors and occupations during its second term. Unfortunately, these were strangled at birth by the incoming conservative National Party which scrapped the legislation within weeks of coming to office in November 2023.¹¹ However, this concept may get a new life in the ‘Mother Country.’

Fair Pay Agreements are designed to be of broad application – that is, beyond individual enterprises bargaining constraints – and to apply in sectors and occupations that for one or more reasons struggle to bargain collectively. This often applies in social and community services where a single government is the funder but not the employer. UK Labour has selected this sector for its first foray into Fair pay Agreements:

We will start by establishing a new Fair Pay Agreement in the adult social care sector, 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 help us tackle the serious recruitment and retention crisis facing the sector, deliver higher standards for those receiving care and help us to tackle NHS waiting lists.

Labour will consult widely on the design of this Fair Pay Agreement, learning from those economies where they already operate successfully, ensuring the highest standards of representation and accountability.¹²

The importance of sector wide bargaining in improving standards for low paid and award reliant employees – and the failure of enterprise bargaining to do so – was discussed in AIER's book *A New Work Relations Architecture*, Chapter 8.¹³

A new deal in union rights?

Labour's 'new deal' plan provides for a raft of modernised and improved rights for trade unions, including a considerable number of provisions that sound as if they might be modelled on Australia's Fair Work Act, including representation rights and notifications to employees. Further work is also planned to improve pay equity.

UK Labour also proposes significant reforms to employment regulation and disputes settlement. Unlike Australia, the UK does not have a tradition of State intervention in the prevention and settlement of disputes. Regulation is piecemeal. According to the Plan:

Britain's labour market enforcement system is unusually fragmented and inefficient. We have multiple different enforcement bodies, each with narrow remits, reporting to different government departments.

This has very real consequences – workers and businesses do not know where to report breaches, enforcement is poorly coordinated, and the bodies struggle to work coherently with both unions and businesses. Businesses that want to play by the rules also don't know where to go for authoritative advice.

Working people cannot properly uphold their rights as a result, and businesses are routinely undercut by a small minority of unscrupulous employers. Hard-won rights are all too often dismissed for workers in precarious work or those employed from overseas in sectors like social care and agriculture.¹⁴

Labour is proposing a 'one stop shop' for the enforcement of employment rights:

A single enforcement body for workers' rights would better support businesses who want to comply with the rules, create a strong, recognisable single brand so individuals know where to go for help and lead to a more effective use of resources and coordinate enforcement action.

....

Labour will deliver where the Conservatives have failed. We will finally establish a single enforcement body to enforce workers' rights, including strong powers to inspect workplaces and take action against exploitation. This will include discriminatory practices against migrant workers, who are vulnerable to some unscrupulous employers.

We will establish a Single Enforcement Body, with trade union and TUC representation, to ensure greater coordination in the face of complex enforcement challenges. This body will have the powers it needs to undertake targeted and proactive enforcement work and bring civil proceedings upholding employment rights.¹⁵

Labour also promises improvements to employment tribunals to modernise and streamline their operations and to allow the resolution of collective disputes. Again, in the absence of a statutory tribunal with the powers to arbitrate disputes, the UK has relied on a government-funded but largely voluntary service known as ACAS, the Advisory, Conciliation and Arbitration Service. ACAS appears to function as a body to which parties can go voluntarily to seek to conciliate disputes, or where this is agreed by the parties, to independent [private] arbitration.¹⁶

Labour says that while current structures allow for individual grievances to be dealt with collective disputes may not be handled in this manner. The Plan says:

Whilst workers can formally raise a grievance that they've experienced at work individually via ACAS, no mechanism exists to do so collectively. In the worst cases, this can mean that some workers may not know that other people have experienced the issues that they have, meaning bad or illegal practice can continue without properly being dealt with.

Labour will make it easier for workers to raise grievances about conduct at work. Labour will enable employees to collectively raise grievances about conduct in their place of work, to ACAS. This will be in line with the existing code for individual grievances.¹⁷

The importance of an easily accessible tribunal – divorced from excessive legalities and costs – for the resolution of disputes relating to work, workers and employers remains a fundamental feature of any industrial relations and employment architecture designed to deal with the challenges of the present and the medium to long term future as work continues to evolve rapidly. This was also a central theme and objective of AIER’s “New Work Relations Architecture.” Australian ER/IR practitioners will watch closely to see how an incoming UK labour Government seeks to deal with these – and the many other critical issues identified in its 2024 election Manifesto and New Deal Plan.

Declaration of interests

Nil.

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¹ See: <https://labour.org.uk/change/>

² Ibid, p 45

³ See: <https://labour.org.uk/updates/stories/a-new-deal-for-working-people/>

⁴ Ibid, p 3

⁵ Ibid, pages 4 and 8

⁶ See: <https://www.ier.org.uk/news/number-of-people-in-insecure-work-reaches-record-4-1-million/>

⁷ Ibid, pages 5-9

⁸ Ibid, pages 7-8

⁹ The Conservative and Unionist Party Manifesto 2024, pp 14-15

¹⁰ [2024] FWCFCB 3500, par 77 at p 33

¹¹ See: <https://www.employment.govt.nz/about/news-and-updates/the-repeal-of-fair-pay-agreements-legislation/>

¹² See: a-new-deal-for-working-people, op. cit. p 13

¹³ See: Fleming, J. [ed.], *A New Work Relations Architecture*, Hardie Grant 2022

¹⁴ See: a-new-deal-for-working-people, op. cit. p 19-20

¹⁵ Ibid, p 20

¹⁶ See: <https://www.acas.org.uk/about-us>

¹⁷ See: a-new-deal-for-working-people, op. cit. p 21