This is a list of the UK legal risks that we can foresee affecting employers over the next few years & the position as it stands for each development in **Northern Ireland**.

<table>
<thead>
<tr>
<th>Employment Law Changes</th>
<th>Likely/Actual Implementation Date (in the UK)</th>
<th>Implications</th>
<th>Position &amp; Timescale in Northern Ireland</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Flexible Working – Extending the Right to Request</strong></td>
<td>30 June 2014</td>
<td>Many employers already allow flexible working for all employees, not just those with childcare responsibilities, but if this is not the case you may want to consider reviewing existing policies to allow this.</td>
<td>Following public consultation on the issue, DELNI has proposed an extension of the right to request flexible working to all employees but also proposes to retain the existing statutory procedure for dealing with requests.</td>
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<tr>
<td>The right to request flexible working is to be extended to all employees which the Government hopes will remove the &quot;cultural expectation&quot; that flexible working only has benefits for parents and carers. Currently, only those employees with 26 weeks’ service who qualify as parents or carers are granted the right to request flexible working. Employers will no longer be required to follow the statutory procedure for considering such requests and instead will be required to consider all requests reasonably.</td>
<td>30 June 2014</td>
<td>On a general note, the focus over the next few years will be on flexible, family friendly employment practices and consequently employers should give consideration as to how to make their existing policies more family friendly and flexible.</td>
<td></td>
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<tr>
<td>The Government legislated for this reform through the Children and Families Bill Act 2014 which has now received Royal Assent.</td>
<td>30 June 2014</td>
<td>Acas Guidance <a href="#">Click here</a></td>
<td></td>
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<tr>
<td>It is anticipated that the reform will come into force on 30 June 2014.</td>
<td>30 June 2014</td>
<td>Acas Code of Practice: <a href="#">Click here</a> (Annex A)</td>
<td></td>
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<tr>
<td>Acas has finalised its code of practice and guidance on handling flexible working requests in light of the reform.</td>
<td>30 June 2014</td>
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<tr>
<td><strong>Increase in National Minimum Wage Rate</strong></td>
<td>1 October 2014</td>
<td>This is a significant increase in the NMW rate and will lead to an increased wage bill for those employers paying the NMW rate.</td>
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<td>The Government has confirmed that, from 1 October 2014 the NMW will be raised as follows:</td>
<td>1 October 2014</td>
<td></td>
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<td></td>
<td></td>
<td>This will apply in NI.</td>
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</table>
Employment Law – What's on the Horizon?

- Adult rate – increased 19p from £6.31 to **£6.50** per hour
- Rate for 18-20 year olds increased 10p from £5.03 to **£5.13** per hour
- Rate for 16-17 year olds increased 7p from £3.72 to **£3.79** per hour
- Rate for apprentices increased 5p from £2.68 to **£2.73** per hour

**Equal Pay Auditing**

Legislation implemented in 2013 gives the Government power to create new regulations that would allow employment tribunals to order businesses to undertake an equal pay audit if they are found to have breached equal pay laws.

The Government has said that employers will not be required to publish the results of such pay audits and has published a further consultation seeking views on the scope and details of these Regulations and related issues. This closed on 18 July 2013. The Government hopes that the legislation will come into force in 2014.

2014

Where such cases are raised, employers will need to be aware of this extra audit requirement. The audit requirement could increase employers’ appetites for settlement in cases that are identified as having poor prospects of a successful defence.

Government consultation (response awaited): [click here](#).

Does not apply - position uncertain as to whether may be applied in future.

However, be aware of provisions in Fair Employment and Treatment (Northern Ireland) Order 1997 which give Tribunals a wide discretion.

Also, the Public sector duties in S.75 of the Northern Ireland Act 1998, which is often applied to private sector providers.

**Sickness Absence Review**

The Department for Work and Pensions (DWP) last year announced proposals for dealing with sickness

2014/2015

Given that many employers have large workforces, absence management is an important issue and the proposals are likely to be

An official report was published on 19 February 2014 by the NI Assembly regarding sickness absence in
absence. The most significant proposal was for the introduction of a new government-funded health and work assessment and advisory service. The Government have previously announced intentions for this to be in place by Spring 2014, it is now anticipated that it will be introduced at the end of 2014 with full implementation scheduled for April 2015.

The service will provide a state-funded occupational health (OH) assessment for employees who are absent for four or more weeks. The Government declined to introduce a new job-brokering service to help long-term sick employees find new work (where appropriate) but instead proposes that the advisory and assessment service will signpost employees in this position to 'Universal Jobmatch', a free internet job-matching service, which was launched in November 2012.

