

Module	EMPLOYMENT
Jurisdictions	UK
Legal Expert	<p>PAUL GRIFFIN</p> <p>Head of Employment - Europe, Middle East and Asia, Norton Rose Fulbright LLP</p> <p>https://www.nortonrosefulbright.com/en/people/121377 https://www.linkedin.com/in/paulgriffinnortonrose/</p> <p>AMANDA SANDERS</p> <p>Knowledge Director, Precedent, Norton Rose Fulbright LLP</p> <p>https://www.nortonrosefulbright.com/en/people/121254 https://www.linkedin.com/in/amanda-sanders-64922864/</p> <p>SUZIE KEMP</p> <p>Senior Associate, Norton Rose Fulbright LLP</p> <p>https://www.nortonrosefulbright.com/en-gb/people/137975 https://www.linkedin.com/in/suzie-kemp-87040333/</p>

Module Application

Does your organisation comply with all relevant employment laws to ensure it protects the organisation, its workers and prospective workers and provides a fair and inclusive place to work?

Does your organisation understand the different types of employment status that exist under UK employment law and has it ensured that individuals are provided with the minimum rights attached to the employment status of the individual?

Does your organisation understand the obligations relating to the recruitment of staff?

Does your organisation understand the purpose and implications of entering into a contract of employment?

Does your organisation comply with regulatory requirements relating to Remuneration, Tax, PAYE, National insurance contributions and Pensions?

Does your organisation comply with working time, Sunday trading, lay-off and short-time working requirements?

Does your organisation comply with obligations regarding the statutory annual amount leave, sickness absence, family friendly leave including maternity and parental leave, carers and rights regarding flexible work arrangements?

Does your organisation comply with regulatory requirements relating to fair treatment and equality in the workplace?

Does your organisation comply with regulatory requirements and legal obligations relating to data protection, monitoring, surveillance, privacy and remote work, in relation to workers?

Does your organisation comply with regulatory requirements relating to disciplinary and grievance procedures?

Is your organisation aware that UK trade union and labour relations laws impose significant obligations on trade unions and employers in respect union members, officials and employees?

Does your organisation comply with regulatory requirements relating to obligations to inform and consult with the workforce?

Does your organisation comply with legal obligations on the transfer of a business or an outsourcing transaction under TUPE?

Does your organisation comply with regulatory requirements relating to end of employment procedures?

Module Scope

Every UK employer has legal obligations it owes to workers and prospective workers. Employers must ensure that all workers are treated fairly. This involves understanding various sources of legislation including, the: Employment Act 2002, Employment Relations Act 1999, Employment Rights Act 1996 and Equality Act 2010. There are many more primary and secondary pieces of legislation which inform this complex area of compliance and relate to:

- Recruitment
- Working time, leave, entitlements and other benefits
- Employment status
- Protection from discrimination
- Data protection
- Disciplinary and grievance procedures
- Dismissal processes
- Information, consultation and trade union rights
- Transfer of a business

The module breaks its recommendations into the following core obligations:

1. Types of Employment Status

Under UK law, an individual's employment status will be either: a worker, an employee or a self-employed individual (also referred to as a contractor). An individual's employment status will determine the rights and responsibilities that apply to them.

There are further categories of workers, who will have rights equivalent to the employment status of an employee, a worker or a self-employed individual. These are:

- Zero-hours workers
- Agency workers

- Apprentices and paid interns
- Unpaid workers such as unpaid interns and volunteers

2. Recruitment

An organisation must be aware of the necessary processes, risks and obligations associated with their recruitment process. These obligations involve:

- Protection from Discrimination: Ensuring both the employer and their agents do not unlawfully discriminate against applicants
- Handling of Personal data: Ensuring that any personal data obtained throughout the recruitment process is correctly identified, processed, and used in accordance with the relevant laws
- Right to Work checks: Conducting and recording routine checks on prospective employees' 'right to work', including ongoing follow up checks on employees' who are subject to temporary permissions to work in the UK
- Criminal Record checks

3. The Contract of Employment

An organisation must ensure that all employment contracts are drafted and maintained in accordance with relevant laws and regulations. Compliance involves understanding that there are some terms which are statutory minimum terms, which must be included in an employment contract. Organisations should also be aware of other terms which may be implied into the employment relationship.

