HR & EMPLOYMENT LAW INSIDER: YOUR MONTHLY UPDATE

November 2025

HR Solutions

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RECENT AND FUTURE CHANGES

MANDATORY DIGITAL HR1 FORM

At present, employers who propose to dismiss 20 or more employees at one establishment within a 90-day period must notify the Secretary of State before collective consultation begins by completing the HR1 form. This is critical because failure to do so is a criminal offence.

Up until now, the HR1 form has been in paper format that employers have been able to email. However, from 1 December 2025 employers will be required to complete and submit a new digital version.

Along with the change in format, the requirement to provide a breakdown of proposed consultations by occupational group will be removed as well as the need to confirm that appropriate representatives have been provided with a copy. Other changes to the form are the inclusion of a new redundancy reason "a change in supply chain or loss of supply chain contract".

It is crucial to note that once completed the digital form cannot be retrieved and so it will be important for employers to ensure they have saved or printed it as a PDF prior to submitting.

FORTHCOMING CHANGES TO ACAS CONCILIATION TIMESCALES

The Government have announced the proposed extension to the Acas early conciliation window. The draft Employment Tribunals (Early Conciliation: Exemptions and Rules Procedure) (Amendment) Regulations 2025 changes the window from six weeks to twelve weeks, and is due to come into force from 1 December 2025, i.e. will apply to claims where early conciliation commences on or after 1 December.

This change in timescales, alongside the reform under the Employment Rights to extend the tribunal time limit to six months (expected October 2026) could mean that an employer may not be aware of any tribunal claim for nine months.

EMPLOYMENT RIGHTS BILL UPDATE!

STATUS OF BILL

Our research still suggests there is a possibility that the Bill can become an Act of law before the end of the year. The stall in it progressing is due to the conflict in position between the House of Lords and House of Commons on the issue of unfair dismissal protections and at what point during employment this should be given, along with the management of guaranteed hour contracts.

Alongside, the Bill itself progressing through Parliament, the Government have also opened several public consultations. These will help to formulate secondary legislation and future guidance and codes of practice necessary to help implement the law. We set out how you can participate in the public consultations in our 'Consultation and Guidance' section.

UK BANK HOLIDAYS

Don't forget in your planning for next year to consider whether the UK Bank Holidays will have a unique impact on your leave year. The way in which Bank Holiday's fall in 2026 and 2027 could cause some practical challenges for your business if you are not prepared and have a plan of action. We reported last month that the recently published dates indicate that for a holiday year that runs between 1 April to 31 March, there will be 10 Bank Holidays in the 2026/27 period.

To ensure you remain compliant in managing paid annual leave and bank holidays it is vital you check the contract of employment to check whether you are contractually obliged to give these additional two days paid leave. Failing to give workers their full entitlement to paid annual leave risks unpaid wages and breach of contract claims.

FUTURE CHANGES

ARE YOU READY FOR THE 2026 STATUTORY SICK PAY (SSP) CHANGES?

Significant reforms to Statutory Sick Pay (SSP) are coming in just six months, and they will affect your business.

From April 2026, two major changes will take effect:

1. **Payment from day one:** SSP will be paid from the first day of an employee's absence, rather than the current fourth day.
2. **Removal of the Lower Earnings Limit (LEL):** The minimum earnings threshold for SSP eligibility will be removed. Those on low earnings will receive 80% of their average weekly pay instead.

These changes to how SSP is awarded and calculated are projected to make an additional 1.3 million employees eligible (according to the Department for Work and Pensions). This expansion will inevitably increase employer costs, with the heaviest financial impact falling on Small and Medium-sized Enterprises (SMEs), which represent 99% of all businesses in the UK.

Further possible implications are if your organisation operates a company sick pay (CSP) scheme. This is important because you will need to carefully review how these reforms interact with your enhanced sick pay policy.

For example, if your CSP policy is currently tied to the SSP framework—meaning your enhanced sick pay mirrors the SSP eligibility and waiting period—the enhanced element will also automatically be paid from the first day of absence, and the Lower Earnings Limit will be removed. This could therefore significantly raise your sick pay liabilities.

TRADE UNION REFORMS EXPECTED SOON

According to the Government's roadmap for delivering their Plan to Make Work Pay, the Employment Rights Bill will be implemented in at least four phases, the first one being at or soon after the Bill is given Royal Assent. Which means, the first round of changes could come into effect from as early as the end of the year.

According to the Government's roadmap, these are the areas of reform that will come into effect at phase 1. If your business recognises a trade union, it is vital that you are prepared for these changes:

- Repeal of the Strikes (Minimum Service Levels) Act 2023;
- Repeal of the majority of the Trade Union Act 2016;
- Removing the 10-year ballot requirement for trade union political funds;
- Simplifying industrial action notices and industrial action ballot notices;
- Protections against dismissal for taking industrial action.

Repeal the majority of the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023

The Government believes that the Trade Union Act 2016 places unnecessary restrictions and red tape on trade union activity and believe that by repeal the 2016 Act, along with the Strikes (Minimum Service Levels) Act 2023, would reset industrial relations between unions, employers and workers.

Accordingly, the ERB proposes to return the law to pre-2016, which is when the Trade Union Act was introduced, although there will be three exceptions:

1. The Bill retains the ballot mandate expiration date; however, it is proposed that it increase from 6 to 12 months
2. Retain the notice period for industrial action but to shorten it from 14-days' notice to 10 days (although pre 2016 it was 7 days)
3. Retain the independence of the Certification Officer from political control (ministerial direction).

Since the Trade Union Act 2016 will be repealed, other than the three elements above, it will mean the following changes:

- **Political Funds:** New union members will be automatically opted in to contribute to a political fund unless they expressly opt out.
- **Check-off System:** Unions will no longer need to pay for the administration of the check-off system in the public sector.
- **Facility Time:** Requirements for public sector employers to publish information on facility time will be removed, as will the power to cap it.
- **Industrial Action Reporting:** Unions will no longer have to follow certain reporting requirements related to industrial action, such as providing additional information on voting papers.
- **Strike Ballots:** Unions will only need a simple majority of members who vote in an industrial action ballot to approve a strike.
- **The 40% support threshold:** The current threshold for strike ballots in critical public services (fire, health, education, transport, border security, and nuclear decommissioning) will be removed.
- **Picketing:** The additional requirement for unions to supervise picketing and appoint a supervisor will be removed.
- **Electronic Balloting:** The requirement to consult and publish a review on electronic balloting will be removed. The government will instead consult a working group to introduce modern electronic balloting.
- **Certification Officer:** The Certification Officer will no longer have certain investigatory powers, including the ability to investigate unions based on third-party complaints or on their own initiative. They will also lose the power to impose financial penalties or make declarations against a union regarding annual return requirements. They will however be able to continue to have the power to investigate financial affairs.

- **Levy payments:** The power to require unions and employers' associations to pay a levy to the Certification Officer will be removed.

Removing the 10-year ballot requirement for trade union political funds.

The government is also of the view that the Trade Union Act 2016 creates unnecessary restrictions on union activities. So, by repealing this and the Strikes (Minimum Service Levels) Act, industrial relations among unions, employers, and workers will improve.

Trade unions cannot use their main funds for political purposes. Instead, they must create a political fund. They do this by first holding a ballot to get a mandate from its members and then a ballot takes place every 10 years on the question of whether the funds should be maintained is asked of its members. Members can choose whether to contribute under the current rules.

What the ERB will do, is to change this position so that instead of members automatically being opted out of contributing, new members will be automatically opted in and then free to opt out. The current requirement for a 10-year ballot on the question of maintaining political funds will be abolished, and instead, there will be a requirement for trade unions to send a reminder notice to its members informing them of their right to opt-out of making political fund contributions every 10 years.

Simplifying industrial action notices and industrial action ballot notices

The ERB also intends to simplify the approach taken for industrial action and ballot notices.

The current rules mean that industrial action ballot notices must include:

- a list of categories of workers being balloted
- a list of workplaces in which the workers work
- the total number of workers concerned
- the number of workers being balloted in each category listed
- the number of workers concerned at each listed workplace
- an explanation of how these figures were arrived at

When it comes to industrial action notices, currently, they must specify:

- a list of categories to which relevant workers belong
- a list of workplaces in which the said workers work
- the total number of affected workers
- the number of affected workers in each category listed
- the number of affected workers who work at each listed workplace
- an explanation of how these figures were arrived at.

The ERB will simply these above rules by changing them as follows:

- notices provided by the unions of their intent to ballot must include:
    - the total number of employees in each of the categories of workers being balloted
    - the number of workers concerned at each workplace
    - an explanation of how these figures, and the total number of employees concerned, were arrived at.
- notices provided by the unions of taking industrial action must include:
    - the number of affected workers in each category listed
    - (and consequently, the duty to provide an explanation of how this figure was determined).

Protections against dismissal for taking industrial action.

At present, there is a conflict between how the UK's Trade Union and Labour relations (Consolidation) Act 1992 operates alongside Article 11 of the European Convention on Human Rights. The Bill aims to address a flaw that had been the centre of a Supreme Court ruling in 2024.

At present, employees can only claim unfair dismissal if they are dismissed for having taken protected industrial action that has taken place within 12 weeks of them having started industrial action. The Bill will remove this 12-week cap, where the reason for the dismissal is taking protected industrial action. Employees will be protected regardless of the length of the strike action.

EMPLOYMENT BILLS

The Employment Rights Bill

This Bill, when passed, will introduce the biggest changes in employment law in decades. Impacting the entire employment lifecycle, it will change how we recruit and retain our employees, and in managing the ending of the employment relationship. The Bill is at the final stages with a few sticking points on a few (but key) amendments made by the House of Lords. Until both Houses can agree, the Bill continues to 'ping pong' between the House of Lords and House of Commons. Once agreement is gained, the final version of the Bill will be passed for Royal Assent so that it can become an Act of law. We still expect this to be any time now.

Other current Bills progressing through Parliament:

The Domestic Abuse (Safe Leave) Bill

This Bill proposes to provide employees who are victims of domestic abuse with up to 10 days paid leave each year to

support in dealing with the many challenges experienced when trying to leave the relationship. This is currently at the 2nd reading stage in the House of Commons and is scheduled to take place 28 November 2025.

