

EMPLOYMENT AND IMMIGRATION ANNUAL TRAINING DAY

The post-ERA landscape: What's new in employment and immigration law?

25 JUNE 2026



SPEAKERS



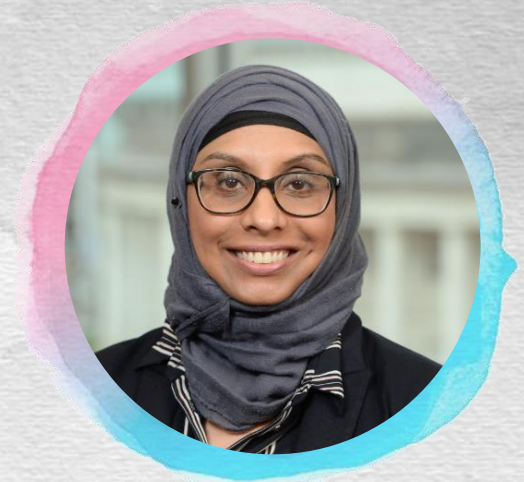
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THE POST-ERA LANDSCAPE

WHAT ARE WE GOING TO COVER?

REFORM

The Employment Rights Act 2025

Timetable and progress
Future changes
What else?

REVIEW

EHRC draft Code of Practice for service providers

following the UKSC's decision in
FWS v Scottish Ministers [2025]

MONITOR

Recent caselaw
Immigration update



REFORM ERA 2025 TIMETABLE AND PROGRESS SO FAR



EMPLOYMENT RIGHTS ACT 2025: KEY AREAS

Unfair dismissal

Collective
redundancy

End fire & rehire

Day 1 rights

SSP

Flexible working

Guaranteed hours
contracts

Notice of shift
changes/ cancellations

Fair Work Agency

Harassment

Equality Action
Plans

Trade Unions

Protection from
dismissal during/after
pregnancy

Umbrella company
reforms

Consult on
tip policies

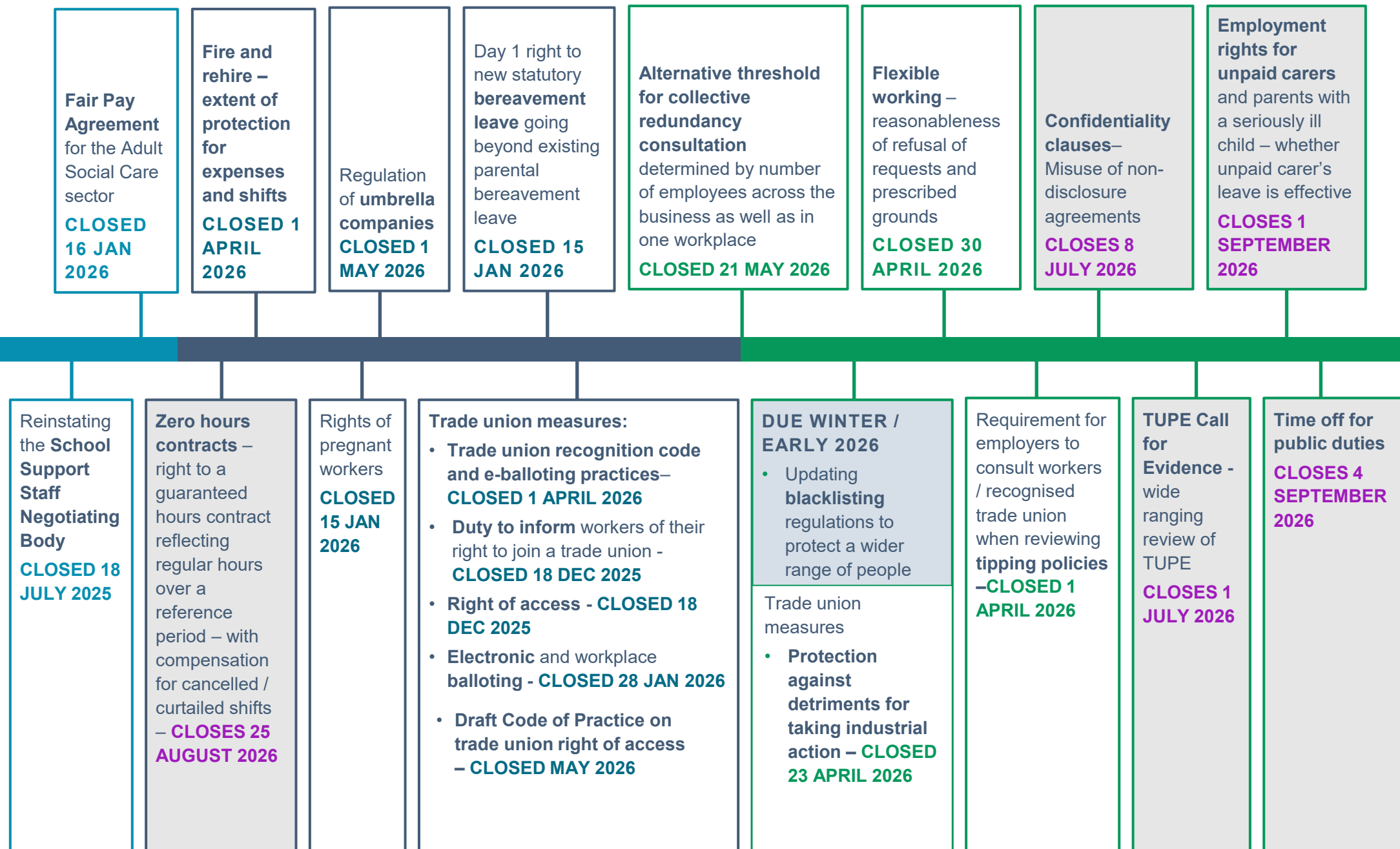
Outsourcing:
Preventing two-tier
workforces

