Introducing the Good Work Plan

Though plans have changed due to Brexit, practices still need to prepare for changes to tax systems from April 2019

Andrew Rayment is a partner at Walker Morris. He covers all areas of employment law with a particular expertise in dealing with TUPE, collective consultation, insolvency scenarios and dispute resolution (including restrictive covenants). He has experience dealing with employment issues across all business sectors.

While 2019 is likely to be dominated by Brexit developments, it is also set to be an eventful year for employment law as the government enacts its recently announced Good Work Plan. Hailed by the government as “the biggest package of workplace reforms for over 20 years”, it is described as “the culmination of the Taylor Review into working practices in the modern economy which made key recommendations to promote ‘good work’”.

Background

In July 2017, Matthew Taylor published the independent Taylor Review of Modern Working Practices, which looked into the issues in the UK labour market such as the implications of new forms of work, the rise of digital platforms and the impact of new working models.

The review made 53 recommendations to the government. In February 2018, the government published a full response, accepting a vast majority of the recommendations.

Alongside the response, the government also launched four consultations to seek stakeholder views on the approach to implementing changes to the law employment status, agency worker rights, increasing transparency in the labour market and enforcement of employment rights recommendations.

The Good Work Plan draws on the feedback from these consultations and sets out the government’s commitments to improve working conditions for agency workers, zero-hour workers and other atypical workers in the UK economy. As the Taylor Review identified, the British model of flexibility works well. However, the plan states that as well as benefiting from the rise in more flexible and varied ways of working, it is imperative that the government prevents erosion of the key protections workers should expect to rely on.

The timetable for implementation of all aspects of the plan is not yet laid out but, as 2019 progresses, we expect to see more draft legislation being published, and it is likely that most of the changes will take effect in 2020. The measures in the Good Work Plan are broken down below.

A commitment to improve the clarity of the employment status tests

There is no question that the existing employment status tests have contributed to a lack of clarity faced by individuals and employers. Recent cases on worker status involving “gig” employers such as Uber, Citysprint and Deliveroo only serve to illustrate this point.

The government has recognised in the Good Work Plan that having a separate framework for determining employment status for the purposes of employment rights and tax makes it very confusing for individuals and employers – locums and practices included. It comments that it can drive behaviour detrimental to workers and that is also more likely to result in non-compliance from a tax perspective. Matthew Taylor had recommended in his review that renewed effort should be made to align the employment status frameworks for the purposes of employment rights and tax to ensure that the differences between the two systems are reduced to an absolute minimum.

The government agrees that this is the right ambition and has said that it will bring forward detailed proposals on how the frameworks could be aligned and do more to help individuals and businesses understand their rights and tax obligations in light of emerging business models.

This is an area that employers will be monitoring very closely. As recent case law has shown, it can be notoriously difficult to determine whether an individual or self-employed contractor is a worker or an employee and this can lead to significant business risk and exposure to claims for back payment of wages.