



The criticality of HR Compliance

We know compliance is critical for organizations facing the mounting challenges of increased enforcement and a constantly evolving business and regulatory environment. Employers must navigate ever complex rules to ensure policies and procedures remain compliant to manage their risk, their reputation and protect their people.



Managing the risk

It can be difficult to know where to start in managing your employment law risk effectively. To help with this, we have developed an HR Compliance HealthCheck which can be used to identify and assess employment law compliance gaps in your HR processes across key risk areas, delivering practical recommendations and a remediation Action Plan.

Based on our experience of employment laws across the globe, we have created a number of core HealthCheck modules focusing on the areas most frequently giving rise to HR compliance risk:

However, no two organizations are the same, and we can adapt or add modules depending on the nature of your business, your industry sector and workforce profile, including conducting deep dives on issues such as:



Recruitment & Onboarding



Discrimination & harassment



Working time / wage & hour



Pay equity



Immigration compliance



Minimum wage compliance



Non-Employees



General HR compliance



Supply Chain / Modern Slavery



Data protection compliance



How it works

The HealthCheck is broken down into 5 simple steps and can be tailored to meet your organization's objectives. Once we have determined the scope of your HealthCheck, we work closely with our local Baker McKenzie specialists to finalize country specific Questionnaires for each module chosen. The Questionnaire is designed to audit your existing HR practices and identify any gaps or risk areas for your organization.



Scoping



Questionnaires



Data Gathering



Gap Analysis



Remediation Action Plan





Technology

Using flexible technology, we obtain data using our Questionnaires from your local or central teams for analysis by our Baker McKenzie experts.

The Questionnaire is completed through an interactive and user-friendly online survey tool, accessible on desktop and mobile devices.

All approved members of the Local HR, Talent or Recruitment teams and/or in-house legal can have access to the survey and are able to submit responses, attach documents, save progress, return later, and delegate sections to colleagues as required. The results can be presented in a range of formats, depending on your requirements.

We use the data gathered, either alone or in addition to interviews, to build the foundations of the Report.

RECRUITMENT AND ON-BOARDING

5. Please briefly describe the standard job posting process followed in-country:

6. Do you use the global job description template?

7. Please list all of the languages that you use for your job ads:

8. Do you have in place any formal or informal arrangements to solicit their employees?

9. Are employees subject to and required to sign their acceptance of any of the following? Please tick those which apply:

	All workers	Some workers	No
Non-solicitation of customers (i.e. employees agree not to approach, encourage or contact customers away from [] for a limited period post-termination)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-solicitation of co-workers (i.e. employees agree not to approach, encourage or contact colleagues away from [] for a limited period post-termination)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Non-competition (i.e. employees agree not to work for or provide services for a competitor for a limited period post-termination)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
Confidentiality (i.e. employees agree to keep any proprietary information (e.g. trade secrets, non-public business or financial information, etc.) confidential, post-termination)	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

29. Please provide a copy of the relevant residuals.



Output

Depending on preferred approach and the scope of the HealthCheck, we can prepare a country level or global report. The local report will provide a gap analysis and recommendations by jurisdiction, including any red flags about developing legislation and/or areas to watch. The global report will pull together the gap analysis by location as well as providing input on themes across multiple markets, providing an overview for any central compliance team. Both reports will include an action plan to be completed by in-house legal or HR professionals, to mitigate identified risk.

1. Executive summary

1.1 United Kingdom

Compliance area	Risk rating	Summary
Recruitment and onboarding	High	Current history and background check process will be reviewed separately to assess data privacy risks. We should also consider: (i) implementing more stringent probationary period processes; and (ii) re-assessing the use of historic administrative information when setting salaries.
Discrimination, harassment and working conditions	Medium	We should consider introducing a UK-specific policy, training or governance framework regarding employee disabilities and requests for reasonable adjustments under local discrimination legislation. Historic governance also suggest issues around managerial support and obligation of funding harassment, a holistic review of grievance, leave and overtime may inform updates to grievance and whistleblowing policies. Current "normal" sick pay processes would also benefit from automation, particularly using existing ERM/HRIS software.
Working time	Low	We should consider using a separate letter to obtain employee "opt outs" from the weekly working time limit under UK law. We should also consider further employee outreach and record keeping to encourage use of annual leave in context of the "use or lose it" policy.
Non-Employees	Low	We might wish to implement (i) business facing guidance on considerations and risks associated with using fixed term employment contracts to provide awareness; and (ii) periodic "spot checks" audits on local non-employee workers to assess misclassification risks and compliance with statutory provisions to practice.
HR compliance	Medium	We should review the current approach to post-termination restrictions in the UK to (i) ensure compliance with internal policy; and (ii) maximise prospects of enforcement. We should also review our current anti-bribery training for local compliance.

2.2 Summary

Ref	Findings	Priority
1	Example: Recruitment and On-boarding	High
2	Example: We understand that Acme has given significantly over the past year and established new office entities. We understand that some new affiliate entities have not provided new local laws with some and conditions of employment. Instead, the new laws have received an email confirming pay and start date only, with the promise of contracts to follow. It is expected the Acme to roll out a new comprehensive and robust recruitment process, which ensure each employee reviews terms and conditions of employment prior to commencing employment with the company. Failure to provide the employees with an employment contract could lead to wide spread claims, at regional and local levels.	Medium
3	Example: Upon speaking to HR teams at a regional level, teams expressed confusion about the recruitment process and how to apply the selection criteria set out in Acme's hiring policy document. Acme need HR departments against an approval or sign-off management process for deviating to other HR employees.	Low
4	Example: In 2017, Acme put in place non-competition clauses in relation to inclusion and diversity, recruitment requirements and pay structures. These policies are now out of date and do not reflect latest market practice.	Medium

5. Action plan and timeline

8.1 Overview

Please rank the implementation steps in proposed chronological priority groups, i.e. Phase 1 and Phase 2 and Phase 3. This phased approach will enable Acme to progress various work streams for which they wish to do an implementation step in ranked by order of priority within each Phase based on:

- whether the implementation step relates to a new or existing requirement under applicable employment law; as new requirements will likely be a higher priority since there may be more work involved to create a new policy and/or process; and
- the amount of anticipated time and resource required to meet the requirement under the applicable employment law, such as dissemination of materials throughout the Acme Group or production of, or updates to, relevant documents.

Timeline: March, April, May, June, July, August

Phase 1: Work to commence in March 2022

Phase 2: Work to commence in May 2022

Phase 3: Work to commence in June 2022

BAU: Full 2022 enforcement



Why Baker McKenzie?

We have the only employment practice to be ranked Band 1 for Global Employment by Chambers Global for thirteen consecutive years. By drawing on our team of over 700 labor and employment lawyers, spread throughout 45 jurisdictions, we can seamlessly work across borders to deliver consistent local, regional and global solutions, identifying the markets and legal issues carrying the highest reputational, regulatory, financial and employee relations risks, and providing you with practical solutions to help secure compliance in your HR processes around the globe.