The Government has also announced that health-related benefits, paid for by employers on the advice of the new service (in order to support an employee’s return to work) will be exempt from tax, up to a certain amount.

The Government published revised ‘fit note’ guidance in March 2013 and abolished the subsidy for SSP which previously allowed employers to reclaim any amount of SSP which exceeded 13% of its national insurance contributions in the month. The Government also abolished the SSP record-keeping obligations enabling employers to keep records in the way that best suits their organisation.

largely welcomed by employers, although many employers already use an OH service to review an employee’s health so this proposal will not necessarily be new to them.

Further details on Out-Law.com: Click here.

the Northern Ireland public sector, however, there has been no progress on sickness absence generally. The general position on sickness absence is still unclear. However, it is likely that any tax exemption will apply in NI, again, as tax powers are not currently devolved.
**Employment Law – What's on the Horizon?**

<table>
<thead>
<tr>
<th><strong>Shared Parental Leave</strong></th>
<th><strong>5 April 2015</strong></th>
<th><strong>Autumn 2015</strong></th>
<th><strong>New scheme for tax-free childcare</strong></th>
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<tbody>
<tr>
<td>The Government has published draft regulations that would govern its proposed new system of shared parental leave. This will allow parents more flexibility to choose how they share childcare responsibilities in the first year after a child's birth.</td>
<td>Employers should carry out some workforce planning in relation to this issue.</td>
<td>Employers should be aware that this is on the horizon.</td>
<td>The Government is set to introduce a new tax-free childcare system. Eligible families will receive 20% of their yearly childcare costs up to £10,000 per year, for</td>
</tr>
<tr>
<td>The Government legislated for this change through the Children and Families Act 2013, which has now received Royal Assent. The Government is seeking views on the draft regulations.</td>
<td>Please do not hesitate to contact us if this is something you'd like to discuss further.</td>
<td>For more information: <a href="#">Click here.</a></td>
<td>Autumn 2015</td>
</tr>
<tr>
<td>The proposed system would allow both parents to share up to 50 weeks leave, taken at the same time or separately, and to receive Statutory Shared Parental Pay (SSPP) in respect of up to 37 weeks of that leave. New mothers would be entitled to cut short, or &quot;curtail&quot;, their maternity leave after two weeks, and to make up to three requests to share leave with their partner with sufficient notice. These periods of leave need not be continuous; however, employers will have the right to refuse discontinuous periods of leave or suggest alternative dates.</td>
<td>For more information <a href="#">click here.</a></td>
<td>The position in NI is unclear. However, given the tax related nature of this provision it is likely that it will be applied in Northern Ireland.</td>
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<tr>
<td>The regulations are expected to come into force in October for babies due or adopted on or after 5 April 2015.</td>
<td>Draft regulations: <a href="#">click here.</a></td>
<td>The Department is committed to replacing the existing system of with a more flexible system of shared parental leave and pay. The Department is also committed to taking forward a range of other measures that were referenced in the consultation document, and which were broadly welcomed by consultees.</td>
<td></td>
</tr>
<tr>
<td>Following public consultation DELNI's response was published on 14 April 2014.</td>
<td>The proposals for shared parental leave are now included in the Work and Families Bill 2014 which is shortly to be introduced in the Northern Ireland Assembly.</td>
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</table>

**Shared Parental Leave**

The position in NI is unclear. However, given the tax related nature of this provision it is likely that it will be applied in Northern Ireland.
children under 12 years of age (or 17 years of age for children with disabilities). Claims will be capped at £2,000 per child each year.

**Reform of Apprenticeships**

Following an independent review of apprenticeships, the Government has now confirmed that it will reform apprenticeships and following a consultation on its proposals, has set out an "implementation plan" for its reforms.

The Government proposes to remove much of the prescriptive detail from current legislation and replace existing apprenticeship framework with new apprenticeship standards that will be developed by employers, with the government setting a "small number of criteria" that all standards must meet.

The Apprenticeships, Skills, Children and Learning Act 2009 (ASCLA 2009) will be amended by the Deregulation Bill, and the new apprenticeships will replace apprenticeship agreements (which were introduced under ASCLA 2009).

Apprentices' employment status will remain the same as it is under current 'apprenticeship agreements' under the ASCLA 2009, i.e. they would be under a contract of service rather than a contract of an employment, therefore allowing employers greater flexibility around the termination of apprenticeships where circumstances change.

**Annual leave – Working Time Regulations**

No date set

These changes should encourage the greater use of apprenticeships and allow employers to 'have a say' in the design and assessment of apprenticeships.