4. Remuneration, Tax, PAYE, National Insurance Contributions and Pensions

An organisation must ensure it complies with obligations relating to:

- The level of remuneration, including statutory minimum pay
- Income tax calculations and deductions, what amounts to earnings and the allowances for employees
- How to operate Pay as You Earn (PAYE) and how to process the correct income tax and National Insurance contributions
- Complying with the automatic enrolment scheme with regard to eligible jobholders' rights to participate in an occupational pension scheme or a personal pension scheme and the minimum level of contribution required
- Understanding what deductions can lawfully be made from a worker's pay

5. Working Time, Sunday Trading, Lay-off and Short-Time Working

An organisation must ensure that it complies with all obligations relating to a worker's rights with regard to their working time. An organisation has an obligation to ensure:

- Workers' average working time and rest periods comply with the Working Time Regulations 1998. This includes time in relation to maximum weekly working time, night workers, daily rest breaks and weekly rest periods
- Certain protected retail sector or betting workers have the right to refuse to work on Sundays, and employers must ensure that they comply with their obligations in respect of them

6. Leave, Absence, Parents, Carers and Flexible Work Arrangements

An organisation must act in accordance with their obligations and employees' rights in relation to:

- Annual leave and annual leave pay
- Sickness and injury absence
- Statutory Sick Pay and Occupational Sick Pay
- Maternity leave and rights (including pregnancy and antenatal)
- Paternity leave and rights
- Adoption leave and rights
- Shared parental leave and pay
- Unpaid parental leave
- Parental bereavement leave and pay
- Flexible working and flexible working requests
- Leave for other unexpected events and outside demands

7. Fair Treatment and Equality in the Workplace

UK discrimination laws prohibit any discrimination on the grounds of protected characteristic(s). These protected characteristics are:

- Age
- Disability
- Gender reassignment
- Marriage and civil partnership
- Pregnancy and maternity
- Race
- Religion or belief
- Sex
- Sexual orientation

Prohibited discrimination includes:

- Direct discrimination
- Indirect discrimination
- Harassment
- Victimisation
- Discrimination arising from a disability
- Failure to make reasonable adjustments (in cases of disability)

Part-time workers, fixed-term workers and whistleblowers also have statutory protections against their being less favourably treated because of their part-time, fixed-term or whistleblower status.

8. Data Protection, Monitoring, Surveillance, Privacy and Remote Working

An organisation must comply with the relevant laws, regulations, and enforcement by the Information Commissioner's Office (ICO) in relation to protecting their workers' data and privacy. This extends to the surveillance and monitoring of their workers.

Furthermore, an organisation must ensure they are complying with specific legal obligations relating to employees who work from home or in a hybrid manner.

9. Discipline and Grievance

An organisation must follow a fair and transparent process when dealing with any disciplinary or grievance situation.

- Disciplinary situations involve alleged misconduct and/or poor performance by employees
- Grievances are concerns, problems and complaints that employees raise with their employer

An organisation should have clear, written disciplinary and grievance procedures in accordance with the Acas Code of Practice on disciplinary and grievance procedures.

10. Trade Unions and Industrial Action

UK trade union and labour relations laws impose significant obligations and requirements upon both trade unions and employers in respect of union members, officials and employees.

Trade unions must comply with specific statutory requirements in respect of their:

- Registration and administration
- Obligations to union members
- Recognition and derecognition
- Collective agreements and collective bargaining (see Definitions); and
- Strikes and other industrial action

There are also specific employment protections and rights afforded to all employees based upon their trade union membership (or non-membership) status which all employers must comply with.

11. Information to and Consultation with Employees

In certain situations, employers have obligations to inform and consult with employee representatives. This can arise where:

A body is set up to consult under the UK employment regulations on the information and consultation of employees (the Information and Consultation of Employees Regulations, or

Where a specific event may trigger a collective consultation requirement. This can include:

- Collective redundancies
- The transfer of an undertaking under the Transfer of Undertakings (Protection of Employment) Regulations 2006
- Health and safety matters
- Changes to occupational and personal pension schemes

12. Transfer of business -TUPE

When an organisation transfers its business or part of its business, or outsources part of its business, the employees may have certain rights and be protected under TUPE. Where TUPE applies, an organisation has to be aware of the following:

- The contracts of employment of the assigned employees and associated rights and obligations automatically transfer to the new employer

- › A change to a contract of employment (whether implemented by the old or new employer) will be void (even if the employee purports to agree to the change) if the sole or principal reason for the change is the transfer, unless there is an 'economic, technical or organisational reason entailing changes in the workforce' (ETO)
- › The dismissal of an employee will be automatically unfair for the purposes of unfair dismissal law if the reason for dismissal was the transfer unless there is an ETO reason
- › The old employee must provide the new employer with information about the employees at least 28 days before the transfer. This is known as 'employee liability information'
- › The application of TUPE triggers an obligation to inform and potentially consult representatives of affected employees in relation to the transfer and its impact on them

13. End of Employment

An organisation must comply with regulatory requirements when ending an employee's employment. This includes:

- › Notice Periods: Complying with the correct notice periods where required
- › Resignation: Ensuring that it is clear when a worker has resigned
- › Summary Dismissal: Ensuring that the organisation is entitled to dismiss the worker summarily and the implications of failing to do so
- › Retirement: Understanding the issues regarding retirement
- › Redundancy: Being aware of when a redundancy situation arises, the right to a redundancy payment, carrying out a fair redundancy procedure and complying with collective consultation procedures if they apply
- › References: Understanding obligations regarding the giving of references
- › Avoiding Unfair Dismissal: Understanding the fair reasons for dismissal and how to carry out a dismissal fairly to limit any claims by employees for unfair dismissal

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