NDA's and
Confidentiality

Increase ET time limit



CONSULTATIONS TIMETABLE 2025-2026



IMPLEMENTATION TIMETABLE 2025-2027

ON ROYAL ASSENT / 18 FEBRUARY 2026

- Repealed the Strikes (Minimum Services Levels) Act 2023
- Repealed majority of the Trade Union Act 2016 (brought in a 12-month mandate and a 10-day notice period for industrial action)
- Simplified requirements for industrial action notices and industrial action ballot notices;
- Removed 10-year ballot requirement for TU political funds
- Extended protection against dismissal for taking industrial action

APRIL 2026

- Collective redundancy: Maximum period of protective award doubled from 90 to 180 days
- New 'day 1' right to paternity Leave and unpaid parental Leave
- New 'day 1' right to SSP (no 3-day waiting period) and removal of the lower earnings limit
- Fair Work Agency established
- Whistleblowing protection for allegations of sexual harassment
- Simplified trade union recognition processes
- New duty to keep holiday records for six years

AUGUST 2026

Electronic and workplace balloting (Phase 1)

OCTOBER 2026

- Extend time limit for bringing an employment tribunal claim from 3 to 6 months
- Procurement – two-tier code for public sector outsourcing
- Tightening tipping law
- Strengthening trade unions' right of access, duty to inform workers of right to join a trade union, new rights and protections for trade union reps, extend protections against detriments for taking industrial action, unfair practices in the trade union recognition process
- Employers to take *all reasonable steps* to prevent sexual harassment at work
- Reintroduce employer liability for third party harassment for all relevant PCs
- Power to enable regulations to specify steps that are 'reasonable' to determine whether an employer has taken *all reasonable steps* to prevent sexual harassment

2027

- Reduce the unfair dismissal qualifying period to 6 months and remove the cap on compensation
- End 'fire and rehire' in relation to restricted variations (including reductions in pay or holiday, changes to hours) save where employer has no option to remain viable
- End 'exploitative' zero hours contracts (and corresponding measures for agency workers)
- Alternative threshold for collective redundancy consultation
- Mandate gender pay gap and menopause support action plans (employers with 250+ employees)
- Unlawful to dismiss a woman during pregnancy and up to 6 months after her RTW
- Regulation of umbrella companies
- Flexible working
- Bereavement leave – including pregnancy loss before 24 weeks
- Blacklisting
- Industrial relations framework
- Electronic and workplace balloting (Phase 2)
- Specifying steps that are 'reasonable' to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- Ban on confidentiality clauses/NDAs seeking to prevent allegations or disclosures of information related to workplace harassment or discrimination

Whistleblowing

Allegations of sexual harassment are protected disclosures

Duty to keep holiday records

Fair Work Agency

Protective award
Doubled from 90 to 180 days

Day 1 Rights
SSP
Paternity and parental leave

Trade union recognition
Simplified process

April 2026

REFORM
ERA 2025
CHANGES IN
OCTOBER 2026



TRADE UNIONS

RIGHTS OF ACCESS



Provide **unrecognised** unions with the opportunity to recruit and organise within a workplace with the aim of gaining recognition.

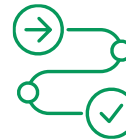


Access agreements - the purposes of meeting, representing, recruiting or organising workers, or facilitating collective bargaining.



