

## *Latest UK Government Proposals Would Make it Cheaper and Easier to Hire and Fire UK Employees*

BY [SUZANNE HORNE](#)

On 14 September the UK Government announced that it is consulting on proposals that, if implemented, will have a significant impact on the UK workplace and UK employment litigation.<sup>1</sup>

The Government is proposing to reduce the maximum compensatory award for a successful unfair dismissal claim from its current level of £72,300 to the lower of either a new reduced limit or the equivalent of 12 months' salary for the employee. If the proposal is implemented, it will make it much cheaper for UK employers to dismiss employees and potentially lower claimant expectations for settlement.

The Government is also consulting on how best to introduce settlement agreements to help end the employment relationship in a "more fair and consensual way". It hopes to make it easier for employers to have 'off the record' conversations, which cannot be referred to in any later proceedings.<sup>2</sup> To assist employers, it also proposes that ACAS<sup>3</sup> publishes a new Code of Practice to help employers to have these conversations. Amongst the more radical proposals, the Government is asking for views on whether there should be guideline sums for settlements. Given that the median award for a successful claim of unfair dismissal is less than £5,000 and it is estimated that 66% of employment tribunal claims are either withdrawn or settled, this proposed change in the law could result in significant savings for UK employers.<sup>4</sup>

On the same day, the Government also launched a second consultation asking for views on a series of reforms to the UK employment tribunal system which will, amongst other things, strengthen the judge's case management powers, allowing them to dismiss weak claims.<sup>5</sup>

In April of this year we also had a change in the law to increase the period of continuous service that an employee must have with its employer in order to bring a claim for unfair dismissal. As of 1 April 2012, employees must now have two years continuous service to bring most unfair dismissal claims if they started employment on or after that date.<sup>6</sup> Therefore, it is already easier and quicker for UK employers to dismiss new employees. In addition, as of next year all claimants will need to pay an issue fee, a hearing fee and additional fees for applications when bringing employment tribunal claims and appeals. Other important employment law bills, proposals, reviews, and consultations are also on-going.

Both consultations close on 23 November 2012.

As those with an interest in UK employment law will know, the UK Government has been reviewing UK employment law since it came to power in October 2010. Whilst there has been an overwhelming number of reviews, it would appear that legislation is now on the horizon for 2013.



*If you have any questions concerning these developing issues, please do not hesitate to contact any of the following Paul Hastings lawyers:*

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<sup>1</sup> <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/e/12-1037-ending-the-employment-relationship-consultation.pdf>.

<sup>2</sup> UK employees are not required to have any continuous service if they have a claim based upon certain automatically unfair grounds.

<sup>3</sup> The Advisory Conciliation and Arbitration Service.

<sup>4</sup> See Annual Tribunals Statistics Report 2011-12 and Employment Tribunals and EAT Statistics 2010-11.

<sup>5</sup> <http://www.bis.gov.uk/assets/biscore/employment-matters/docs/e/12-1039-employment-tribunal-rules-underhill-review.pdf>.

<sup>6</sup> For example, the above proposals relate to clauses of the Enterprise and Regulatory Reform Bill 2012-13 (the "Bill") that was first put before Parliament in May. The Bill is intended to implement a number of the Government's employment law reforms. The Bill is still at an early stage of its legislative life so it will not receive Royal Assent and become law until next year. It will reach the report stage of the House of Commons on 16 October 2012. <http://services.parliament.uk/bills/2012-13/enterpriseandregulatoryreform.html>.

Further, on 14 September 2012 the Government also announced that it will be consulting on reforms to TUPE (the UK's business transfer legislation) by the end of this year.