



Key legislative changes of 2015 affecting outsourcing

March 2016

The National Living Wage

A new compulsory National Living Wage of £7.20 per hour was announced, to take effect from April 2016 for workers aged 25 and over.

This will effectively create a new minimum wage rate for workers in their mid-twenties (or above) which is 50p an hour above the current minimum wage. It is, therefore, likely to increase labour costs associated with outsourcing arrangements, particularly affecting sectors where providers already operate on very low margins.

Progressively lower wage rates will continue to apply to younger workers in three age groups; under 18, 18-20 and 21-24.

EU General Data Protection Regulation

In December 2015 the European Union adopted a new Regulation on data protection which will replace legislation at national level throughout the EU, including the UK's Data Protection Act 1998.

It potentially impacts on all outsourcings but particularly those which involve handling significant amounts of personal data. Although not due to come into force until 2018, many businesses will need to start considering how they will comply, as the legislation is significantly more onerous than existing data protection law. For example, it will require many businesses to appoint a data protection compliance officer and conduct privacy impact assessments before introducing new products/services.

Data breaches must be reported to regulators promptly (usually within 72 hours) and the rules about what constitutes consent of an individual to the processing of his/her data have been made more restrictive (which may require changes to processes for collecting information). A particular point to note for outsourcing suppliers is that, for the first time, direct obligations will be imposed on data processors (although their customers will continue to be liable as data controllers). In addition, the Regulation greatly increases the fines which can be imposed for failure to comply.



Modern Slavery Act 2015

The Modern Slavery Act 2015 requires organisations with a global annual turnover of £36 million or more to publish an annual slavery and human trafficking statement. The statement must set out the steps the organisation has taken to ensure both its own business and its supply chain are slavery free. Outsourced service providers will be regarded as part of the supply chain and are likely to be asked to provide information to their customers about the action they have taken to prevent slavery and human trafficking. Businesses

with a year end of 31 March 2016 will be the first to be required to publish such statements.

Consumer Rights Act 2015

The Consumer Rights Act 2015 came into force on 1 October 2015 and affects outsourced services which are consumer-facing, such as call centres handling telephone sales to private individuals or consumer complaints. It changes key aspects of consumer law including remedies for sub-standard goods or services and rights relating to digital content. In addition, how suppliers (and their sales staff) describe the service they provide now forms part of the contractual promise to the consumer (and any qualifications need to be very clearly and understandably set out). The Act also introduces new enforcement powers, including the power for regulators to seek court orders requiring businesses to pay compensation to consumers for breaches of consumer legislation.

How we can help

We advise on a wide variety of commercial agreements including outsourcing, joint ventures, distribution, franchising, supply of goods and/or services and manufacturing. We attach great importance to understanding our clients' businesses and looking after their interests in the long term.

Our credentials

- Ranked top tier for Commercial Contracts by Legal 500 3 years running (2013-2016)
- *"The team at Travers Smith provided legal, strategic and tactical guidance in shaping a critical outsourcing deal for our business with complex commercial and pricing risks and very sensitive HR issues – we are very grateful to them."*
Jonathan Neame,
Chief Executive, Shepherd Neame
- *"This consistent, high-calibre firm commands a loyal following due to its winning combination of in-depth specialist skills and overarching understanding of the market-place."*
Chambers & Partners
- *"In the heat of the battle in the wee small hours of the morning, I can't imagine having anyone else by our side but Travers Smith. Their sound commercial and legal advice whilst retaining their good humour is all one can ask for."*
Tim Richards
CEO, Vue Cinemas

Please note that elements of this briefing document originally appeared in our contribution to the National Outsourcing Association Yearbook, which is available at www.noa.co.uk.

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