NOT to organise industrial action.

Access provisions to cover digital access.



There is a procedure for seeking access.



If agreement cannot be reached, TU can apply to CAC to determine.



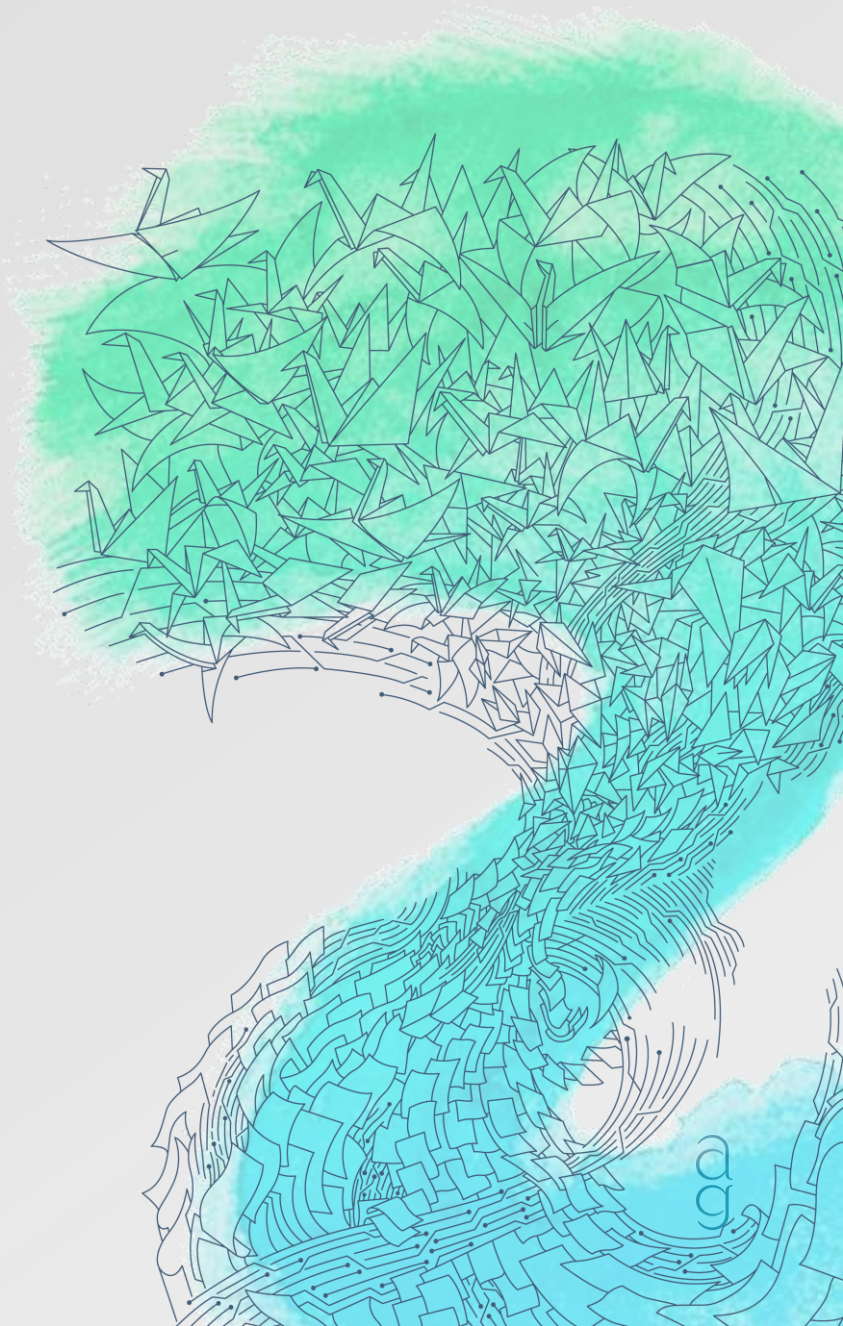
Amendment included power for detailed framework for fines by CAC for non-compliance.

To consult on framework prior to implementing regulations.

