

Meet McGuireWoods LONDON

What Lies Ahead?

Over the past year, employment law has focused predominantly on emergency measures designed to cope with the impact of the COVID-19 crisis. As the UK prepares for the post-pandemic world, our employment law team highlights some issues to come...

Shall we all relinquish our office spaces because everyone wants to work from home permanently?

Employers must decide whether they wish to enforce contractual terms requiring employees to work from the office, mindful that employees may vote with their feet if they are not happy. Another issue is that more employees with 26 weeks' service may choose to exercise their statutory right to request flexible working. The past year or so has demonstrated that many employees can perform elements of their roles just as productively while working remotely, if not more so. Therefore, one of the lasting employment law legacies of the pandemic may be an increase in statutory flexible working requests and greater challenges to finding credible grounds for employers to refuse those requests, given the evidence of the past year.

Are there any interesting areas of potential change to look out for in employment law?

Yes, one of which may be of particular importance to many employers. The UK government consultation about whether to reform the law around post-termination noncompete restrictive covenants closed on 26 February 2021. The consultation seems principally to be concerned with whether noncompetes should simply be unenforceable or whether they should be enforceable only in consideration for a payment over the period of restriction. The law relating to restrictive covenants and noncompetes in particular is one fraught with risk to employers, given that crucial protections can be lost entirely through drafting errors. It remains to be seen whether reform materializes and, if it does, whether this will provide greater legal certainty for employers, one way or another.

Are we likely to see significant change to employment law following Brexit?

This will probably be limited in the short term. The UK's trade deal with the EU is positioned to limit the extent of immediate major changes to the UK employment law regime in a number of ways. Only appellate courts (in England and Wales, principally the Supreme Court and Court of Appeal) may depart from retained EU law when they consider it right to do so. Furthermore, under the terms of the agreement reached with the EU, the UK government is permitted to make changes to domestic employment law, but should not do so in a way which diminishes core employment rights and affects trade or investment. So, the employment law landscape is unlikely to change dramatically in the near future.

Meet the Team



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Our London employment law team offers practical and commercial advice on all contentious and noncontentious employment matters, including employee terminations, discrimination issues, restructuring and redundancy planning. Dan Peyton has a depth of experience defending employment claims and is supported by Adam Penman, who has focused knowledge in employee benefits and incentives and data protection issues.

For more information, please contact [Dan Peyton](#) or [Adam Penman](#).