

Employment Law Guide 2026

Important workplace changes &
how employers can prepare

INTRODUCTION

The Employment Rights Act 2025 (ERA 2025) finally received Royal Assent on 18 December 2025 and brings with it some of the biggest reforms to employment laws in Great Britain for years. Changes will be implemented over the next couple of years and there is so much for employers to get to grips with and prepare for. Even though the ERA 2025 has now been passed, further consultations and regulations on the detail of significant new rights and obligations will follow. Nevertheless, important changes are expected to come into force in 2026 including those relating to Statutory Sick Pay, paternity and parental leave, sexual harassment, third party harassment, trade union access rights and other trade union changes, increased employment tribunal time limits and the doubling of the collective redundancy consultation protective award. Employers will also need to prepare now for significant changes coming into force in January 2027 – fire and rehire restrictions, the reduction in the qualifying period of employment for bringing an unfair dismissal claim (from two years to six months) and the removal of the statutory cap on the compensatory award.

Another key change for employers in 2026 is the extension of right to work checks. Other changes include National Minimum Wage increases, statutory rate rises, the possible publication of the draft Equality (Race and Disability) Bill and possible changes to non-disclosure agreements.

UNFAIR DISMISSAL

Changes to unfair dismissal rights are perhaps the most significant of all the changes made by the ERA 2025 as they will affect every employer. In order to get the Act passed by Parliament, the Government had to drop its original plan to allow employees to bring unfair dismissal claims from the first day of their employment. Instead, employees will need six months' service to bring a claim, rather than the current two years' service. This change is expected to come into force on 1 January 2027 and anyone with six months' service on or after that date will have unfair dismissal rights.

Equally important for employers is the removal of the cap on the compensatory award which was an unexpected late addition to the ERA 2025. In most cases, the compensatory award is currently capped at £118,223 (or 52 weeks' pay, if lower). The Government has said that the cap will be removed on 1 January 2027. It is not clear whether unlimited compensation will apply to claims issued on or after that date, only where the effective date of termination is on or after that date or in all cases where an employment tribunal awards compensation on or after that date.

Implications/Action points

- Employers will need to revisit probationary periods in their employment contracts as a matter of urgency
- There will need to be a greater focus on performance management during the

probationary period so that issues are identified and dealt with at an early stage

- Ensure managers are trained in how to manage probationary periods and dismissal processes more generally, including performance, capability, disciplinary and redundancy processes
- Expect to receive more unfair dismissal claims and for settlement costs to increase
- On the plus side for employers, there could be a reduction in unmeritorious whistleblowing and discrimination claims designed to get round the current compensation cap and other unmeritorious automatic unfair dismissal claims designed to get round the current two years' service requirement.

COLLECTIVE REDUNDANCIES

The ERA 2025 includes provisions which will mean that employers' statutory collective consultation obligations in relation to redundancies will be triggered more frequently. In addition, the penalty for failure to comply with statutory collective consultation obligations (the Protective Award) is being doubled meaning that it is more important than ever to understand when these obligations apply and how to comply.

Currently, employers must consult collectively with appropriate employee representatives where they propose to dismiss 20 or more employees for redundancy at one establishment within a period of 90 days or less. The consultation process begins with the

provision of specified information about the proposed redundancies to the representatives and consultation must begin at least 30 days before the first dismissal takes effect, increasing to 45 days where 100 or more redundancies are proposed. A redundancy dismissal is widely defined for these purposes to include any dismissal for a reason not relating to the employee concerned. This means that as well as traditional redundancies (where a workplace is closed or fewer employees are needed to do the work), dismissals due to a restructuring or in order to bring about a change in contractual terms are also included. Employers must also notify the Secretary of State via an HR1 form of the proposed redundancies in the same timescales, and failure to do so is a criminal offence. It is also worth noting that the HR1 form now has to be completed online and can no longer be sent by email or in advance of proposed consultation commencing.

Failure to comply with collective consultation obligations can lead to employment tribunal claims for a Protective Award, which, if successful, currently results in the employer being ordered to pay up to 90 days' full pay to each affected employee. From April 2026, the maximum protective award will double to 180 days' full pay.

In 2027, the obligation to consult collectively and notify the Secretary of State will be extended. In addition to the current threshold (20 or more proposed redundancies at one establishment) there will be a new threshold test. This threshold number will apply across the whole business, rather than just a single workplace/site/office. The threshold number is not currently known (but will not be lower than 20) and will be specified in separate regulations. It may be either

a specified number of employees or a percentage of the total workforce, or may be determined in some other way. Where the threshold number is met, collective consultation will have to begin/the Secretary of State will have to be notified at least 30 days before the first dismissal takes effect. This will increase to 45 days before where 100 or more redundancies are proposed.