TRADE UNIONS

STATEMENT OF TRADE UNION RIGHTS

- Provide a written statement advising of the right to join a trade union:
 - at the same time as providing the worker's section 1 statement.
 - at other prescribed times (to be set out in secondary legislation).
 - Regulations will set out:
 - the information required;
 - the form it must take; and
 - the manner in which it must be given.
 - May include the protections afforded to TU members under TULR(C)A 1998.
 - Consultation closed 18 December 2025.
 - Expected to come into force in **October 2026**.
-



CHANGES TO TRADE UNION RIGHTS 2026-2027

AUGUST 2026

- Electronic balloting (Phase 1)

OCTOBER 2026

- Strengthen trade unions' right of access
- Duty to inform workers of their right to join a trade union
- New rights and protections for trade union reps
- Extend protections against detriments for taking industrial action
- Unfair practices in the trade union recognition process

2027

- Blacklisting
- Industrial relations framework
- Electronic and workplace balloting (Phase 2)

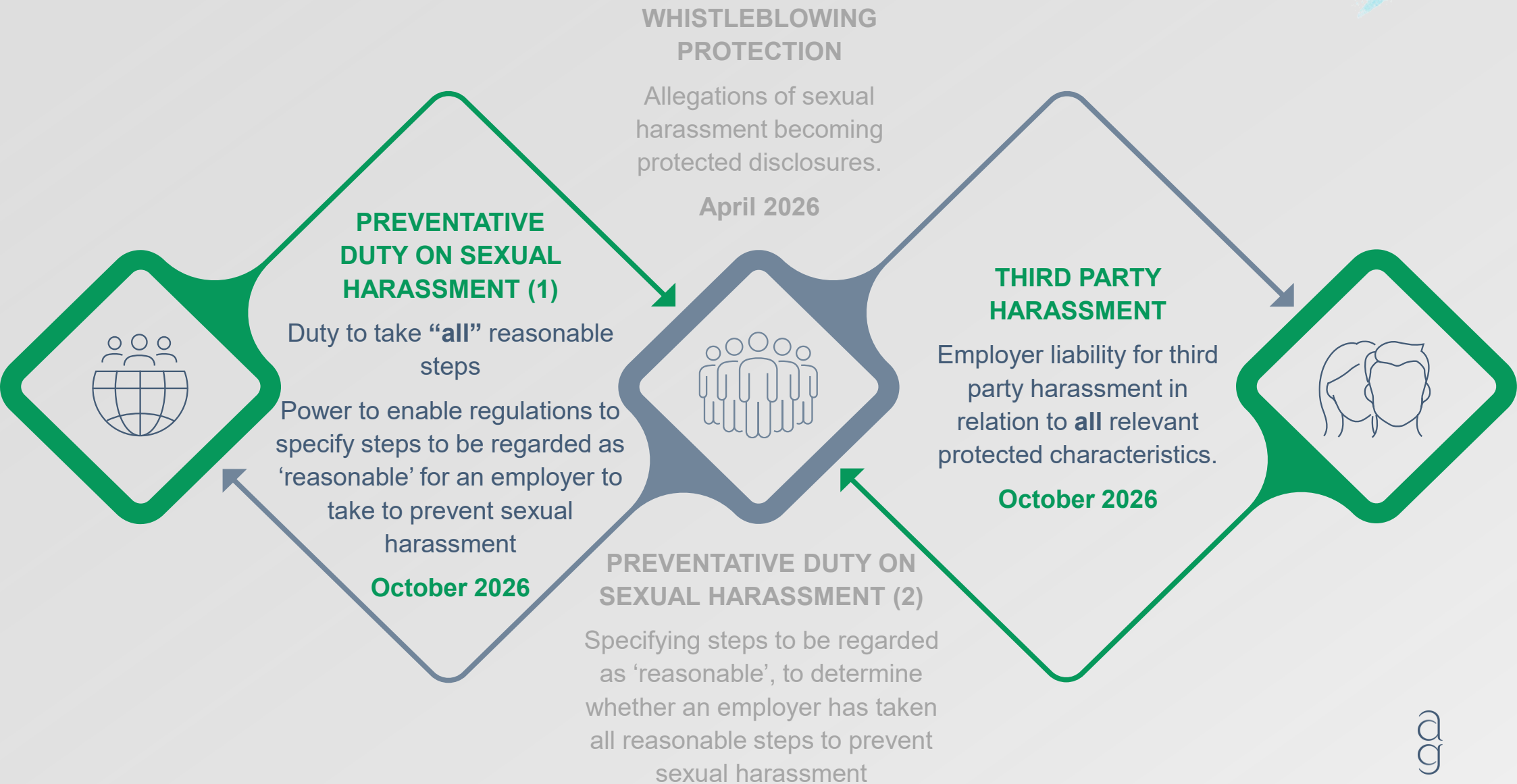
EXTENDING TIME LIMITS NOT BEFORE OCTOBER 2026