Bullying and Respect at Work Bill

This private members Bill if passed, would introduce a statutory definition of bullying at work. In addition, it would make a provision relating to bullying at work that includes enabling claims relating to workplace bullying to be considered by an employment tribunal. It would also introduce a Respect at Work Code that would set minimum standards for positive and respectful work environments and give powers to the Equality and Human Rights Commission to investigate workplaces and organisations where there is evidence of a culture of, or multiple incidents of, bullying and to take enforcement action. The Bill had its first reading in the House of Commons on 21 October 2024, and the second reading is not scheduled to take place until 9 January 2026.

Children's Wellbeing and Schools Bill

This Bill is about the safeguarding and welfare of children, support for children in car, the regulation of care workers, establishments and agencies and independent educational institutions and inspections of schools and colleges, as well as dealing with teach misconduct. This Bill is currently at the report stage in the House of Lords, for which a date is to be announced. Once their report is published, the Bill is then passed for its third and final reading.

Company Directors (Duties) Bill

If passed, this Private Members' Bill, would amend section 172 of the Companies Act 2006 to require company directors to balance their duty to promote the success of the company with duties in respect of the environment and the company's employees. It is early in the process and currently waiting a date for the next stage which is its second reading.

Equality (Race and Disability) Bill

We know through the Employment Rights Bill, that the Government are seeking to reform areas of equality relating to race and disability. A standalone Bill has been drafted which has recently been the subject of a public consultation. The Government are currently analysing the feedback from this process. In terms of the Bill, it is proposing the following:

- Introducing mandatory ethnicity and disability pay gap reporting, modelled on the existing gender pay gap framework.
- Extending equal pay rights to ethnic minority and disabled workers, allowing claims on contractual equal pay grounds.
- Potential establishment of a specialist enforcement or regulatory body to oversee compliance and coordinate action plans.

It is unclear when this Bill could come into force, but our research indicates it may not be until 2027.

LEGISLATION – BY IMPLEMENTATION DATE

NOVEMBER 2025

Estimated November/December: Employment Rights Act 2025

It is estimated that the Employment Rights Bill could be passed as an Act of law around November/December 2025.

Estimated November-January: First set of reforms expected to come into force:

There are several reforms that will come into force not long after the Bill is passed, either immediately on its passing, or certainly within two or three months thereafter. These include:

- Repealing the Strikes (Minimum Service Levels) Act 2023
- Repeal the majority of the Trade Union Act 2016 to prevent the need for strikes
- Removing the 10-year ballot requirement for trade union political funds
- Simplifying industrial action notices and industrial action ballot notices
- Protections against dismissal for taking industrial action

DECEMBER 2025

The Employment Tribunals (Early Conciliation: Exemptions and Rules Procedure) (Amendment) Regulations 2025

Claims where early conciliation commences on or after 1 December 2025 will have a window of 12 weeks rather than six weeks, in which to seek conciliation on the issues.

1 December 2025 – Scotland only: Equality Act 210 (Specification of Public Authorities) (Scotland) Order 2025

This Order when in force, will add Zero Waste Scotland Limited to the list of Scottish public authorities in Part 3 of schedule 19 of the Equality Act meaning they will become subject to the public sector equality duty.

The Public Sector Equality Duty (PSED) applies in England, Scotland and Wales and requires public authorities to have due regard to certain equality considerations when exercising their functions. It is intended to help decision-makers, including Government ministers, to comply with the duty.

1 December 2025 – Scotland only: Equality Act 210 (Specific Duties) (Scotland) Amendment Regulations 2025

These Regulations amend the Equality Act 2010 (Specific Duties) (Scotland) Regulations 2012, to provide different dates by which Zero Waste Scotland must report progress on compliance with the public sector equality duty and publish gender pay gap information and statements on equal pay.

The Regulations also define the 'relevant period' which is applicable to Zero Waste Scotland where a listed authority is not required to publish the information due to not having 20 or more employees at any time during the relevant period.

2026 AND BEYOND

Employment Rights Act Reforms: April 2026:

- Doubling the maximum period of the protective award for collective redundancy
- 'Day 1' Paternity Leave and unpaid parental leave
- Whistleblowing protections broadened
- Fair Work Agency body established which will have enforcement powers to ensure fairness
- Statutory sick pay – the removal of the lower earnings limit and waiting period
- Simplifying trade union recognition process
- Electronic and workplace balloting
- Gender pay gap and menopause action plans (initially voluntary in 2026, but mandatory in 2027)

April 2026: Finance Bill 2025-26 to amend part 2 of the Income Tax (Earnings and Pensions) Act 2003

This Act will make recruitment agencies accountable for Pay As You Earn (PAYE) on payments made on or after 6 April 2026 to workers supplied through umbrella companies (or the end client, where there is no agency).

It will make the agency and umbrella company jointly and severally liable and allowing HMRC to pursue either or both.

If there is more than one agency in the supply chain, the rules will apply to the agency that has the direct contract with the end client to supply the worker. Where there is no agency, or whether the agency holds a material interest in the umbrella company, the liability will fall directly on the end client.

June / July 2026 The Data Use and Access Act 2025 (around June 2026)

The Data Use and Access Act 2025 is expected to come into force within twelve months from becoming an act of law. This would therefore be around Summer 2026.

The date is yet to be confirmed, but it is anticipated to be approximately 12 months from when the Bill was given Royal Assent (19 June 2025). The Act will amend certain sections of the General Data Protection Act in areas such as automated decision making, data subject access requests and a new requirement in regard to complaints.

However, a limited number of provisions have already come into force upon Royal Assent, which includes section 78 that relates to reasonable and proportionate searches for data subject access requests and the introduction of the 'stop the clock' mechanism.

1 July 2026 – The Drivers' Hours, Tachographs, International Road Haulage and Licensing of Operators (Amendment) Regulations 2022

The purpose of the Regulations is to implement fully some of the international road transport provisions in the Trade and Cooperation Agreement between the European Union and the United Kingdom. This includes prospective provisions related to drivers' hours rules and tachograph equipment in goods vehicles (such as bringing into scope some light goods vehicles and the introduction of new tachograph equipment). It also applies to some specialised international provisions and removes some access rights for EU operators to reflect the market access in the TCA.

Employment Rights Act Reforms: October 2026:

- Dismissals connected to an employer seeking to vary an employee's contract, but the employee does not agree will be automatically unfair
- Establish the Fair Pay Agreement Adult Social Care Negotiating Body in England
- Tightening tipping law by requiring employers to consult with workers to ensure fair tip allocation
- Requiring employers to take "all reasonable steps" to prevent sexual harassment of their employees
- New obligation on employers not to permit the harassment of their employees by third parties
- Introducing a new duty to inform workers of their right to join a trade union
- Strengthen trade unions' right of access
- New rights and protections for trade union reps
- Extending protections against detriments for taking industrial action
- Employment tribunal time limits extended from 3 months to 6 months

New regulatory framework to bar NHS managers for misconduct (sometime 2026)

Legislation to introduce a new regulatory framework for NHS managers is expected in 2026. The framework will establish a statutory barring system for board-level directors who commit serious misconduct, with new powers granted to the Health and Care Professions Council to disbar senior leaders. The regulations aim to prevent managers found guilty of misconduct from taking other NHS roles and include specific protections for whistleblowers.

2027

Employment Rights Act Reforms: 2027:

- Gender pay gap and menopause action plans to become mandatory
- Enhanced dismissal protections for pregnant workers, and those on and returning from family leave
- Introducing a power to enable regulations to specify steps that are to be regarded as "reasonable", to determine whether an employer has taken all reasonable steps to prevent sexual harassment

- Develop a modern industrial relations framework
- Updated rules relating to protections from blacklisting due to trade union membership or activity
- Changes to the threshold for when collective redundancy consultation applies
- An employer's reason for refusing a flexible working request must be reasonable
- A new statutory entitlement to bereavement leave
- The regulation of umbrella companies
- Ending exploitative zero-hour contracts and applying zero-hour contract measures to agency workers
- 'Day 1' right protection from unfair dismissal.

The Terrorism (Protection of Premises) Act 2025 (Martyn's Law) (date to be confirmed)

This Act received royal ascent on 3rd April 2025 however the regulator (Security Industry Authority - SIA) have said that there will be at least 24 months required in preparing for the law to come into force.

In the meantime, premises and events seeking advice on preparing for Martyn's Law should continue to look for Home Office updates. They can also access free technical guidance and operational advice on protective security on the government partner websites of the National Protective Security Authority and ProtectUK.

April 2027 - Mandatory Payrolling Benefits

The Government announced previously that it would be delaying the roll out of legislation that would mandate Payrolling Benefits in Kind (BIK) until April 2027. Mandating payrolling of BIK is the inclusion of the estimated value of non-cash employee benefits directly in the regular payroll instead of reporting separately on an annual P11D form. Until such time, it continues to be voluntary, and we expect draft legislation and guidance to be provided from around Autumn 2025.

2028

6 April 2028 – Pension age increase

The new normal minimum pension age will become 57 years from 2028, following the amendment to Part 4 of the Finance Act 2004 (pension schemes etc).

LEGISLATION DATE UNKNOWN

PENSIONS (EXTENSION OF AUTOMATIC ENROLMENT) ACT 2023 (DATE TO BE CONFIRMED)

This legislation removes the current age requirements for eligible workers to be automatically enrolled into a workplace pension. The current minimum age is 22 years, but this will be reduced to 18 years. No date has been set for when this legislation comes into force.

PATERNITY LEAVE (BEREAVEMENT) ACT 2024

New legislation is to come into force that will provide new statutory rights for those taking paternity leave in cases where a mother, or a primary adopter, passes away. In this tragic situation, it will provide the other parent or partner who would have taken paternity leave with an automatic day-one right to take immediate paternity leave.

This legislation received Royal Assent back in 2024 under the previous Government, but we are waiting a date for when it is to come into force. However, given the Employment Rights Bill and the reforms within that, particularly around family leave, it may be this statutory right comes into force around the same time.