Implications/Action points

- There will need to be greater oversight of redundancy/restructuring exercises and contract changes across the whole business in order to identify when collective consultation obligations will be engaged
- Redundancy processes are likely to take longer to implement as the longer 45-day requirement will apply more often than currently
- There will need to be greater emphasis on compliance due to increased penalties
- Settlement costs may increase where employees are unwilling to compromise higher-value claims for less.

CHANGING EMPLOYMENT TERMS: DISMISSAL AND RE-ENGAGEMENT

Changes being made by the ERA 2025 will make it much more difficult for employers to change certain employment terms without the agreement of the employee concerned.

Currently, where an employer wishes to change contractual terms and the employee does not agree to the changes, the employer may seek to achieve the changes by terminating the employee's contract (on notice) and offering them continued employment on new terms. Sometimes they decide instead to dismiss and hire new employees on the new terms. These practices are often referred to as 'dismissal and reengagement' or 'fire and rehire'. Dismissed employees may be able to claim unfair dismissal if the employer does not have a fair reason for dismissal, does not follow a fair procedure dismissal or if dismissal was not reasonable in the circumstances. Employers must also comply with the Acas Code of Practice on Dismissal and Reengagement introduced in July 2024. An employment tribunal may increase compensation by up to 25% in relevant claims (including for unfair dismissal and protective awards) where the employer has unreasonably failed to follow the Code.

There are additional statutory collective consultation obligations where an employer is proposing to dismiss 20 or more employees at one establishment within a period of 90 days or less in order to bring about contractual changes. Failure to comply with these obligations can result in an employment tribunal awarding a "Protective Award" of up to 90 days' full pay per affected employee. These obligations will apply in wider circumstances and with the potential for increased compensation as a result of changes to collective consultation laws in the ERA 2025 (see Collective Consultation above).

From October 2026, other than in cases financial difficulty on the part of the employer (see below), an

employee's dismissal will be automatically unfair if the reason, or principal reason, is that they refused to agree to a "restricted variation", or is to enable the employer to employ them or another employee to carry out the same or substantially the same duties under a varied contract containing a restricted variation. Although the Government originally planned that dismissal restrictions should apply to all contractual variations, this is now limited to specifically defined "restricted variations" which are those concerning reductions in pay or time off, changes to pension terms, working hours, specified shift times and lengths, and the inclusion of a contractual provision entitling the employer to vary any of these terms. The Secretary of State is also given power to add to this list. The Government is [consulting](#) on whether certain (or all) expenses and benefits and payments in kind should be excluded from the scope of a restricted variation relating to pay and which, if any, types of shift changes should be included.

The only circumstances where an employee's dismissal connected with a restricted variation will not be automatically unfair is where the employer is able to meet a stringent "financial difficulties" tests. It will have to show that:

- The reason for the restricted variation is to eliminate, prevent or significantly reduce, or significantly mitigate the effect of, any financial difficulties which, at the time of the dismissal, were affecting, or were likely in the immediate future to affect:

- its ability to carry on the business as a going concern; or
- where the employer is a public sector employer (other than a local authority), the financial sustainability of carrying out its statutory functions
- In all the circumstances, the employer could not reasonably have avoided the need to make the variation.

Essentially this means that dismissals will not be automatically unfair if the change is needed to ensure the viability of the employer's business and cannot reasonably be avoided. However, a dismissal in such circumstances may still be unfair and in addition to usual requirements for a fair dismissal, the Act requires that an employment tribunal assessing the fairness of the dismissal will need to take the following matters into account:

- Any consultation with the employee about varying the employee's contract of employment
- Any consultation with any trade union recognised by the employer or, if a trade union is not recognised, any consultation with any other appropriate employee representative
- Anything offered to the employee by the employer in return for agreeing to the variation
- Any other matters specified for these purposes in regulations.

Similarly, where an employer is seeking to make a change that is not a "restricted variation", although any dismissal will not be automatically unfair, an employment tribunal assessing the fairness of the dismissal will need to take the above factors into account.

Implications/Action points

- Review contract terms now
- Implement changes for current employees before it becomes more difficult
- Ensure there are complaint variation clauses which cover restricted variations
- Link changes to pay reviews where possible as employees will be more likely to agree changes

STATUTORY SICK PAY

The cost of Statutory Sick Pay (SSP) will increase for employers from April 2026 as more employees will qualify for payments following changes made by the ERA 2025. The ERA 2025 removes the current three-day waiting period, so employees will qualify for SSP from their first day of sickness absence. The lower earnings limit will also be removed so that employees qualify for SSP irrespective of how much they earn. For employees earning below the lower earnings limit, the rate of SSP will be set at 80% of the employee's normal weekly earnings up to the SSP flat weekly statutory rate.

The Government has also confirmed that the weekly rate of SSP will increase to £123.25 (up from £118.75) in April 2026.

Implications/Action points

- This change will significantly increase sickness absence costs for employers
- Employers will need to focus more rigorously on absence management processes
- Review sickness policies and revisit company sick pay schemes.

