

CHANGING THE WAY WE WORK?



What the Taylor Review means for the retail and consumer sector

The Taylor Review of Modern Working Practices was published on 11 July 2017 and makes **wide-ranging recommendations for the reform of working practices in the UK**. The overriding ambition of the Review is to make the case for all work in the UK to be fair and offer a realistic scope for development and fulfilment. If implemented, the proposals will affect all employers across all sectors. However, the following proposals have the potential to have a particularly significant impact on working practices in the **retail and consumer ('R&C') sector**:

- ▶ **New employment status of "dependent contractor"** – New employment status of "dependent contractor" – It's proposed that workers who are not employees should be rebranded under the title of "dependent contractors," with a clear test for the new status which would look at the amount of control and supervision the employer exerts over the individual. Most individuals employed within the R&C sector are employees, but for those individuals who are currently classified as self-employed contractors (because they have a "substitution clause" in their contract which allows them to send someone else in their place to do the work) could move to the new 'dependent contractor' status in future. For employers within the R&C sector this will bring a set of enhanced obligations and costs such as paid holiday, rest breaks and pensions auto-enrolment.
- ▶ **New higher rate National Minimum Wage for non-guaranteed hours of work** – The Review proposes a new uplifted rate of National Minimum Wage for hours worked which are not guaranteed under the contract. As well as enhancing pay for those engaged on zero hours contracts, this proposal would also uplift the rate of pay for non-guaranteed overtime hours, and so is likely to have a particular impact in the retail sector. Under this proposal, businesses who engage workers or employees on contracts for a low set number of days / hours per week but then regularly require a higher number of hours to be worked would see an increase in their base costs, because workers would be entitled to a higher rate for the non-guaranteed work.
- ▶ **Zero hours workers who have been engaged for 12 months or more would have the right to request guaranteed hours** – This proposal would give long-serving zero hours workers the right to request a guaranteed hours contract which reflects the number of hours they typically end up working. It should be noted that this only provides employees with a right to request, rather than a right to have, but employers will have to put in place appropriate procedures and consider such requests reasonably. It is also proposed that employers should be required to publicly report on the number of requests received and how many were accepted.
- ▶ **Change in the calculation of holiday pay for those who work irregular hours** – The Review proposes that the reference period used to calculate holiday pay should be increased from 12 to 52 weeks to take account of seasonal variations in work. This will benefit workers who work irregular hours by ensuring that their holiday pay is not depressed after a period of working fewer hours. Conversely, it would also help employers by ensuring holiday pay is not inflated after a period of working more hours, for example as typically happens in the retail sector over the Christmas period. If this proposal comes into force, employers will need to ensure their payroll systems are adjusted to take account of the longer reference period, and any associated policy should also be updated to reflect the change in how holiday pay is calculated (if this is covered in the affected policy).

- ▶ **Statutory sick pay to be a basic 'Day 1' employment right for all workers** – Another proposal is for statutory sick pay to be reformed so that it is a basic employment right for which all workers are eligible, regardless of income, from Day 1. This will increase employers' pay bills, so employers may wish to consider working out the likely approximate cost per annum of this reform (i.e. number of workers x average number of sick days taken per year) and consider how they might fund this additional cost.
- ▶ **Better protections for agency workers** – A number of recommendations are made aimed at improving the position for agency workers, who can often be used within the R&C sector, particularly in warehouses and distribution centres. The proposal include: providing clearer information on pay arrangements and giving agency workers the right to request a direct contract of employment after 12 months. Significantly, it is also proposed that the "Swedish derogation" would be abolished, which allows agencies to avoid matching end-user pay rates. If abolished, employers' costs for engaging affected agency workers could increase as they would become entitled to the same rate of pay as comparable employees after 12 weeks. The Review also suggests that employers above a certain size should be required to publicise their employment model and use of agency workers.
- ▶ **Low Pay Commission** - It is proposed that the Low Pay Commission will work with employers, employees and stakeholders to:
 - ▶ Promote quality work across all regions and sectors; and
 - ▶ Develop sector-specific codes of practice that "support the provision of quality work".

The Review states that this proposal should be one of the Government's priorities over the next 12 months, with the initial focus on driving productivity in the R&C, care and hospitality sectors. Therefore, R&C businesses may wish to consider who within their company will be responsible for engaging with the Low Pay Commission on this agenda.

You can access our full report analysing the impact of the proposals contain in the Review [here](#)

Who to contact

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