SUNDAY TRADING – PROTECTION FOR SHOP WORKERS

The right of shop workers to opt out of working Sundays on religious or family grounds is to be extended to any 'additional' hours above their normal hours which they may normally be obliged to work if requested. The duty of employers to advise workers of these rights is also to be extended.

The Enterprise Act 2016 contains provisions to strengthen certain aspects of the protections given under the Employment Rights Act 1996 specific to shop and betting workers. This Act received Royal Assent, i.e. became law on 4 May 2016, but the provisions making the Sunday working amendments have not yet been brought into force.

In addition, the amendments to ERA 1996 envisaged the making of regulations as secondary legislation to fill in the detail of how the revised legislation would work, and that secondary legislation has not yet been published, although the power to make it is in force. With a change in Government since this came into force, the current government have not given any indication that it intends to enact this legislation and so we have no precise indication as to when these changes will take effect, or if they will ever come into force.

CHILDREN AND SOCIAL WORK ACT 2017 WHISTLEBLOWING – PROTECTION FOR CHILDREN'S SOCIAL CARE APPLICANTS

Section 32 of the Children and Social Work Act 2017 when it commences will allow the Employment Rights Act of 1996, s 49C to enable the introduction of regulations that prohibit relevant employers from discriminating against an applicant for a children's social care position because it appears that they have made a protected disclosure. At this time, draft regulations are yet to be published.

CONSULTATION AND GUIDANCE

CONSULTATIONS RELATING TO THE EMPLOYMENT REFORMS

TIMETABLE FOR PUBLIC CONSULTATIONS ANNOUNCED

Many of the reforms set out in the Employment Rights Bill will require either further legislation or the development of new/existing Codes of Practice. As such, a key stage in the implementation process is to consult on the detail of policy and implementation for the changes proposed. In the Government's recently published roadmap to change, they confirmed the following consultations:

Summer/Autumn 2025 consultations:

- Reinstating the School Support Staff Negotiating Body (SSSNB)
- Fair Pay Agreement for the Adult Social Care sector
- Giving employees protection from unfair dismissal from 'day 1' including on the dismissal process in the statutory probation period

Autumn 2025:

- Trade Union measures:
  - Electronic and workplace balloting
  - simplifying the trade union recognition process
  - duty to inform workers of their right to join a trade union and right of access
  - New rights and protections for trade union representatives will be covered by an Acas Code of Practice consultation
- Fire and rehire
- Regulation of umbrella companies
- Bereavement leave
- Rights for pregnant workers
- Ending exploitative zero-hour contracts

Winter/early 2026:

- Trade union measures:
  - Protection against determinants for taking industrial action
  - Strengthening the rules on blacklisting
- Tightening tipping law
- Collective redundancy threshold changes
- New obligation when refusing flexible working requests.

As these consultations begin, we will provide updates and how you can participate, should you wish.

OPEN CONSULTATIONS

LEAVE FOR BEREAVEMENT INCLUDING PREGNANCY LOSS

https://www.gov.uk/government/consultations/make-work-pay-leave-for-bereavement-including-pregnancy-loss

The Department for Business and Trade has launched an open consultation, titled "Make Work Pay: leave for bereavement including pregnancy loss," seeking public and stakeholder input on the details of a major new employee entitlement.

Published on October 23, 2025, the consultation aims to seek views on the specifics of a new entitlement to bereavement leave, which includes provisions for pregnancy loss before 24 weeks.

The initiative stems from the Employment Rights Bill, which introduced a new day-one right to unpaid bereavement leave for employees experiencing the loss of a loved one. The consultation aims to ensure that the eventual entitlement is well-shaped, placing the needs of both employees and employers at the forefront of the policy.

The document seeks specific input across several key regulatory areas to define how this new right will function in practice. Views are being sought on:

- eligibility criteria for taking the leave.
- the specific types of pregnancy loss that will fall within the scope of the entitlement.
- rules dictating when and how bereavement leave can be taken.
- requirements concerning notice and evidence.

Who Can Contribute and How to Respond

The consultation welcomes views from all stakeholders. Given the sensitive and personal nature of the topic, the Department specifically encourages participation from those with relevant insight. This includes charities, employers, and individuals with lived experience. Those wishing to contribute can submit their responses via multiple methods:

- Online via the response portal.
- Emailing submissions to bereavementleave@businessandtrade.gov.uk.
- Writing to the Bereavement Leave Team at the Employment Rights Directorate, Department for Business and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY

A PDF document outlining the full consultation, is available here and the deadline for submitting views is 15 January 2026.

ENHANCED DISMISSAL PROTECTIONS FOR PREGNANT WOMEN AND NEW MOTHERS

The Department for Business and Trade have launched a critical open consultation titled "Make Work Pay: enhanced dismissal protections for pregnant women and new mothers" in which it seeks detailed views on new legislation designed to significantly strengthen workplace security for expectant and new parents.

What the consultation is about

The core focus of this consultation is the implementation of new legislation that will make it unlawful to dismiss pregnant women, mothers on maternity leave, and mothers returning to work for a protected period. This dismissal will be prohibited except in specific circumstances.

Currently, the government is proceeding with legislation that will extend this protection for at least a six-month period after mothers return to work and so the consultation seeks to define the operational specifics and scope of these enhanced protections. By gathering a wide array of views, the government aims to finalise the policy details before implementation (expected in 2027).

The government is specifically seeking input on several key areas, including:

- Determining the specific circumstances in which the dismissal of pregnant women and new mothers should still be permitted.
- Setting the precise regulatory details of when the protections should start and end.
- Exploring whether other new parents should be covered by the protections, beyond pregnant women and new mothers.
- Identifying the best methods for supporting businesses through the change.
- Finding ways to ensure pregnant women and new mothers are fully aware of the policy.
- Strategies to mitigate any unintended consequences arising from the new protections.
- Considering any other changes that could be made to effectively tackle pregnancy and maternity discrimination.

Who Can Participate and How to Respond

The consultation encourages a diverse range of stakeholders to contribute their experiences and expertise before 15 January 2026. Responses are sought from:

- Individuals who are or have been a pregnant woman, new mother, or other parent.
- Employers and business representative organisations.
- Academics.
- Trade unions.
- Charities.
- Legal representatives.

Submissions can be made in several ways:

1. Responding online through the GOV.UK portal.
2. Emailing responses directly to enhanceddismissalprotections@businessandtrade.gov.uk.

A detailed consultation document is available for review providing a comprehensive background on the proposed changes, which you can access here.

DUTY TO INFORM WORKERS OF RIGHT TO JOIN A UNION

The Department for Business and Trade (DBT) has launched a new open consultation, titled "Make Work Pay: duty to inform workers of right to join a union," seeking input on how a new statutory requirement for employers should be implemented. The consultation closes at 11:59pm on 18 December 2025.

The core purpose of this consultation is to seek detailed views on the practical application of a new duty on employers. This duty, introduced by the Employment Rights Bill, requires employers to give a written statement to their workers at the start of their employment, and at other times, informing them of their right to join a trade union.

The primary aim in conducting this consultation is to determine how the new duty can be implemented effectively while simultaneously working to minimise the burden on employers and in particular, the operational details necessary to put the new legal duty into practice. The government is specifically looking for input on several regulatory aspects, including:

- What form the statement informing workers of their right to join a union should take.
- What specific content must be included within the statement.
- The way the statement must be delivered to workers.
- The frequency with which the statement must be reissued to workers after the beginning of their employment.

The consultation is open to all stakeholders who are likely to be affected by this new employer duty, but the DBT specifically invites views from:

- Trade unions.
- Employers.
- Workers.
- Members of the public.

Those wishing to contribute must submit their responses before 18 December 2025 either:

1. Responding online through the provided portal.
2. Emailing submissions to tradeunionpolicy@businessandtrade.gov.uk.

A detailed consultation document, spanning 21 pages, which you can access here.

TRADE UNION RIGHT OF ACCESS

The Department for Business and Trade (DBT) has launched a new open consultation titled "Make Work Pay: trade union right of access". This consultation focuses on establishing the detailed, practical framework for implementing a new statutory right for trade unions to access workplaces.

The consultation, which applies to England, Scotland, and Wales, was published on October 23, 2025, and is seeking stakeholders' views before the closing deadline of 18 December 2025.

The primary purpose of this initiative is to define how the new legal framework for trade unions' right of access into workplaces should work in practice from both a practical and operational perspective.

This new right is mandated by the Employment Rights Bill, which will introduce a framework allowing trade unions to access workplaces physically, as well as communicate with workers either in person or digitally. The consultation therefore seeks to clarify crucial regulatory aspects regarding the application of the new access right, specifically input on:

- How unions will request access to a workplace.
- How employers should respond to these requests.
- The specific factors the Central Arbitration Committee (CAC) will consider when determining whether access should be granted and on what terms.

- The process by which the CAC is to reach decisions on the values of fines issued for breaches of established access agreements.

The consultation welcomes input from all parties likely to be affected by the new framework. The DBT has specifically invited views from trade unions, employers, workers and members of the public.

To contribute views before the December 18, 2025, deadline, responses can be submitted through several methods:

1. Responding online via the GOV.UK portal.
2. Emailing submissions to tradeunionpolicy@businessandtrade.gov.uk.
3. Writing to the Trade Union Policy, Employment Rights Directorate at the Department for Business and Trade, Old Admiralty Building, Admiralty Place, London, SW1A 2DY.

A comprehensive consultation document can be accessed here.

MIGRATION ADVISORY COMMITTEE LAUNCHES STAGE 2 REVIEW OF TEMPORARY SHORTAGE LIST: CALLS FOR EVIDENCE ON KEY UK OCCUPATIONS

The Migration Advisory Committee (MAC) has launched the second stage of its review of the Temporary Shortage List (TSL), inviting government sector leads and organisations to provide detailed evidence on workforce shortages and initiatives designed to maximize the UK workforce.

The TSL review was commissioned by the Home Secretary in July 2025 and is designed to identify specific occupations facing shortages that are eligible for inclusion on the Temporary Shortage List. The TSL is a UK government list of certain mid-skilled occupations (RQF 3-5) that temporarily allows an individual to be sponsored by an employer under the Skilled Worker Visa Route.