PATERNITY AND PARENTAL LEAVE

From April 2026, employees will qualify for paternity and unpaid parental leave from the first day of their employment. The current service requirements (26 weeks' service at the 15th week before the expected week of childbirth for paternity leave and one year's service at the time leave is taken for parental leave) are being removed by the ERA 2025.

Qualifying conditions for statutory paternity pay will not change, so employees will still need 26 weeks' service at the 15th week before the expected week of childbirth to qualify for statutory paternity pay, or in adoption cases 26 weeks' service at the date the adopter is notified of being matched with the child. Parental leave will remain unpaid.

Currently there is an anomaly regarding paternity leave which means that fathers or partners who take shared parental leave before paternity leave are not able to take any remaining untaken paternity leave. This anomaly will be removed from April 2026 giving

more flexibility for those taking paternity and shared parental leave.

On 6 April 2026, a new right for bereaved partners to take up to 52 weeks' bereaved partner's paternity leave will come into force. Where the mother or adopter of a child dies in childbirth, or within one year of the birth or adoption, the child's father, or the partner of the child's mother or adopter will be able to take bereaved partners' paternity leave. No qualifying period of employment will be required but the leave will be unpaid. Those taking leave will have similar rights and protections to those taking other forms of family leave including:

- Preservation of terms and conditions (except remuneration)
- Up to ten keeping-in-touch days
- Entitlement to return to the same job (or, in limited circumstances, a suitable and appropriate alternative)
- The right to be offered a suitable alternative in redundancy situations up to 18 months after the birth or adoption placement
- Protection from detriment and automatic unfair dismissal.

Implications/Action points

- Plan for a greater number of absences as more employees qualify for paternity and parental leave
- Train managers so they understand the new leave obligations
- Update paternity, parental and shared parental leave policies to reflect the changes
- Prepare bereaved partners' leave policy.

NATIONAL MINIMUM WAGE INCREASES

The annual increase in National Minimum Wage rates takes effect from 1 April 2026. From that date the rates will be:

- **National Living Wage** (21 years and over): £12.71 (up from £12.21)
- **18–20-year-old rate:** £10.85 (up from £10.00)
- **16–17-year-old rate:** £8.00 (up from £7.55)
- **Apprentice rate:** £8.00 (up from £7.55), and
- **Accommodation offset:** £11.10 (up from £10.66).

The gap between the rate paid to those aged 21 and over and to 18-20 year is narrowing as the Government's ultimate aim is for everyone aged 18 or over to receive the National Living Wage.

Implications/Action points

- Increased employment costs
- Review wages to ensure workers are receiving at least the correct National Minimum Wage rate.

INCREASE TO STATUTORY FAMILY LEAVE PAYMENTS

From April 2026 the weekly rate of statutory maternity, adoption, paternity, shared parental, neonatal care and parental bereavement pay, as well as maternity allowance, will increase to £194.32 (up from £187.18). At the same time, the lower earnings limit (the weekly earnings threshold for qualifying for the above payments, except maternity allowance) will rise to be £129 (up from £125). For maternity allowance, the threshold remains at £30 a week.

FAIR WORK AGENCY

The Fair Work Agency (FWA) is due to be established in April 2026. The FWA will be responsible for the enforcement of labour market legislation, including the National Minimum Wage, Statutory Sick Pay, holiday pay, the financial penalty for failing to pay sums ordered by employment tribunals, as well as the regulation of employment agencies and enforcement modern slavery laws. It consolidates the enforcement functions of HMRC (relating to the National Minimum Wage), the Employment Agency Standards

Inspectorate and the Gangmasters and Labour Abuse Authority.

The FWA will have robust powers, including the ability to investigate employers suspected of worker exploitation, by conducting workplace inspections, imposing civil penalties for underpayments and bringing proceedings on workers' behalf. Although the FWA is being established in April 2026, it is not yet known when its enforcement power will commence.

UMBRELLA COMPANIES

Recruitment companies often use umbrella companies to engage the workers they supply. Currently, the umbrella company is responsible for operating PAYE on the wages of the workers they provide. Under changes being made by the Finance Act 2026, the UK recruitment agency that supplies workers to an end-client will be jointly and severally responsible for the umbrella company's PAYE liabilities. In cases where there is no UK agency in the supply chain, the UK end-client will instead be jointly and severally liable. These changes will apply to payments made to umbrella company workers on or after 6 April 2026.

RIGHT TO WORK CHECKS

The illegal working regime is expected to be extended to non-employee workers, self-employed contractors and online job matching platforms during the course of 2026, under provisions of the Border Security,

Asylum and Immigration Act 2025.

Implications/Action points

- Extending right to work checks will increase HR workloads and require careful monitoring to ensure compliance
- Employers will need to audit staff to identify those who may be affected
- Fines start at £45,000 for a first offence, so it is important that businesses carry out proper checks on all staff.