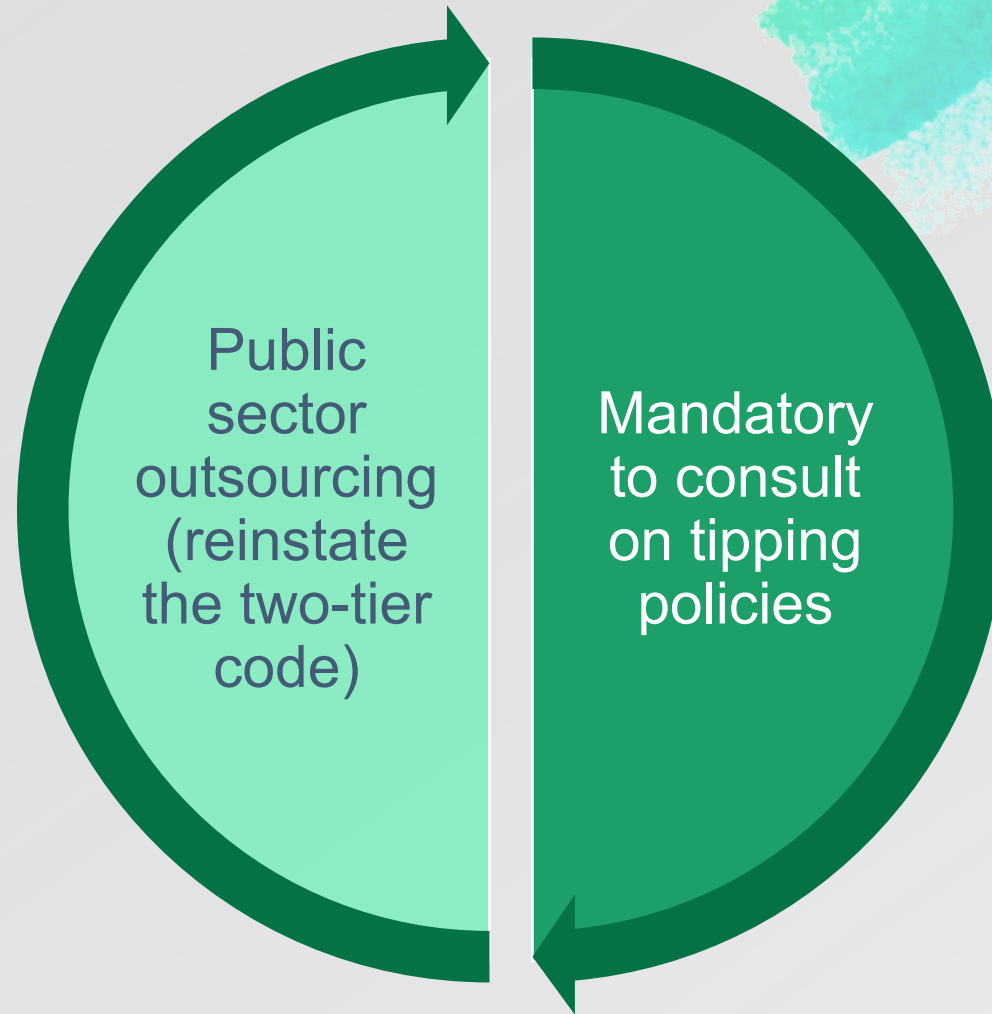
The time limit for making a claim to an employment tribunal is set to increase from 3 months **to 6 months for all claims.**

Since 1 December 2025, the Acas early conciliation period increased from 6 weeks to 12 weeks (applying to all cases notified to Acas for early conciliation on or after 1 December 2025). This will be reviewed again in **October 2026.**

CHANGES TO HARASSMENT: OCTOBER 2026 PREVENTATIVE DUTY (PART 1) & THIRD-PARTY HARASSMENT



OCTOBER 2026 OTHER CHANGES



REFORM ERA 2025 CHANGES IN 2027



DAY ONE RIGHTS 2027

FLEXIBLE WORKING THE DEFAULT FOR ALL WORKERS



(except where reasonable to refuse on prescribed grounds).

In force 2027

EXTENDED MATERNITY PROTECTIONS



Existing protection from redundancy during and after a protected period of pregnancy to apply to redundancy **or dismissal** after a protected period of pregnancy. Details to be set out in Regulations.

Consultation closed 15 January 2026

In force 2027

BEREAVEMENT LEAVE

A new statutory right to Bereavement Leave, with at least two weeks for parental bereavement and one week for other bereavements. Details to be set out in separate Regulations.

July 2025: Bill amended to include pregnancy loss before 24 weeks.