The MAC have already published its findings from the stage 1 review (published in October 2025) which identified occupations that were deemed potentially crucial to the delivery of the Industrial Strategy or building critical infrastructure. Stage 2 now focuses on seeking further evidence regarding these specific, pre-approved occupations to determine which ones the MAC will ultimately recommend adding to the TSL.

A core requirement for any occupation to be recommended for placement onto the TSL is the existence of an ambitious workforce strategy, referred to as a 'jobs plan'. This jobs plan must aim to maximise the use of the UK workforce and include specific elements:

- A skills strategy.
- A plan to collaborate with the Department for Work and Pensions (DWP) on a domestic labour strategy.
- Steps to manage the risk of exploitation, particularly of migrant workers.

Evidence provided must only be submitted on occupations that passed Stage 1. The MAC will not consider evidence on other occupations, including those at RQF1-2 or RQF6+.

How to Take Part and By When

The MAC's call for evidence process is split across two primary questionnaires: one designed for government organisations submitting jobs plans, and one for representative bodies. Representative bodies who wish to submit further evidence that falls outside of the core jobs plans should use the MAC's online form. The primary way to respond to the consultation is online.

Interested parties must submit their responses before the closing date of 2 February 2026.

What Happens Next

Stage 2 of the TSL review is scheduled to run until **July 2026**.

The evidence gathered through this call will supplement the in-house analysis being conducted by the MAC team. As part of the review, the MAC will also be working with the Labour Market Evidence Group (LMEG) to collect and analyse data. The LMEG is comprised of several key organisations, including the Industrial Strategy Advisory Council, the Department for Work and Pensions (DWP), Skills England, and equivalent organisations in the devolved governments, in addition to the MAC itself.

MHCLG CONSULTATION: LOCAL GOVERNMENT PENSIONS SCHEME IN ENGLAND AND WALES: SCHEME IMPROVEMENTS (ACCESS AND PROTECTIONS)

The Ministry of Housing, Communities and Local Government has launched an open consultation focused on crucial changes to the Local Government Pension Scheme (LGPS) in England and Wales. The consultation, titled "Local Government Pension Scheme in England and Wales: Scheme improvements (access and protections)," details four major proposals related to pension benefits and access to the scheme.

The consultation runs through to 22 December 2025 and is seeking views on enhancing the LGPS:

3. Normal Minimum Pension Age.
4. Pension access for mayors and councillors.
5. The status of academies in the LGPS.
6. New Fair Deal.

The consultation covers both access to the scheme and its benefits. Responses to the consultation can be made via three primary methods:

1. **Online:** Respondents can use the online response portal.
2. **Email:** Submissions can be emailed to memberbenefitsconsultation@communities.gov.uk.
3. **Post:** Written comments should be addressed to: Consultation on LGPS Scheme Improvements – Scheme Improvements (Access and Protections), FAO Local Government Pensions Team, Ministry of Housing, Communities and Local Government, Local Government Finance Directorate, 2nd Floor, Fry Building, 2 Marsham Street, London, SW1P 4DF.

A draft set of Regulations have also been published in respect of pension access for mayors and councillors, as well as new Fair Deal, seeking comment. All available here.

EXTENDING THE RIGHT TO WORK SCHEME

A new consultation published this month indicates the Government is moving to extending Right to Work Checks to those working in the 'Gig Economy' and who are casual/zero-hours workers.

The Home Office and Immigration Enforcement published a new consultation titled "Extending the Right to Work Scheme," targeting employers with a proposal to significantly broaden the scope of illegal working prevention measures.

The government is consulting with employers on extending mandatory right to work checks to the 'gig economy' and to those employers who employ workers on a casual/zero-hour basis, as a further way to prevent illegal working.

The core change being consulted upon stems from the Border Security, Asylum and Immigration Bill, which aims to strengthen the enforcement of rules to clamp down on illegal working. For the first time, the requirement for employers to carry out right to work checks will be extended to cover businesses hiring 'gig economy' and zero-hours workers. This requirement will affect numerous sectors, including construction, food delivery, beauty salons, courier services, warehousing, leisure and tourism and hospitality.

The purpose of this consultation itself is to gather views on how this significant change should be practically implemented. The government is specifically seeking input on two key areas to help shape the future regulations:

1. **Operationalisation and enforcement:** Views sought on how this extension should be operationalised and enforced.
2. **Simplification:** Input is requested on how processes can be simplified to make it easier for employers to fulfil their new responsibilities.

This process provides businesses with the opportunity to help shape the guidance and the statutory codes of practice that will ultimately underpin the required right to work checks to confirm an individual's right to work in the UK.

The consultation closes on 10 December 2025. If you would like to respond, you can do so via two methods:

3. Responding online.
4. Emailing submissions to righttorentandrighttowork@homeoffice.gov.uk.

You can read published guidance on the proposals here.

FAIR PAY AGREEMENT PROCESS IN ADULT SOCIAL CARE

One of the reforms in the Employment Rights Bill is the introduction of a Fair Pay Agreement in the adult social care sector. For this to be introduced, the Government must first conduct a public consultation, where on conclusion, the responses will be analysed and used to inform policy development.

So, on 30 September, a new consultation opened titled 'fair pay agreement process in adult social care' and seeks views from key stakeholders in areas such as:

- The Adult social care negotiating body
- The negotiating process
- Coverage and remit
- Dispute resolution
- Implementation
- Compliance and enforcement.

Here's a summary of each of these areas, as outlined in the Government's ministerial forward:

The Adult social care negotiating body

A consultation in which views are sought on "how the Adult Social Care (ASC) Negotiating Body could be set up to successfully create fair pay agreements and how the voice of workers and employers in the sector could be represented".

The negotiating process

The proposal is for negotiations to take place on a cyclical basis, each one following the same structure and pattern. It would involve negotiations being triggered by the Secretary of State in written notification to the ASC Negotiating Body. Negotiations would include sector engagement, understanding existing evidence and the gathering of new, and the holding of negotiations.

The feedback of members would be sought and would be fed back to the Body as to whether members agree or wish for further negotiations to take place.

Ultimately, the Body would either gain agreement to its proposal, or in the event of dispute, there would be dispute resolution. Ultimately, the Secretary of State will consider the agreement for approval, and if approved, would make Regulations to introduce it. In the event there is no agreement at this stage, it can be referred to the Negotiating Body.

Coverage and remit

The Government needs to establish before any negotiations take place, what and who can be in scope and therefore considered.

Dispute resolution

This area of the consultation is seeking views on what should happen if a Negotiating Body is unable to reach agreement.

Implementation

This area of consultation is about what happens when agreement has been sought, as well as the scenario of where it hasn't and what support the sector requires for carrying out negotiations.

Compliance and enforcement

The Government proposes that there will be statutory codes of practice to ensure compliance with the fair pay agreement, so this area of the consultation explores this and other ways in which the Government can drive compliance and enforcement.

Participating in the consultation

If you operate in the adult social care sector you can participate in the consultation by using the online survey. The closing date is 16 January 2026.

CLOSED CONSULTATIONS (RESPONSES BEING ANALYSED)

The following consultations are closed, and the responses are currently being anlaysed:

- Work and Pensions Commission Inquiry: Employment support for those with disabilities
- Financial Conduct Authority - tackling non-financial misconduct
- Parental leave and pay review - call for evidence
- European Commission Consultation - 2026-2030 Gender Equality Strategy
- Low Pay Commission Consultation 2025.

DATA PROTECTION CONSULTATIONS

In our September newsletter we informed you of two public consultations, led by the Information Commissioner Office (ICO) in which it seeks views on the new lawful basis for processing data known as 'recognised legitimate interest' and on handling data protection complaints. Both these consultations have closed and the results being analysed. We will provide an update on this once further information has been published.

PARENTAL LEAVE AND PAY REVIEW: CALL FOR EVIDENCE

In June 2025, the Women and Equalities Committee (WEC) published its report, *"Equality at work: Paternity and shared parental leave."* This report followed a December 2024 call for evidence and forms part of the WEC's 'Equality at work' inquiry, aligning with the Labour Manifesto's commitment to enhancing family-friendly rights.

The report set out numerous recommendations to fix the "broken system" and address the "stark gendered disparity" in current statutory leave. The WEC's recommendations focus on significantly increasing the duration and pay of paternity leave:

	Key Recommendations
Focus Area	(Taken from the *Equality at work: Paternity and shared parental leave report June 2025)*
Increased Pay	Raise Statutory Pay for the first six weeks to match maternity pay (90% of average earnings). This change should be implemented during this Parliament without reducing existing maternity entitlements.
Increased Duration	Set a medium-term objective to increase paid statutory paternity leave to six weeks over the course of this Parliament, drawing on lessons from other countries (like Spain).
Eligibility & Access	The government should either amend the Employment Rights Bill or commit to establishing a day one right to paid paternity leave, removing the current service requirement.
Flexibility & Culture	The extended leave plan should allow for maximum flexibility in how the weeks can be taken (e.g., in multiple blocks) within the first year. The government should also assess the benefits of making a portion of the extended leave compulsory to drive cultural change.
Self-Employed Parents	Rectify the exclusion of self-employed fathers by considering options for statutory paid leave for them, and by introducing a Paternity Allowance equivalent to Maternity Allowance.
Cultural Barriers	Consider steps, such as targeted awareness campaigns, to reduce wider cultural and societal barriers to fathers taking more leave, particularly in working-class communities.

Shared Parental Leave (SPL) and Wider Family Support

The committee also called for a major review of SPL to simplify the scheme and for the inclusion of more family structures in the paid leave system:

- **Simplify and widen access to SPL:** The government must address flaws in SPL to increase take-up. The review should focus on simplifying or removing complex eligibility criteria related to employment status, time in service, and earnings, aiming to include the self-employed and those on lower incomes.
- **Maximise flexibility in SPL:** Examine and reduce notice periods (currently eight weeks) required for taking blocks of leave or changing dates to maximise flexibility for parents, subject to employer consultation.
- **Financial incentives:** Consider introducing financial incentives to increase SPL take-up, drawing inspiration from overseas models like the German "partnership bonus."
- **Support for kinship carers:** The review must include kinship carers with a view to implementing statutory paid leave for them, aligning their entitlements with those for parents by adoption and surrogacy.
- **Support for single parents:** Address the inequality faced by single-parent families by considering options to allow them to reallocate some entitlements to nominated family friends or relatives who can share caring responsibilities.
- **Multiple births:** Consider options for additional financial support and extra paid leave for parents of multiple births, drawing on systems in countries like Sweden, France, and Spain.