ADDITIONAL WHISTLEBLOWING PROTECTIONS

In its manifesto and Plan to Make Work Pay, the Government indicated its intention to strengthen protections for whistleblowers. However, additional protections afforded by the ERA 2025 are fairly limited in scope. The ERA 2025 provides that a disclosure that sexual harassment has occurred, is occurring or is likely to occur will be a "qualifying disclosure" for whistleblowing purposes. This change is expected to come into force in April 2026.

As a result, workers who make a disclosure relating to sexual harassment will be protected from detrimental treatment because of that disclosure and the dismissal of an employee for doing so will be automatically unfair. However, the worker/employee will still need to satisfy the usual rules on protected disclosures in order to benefit from these protections, including a reasonable belief that their disclosure is

made in the public interest and in terms of who they make the disclosure to (with disclosures to the employer, prescribed persons, and/or legal advisers likely to be protected, but some wider disclosures to the press, or on social media only protected in limited circumstances).

Implications/Action points

- Update whistleblowing policies to reflect the change
- Ensure you have clear channels for reporting sexual harassment
- Ensure those to whom reports are made understand the whistleblowing implications and the risks of automatic unfair dismissal and detriment claims.

NON-DISCLOSURE AGREEMENTS

Under the ERA 2025, provisions in an agreement, such as a non-disclosure agreement (or NDA), which purport to prevent a worker from discussing or raising allegations of workplace discrimination, harassment or sexual harassment, or the employer's response to such allegations, will be void. Certain "excepted agreements" may be excluded (so that a prohibition on disclosures would be enforceable) but the scope of any exclusion remains unclear and is likely to be the subject of further consultation. Settlement agreements are unlikely to be "excepted agreements", although it is possible that an NDA requested by an employee might fall within the definition of "excepted agreements" and could therefore, be enforceable. It is

not yet clear when these provisions will come into force.

From 1 October 2025, the Victims and Prisoners Act 2025 introduced new restrictions on non-disclosure agreements. Any provision in an agreement is void in so far as it seeks to prevent a victim of crime from disclosing information about criminal conduct of which they are a victim to certain people for certain purposes (for example to the police so they can investigate/prosecute, lawyers so they can seek legal advice and victim support services and close family so they can obtain support). The Government plans to extend this through the Victims and Courts Bill 2025 so that the purpose of the disclosure, and the person to whom it is made, will no longer be relevant, although it plans to allow NDAs to be enforceable if contained in an "excepted agreement" (to be specified in regulations). The Bill is currently progressing through Parliament but it is not clear when these provisions will come into force.

Implications/Action points

- Employers may prefer to defend rather than settle discrimination and harassment claims where there is a high risk of the employee going public even where a settlement is agreed
- Confidentiality provisions in template settlement and other agreements need to be reviewed to ensure appropriate carve outs for disclosures permitted by the Victims and Prisoners Act (and the Victims and Courts Bill when in force). There will also need to be carve outs for discrimination, harassment and sexual harassment when those provisions of the ERA 2025 come into in force.

HARASSMENT

A number of further changes to harassment laws are being made by the ERA 2025. These are in addition to the changes referred to above (disclosures about sexual harassment becoming qualifying disclosures for whistleblowing purposes and contractual provisions purporting to prevent an employee from discussing or raising allegations of workplace harassment/ sexual harassment being made void).

Statutory duty to prevent sexual harassment

From October 2026, the current statutory duty for employers to take reasonable steps to prevent sexual harassment of their employees in the course of their employment will be changed to a duty to take **all** reasonable steps, increasing the burden on employers. Secondary legislation may specify steps that are to be regarded as “reasonable” but any such legislation may not be in force until 2027 (after the change comes into force). As is currently the case, a failure to comply with the duty can lead to up to a 25% increase to compensation in discrimination and harassment claims.

Third Party Harassment

Employers will be made liable for harassment of their employees by third parties (such as customers and clients) where this harassment takes place in the course of their employment and the employer has not taken all reasonable steps to prevent it. This applies both to harassment related to protected

characteristics (sex, race, age, disability, sexual orientation, religion or belief, gender reassignment) and to sexual harassment.

Implications/Action points

- Continue to assess sexual harassment risks and update risk assessments, including risks of harassment by third parties
- Engage with your staff so you understand where any potential issues might lie
- Put in place an action plan to minimise identified harassment risks and monitor its effectiveness
- Review and update harassment policies, including to deal with third party harassment
- Revisit commercial terms and contracts with third party providers and clients to deal with harassment
- Refresh and update your harassment and sexual harassment preventative training and ensure all staff receive regular training
- Deal with harassment complaints promptly.

EMPLOYMENT TRIBUNAL TIME LIMITS

The ERA 2025 will increase the time limits for bringing employment tribunal claims from three to six months, meaning employees will have longer to decide whether they wish to bring an employment tribunal claim. This change is expected to come into force in October 2026. In December 2025, the Acas early conciliation period also doubled from six to 12 weeks.