Consultation closed 15 January 2026

In force 2027



ENHANCED MATERNITY PROTECTION (2027) CONSULTATION CLOSED 15 JANUARY 2026

01

When should dismissals of pregnant women / new mothers be allowed?

02

When should protection start?

03

Should protection cover parents taking other types of family leave?

04

Unintended consequences?

OPTION A

New general test of fairness?

OPTION B

Five fair reasons narrowed / removed?



REDUNDANCIES: COLLECTIVE CONSULTATION (2027)



Collective redundancy obligations will be triggered where:

- 20+ redundancies are proposed at one establishment (as currently);
- OR
- A **threshold number** of employees are proposed to be made redundant **across the employer's organisation**

Threshold number will be set in regulations following consultation. Key options:

1. A **fixed number** (e.g. a set number of redundancies across the company); or
2. A **tiered approach** (e.g. different thresholds based on employer size).

WHAT'S NEXT?

- Consultation on threshold number **closed on 21 May** – outcome awaited
- **2027** - alternative threshold to be implemented
- Gather views on strengthening the collective redundancy framework (potentially doubling the minimum consultation period from 45 to 90 days when proposing to dismiss 100+ employees)

GUARANTEED HOURS CONTRACTS AND REASONABLE NOTICE OF SHIFT CHANGES FOR ZERO / LOW HOURS WORKERS (2027)

1

BAN
'EXPLOITATIVE'
ZERO HOURS
CONTRACTS

2

RIGHT TO GUARANTEED HOURS
CONTRACT

Those regularly working more than zero/low hours will have a **right to a guaranteed hours contract (GHO) reflecting the number of hours regularly worked** (12-week reference period tbc) BUT can stay on zero hours contracts if prefer

- Rights extended to **agency workers** (end hirers obliged to make GHO to qualifying workers)
- Contracting-out allowed under the terms of a collective agreement
- Anti-avoidance provisions
- End-hirers required to make a GHO to an agency worker protecting their pay and conditions, so that they're no less favourable than those previously working under (or comparable workers doing similar work)
- Agency worker accepting a GHO from an end-hirer will become a worker (not employee)

3

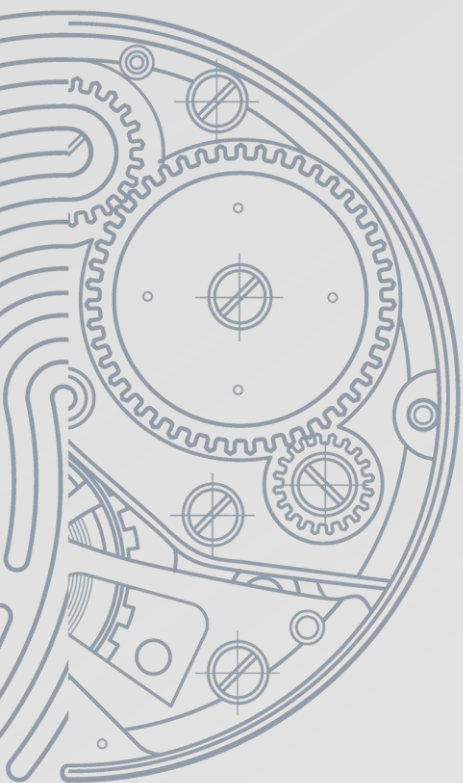
REASONABLE NOTICE OF SHIFT
CHANGES AND COMPENSATION
FOR CANCELLATION /
CURTAILMENT

Right to receive **reasonable notice of shifts and shift changes or cancellations** with proportionate compensation payable

WHAT'S NEXT?

Consultation 2 June 2026 - **closes 25 August 2026**. Includes:

- How to define low hours contracts – who will qualify?
- What constitutes regular hours and how to calculate the GHO
- Seasonal / temporary work - what will constitute a temporary need for workers?



CONSULTATION KEY AREAS

THRESHOLD?

Government's preference is between 8 - 20 hours / week

REMEDY

Not addressed

SEASONAL WORK?

Seeks views

REFERENCE PERIOD

Likely to be 12 weeks initially. Subsequent periods could rise to 26 / 52 weeks

Should each reference period begin as soon as the previous one ends - or should there be a gap?

WHAT SHOULD THE GHO LOOK LIKE?

Mean or median average of hours/week? Over a set time period – or allow employers to choose?