Government's response

Since our last newsletter, the Government have published their response to the June 2025 report. In their report dated 19 September 2025 the Government responds to the WEC and accepts many of the committee's recommendations, recognising the need for reform.

The report, 'Paternity and Shared Parental Leave – Government Response' details extensive recommendations, some of which have already been adopted or will soon be, as part of the Employment Rights Bill, such as:

- Introducing neonatal care leave and pay
- Bereaved partner's paternity leave
- Paternity leave and unpaid parental leave a day one right
- Making flexible working applications more likely to be accepted.

The new report outlines further specific implementations that the Government has committed to undertaking:

1. **Raising paternity pay:** As a priority, the Government will consider raising paternity pay to the level of maternity pay in the first six weeks i.e. 90% of average earnings.
2. **Bereaved Partner's Paternity Leave:** The government will roll out this leave entitlement next year, 2026.
3. **Right to Time Off for Pregnancy Loss:** The government have committed to introducing a new right to time off work for pregnancy loss.
4. **Defining Kinship Care:** The process of defining kinship care in legislation has begun through the Children's Wellbeing and Schools Bill. This framework aims to ensure that local authorities interpret and apply the term uniformly.
5. **Kinship Allowance Trial:** The government has announced a £40 million package to trial a new Kinship Allowance later this year (2025) in several local authorities. The purpose of this trial is to test whether paying an allowance to cover the additional costs of supporting the child can help increase the number of children taken in by family members and friends.
6. **Parental leave and pay review:** The Government have committed to ensuring that substantial changes like raising the statutory paternity pay to 90% and extending leave to six weeks will fall in scope of the current review into parental leave and pay. This review commenced 1 July 2025 and is expected to run for 18 months, concluding with findings and a roadmap.

CLOSED CONSULTATIONS (RESPONSE PUBLISHED)

MIGRATION ADVISORY COMMITTEE CONFIRMS REVIEW OF VISA SALARIES

The Migration Advisory Committee (MAC) have confirmed that the MAC will undertake two critical reviews in regard to the Temporary Shortage List (TSL). First, a review on salary requirements for visas which is to be completed within six months and two, a review of the TSL to take place over 12 months.

CASE RULINGS

IMPROPER USE OF WORKPLACE 'WHATSAPP' GROUPS

OVERVIEW OF WHAT THE CASE IS ABOUT

This is a case that dealt with extensive claims of race discrimination, harassment, and victimisation, following a failed probation dismissal, some of which involved inappropriate comments and the sharing of offensive photographs in a corporate WhatsApp group.

It is a case that emphasises that managers must be mindful that even unintentionally offensive conduct can constitute unlawful harassment. Although most of the claims were dismissed, two race related harassment complaints were upheld.

CIRCUMSTANCES OF THE CASE

In the case of *Ms R Tapping v Peterborough City Council*, the Claimant, Ms R Tapping, was black and of Jamaican and Caribbean national and/or ethnic origin employed as the Director of Legal and Governance and the Council's Monitoring Officer. Here employment was short, having commenced in November 2022 but being dismissed for failed probation the following August 2023.

Her employer (the Respondent), Peterborough City Council, was undergoing a non-statutory intervention due to financial and governance issues, necessitating significant improvement and early in her employment. Early on in her employment, Ms Tapping disclosed she was in a race discrimination dispute with her former employer which was deemed to be a protected act. In this instance, and in accordance with the Equality Act 2010, raising a complaint in respect of an act of discrimination is a 'protected act', meaning they should not suffer a detriment or be treated unfairly for having done so.

Ms Tapping's case with Peterborough City Council was that she believed her employment was undermined from the outset due to her prior discrimination claim and that she was subjected to a "racist hostile working environment".

Conversely, Peterborough City Council contended that Ms Tapping was dismissed for failed probation due to genuine, documented concerns about her capability, performance, and leadership style and it was found she did not meet the standards required for the role.

Ms Tapping lodged a tribunal claim, in which she pursued 43 separate detriments under the Equality Act 2010, including claims of direct discrimination, harassment, and victimisation.

TRIBUNAL CLAIMS AND FINDINGS

The Tribunal dismissed all but two of her harassment claims. The complaints that succeeded were harassment related to race:

1. Inappropriate Comment: In February 2023, the Chief Executive (Mr Gladstone) asked the Claimant and a newly arrived Interim Head of Legal (Ms Omoregie, also black) if they were "friends". The Tribunal acknowledged that Mr Gladstone had intended to ask if they had worked together professionally, often used as an "ice-breaker". However, because he did not correct himself or provide context, the Tribunal found that the Claimant reasonably perceived the question as implying that two black women in senior roles must know each other, thus creating an adverse work environment.
2. Inappropriate Image: On April 11, 2023, Ms Booth (Chief Finance Officer) sent a photograph appearing to show an almost naked black woman (in carnival dress, photographed from behind showing exposed buttocks) to the teams WhatsApp group. Ms Tapping was the only black member of the group. While Ms Booth did not intend to offend, the image's focus on the black performer's exposed body, combined with Ms Tapping being the only black woman present, led the Tribunal to conclude that the image related to race and created a degrading environment for her and black women in general.

Interestingly, these are the complaints that failed:

- Discrimination and victimisation: Most of her claims, including allegations of a hostile environment and victimisation for having raised her previous race claim, were dismissed.
- Dismissal/Probation: Ms Tapping's claims regarding the extension of her probation and the eventual decision to end her employment were dismissed. The Tribunal found that her manager held genuine and reasonable concerns about her performance, leadership, and conduct during probation meetings. The Tribunal found no evidence that the dismissal decision was influenced by Ms Tapping's race or her protected acts.

- Procedural issues: While the Tribunal noted criticisms of her line manager's failure to adhere strictly to the formal Probation Procedure, it accepted this was due to him being unaware of the form for several months and his reliance on a regular 1-2-1 process which mirrored his own experience. The Tribunal stressed that procedural unfairness does not automatically prove discrimination.

LEARNINGS FOR LINE MANAGERS AND EMPLOYERS

The ruling offers several critical lessons for first-level line managers regarding communication, environment, and procedure:

Intent vs. Impact in Harassment:

Line managers must understand that intent is irrelevant if the conduct is unwanted and has the *effect* of violating a person's dignity or creating an intimidating, hostile, degrading, humiliating, or offensive environment. Even seemingly innocuous remarks or "slips of the tongue" (like asking black colleagues if they are friends) can be found to be race-related harassment if they play into assumptions based on protected characteristics.

Professional Boundaries in Digital Communication:

Communications in official work channels, such as WhatsApp groups, must be maintained to the highest professional standards. Sharing images, even those intended as light-hearted holiday snaps, that are explicit or focus on bodies associated with a protected characteristic risks creating a degrading environment for colleagues who share that characteristic.

Mindful Language and Stereotypes:

Managers must exercise extreme caution regarding feedback language. Ms Tapping's line manager's use of the term "aggressive" towards her was deemed "particularly unfortunate" given that characterising black women as difficult or aggressive is a known racial stereotype. While the Tribunal did not find this comment discriminatory in isolation, managers should be highly sensitive to racial tropes in their interactions.

Adherence to Formal Procedures:

While the Tribunal accepted that performance concerns were genuine, the Council's failure to strictly follow its internal Probation Procedure was criticised. Managers must know and strictly apply internal policies (such as probation review forms and scheduled reviews) to ensure consistency and defensibility, especially for employees in their probationary period.

Creating an Inclusive Environment:

The Tribunal encouraged the Council to "reflect critically as to what inclusivity means". Managers should ensure opportunities (like attending awards ceremonies or key meetings) are distributed in a way that reflects and promotes the diversity of the workforce, rather than focusing purely on those with long tenure or those who fit an existing mould.

In essence, this case serves as a powerful reminder that while robust, non-discriminatory performance management is lawful, the *way* managers communicate, the *environment* they cultivate, and the *casual language* they use, even without malicious intent, must consistently respect the dignity of all employees. Failure to manage these aspects turns the workplace from a professional sphere into an area ripe for claims of unlawful harassment.

WHY FAIR PROCEDURES ARE CRITICAL – REGARDLESS OF JOB LEVEL

CASE TYPE: UNFAIR DISMISSAL (CAPABILITY) AND PROCEDURAL FAIRNESS

The case of *Zen Internet Ltd v Mr Paul Stobart* EAT 153 offers crucial lessons on the necessity of following fair procedures, even when dealing with the most senior executives in the business. It is a case that dealt with a dismissal on the grounds of capability.

CIRCUMSTANCES OF THE CASE

Mr. Paul Stobart served as the Chief Executive Officer (CEO) of Zen Internet Limited ("Zen") from October 1, 2018, until his dismissal on March 31, 2023. Mr. Stobart had a history of success in senior management roles and was initially hired with the confidence of the Board to improve profitability.

However, Zen experienced losses between 2020 and 2023, despite having previously enjoyed consistent profits. Although Mr. Stobart's performance reviews often contained positive comments, concerns regarding profitability were raised by the company's founder and majority shareholder from August 2020 onwards and by February 2023, had lost confidence in Mr. Stobart's ability to achieve sustainable profitability.

The Board decided to terminate Mr. Stobart's appointment in March 2023 for capability reasons, specifically his capacity to achieve profit. He then raised a claim for unfair dismissal.

TRIBUNAL STAGES AND OUTCOME

The Employment Tribunal (ET) established the principal reason for his dismissal was genuinely capability, however found the dismissal itself unfair on procedural grounds. As with all unfair dismissal claims, the legal test is two-fold. First, the reason for the dismissal must be for one of the recognised statutory reasons and second; that the organisation must have acted reasonably in deciding to dismiss the employee by ensuring procedural fairness, and that the decision to dismiss fell within the range of reasonable responses.