These changes together will mean that employees could have as long as 10 months in which to bring an employment tribunal claim.

Implications/Action points

- Employers are likely to face more employment tribunal claims
- Revisit data and retention periods/policies and consider if document data retention periods should be increased
- Expect this to lead to further pressures on an already over-burdened employment tribunal system and further delays in cases being heard.

TRADE UNIONS AND WORKPLACE ACCESS

The ERA 2025 makes wide-ranging changes to laws affecting trade unions and industrial action, including removing many of the restrictions on industrial action and picketing, increasing the rights of trade union representatives, simplifying the statutory trade union recognition process and modifying blacklisting laws. It also increases protections by extending the scope of unfair dismissal protections for employees taking part in industrial action and introducing a new right for workers not to be subjected to a detriment for taking part in industrial action.

Of particular interest to all employers will be a new obligation to provide workers with a written statement setting out their right to join a trade union and a new

right for trade unions to access the workplace to meet with workers.

STATEMENT OF RIGHT TO JOIN A TRADE UNION

The Government wishes to raise workers' awareness of their right to join a trade union. From October 2026, employers will have to give all workers a statement of their right to join a trade union. They will have to provide this to new joiners at the same time as providing the section 1 statement of employment particulars. They will also have to provide this at other prescribed times during employment. Regulations will also prescribe the information that must be included in the statement, the form the statement must take and the manner in which it must be given.

The Government has consulted on these issues. In terms of content, it considers that the statement should include a brief overview of the functions of a trade union, a summary of the statutory rights trade union members have (such as the right not to suffer a detriment based on their decision to join or not join a trade union), a list of all trade unions the employer recognises (if any) and a signpost to a GOV.UK page with a list of current trade unions. As regards the form of the statement, the Government has indicated that its preference is that it should provide a standard form statement for employers to use, with employers adding only workplace-specific details such as which trade unions they recognise. Employers should provide this directly to the worker at the start of employment (alongside the statement of employment particulars) and then annually, either directly (by

email or letter) or indirectly (for example by making it continuously available on the intranet).

The consultation closed on 18 December 2025 and the Government's response is awaited.

Failure to provide the statement will not give grounds for a claim by itself, but where a worker is successful in another employment tribunal claim, the employment tribunal will additionally be able to award between two and four weeks' capped pay if at the time the claim was brought the employer was in breach of its obligations.

Implications/Action points

- The Government's consultation response and further regulations will provide more detail on the form and content of the statement and employers' obligations. Monitor for further developments
- Build provision of the new statement into your recruitment processes
- Identify how you will provide the statement to employees thereafter.

TRADE UNION BALLOTS

As part of the Government's commitment to strengthen collective bargaining rights and trade union recognition, from October 2026 trade unions will be able to request an access agreement from an employer. This will allow union officials to access the

workplace to meet, represent, recruit or organise workers, or to facilitate collective bargaining (but not to organise industrial action). This is a big change for employers, many of whom may not have had much exposure to trade unions up until now.

Where the employer and union are unable to agree access terms following a request, there will be a statutory process for setting the terms of the access agreement through the Central Arbitration Committee (CAC). The CAC will also have powers to enforce access agreements, hear complaints about breaches by any party and issue fines (of up to £150,000) for non-compliance.

The Government has consulted on the operational detail of this new right with key proposals including:

- a template request and response form (included in a new Code of Practice) which will include matters such as which workers the union is requesting access to and the purpose, type (physical or digital) and frequency of access requested
- employers to respond to access requests within five working days, and explain why any request is rejected
- employer and trade unions to have 15 working days to negotiate an access agreement
- CAC to be notified of agreed terms
- unions to have 25 working days to refer the matter to the CAC if access is not agreed
- businesses with fewer than 21 workers to be excluded
- statutory access agreements granted by the CAC to expire after two years
- if the employer already recognises an

independent union for the same workers, it would be reasonable for the CAC to refuse access

- the Government to specify a model access agreement and union requests in line with this are more likely to be regarded as reasonable and so granted by the CAC
- weekly access is likely to be reasonable, and
- unions should give at least two days' notice of access

Any access granted by the CAC must not unreasonably interfere with the employer's business and access should be refused entirely only where it is reasonable to do so.

Where a party fails to comply with an access agreement, the CAC will have the power to vary the agreement, make a declaration or order the party to take further steps to comply. If the breach is repeated within 12 months, it will have the power to impose a fine. In the consultation, the Government seeks views on how the fine should be calculated and proposes that the following matters should be taken into account:

- The gravity and duration of the failure
- The reasons for the failure
- The number of workers affected
- The size of the organisation in breach (whether employer or trade union), and
- Any history of non-compliance.

The Government proposes to cap the fine at £75,000, with an increased cap of £150,000 where a breach is repeated after the initial fine.

