

Liberal Democrats on employment and employment rights

02 DECEMBER 2019

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CATEGORY:
ARTICLE



The headline ambition for the Liberal Democrats is 'to stop Brexit', although their tone on that subject has now shifted slightly in light of their flat lining performance in the polls. Nevertheless, if in power (or in a coalition where they wield some power) that may mean ongoing membership of the EU and the application of those rules and regulations that many leave voters claim they dislike. Like the other parties the Liberal Democrats want people to have secure jobs, with proper rights and fair pay. They criticise both the Conservatives, who they say have not done enough to support workers as they are sucked into insecure, poorly paid jobs, and Labour, who they say have a dogmatic, backward-looking approach which would destroy flexible jobs that people value and harm the economy.

There is enough detail in the Liberal Democrat Manifesto to enable some reasonably close scrutiny of their plans and our comments on these proposals are set out below in italics. Amongst other proposals, the party plans to:

Establish an independent review to consult on how to set a genuine Living Wage across all sectors. Liberal Democrats commit to paying this Living Wage in all central government departments and their agencies, and encourage other public sector employers to do likewise.
It is difficult to discern how this is different to the valuable work already done by the Living Wage Foundation.

Establish a powerful new Worker Protection Enforcement Authority to protect those in precarious work.
The question here is whether we need a new regulator or whether we should have a better funded and resourced employment tribunal service which could process cases far more speedily than is the case at present.

Change the law so that flexible working is open to all from day one in the job, with employers required to advertise jobs accordingly, unless there are significant business reasons why that is not possible.
Some employers will balk at this. There are many jobs for which flexible working does not work well and small businesses in particular may struggle to accommodate a universal rule.

Modernise employment rights to make them fit for the age of the 'gig economy', including by:

- Establishing a new 'dependent contractor' employment status in between employment and self-employment, with entitlements to basic rights such as minimum earnings levels, sick pay and holiday entitlement. — *This term was proposed in 'Good work: the Taylor review of modern working practices' and is arguably no more than a renaming of worker status.*
- Reviewing the tax and National Insurance status of employees, dependent contractors and freelancers to ensure fair and comparable treatment. — *This was a measure considered and ultimately dropped by Philip Hammond as Chancellor of the Exchequer.*
- Setting a 20 per cent higher minimum wage for people on zero-hour contracts at times of normal demand to compensate them for the uncertainty of fluctuating hours of work. — *This appears to be an Uber style differential charging mechanism but we can see difficulties in defining 'normal demand'.*
- Giving a right to request a fixed-hours contract after 12 months for 'zero hours' and agency workers, not to be unreasonably refused. — *This may help those in precarious contracts although it will need to include some anti avoidance mechanism to work effectively.*
- Reviewing rules concerning pensions so that those in the gig economy don't lose out, and portability between roles is protected. — *This seems a sensible measure, but is also bound up with the difficult question of properly categorising gig economy works. Many are excluded from auto-enrolment because they are regarded as self-employed.*
- Shifting the burden of proof in employment tribunals regarding employment status from individual to employer. — *This proposal is also lifted directly from 'Good Work'.*

Strengthen the ability of unions to represent workers effectively in the modern economy, including a right of access to workplaces.
This suggests that if there were a Labour-Liberal Democrat alliance, a reform of at least some aspects of trade union law could be expected.

Enabling an adaptable, future-focused workforce – empowering individuals through new Skills Wallets worth £10,000 for every individual.
This proposal has been headline grabbing. It is an important step in the right direction in a fast evolving economy (although it only just covers one year of university fees).

Expand the rights and benefits available to those in insecure forms of employment, such as offering parental leave and pay to the self-employed.
A limited range of rights, eg to maternity allowance, can already be claimed by self-employed individuals, but an expansion of entitlements would go some way to levelling the playing field between those in secure and insecure employment.

Encourage employers to promote employee ownership by giving staff in listed companies with more than 250 employees a right to request shares, to be held in trust for the benefit of employees.
This has something in common with Labour's proposals for employee ownership, but is less radical.

Strengthen worker participation in decision-making, including staff representation on remuneration committees, and require all UK-listed companies and all private companies with more than 250 employees to have at least one employee representative on their boards with the same legal duties and responsibilities as other directors.
Staff representation on remuneration committees is a long cherished ambition of the TUC as a means of creating a curb on excessive executive pay proposals. Mandatory employee representation on boards is also a proposal from which the Conservatives have backed away, despite early suggestions by Theresa May as Prime Minister, but would probably be supported by Labour.

Increase statutory paternity leave from the current two weeks up to six weeks, ensure that parental leave is a day-one right, and address continuing inequalities faced by same-sex couples.
As parental leave is for the most part unpaid it will continue to have low take up whether it is a day one right or not. Currently it is available after 12 months' service.

Extend the Equality Act to all large companies with more than 250 employees, requiring them to monitor and publish data on gender, BAME, disability, and LGBT+ employment levels and pay gaps.
As the Equality Act already applies to such companies it is difficult to see what this promise adds. It may be that the Liberal Democrats are in fact referring to gender pay gap reporting here.

Develop a free, comprehensive unconscious bias training toolkit and make the provision of unconscious bias training to all members of staff a condition of the receipt of public funds.
There is some academic debate as to whether certain types of unconscious bias training actually work. The Liberal Democrats would do well to consider exactly what does and does not work before pouring money into this area.

Develop a government-wide plan to tackle BAME inequalities and review the funding of the Equality and Human Rights Commission to ensure that it is adequate.
This is a measure that will appeal to those who argue that policy aspirations in this area are not always matched by the availability of resources.

Recent polling suggests that a working majority for the Liberal Democrats in this election is unlikely. Arguably, their best hope is to form part of a coalition in which they hold the balance of power and use that as a lever for the promotion of their own policy objectives. However, employment rights may not be near the top of the list of bargaining chips were this to come about. A more likely scenario is that the Liberal Democrats would lend support to those areas of reform that overlap or dovetail with their own policies, such as reform of the restrictions on trade unions.

Click here to read about how this compares to [Conservative](#) or [Labour](#) proposals on employment and employment rights.

If you have any questions regarding the UK General Election 2019, please contact your usual Withers contact. You may also wish to view our dedicated webpage which will be updated regularly before Thursday 12 December, [click here](#) to view it.

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