While the ET acknowledged that the core issue of a failure to secure sustainable profitability was a potentially fair reason for dismissal i.e. capability, the dismissal was deemed procedurally unfair.

The ET highlighted that Zen failed to follow its own procedures, which mirrored the principles of the ACAS Code of Practice on Disciplinary and Grievance Procedures. Although Mr. Stobart was a senior leader, he remained an employee subject to company procedures. The key procedural failures were that Zen did not:

1. Formally establish the facts through an investigation.
2. Inform Mr. Stobart that he was the subject of a capability process.
3. Arrange meetings where he could put his case (or be accompanied).
4. Decide upon the outcome following such a meeting.
5. Provide a right of appeal.

Applying the *Polkey* principle (which assesses compensation by determining how long the employee would have remained employed had a fair procedure been followed), the ET concluded that Mr. Stobart would have been fairly dismissed by May 31, 2023 – two months later than the date he was dismissed.

The case went to appeal, and The Employment Appeal Tribunal (EAT) upheld the finding of procedural unfairness. The EAT confirmed that the Tribunal was correct in assessing that Zen's response fell outside the range of reasonable responses in the circumstances of the case.

However, the EAT allowed the appeal regarding the *Polkey* assessment. The EAT found the Tribunal erred by limiting its consideration to the period *after* March 17, 2023 (this was the date notice was given). It should have considered what would have happened had fair procedures started from February 24, 2023, when concerns about capability "crystalised".

Furthermore, the EAT found the ET failed to provide adequate reasons explaining how it determined the specific date of May 31, 2023, for the hypothetical fair dismissal. The question of when a fair dismissal would have taken place was remitted (sent back) to the original Employment Tribunal for reconsideration.

KEY LEARNINGS FOR EMPLOYERS

This case underscores the foundational importance of following established procedures for all employees, regardless of their seniority or how obvious the performance failure may seem.

1. **Seniority does not exempt procedure:** The fact that Mr. Stobart was a CEO with considerable experience did not negate his right to a fair process. Although managers in senior roles may be more aware of performance requirements, the general rule is that fair procedural steps are still the normal expectation.
2. **Capability issues require formal action:** Managers should be aware that capability and poor performance must be addressed formally. If an employer has a separate capability procedure, they should use it, but the basic principles of the ACAS Code must be followed.
3. **Do not assume futility:** While there are exceptional cases where procedural steps might be deemed "utterly useless" (such as where inadequacy is "irrecoverable"), these are rare. In most cases, managers must ensure they are performing the key procedural steps—specifically, formally establishing the facts, informing the employee, holding meetings for representations, and allowing an appeal.
4. **Inconsistent actions and communications undermine warning:** Managers conducting performance reviews must ensure clarity. In this case, while profitability concerns were noted, they were set alongside with many positive comments, creating "dissonance" that made it difficult for the employee to perceive that their job was truly in jeopardy until the final months. Performance concerns must be clearly expressed as threatening the employee's ongoing position.
5. **Risk of compensation (The *Polkey* Principle):** Even if the performance issue is genuinely poor (the substantive reason is fair), procedural failures lead to a finding of unfair dismissal. This exposes the employer to compensation for the time it would have taken to conduct a fair process. Failure to follow procedures efficiently means the company must financially cover the delay caused by its unfair actions.

THE COST OF DELAY: WHEN FAILING TO ACT PROMPTLY BECOMES PROCEDURAL UNFAIRNESS

CASE TYPE: DISABILITY DISCRIMINATION (REASONABLE ADJUSTMENT) AND UNFAIR DISMISSAL (CONDUCT)

The case of *Ms C O'Brien v Cheshire and Wirral Partnership NHS Foundation Trust* EAT 156, serves as a stark warning to line managers about the critical need for promptness in addressing conduct issues, particularly when an employee's disability affects their ability to recall events and defend themselves.

CIRCUMSTANCES OF THE CASE

Ms. O'Brien, a ward manager whose employment began in 2009, was dismissed on March 30, 2021, following a disciplinary procedure. The reason for her dismissal was her failure to work contracted hours on certain occasions between September and December 2018, and claiming overtime for hours not worked.

The issues were first raised with Ms. O'Brien's line manager around December 2018/January 2019, and an initial fact-finding exercise began on January 2, 2019. Critically, the Investigating Manager did not speak to the claimant about the issues at that time as they say they had been advised by HR not to speak to them because the matter was considered a potential fraud investigation.

However, before the employer could discuss the concerns with Ms. O'Brien, suffered serious health issues which required an operation. She also suffered with PTSD, anxiety, and depression, which was deemed a disability for the purpose of the Equality Act 2010. Ms. O'Brien had a period of long-term absence until September and suffered with significant health issues that impacted her memory and ability to recall events.

In terms of the outstanding allegations, the formal investigation only took place upon Ms. O'Brien's return to work in October 2019, throughout it, as well as in the subsequent disciplinary hearing (March 2021) she highlighted that it was impossible for her to answer specific questions about what occurred on a specific date two and a half years earlier, forcing her to provide only general explanations.

Ms. O'Brien was dismissed and claimed unfair dismissal and discrimination.

TRIBUNAL STAGES AND OUTCOME

The case was initially heard at the Employment Tribunal, which found in favour of the employer, but it was the Employment Appeals Tribunal that took a different view, as explained below:

The Employment Tribunal (ET) on Unfair Dismissal:

The ET initially found the dismissal fair but acknowledged serious concerns about the process.

The ET found that the respondent's procedure said that issues (not rising to gross misconduct) would be first addressed informally. The ET concluded that the three months initially taken (Jan-Mar 2019) was "not addressing the matter promptly" as required by the ACAS Code.

The ET also found that the loss of the opportunity to speak to the claimant when her memory was "fresh" was "significant".

Despite these strong findings, the ET ultimately concluded that the overall delay, much of which was explained by the claimant's ill health and the Covid-19 pandemic, did not *in and of itself* render the dismissal unfair. The Tribunal found that the respondent followed a "reasonably fair procedure".

The Employment Appeal Tribunal (EAT) on Unfair Dismissal:

The EAT allowed the appeal and quashed the finding of fair dismissal.

The EAT held that the Tribunal failed properly to engage with its own findings about the seriousness and significance of the failure to speak to the claimant promptly at the start of 2019. Describing this critical failure as merely "unfortunate" did not fairly reflect the procedural breach.

The EAT confirmed that the failure to address the matter promptly was a breach of the ACAS Code of Practice 1.

The case was remitted (sent back) for a fresh determination of liability, requiring the Tribunal to properly consider the implications of the delay for the claimant's ability to defend herself.

The EAT on Reasonable Adjustment:

The EAT also found that the employer's "using a formal procedure" without first discussing issues informally resulted in a substantial disadvantage to the claimant because her disability impacted her long-term memory and recall. In fact, having done so would have been deemed a reasonable adjustment to expect the employer to have made.

KEY LEARNINGS FOR EMPLOYERS

This case provides critical guidance on how to manage performance and conduct when time and disability are factors:

1. **Promptness is paramount (ACAS Code):** Managers must deal with disciplinary or conduct issues promptly. An initial three-month delay (Jan-Mar 2019), even if caused by waiting for potential fraud advice and carrying out fact-finding, was deemed a failure to act promptly. Managers should prioritise addressing the issue with the employee as soon as concerns are identified.
2. **Skipping informal steps is risky:** The Tribunal found that the failure to use the informal procedure immediately meant the claimant could not respond when her memory was "fresh". Managers should ensure they follow internal procedures, which often start informally, before escalating to a formal investigation.
3. **Recognise the impact of disability:** If an employee has a disability, such as one affecting memory or recall (like PTSD, anxiety, and depression in this case), a manager's failure to act promptly causes a greater—or substantial—disadvantage to the person with disabilities, compared to someone without that disability.
4. **Delay can lead to unfair dismissal:** Even if the employer believes there are valid reasons for the overall delay (like Covid-19 or the employee's ill health), the EAT held that the procedural failure at the *outset*—failing to speak to the employee promptly—was so significant that the Tribunal must properly consider its implications for the fairness of the subsequent dismissal.
5. **Duty to adjust procedure:** The failure to speak to the employee informally and immediately was not just a procedural flaw, but also a breach of the duty to make a reasonable adjustment, as the reasonable adjustment would have been to use the informal procedure promptly (Jan-Mar 2019) to mitigate the effects of her memory impairment. Managers must be prepared to adjust *how* they conduct procedures to prevent substantial disadvantage to disabled employees

PAYROLL

DON'T FORGET THE UPDATED ADVISORY FUEL RATES

Last month we informed you that the latest advisory fuel rates for employees that use a company car had been published. These were introduced with effective from 1 September 2025, but employers could use the previous rates for up to one month. Ensure you are now using the correct rates moving forward.

REMINDER! 2025 BUDGET

This year's budget is taking place this Wednesday 26 November 2025, which is slightly later than usual. Join us in our February 2026 webinar where the budget will be central to our discussion alongside the Employment Rights Bill.

NOTE FOR DIARY – APRIL 2026 CHANGES AHEAD FOR WORKERS SUPPLIED VIA UMBRELLA COMPANIES

If your business engages workers supplied by umbrella companies, be sure you are prepared for changes that are expected April 2026.

Draft legislation, accompanied by explanatory notes was published recently in which the Finance Bill 2025-26 amends part 2 of the Income Tax (Earnings and Pensions) Act 2003 (known as ITEPA).

According to HMRC the legislation will:

"Introduce a new chapter 11 into part 2 to make employment agencies or end clients joint and severally liable for any amount required to be accounted for under the PAYE provisions where an umbrella company forms part of a labour supply chain.

Further legislation will be introduced to amend section 4A of Social Security Contributions and Benefits Act1992 to provide HM Treasury with the power to make regulations imposing an equivalent joint and several liability for NIC purposes.

Joint and several liability will allow HMRC to pursue an agency in the first instance for any payroll taxes that a non-compliant umbrella company fails to remit to HMRC on their behalf. The end client will be liable if contracting directly with an umbrella company."