Implications/Action points

- Greater exposure to trade unions and greater risk of recognition requests
- Depending on the operational details decided upon, consider recognising a "friendly" union.

Trade union ballots

Currently, statutory trade union ballots, including ballots for industrial action, must be held by post. Ballots for statutory recognition and derecognition of trade unions may additionally use workplace balloting. The Government plans to change this, with electronic balloting expected to be introduced in August 2026 for statutory trade union ballots and in 2027 for statutory recognition and derecognition ballots.

The Government will introduce:

- "Pure" electronic balloting – with the distribution of the voting pack and the casting and return of the votes taking place entirely through electronic means – which could be used for industrial action ballots, political fund/resolution ballots, union election ballots and union merger ballots
- Hybrid electronic balloting – with voting materials distributed by post and members able to return their vote either by post or electronically – which could be used for statutory recognition and derecognition ballots and ballots where "pure" electronic balloting is also an option
- Workplace balloting - allowing members to vote in

person at their workplace, using a physical ballot box and paper, or, where it is not possible to conduct the ballot on-site, at an off-site location - which will be used for industrial action ballots only.

In November 2025, the Government issued a consultation on a draft code of practice to accompany the new, proposed balloting methods and provide practical information on the conduct of these ballots including:

- requirements on each party involved in a statutory union ballot to ensure a ballot meets the required standards
- factors to be considered when choosing a voting method, and
- good practice in the conduct of statutory union ballots using the new voting methods.

DRAFT EQUALITY (RACE AND DISABILITY) BILL

2026 could see the publication of the Government's draft Equality (Race and Disability) Bill following a call for evidence in April 2025. The Bill could:

- Require large employers (those employing 250 or more employees) to report on their ethnicity and disability pay gap
- Extend equal pay rights to protect workers suffering discrimination on the basis of race or disability
- Ensure employers can no longer avoid paying equal pay by outsourcing services
- Require employers to identify actions to avoid equal pay breaches occurring or continuing
- Introduce pay transparency measures such as requiring employers to include salary or a salary range in job adverts, prohibiting employers from asking candidates about their salary history and requiring employers to provide employees with information on pay, pay structures and progression criteria
- Allow for discrimination claims to be brought where someone suffers discrimination due to a combination of protected characteristics
- Introduce protection against sexual harassment for interns and volunteers.

In March 2025, the Government opened a consultation setting out its proposals for requiring large employers to report on their ethnicity and disability pay gaps. It proposes that they should report on the same pay gap measures as for gender pay gap

reporting, using the same snapshot date of 5 April each year and reporting their pay gaps online by 4 April the following year. The Government sought views on whether employers should have to produce action plans for closing their ethnicity and disability pay gaps (which is set to become mandatory for gender pay gaps in 2027 – see below). The Government also proposes that large employers should be required to report on the overall breakdown of their workforce by ethnicity and disability and on the percentage of employees who did not disclose their ethnicity and disability.

There is expected to be significant consultation on the Bill's provisions, as well as further consultation on the secondary legislation required to implement its provisions. It is not therefore clear when the Bill will make it on to the statute books or when the changes will come into force.

Action points

- Assess your systems for data capture, including how you obtain information from employees about their protected characteristics
- Consider undertaking internal disability and ethnicity pay gap reports now to help identify any gaps or inconsistencies in your data. This should be done with assistance from solicitors so that it benefits from legal privilege.

Changes in 2027

In addition to the changes to unfair dismissal laws (see above), further significant changes to employment laws are expected to come into force in 2027.

FLEXIBLE WORKING

From 2027, it will become more difficult for employers to refuse flexible working requests due to the introduction of a new reasonableness requirement. In addition to showing that refusal is on one of the permitted statutory grounds, the ERA 2025 introduces an additional requirement that the refusal will also have to be reasonable. When notifying the employee of their decision, an employer will have to explain why they consider it reasonable to refuse the request on the ground(s) relied on.

Employers are also already required to consult with employees before rejecting a flexible working request. The ERA 2025 permits further regulations to be made about the steps that employers must take in order to comply with this consultation obligation and the Government is [consulting](#) on these steps.

Implications/Action points

- Reasonableness requirement and additional procedural consultation steps could lead to employers facing more flexible working claims
- Train managers so that they understand the additional reasonableness requirements and the

additional consultation steps needed before rejecting a request

- Update flexible working policies and procedures to
 - reflect the new reasonableness requirements
 - reflect the information that has to be included if rejecting a request
 - incorporate the new consultation steps.

BEREAVEMENT LEAVE

A new right to statutory bereavement leave is being introduced. Currently the only type of statutory bereavement leave available is Parental Bereavement Leave. This is a day-one right available to employees who lose a child under the age of 18, or who have a stillbirth after 24 weeks of pregnancy. Subject to meeting certain eligibility criteria, employees are entitled to two weeks of statutory paid parental bereavement leave which can be taken within 56 weeks of the child's death in one-week blocks, either consecutively or separately.