Employers should note that this reform relates to apprenticeships in England only.

Government's "implementation plan": [Click here](#)

Draft Deregulation Bill: [click here](#).

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DELI announced a review of apprenticeships in February 2013. The Call for Submissions closed on 2 October 2013. The final report is still outstanding. However, at a briefing on 6 March 2014 with the Employment and Learning Minister, Dr Stephen Farry, it was stated that the content of the consultation was encouraging and that it takes forward many of the recommendations for change that were called for in the initial submission.

Employers’ holiday policies will need

No consultation in NI as yet.
## Employment Law – What's on the Horizon?

### Amendments

The Government has proposed to amend the Working Time Regulations to allow up to 4 weeks of annual leave to be carried forward into future years where a worker is ill during the leave year or ill during the period of leave and to amend the prohibition on "buying out" any statutory leave under the WTR to allow employers to buy out the additional 1.6 weeks annual leave entitlement.

The **Consultation on Modern Workplaces** sought views on these proposals and the Government’s response to this part of the consultation is still awaited.

| To be reviewed to ensure that carry over of annual leave is permitted in these circumstances. Changes will need to be communicated to line managers so that they do not inadvertently deny someone the right to carry over their leave entitlement where they are eligible to do so as this could trigger disability discrimination complaints and claims under the WTR. Government consultation (response awaited): Click here. | However, given the European element leading to the proposed changes, DELNI will consider any GB amendments. |

### Removal of Tribunals’ powers to make Wider Recommendations

The Deregulation Bill 2013 introduces provision to amend the Equality Act 2010 to repeal tribunals’ power to make wider recommendations in successful discrimination claims. No anticipated implementation date has been announced.

Employers may welcome this as there are fears that tribunals are making excessive recommendations, although evidence does not necessarily support this being the case.

Draft Deregulation Bill: click here.

The position in Northern Ireland is unclear.

### Further reform of the law on whistleblowing

Following the reforms introduced in June 2013, the Government published a call for evidence on current whistleblower protection, seeking views on whether further changes are required.

The Government seeks views on (amongst other things):

- Depending on the proposals that are taken forward, this could result in an extension of the protection afforded to whistleblowers. Employers should be aware that changes might be on the horizon and await further details.

Government consultation: Click here.

This formed part of the Employment Law Review Consultation which closed on 5 November 2013, on which a response is still awaited.
Employment Law – What’s on the Horizon?

- Whether there needs to be further categories of disclosure which qualify for protection in order to capture all disclosures that are "in the public interest";
- Whether the requirements for making a protected disclosure affect or deter a whistleblower from making a disclosure;
- Whether the definition of "worker" for the purposes of whistleblowing protection should be further extended;
- Whether financial incentives should be introduced to encourage whistleblowing in the financial sector (reflective of those which have worked successfully in the USA);
- The introduction of a non-statutory code of practice which would provide employers with best practice guidance for handling whistleblowing in their organisation and their whistleblowing policies.

The consultation closed on 1 November 2013. The Government's response is awaited.

Protection from Caste Discrimination

A provision in the Enterprise and Regulatory Reform Act 2013 amends the EqA 2010, making it mandatory for the Government to outlaw discrimination on the grounds of caste in the same way as employees will be protected from discrimination on the grounds of their caste in the same way as employees.

2015 estimate

Employers should be aware that this change is on the horizon and that no signs as yet that this is to be introduced in NI.
The provision came into force on 25 June 2013 but does not provide a date by which the Government must make this order but the Government has indicated an aim to bring such an order into force within 1-2 years.

<table>
<thead>
<tr>
<th>Consolidation of National Minimum Wage Rules</th>
<th>No date set</th>
<th>This simplification of the NMW regulations should make compliance easier and will be welcomed by employers.</th>
<th>Will apply in NI.</th>
</tr>
</thead>
</table>

It was originally thought that the consolidated regulations would be introduced in April 2013. However, Employment Rights Minister, Jo Swinson, has now stated that the Government “will introduce the improved set of regulations, following consultation, during this Parliament” and no exact date has been set.

N.B. The legal position in Northern Ireland is dealt with by the Northern Ireland government and assembly, and is diverging significantly from the position in GB. Even where the same changes come into effect, unless driven by EU requirements this will often be considerably later-sometimes, like extension of the 2 year service requirement before claiming unfair dismissal it does not come in at all. Our Belfast team can give you-up-to date advice on the current position. Contact Paul Gillen, Leanne Armstrong or John Kelly.

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