The legislation will not apply to those operating via limited companies that are inside IRS35, as well as those workers on an agency payroll (they already pay tax like an employee).

What it does mean, that if a business pays a worker providing a personal service through an umbrella company, and that company employs that worker, but the income tax and NI is not paid, then all parties in the chain would be held responsible.

NOTE FOR DIARY - APRIL 2027: MANDATORY PAYROLLING BENEFITS

A note for your diary – is the mandating of Payrolling Benefits in Kind (BIK), which has been delayed until April 2027. Mandating payrolling of BIK is the inclusion of the estimated value of non-cash employee benefits directly in the regular payroll instead of reporting separately on an annual P11D form. Until such time, it continues to be voluntary, and we expect draft legislation and guidance to be provided from around Autumn 2025.

HEALTH & SAFETY

RADON: WHAT THE LAW SAYS.

Radon is a naturally occurring radioactive gas, that is odourless, tasteless and invisible. It seeps out from rocks and soil, the very foundation that our homes and businesses rest on. Fortunately, outdoors it forms only in very low concentrations, but because it is heavier than air it can collect in buildings and basements at greater concentrations and without effective controls can be hazardous to health.

Radon is the second biggest cause of lung cancer in the UK. Both The Health & Safety at Work Act 1974 and The Ionising Radiation Regulations 2017 place duties on employers to risk assess and reduce the risks of radon to as low a level as reasonably practicable.

WHAT DO YOU NEED TO DO?

For premises at ground level and above:

1. Use Radon UK interactive map https://www.ukradon.org/information/ukmaps to identify if your premises could be affected by radon. The darker the colour the greater the chance of a higher level. The chance is less than one home in a hundred in the white areas and greater than one in three in the darkest areas.
2. All workplaces in radon affected areas should be tested, unless a detailed assessment shows good reason to expect the radon level to be low. Measurements are not usually required in workplaces that are above ground and located in the white areas of the indicative map. If your premises could be affected after consulting the map.
3. Order a workplace measurement pack https://www.ukradon.org/services/orderworkplace The pack comes with instructions on how to undertake the testing in-house and samples can be returned by post for analysis.
4. For workplaces in the UK, the action level is set higher at 300 Bq/m3, as per the Ionising Radiation Regulations. Where results show that radon is present above the action level steps will need to be taken to reduce levels.

    - You will need to notify HSE if you work in an atmosphere containing radon above an annual concentration of 300 Bq m-3. Notification can be made here: https://www.hse.gov.uk/radiation/ionising/notify.htm.
    - Appointment of a radiation protection advisor (RPA) HSE approved RPA's can be found here: https://www.hse.gov.uk/radiation/rpnews/bodieshse.htm.
    - A RPA will be able to advise on suitable controls to reduce radon levels including sumps and increased ventilation.

5. Retest the atmosphere after controls have been implemented to ensure they are effective.
6. Review the risk assessment:

    - Where radon levels were found to be significantly less than 300 Bq/m3 at the initial measurement, the period of remeasurement might be approximately once every 10 years.
    - Where radon levels were just below 300 Bq/m3 at the initial measurement, the suggested period for remeasurement will be less than 10 years.
    - Where radon levels were above 300 Bq/m3 at the initial measurement and measures have been taken to reduce radon exposures (such as engineered systems or occupancy restrictions), the remeasurement periods may need to be significantly more frequent to verify their continuing effectiveness, a radiation protection advisor should be consulted.

For premises below ground level:

Premises below ground that are occupied for more than an average of an hour per week or approximately 50 hours per year, or those containing an open water source must be tested irrespective of the indicative map. Steps 3-6 must be taken.

ACCIDENT INVESTIGATIONS

During 2023/2024, 4.1 million working days were lost due to workplace non-fatal injuries. Common accidents were slips, trips, falls from same level, handling, lifting, carrying, being struck by a moving vehicle, acts of violence, falls from height.

The Health and Safety at Work etc Act 1974 and the Management of Health and Safety at Work Regulations 1999 places a duty on employers to manage the health and safety risk of all workers and implement necessary safe practices and procedures to protect them, as well as persons not in their employment. Employees must also take responsibility to report unsafe circumstances and accidents, near-misses etc.

In the event of an accident, incident, near miss or dangerous occurrence on any company premises involving a worker, contractor or visitor, all accidents must be recorded in the company accident book.

To prevent accidents, so far as is reasonably practicable, and ensuring the company is operating within the law, it is best practice to undertake an accident investigation this will help ascertain if/why equipment or human failures occurred.

Steps to take when undertaking an investigation

- Gather all information in relation to the accident/incident
- Thoroughly analyse the information
- Identify risk control measures
- Develop an action plan, and implement it
- Different Types of Incidents
- An accident
- A near miss
- A dangerous occurrence
- A work-related illness

Following an incident investigation, implement an action plan using SMART objectives e.g. Specific, Measurable, Agreed and Realistic with Timescales, constructive discussions with contributions from management, safety representatives and workers should be held.

WHAT THE LAW SAYS

The Reporting of Injuries, Diseases and Dangerous Occurrences Regulations (RIDDOR) places a duty on the company 'responsible person' to report certain types of accidents or dangerous occurrences to the HSE.

Types of Reportable work-related events:

- **Specified injury** e.g. fractures to limbs, amputation, loss of consciousness
- **Occupational diseases** e.g. Occupational dermatitis, Carpal Tunnel Syndrome, HAVS
- **Dangerous occurrences** e.g. Structural collapse, explosion, electrical fault causing fire
- **Work related fatalities** - Any death of a worker, or someone else arising from a work-related incident.
- **Over 7-day injury** – When an employee is unable to perform their normal work duties for more than 7 consecutive days following a work accident (non-working days count).
- **Reportable gas incidents** – Gas leaks, fire or explosion.
- **Non-fatal injuries to non-workers** - Where injury results in them being taken directly to hospital from the scene of the accident for treatment.

Report without delay and within required timeframes (usually 10–15 days depending on the incident). Reports can be made online.

Incident reports, RIDDOR reports and accident investigation records and evidence must be retained for at least three years. All incidents involving children must be retained until they reach the age of 21.

HSE TARGETED MOTOR VEHICLE REPAIR INSPECTIONS

The HSE has begun a series of 1,000 targeted inspections across motor vehicle repair sites in Great Britain to address the growing problem of occupational asthma caused by paints and coatings that contain isocyanates. Once the condition develops, even tiny exposures can trigger severe asthma attacks, meaning those affected can no longer continue working in the industry.

WHAT ARE ISOCYANATES?

Isocyanates are a group of highly reactive chemicals used to make many types of coatings, foams, and adhesives are used especially in automotive paints and varnishes.

They're key ingredients in two-pack (2K) paints, polyurethane products, and spray foams because they help create a tough, durable finish.

Common types include:

- TDI – Toluene diisocyanate
- MDI – Methylene diphenyl diisocyanate
- HDI – Hexamethylene diisocyanate (often used in vehicle paints)
- (IPDI) Isophorone diisocyanate

HOW TO PROTECT EMPLOYEES?

1. First step is to review safety data sheets for the substances you use. If you identify substances containing isocyanates, investigate if these can be substituted for other less hazardous products – speak to suppliers.
2. If you have not already done so, undertake a COSHH assessment.
3. Health surveillance is essential when there is a risk of inhaling or coming into contact with these chemicals during spraying. Biological exposure must also be routinely monitored with urine testing, recognised as the most practical and affordable way to check that control measures are effective. Engage the services of an Occupational Health Specialist to assist with this.
4. Provide and maintain extraction to spray booths and rooms, these systems should be serviced, cleaned and maintained in accordance with the manufacturer's instructions. Extraction systems must also be subject to thorough examination by a competent person every 14 months in accordance with COSHH and must be clearly provided with clearance time notices.
5. Provide workers with appropriate respiratory protective equipment. Workers must wear air-fed breathing apparatus certified to the correct standard. Standard filtering masks do not provide sufficient protection. Full-visor systems are preferred, although half-mask types with eye protection may be acceptable if biological monitoring is carried out more frequently.
6. Provide suitable information, instruction, training and supervision. Ensure that workers are aware of the risks from isocyanates and understand the early signs of occupational asthma. Employees should be trained on the safe system of working with these substances and managers and supervisors should ensure that employees follow these systems, as well as wear PPE appropriately and take heed of any clearance times.

RECENT PROSECUTION

A construction company based in London who specialises in road resurfacing has recently been fined £1,000,000 and costs after the death of a worker in May 2022 where the worker was hit by a reversing road-sweeper.

On 30th May 2022, a worker was undertaking resurfacing works, another colleague was at the wheel of the vehicle which struck the other worker whist the vehicle was reversing.

Following an investigation by the Metropolitan Police, who submitted evidence to the Crown Prosecution Service, which led to a separate prosecution and the HSE inspector the failures included:

- No segregation between moving vehicles and pedestrians on site
- No banksman was being used whilst the vehicle was being reversed and struct the worker
- Inadequate traffic management system, which was unsafe, and placed workers and members of the public at risk of serious injury and death

Construction transport accidents that result from an inadequate segregation of pedestrians and vehicles, but if carefully planned at any design stage and the control of vehicle operations during construction works these can usually avoid accidents or serious injury.

After the hearing the HSE Inspector said, “the lack of segregation of vehicles and pedestrians by Marlborough Highways Limited meant the worker had not been kept safe due to the lack of appropriate controls on site.”

In October 2025, the company pleaded guilty of breaching Section 2(1) and 3(1) of the Health and Safety at Work etc Act 1974 and was fined £1,000,000 and full costs awarded in the sum of £6,028.

In a separate case in 2024, another employee of the company pleaded guilty to causing death by careless driving’ contrary to section 2B of the Road Traffic Act 1998 and was prosecuted by being given a custodial sentence of six months, suspended for two years, and was disqualified from driving for one year.

FESTIVE SEASON CELEBRATIONS

In our webinar this month we discussed the unique legal and HR challenges employers can face at this time of year. Unfortunately, the lines between celebration and compliance can be blurred and so it is essential that all employers, regardless of size, sector or location prepares carefully December 2025.