REGULARITY

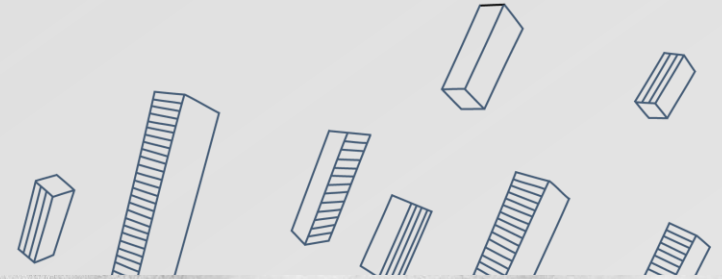
What should the regularity requirements be for hours worked during the reference period?

Option A – a weekly distribution requirement of the hours worked; or

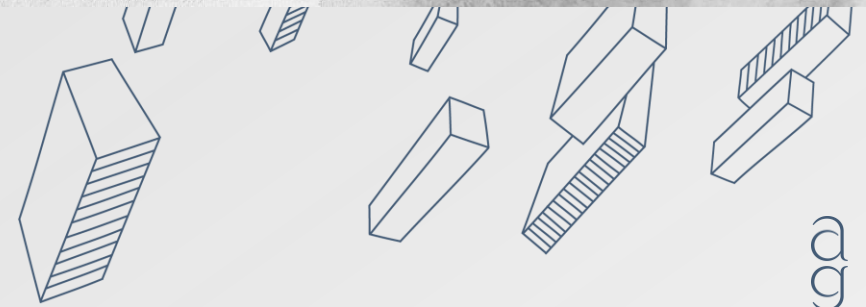
Option B – a weekly distribution requirement and a total hours requirement

UMBRELLA COMPANIES

2027



- From 2027, umbrella companies will fall within the expanded legal definition of “employment business” and become subject to the Conduct of Employment Agencies and Employment Businesses Regulations 2003 (**Conduct Regulations**)
- Government consultation on updating the Conduct Regulations to properly cover umbrella companies and address harms such as lack of pay transparency and difficulty enforcing employment rights – closed 1 May 2026
- Once the definition is in force, umbrella companies will be regulated by the Fair Work Agency, alongside other parties in the agency work supply chain.



CHANGES TO HARASSMENT PREVENTATIVE DUTY (PART 2) 2027

WHISTLEBLOWING PROTECTION

Allegations of sexual harassment becoming protected disclosures.

April 2026

PREVENTATIVE DUTY ON SEXUAL HARASSMENT (1)

Duty to take **“all”** reasonable steps

Power to enable regulations to specify steps to be regarded as ‘reasonable’ for an employer to take to prevent sexual harassment

October 2026

THIRD PARTY HARASSMENT

Employer liability for third party harassment in relation to **all** relevant protected characteristics.

October 2026

PREVENTATIVE DUTY ON SEXUAL HARASSMENT (2)

Specifying steps to be regarded as ‘reasonable’, to determine whether an employer has taken all reasonable steps to prevent sexual harassment

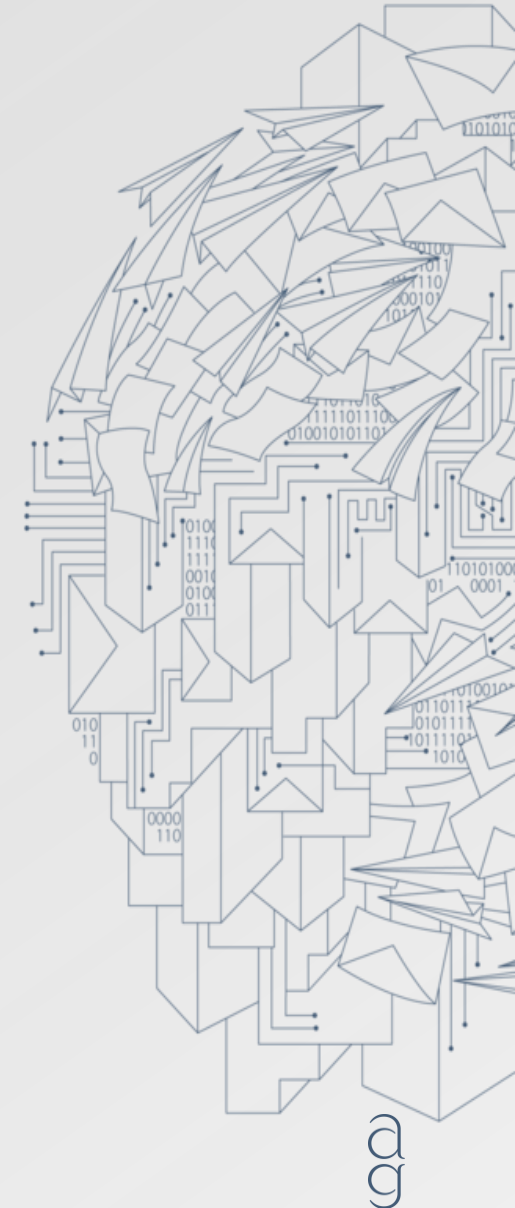
2027

EQUALITY ACTION PLANS 2027



Regulations will require employers with 250+ employees to:

