

	<h2>IER: Employment Law Update, 2011</h2> <p>Employment law changes: a view from Unite</p> <p>Adrian Weir, Asst Chief of Staff</p>

	<h2>10 May 2010</h2>
	<ul style="list-style-type: none">■ Welcome on what is 50th + 1 day of anniversary of signing of European Social Charter that guarantees right to collective bargaining and right to strike■ Question on 10 May was – would Cable play Prior to Cameron's Thatcher and further move us outside protections of Social Charter?■ Government appointed Lord Young to report, Government seems to be going after individual and health and safety rights■ Legislating for absence of rights: not enacting the right to request time off to study or train for people working in organisations with less than 250 employees; and introducing a moratorium on new employment regulations for employers with fewer than 10 staff and for new businesses during their first two years of operation. <p>19 October 2011 Adrian Weir, Unite Asst Chief of Staff 2</p>

Summer of unlove, 2010

- Before his fall, Lord Young recommended (i) weakening of RIDDOR and introducing "low risk" workplaces (ii) raising qualification period for unfair dismissal ET application to 2 years
- But the harder right want action on trade union law
- Tax Payers' Alliance – end trade union facility time in public sector
- Policy Exchange – 14 point plan, including use of agency labour during disputes and 14 days notice of action – no assumption of right to strike – plus end facility time; "contract in" to political fund; ending check off
- CBI – 11 point plan including mandatory ballot in recognition claims even when provable majority and turnout threshold in industrial action ballots
- Boris Johnson – 50% turnout threshold in industrial action ballots

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Cable offers no resistance

- *Resolving Workplace Disputes* – 2 year qualification for unfair dismissal ET claim, plus other ET limitations
- Employers' Charter
- 11 May 2011 Ministers' announcement:
 - compensation cap for ET discrimination case awards (now at 2nd Reading)
 - Regulations on collective redundancy } consult in
 - TUPE regulations } New Year
- Lurking in the undergrowth
 - Dominic Rabb, MP – 10 minute bill on 50% threshold in industrial action ballots
 - David Morris, MP – EDM 1799 on TU facility time in public sector

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Conservative Party Conference

- Chancellor George Osborne says Government will:
 - ⊗ raise qualifying period for unfair dismissal claim at ET to 2 years
 - ⊗ introduce fees (i) for lodging ET1 and (ii) extra when case is listed for hearing
- Francis Maude, Cabinet Office,
 - ⊗ alleges 150 Civil Servants on full time union duties, consulting on facility time because "this can't go on"

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Joined up government or the lack of it – Oct 2011

- Before it published its own response to *Resolving Workplace Disputes* consultation, Government proposed to change to ET Regulations on deposits, costs and witness statements and expenses
- It also published further consultation document *Flexible, Effective, Fair: promoting economic growth through a strong and efficient labour market* hinting at Government withdrawal from enforcement or being guarantor of basic rights
- However, trouble with Administrative Justice & Tribunals Council

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Administrative Justice & Tribunals Council

■ Richard Thomas, Chair of AJTC, in declining to comment on draft Regulations said:

"Whilst writing, we feel impelled to comment on these recently-launched 'discussion' exercises [Flexible, Effective, Fair]. It is surprising that these exercises have been embarked upon before the Government Response to Resolving Workplace Disputes is published. This, and the short deadline for response, puts potential consultees at a significant disadvantage. Allied with the draft regulations, it creates an overall general impression of ill-considered and hasty policy making. We have already expressed concern in our earlier consultation response that some government proposals appear to be based on little evidence."

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From the darkest recesses of the hard right

The Institute of Directors enters the fray, its *Road to Growth* calls for:

- a simple majority of those balloted as well as those voting should be necessary in order for strike action to take place
- an Employment Tribunal reform that "really deliver for business" including pre-vetting of Tribunal claims to exclude invalid ones, stronger powers/obligations for Tribunals to strike out unmeritorious claims, user charges for employees bringing a claim to deter weak or vexatious claims, and more done to promote consistency of Tribunal decisions, the Government's proposals lack ambition, as they stand
- micro business exemptions from the following European Directives: Temporary and Agency Workers Directive; Acquired Rights (Transfer of Undertakings) Directive; Information on Individual Employment Conditions Directive; Parental Leave Directive; Posting of Workers Directive; and, Working Time Directive
- introduce "no-fault dismissal" so that employers can create opportunities for more competent employees, making it straightforward for employment to be terminated, and for employees to move on to work to which they may be better suited

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IoD #2

- allow employers to exempt from 2012 all newly taken-on employees from being covered by non-EU employment regulation ... including the Right to Request Training; Right to Request Flexible Working; Right to be Accompanied by a Union Representative; Time off for Public Duties; and, Written Statement of Reason for Dismissal
- introduce legislation that would ensure that all maternity leave employees are required to give at least 3 months' notice of their intended departure; remove the "unfairness" of accumulated annual leave allowance at the end of a period of maternity leave; remove the need to pass on organisational bonuses to maternity leave staff
- the Government should commit to full reviews of the stock of domestic transpositions of EU regulations, immediate reviews should be undertaken to remove "gold-plating" from the UK interpretations of the EU Directives.

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The view from Unite

- BIS say that there are 163 employment related Regulations, 97 of which belong to BIS, up for review
- Shift in focus from Comp 1 trade union rights to Comp 2 Red Tape Challenge
- We have to respond to RTC but, although not losing sight of Day 1 rights, we must try to bring trade union campaigning back to the collective
- The most effective means of resolving workplace disputes is the presence of recognised trade unions in the workplace not the reduction of rights at the Employment Tribunal; win Labour to the idea of fairness of the regulation of work

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