From 2027, employees will have an additional right to take unpaid statutory bereavement leave of at least a week. This will be a day one right for employees who have suffered a bereavement, including pregnancy loss before 24 weeks. Employees will be able to take this leave within a minimum window of 56 days and will be protected against unfair dismissal and unfair treatment due to taking or requesting leave.

In October 2025, the Government consulted on the eligibility criteria for bereavement leave (including the

relationship between the employee and person who has died), when and how employees should be able to take leave and the notice and evidential requirements. The consultation closes on 10 January 2026 and the Government's response can be expected in 2026.

Implications/Action points

- Monitor for further details and prepare bereavement leave policy when details are known

ADDITIONAL DISMISSAL PROTECTION FOR PREGNANT WOMEN AND NEW PARENTS

From 2027, the Government plans to extend dismissal protection for pregnant women and new mothers and possibly for others who take periods of family leave, including adoption, shared parental and neonatal care leave.

Currently, it is unlawful to discriminate against women because they are pregnant or because they are, or have been, on maternity leave. Pregnant women and new mothers also have enhanced protections in redundancy situations, with employers having to offer them any suitable available vacancy. This protection begins when the woman tells her employer that she is pregnant and ends 18 months after the child's birth (or if a woman does not have the right to maternity leave it ends two weeks after the end of the pregnancy). A failure by the employer to comply renders the dismissal automatically unfair. This enhanced redundancy protection is also extended to those on

adoption leave and in certain circumstances, to those on shared parental and neonatal care leave). It is also automatically unfair to dismiss a woman or select her for redundancy if the reason is connected with her pregnancy or maternity leave.

The Government will use powers in the ERA 2025 to make it unlawful to dismiss a woman while she is pregnant, on maternity leave and for a minimum period of six months after her return to work, except in specific circumstances. In October 2025, the Government consulted on these protections seeking views on:

- the circumstances in which employers should still be able to fairly dismiss pregnant women and new mothers. It is considering whether to narrow the scope of and/or remove some of the current potentially fair reasons for dismissal or to impose stricter standards for a fair dismissal
- when these protections should start and end and whether the protection should apply from the first day of employment, and
- whether similar protections should be afforded to other groups, such as those on adoption, shared parental and neonatal care leave.

The consultation closes on 15 January 2026.

Implications/Action points

- Watch out for the consultation response and regulations dealing with the specific circumstances in which dismissal of pregnant women (and possibly others) will be permitted

- Potential to add complications to redundancies and reorganisations, as well as performance management and disciplinary process
- Train managers so they understand the new protections
- Maternity and other policies will need updating.

EQUALITY ACTION PLANS

Large employers employing 250 or more employees are already required to report on their gender pay gap and to publish their gender pay gap information on their website, as well as on a Government website.

Although employers have been encouraged to go beyond reporting and to implement action plans to reduce inequality, there are currently no legal obligations for them to do this. This is due to change from 2027. The ERA 2025 allows regulations to be made requiring large employers to develop and publish an equality action plan showing the steps they are taking to advance equality between male and female employees. This will include addressing the gender pay gap, as well as supporting employees going through menopause. Large employers are encouraged to develop equality action plans on a voluntary basis from April 2026. We expect that Equality Action Plans will need to be published annually on a Government-run portal (similar to the current gender pay gap reporting obligations). It is not known if there will be sanctions for a failure to publish a report.

Implications/Action points

- The scope and implementation of action plans could become grounds for dispute in discrimination claims
- Where your gender pay gap reporting reveals a gender pay gap, consider what action you can take to reduce/eliminate pay inequality
- Consider your workforce profile and demographic and what steps you can take to support employees going through menopause.

ZERO HOURS AND LOW HOURS AND AGENCY WORKERS

The Government plans to provide greater protections for zero hours, low hours and agency workers in 2027. The ERA 2025 requires employers to offer zero hours and low hours workers contracts with guaranteed hours and to provide reasonable notice of shifts, shift changes and cancellations. Similar obligations will apply in respect of agency workers. A Government consultation on the details is expected to be published early in 2026. Employers who use zero hours, low hours and agency workers will want to follow these developments closely and consider responding to the consultation.

Guaranteed Hours

Employers will have to offer zero hours and low hours workers a contract with guaranteed hours, reflecting the number of hours they regularly worked during a reference period. Workers will not be obliged to accept the offer, so they will be able to remain on zero hours or low hours contracts if they prefer.

This will be a continuing obligation, with employers obliged to offer a guaranteed hours contract after the end of each reference period (even where a worker has previously refused the offer). Where a worker accepts a guaranteed hours contract but their regular hours in a reference period exceed those guaranteed hours, their employer will have to offer a further guaranteed hours contract reflecting those increased hours. The obligation will continue until the worker's hours exceed the low hours threshold (so that they are no longer a low hours worker).