In our webinar, which is accompanied by a Hot Topic, we provide clear, practical strategies employers need to adopt to safely navigate the festive season.

Check out our other free events coming up.

EQUALITY & DIVERSITY

WOMEN REACH TOP ROLES FASTER - BUT DON'T STAY AS LONG, RESEARCH FINDS

New academic research reveals a surprising trend: women attain top executive roles more quickly than men - but once they get there, they tend to leave sooner.

Researchers from business schools and universities across Europe analysed data from more than 6,000 listed firms across 33 countries. The purpose of the research was to find out how women's entry to and exit from the highest levels of corporate leadership compared to men. The key findings:

- Women were found to reach senior executive roles like CEO, CFO, etc. on average 2.5 years earlier than men (according to professional publication Personnel Today).
- Despite this faster rise, women's tenure in these positions is about one year shorter on average than that of men (Personnel Today)
- These patterns exist across different countries and industries which signals a broad, systemic issue.

Although women appear to be breaking through the so-called "glass ceiling" more quickly, their shorter stays in these roles suggest persistent challenges once they arrive at the top. Possible barriers identified in the research include:

- Increased scrutiny on women leaders
- Less access to support networks, mentorship, or sponsorship
- Unequal expectations in their roles.

Interestingly, women who step down from these top executive roles are less likely than men to move into another comparable senior position. Instead, they more often shift into non-executive roles which typically offer less influence and lower pay. Suggesting their departures are not primarily about getting a "better job," but potentially about exiting a difficult or unsupported situation.

Recommendations from the researchers to make genuine progress, and not just rapid promotions, argue that companies need to:

1. Offer mentorship and leadership support tailored to women executives.
2. Build more inclusive organisational structures that don't penalise women for being different or visible.
3. Provide flexible working arrangements, so women can balance leadership roles with other life demands.

Jana Oehmichen, one of the academics involved, put it clearly: it's not enough just to "open the door" for women; organisations must ensure women can stay, thrive, and lead effectively once they're inside.

GOVERNMENT PROPOSES STRONGER JOB PROTECTIONS FOR PREGNANT WOMEN AND NEW MOTHERS

The UK government is consulting on new, tougher protections against dismissal for pregnant employees and new mothers, as part of a broader set of employment reforms under the Employment Rights Bill.

The consultation is responding to clear evidence of pregnancy and maternity discrimination in the workplace. The Equality and Human Rights Commission (EHRC) found that 11% of recent mothers left their jobs due to poor treatment; around 1% reported being made compulsorily redundant.

Further, between 2007 and 2019, UK employment tribunals saw 1,200–1,900 annual claims related to pregnancy or maternity related dismissal or detriment. The Government therefore wants to ensure job security during the "high-risk" period of pregnancy and shortly after returning from maternity leave.

The current legal framework already gives pregnant women and new mothers certain protections. For example, against redundancy during pregnancy, maternity leave, and for a defined return-to-work period, but the proposed changes could make these protections even stronger.

Key options under consideration include:

1. **Stricter tests for dismissal**

- The government may keep the current fair-dismissal reasons (conduct, capability, redundancy, statutory prohibition, "some other substantial reason") but apply a tougher fairness test for pregnant women and new mothers.
- Alternatively, some of these reasons might be narrowed or removed entirely for this group. For instance, only allowing gross misconduct as a basis for conduct-related dismissal.

2. **Redefining the "protected period"**

- The protected period could begin when an employee tells their employer they are pregnant, though the consultation asks whether it should start even earlier.
- As for when protection ends, two options are being discussed:
    - End six months after the mother returns to work.
    - End 18 months after the child's birth, aligning with current redundancy protections.

3. **Possible extension to other parents**

The consultation also raises whether other new parents, such as adoptive parents or those taking shared parental leave, should be covered by similar protections.

One major concern is employer hesitancy to hire women of childbearing age if dismissal protections become too strong. The government is seeking solutions to mitigate this risk, such as offering guidance, training, and incentives.

There is also a potential administrative burden on businesses. As part of the consultation, the government is asking how companies can be supported to understand and apply the new rules fairly.

The consultation is open until 15 January 2026 and after the consultation, the government plans to draw up regulations to enforce the new protections, which could come into effect in 2027.

Meanwhile, responses will be used to shape how the protections work in practice, for example, defining the exceptions to dismissal and clarifying how long protection lasts.

The reforms form part of the government's "Make Work Pay" plan, which aims to modernise employment rights and strengthen job security through the Employment Rights Bill that is currently progressing through Parliament.

GOVERNMENT LAUNCHES CONSULTATIONS ON BEREAVEMENT LEAVE AND PREGNANCY PROTECTIONS UNDER EMPLOYMENT RIGHTS BILL

The UK government has opened a new consultation under its Employment Rights Bill, proposing new protections for employees who suffer pregnancy.

The consultation seeks views on the proposals to grant employees a day-one right to unpaid bereavement leave who experience the death of a loved one, including pregnancy loss before 24 weeks.

Key proposals in the consultation include:

- Which types of pregnancy losses should be covered (for example, miscarriage, ectopic pregnancy, molar pregnancy, IVF embryo transfer loss)
- Whether the leave should include partners/co-parents as well as the person carrying the pregnancy
- How long the bereavement leave should be (the Bill suggests a minimum of one week, though two weeks is under discussion)
- Whether the leave can be taken flexibly (e.g., in days) or must be taken in one block
- Rules around giving notice and providing evidence of loss, to ensure a fair but sensitive system.

The proposed rights would also include protection against unfair treatment for employees taking this leave — including protection of contractual rights and a safeguard against dismissal.

The consultation close on 15 January 2026. After feedback is gathered, the government will draft regulations to enact the changes; these are currently expected to come into effect in 2027.

The details will be shaped by stakeholder input — including what counts as eligible loss, how much leave is appropriate, and how dismissal protections should work in practice.

INTERESTING HR STATISTICS

ANNUAL HEALTH AND SAFETY STATISTICS

Each year the Health and Safety Executive (HSE) publish their latest statistics. Based on their summary statistics for Health and Safety at work in Great Britain for 2025, the figures reveal significant human and economic costs associated with work-related ill health and injury.

WORK-RELATED ILL HEALTH (2024/25)

The total number of workers suffering from work-related ill health (new or long-standing) in 2024/25 was 1.9 million. Of this number, 730,000 workers suffered from a new case of work-related ill health during the year.

Ill health is the major contributor to time lost from work, resulting in 35.7 million working days lost due to work-related ill health in 2024/25. Overall, the rates of self-reported work-related ill health in the latest three years are higher than the 2018/19 pre-coronavirus level.

KEY ILLNESS CATEGORIES (2024/25):

1. Work-related stress, depression or anxiety: This is the dominant category, affecting 964,000 workers (new or long-standing), or approximately 1.0 million workers. This accounts for 52% of all ill health cases.
    - New cases totalled 409,000.
    - This type of illness caused the loss of 22.1 million working days.
    - Industries with statistically significantly higher than average rates include Public administration/defence, Education, and health/social work.
2. Work-related musculoskeletal disorders (MSDs): These affected 511,000 workers (new or long-standing), or approximately 0.5 million workers. MSDs account for 27% of all ill health cases.
    - New cases totalled 173,000.
    - MSDs caused the loss of 7.1 million working days.
    - The most affected areas were the back (43% or 221,000 cases) and the upper limbs or neck (41% or 211,000 cases).

- Industries with higher than average rates include Construction, transportation and storage, and administrative and support service activities.

3. Occupational Lung Disease: Annually, an estimated 13,000 deaths are linked to past exposure at work, primarily to chemicals or dust. 11,000 lung disease deaths each year are estimated to be linked to past exposures at work.
    - In 2023, there were 2,218 mesothelioma deaths, with a similar number of lung cancer deaths linked to past exposures to asbestos.
    - Occupational lung diseases contribute to annual deaths primarily through Chronic Obstructive Pulmonary Disease (COPD) (35%).
    - Annual mesothelioma deaths are expected to reduce over the period 2024 to 2040.

WORKPLACE INJURIES AND FATALITIES (2024/25)

In 2024/25, a total of 124 workers were killed in work-related accidents. Over the last decade or so, the rate of fatal injury to workers has been broadly flat.

Non-Fatal Injuries:

- Self-reported injuries (Labour Force Survey): 680,000 workers sustained a workplace non-fatal injury, or approximately 0.7 million workers.
    - This resulted in 4.4 million working days lost.
- Employer-reported injuries (RIDDOR): Employers reported 59,219 employee work-related non-fatal injuries.
- The most common kinds of non-fatal accidents reported by employers were handling, lifting or carrying (30%) and slips, trips or falls on the same level (17%).
- Industries with statistically significantly higher workplace non-fatal injury rates compared to the average across all industries included Construction, Transportation and storage, and Accommodation and food service activities.

TOTAL ECONOMIC AND TIME COSTS (2023/24)

The combined burden of ill health and injury in 2024/25 resulted in a total of 40.1 million working days lost.

The annual costs associated with workplace injury and new cases of work-related ill health in 2023/24 (excluding long latency illnesses like cancer) totalled £22.9 billion.

Cost Breakdown (2023/24):

- Ill Health Costs: New cases of work-related ill health accounted for the majority of the financial impact, costing £16.4 billion.
- Injury Costs: Workplace injury accounted for £6.5 billion.
- Cost Bearers: The largest share of the total cost (£22.9 billion) falls to individuals (£13.4 billion), followed by Government (£5.2 billion), and Employers (£4.3 billion). Ill health costs make up 72% of this total, while injury costs make up 28%.

INTERNATIONAL COMPARISONS

The UK compares favourably to many large European economies. The UK consistently has one of the lowest rates of fatal injury across Europe.

- In 2018, the UK fatal injury rate was similar to Germany's and lower than those in France, Spain, Italy, Poland, and the EU-27 average.
- In 2020, the UK's rates of self-reported workplace non-fatal injuries and work-related ill health resulting in time off work compared favourably with many European countries.

Got any questions?

If you need any further guidance or have any HR-related queries, feel free to get in touch with us. You can also browse through our previous newsletters for more insights and updates here.