Much of the detail will be set out in further regulations, including the length of the reference period (expected to be 12 weeks), the definitions of a 'low hours contract' and 'regular hours', the form of offer, and the deadline for making and responding to an offer. These matters are likely to be included in the Government's consultation.

Employers will only be able to offer guaranteed hours on a fixed term basis if they reasonably consider that the worker is only needed to perform a specific task, is only needed until the occurrence of a particular event (such as the return from leave of an employee whose absence the worker was covering) or there is only a temporary need of a specified description (to be specified in regulations) for the work (designed to

capture seasonal workers). The Government has a statutory duty to consult on what constitutes a "temporary need" before making regulations on this.

Where an employer fails to comply with its obligations regarding guaranteed hours contracts, a worker will be able to bring a tribunal claim and be awarded compensation of such amount as the tribunal considers just and equitable, subject to a cap which will be specified in regulations.

Reasonable notice of shifts

Employers will have to give workers reasonable notice of shifts (specifying the date, start time, end time and number of hours to be worked), and reasonable notice of shift changes and cancellations. The length of this 'reasonable' notice is not yet specified and will be subject to consultation.

Where reasonable notice is not given, workers will be able to bring tribunal claims and be awarded compensation, again of such amount as the tribunal considers just and equitable, subject to a cap which will be specified in regulations.

Workers will also be entitled to payment for shifts cancelled, moved or curtailed at short notice. The amount of the payment will be specified in regulations, but may not exceed the amount the worker would otherwise have received for the shift. The Government will consult on the detail and workers will be able to bring a tribunal claim if the employer fails to pay.

Other tribunal claims

It will be automatically unfair to dismiss an employee for reasons relating these rights, including for accepting/rejecting a guaranteed hours offer, in order to avoid having to offer them guaranteed hours or because the employee believes that they are entitled to a guaranteed hours offer.

Workers will also have the right not to be subjected to a detriment in various circumstances including because they accepted/rejected guaranteed hours, because they declined to work a shift as they reasonably believed the employer had not given them reasonable notice, or because they have brought a tribunal claim in good faith to enforce their rights.

Agency workers

Similar obligations will apply in respect of agency workers. Here the Government has confirmed that the end hirer will be responsible for offering guaranteed hours, both the hirer and the agency will be responsible for giving reasonable notice of shifts and employment agencies will be responsible for paying agency workers compensation if shifts are cancelled, curtailed or moved at short notice

(although agencies and hirers can agree reimbursement terms).

Implications/Action points

- Look out for Government consultations considering aspects of the new rights in further detail and consider whether you wish to respond
- Start auditing your workforce to identify how many workers you engage on zero or low hours who could potentially be entitled to the new rights
- Identify seasonal fluctuations in demand for work to identify where fixed-term contracts may be more appropriate
- Review systems for managing shifts and shift changes and consider what changes may be required.

OTHER THINGS TO LOOK OUT FOR

Reform of non-compete clauses: In November 2025, the Government issued a policy paper seeking views on options for reforming non-compete clauses in employment contracts. Options being considered include introducing a statutory limit on duration, an outright ban, a ban below a salary threshold or combining this with a statutory limit on duration. The Government is not considering requiring employers to pay compensation for the duration of the non-compete. Responses were required by 18 February 2026. The Government also seeks views on whether restrictions should extend to other restrictive covenants and whether they should apply beyond employment contracts to other workplace contracts.

It is not clear when any changes the Government may decide on might be brought in.

Parental leave and pay review: In July 2025, the Government launched a full review of the parental leave and pay system which will cover all types of parental leave and pay, including maternity, paternity, adoption and shared parental leave and pay. The review is expected to run for 18 months and the Government will then set out a roadmap for implementing reforms. Changes resulting from this review are not therefore expected for a number of years.

Carer's leave review: In November 2025, the Government launched a review of the effectiveness of carer's leave which aims to understand how well the existing unpaid carer's leave entitlement is working, examine options for different models of paid carer's leave and consider extensions to the current unpaid entitlement. There will be further consultations and a final report is expected in autumn/winter 2026.

Right to switch off: The Government plans to introduce the right to disconnect, or "switch off", through a new statutory Code of Practice. On 13 November 2025, following its inquiry into the effects and future development of remote and hybrid working in the UK, the House of Lords Committee on Home-based Working recommended that the Code of Practice be framed in terms of whether employees need to respond outside of their agreed working hours, rather than whether employers should contact them. It also recommended that the Government should consider possible exceptions to the right to switch off, such as for urgent communications or where there is a business need to collaborate across time zones.

Further consultations: To meet the Government's manifesto commitments, further consultations are expected, including on:

- Employment status
- Workplace support for parents of critically ill children and workplace support for unpaid carers, including kinship carers
- AI in the workplace
- Workplace temperatures
- TUPE reform.

These materials are of a general nature and are not legal advice. No responsibility can be accepted for the consequences of any action taken or not taken as a result of its contents.

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