- **Develop and publish equality action plans** (no more than once a year) relating to:
 - gender equality,
 - addressing the gender pay gap; and
 - dealing with supporting employees through the menopause
- Since 6 April 2026, employers have been invited to *voluntarily* publish an equality action plan for the 2026-2027 reporting year (no later than 4 April 2027)
- Once this becomes mandatory in 2027 (for the 2027-2028 reporting year), the **deadline for the first mandatory reports is expected to be 4 April 2028**



WHAT ELSE?

Reimagining Employment Dispute Resolution

- Employment Resolution (triage) Service
- Remodel ET1 and ET3 – use AI?
- Increase BoC award in ET to £100k
- 3 tracks for ET cases (court fees for higher tracks)

Response to consultation on ethnicity and disability pay gap reporting. Govt. will continue to develop primary and secondary legislation to mandate this for large employers. No timeframe yet.

Reimagining Employment Dispute Resolution

Ethnicity and Disability Pay Gap Reporting

Review of Parental Leave and Pay

Call for evidence on TUPE

Consultations on carer's leave and time off for public duties

Call for evidence on TUPE (closes 1 July 2026). Wide-ranging review of all aspects of a TUPE transfer, including clarity of the law, cost/impact and support/guidance.

- Will inform development of policy options to reform TUPE.

Carer's Leave consultation.

Whether current rights, including unpaid carer's leave, are fit for purpose? Closes 1 September 2026.

Consultation on time off for public duties.

Which public duties should be eligible for time off, proposed additions/removals? Closes 4 September 2026.

Closes December 2026

ROADMAP FOR THE EMPLOYMENT RIGHTS ACT 2025

ALREADY HAPPENED (ROYAL ASSENT TO APRIL 2026)



SHORT-TERM (JULY - OCTOBER 2026)



MEDIUM-TERM (2027)



LONG-TERM (2027+)

18 DECEMBER 2025

- Repealed the Strikes (Minimum Service Levels) Act 2023 on 18 December 2025

18 FEBRUARY 2026

- Repealed the majority of the Trade Union Act 2016 (brought in a 12-month mandate and a 10-day notice period for industrial action)
- Simplified industrial action notices and industrial action ballot notices
- Removed the 10-year ballot requirement for TU political funds
- Extended protection against dismissal for taking part in industrial action

APRIL 2026

- Collective redundancy: Maximum period of protective award doubled from 90 to 180 days
- New day 1 right to paternity leave and to unpaid parental leave
- Whistleblowing protections for those reporting sexual harassment
- New day 1 right to statutory sick pay (no 3-day waiting period and removal of lower earnings limit)
- Simplified the trade union recognition process
- New duty to keep holiday records for six years
- Fair Work Agency established to enforce workers' rights

JULY 2026

- Call for evidence on issues relating to TUPE (*closes 1 July*)

AUGUST 2026

- Electronic and workplace balloting (Phase One)

OCTOBER 2026

- Requirement for employers to take all reasonable steps to prevent sexual harassment at work
- Reintroduce employer liability for third party harassment for all relevant protected characteristics
- Power to enable regulations to specify steps to be regarded as 'reasonable' to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- New rights for trade unions to access the workplace for recruitment and organising purposes
- Extended protection against detriment for taking part in protected industrial action
- Unfair practices in the trade union recognition process
- New duty to provide workers with a written statement informing them of their right to join a trade union (and to remind them of this on a regular basis)
- Sufficient access to facilities and strengthened right to facility time off for trade union reps and statutory rights for trade union equality reps
- Amend the Procurement Act 2023 to protect transferring workers on outsourced public sector service contracts and introduce a two-tier workforce code of practice for outsourced workers
- Employers required to consult workers / any recognised trade union about the allocation of tips and gratuities
- Extend the time limit for bringing an employment tribunal claim from 3 to 6 months (*not earlier than October 2026*)

2027

- Reduce the qualifying period for unfair dismissal protection from 24 months to 6 months and remove the compensation cap for unfair dismissal claims (*January 2027*)
- Ban on fire and rehire for restricted variations (e.g. reduction in pay or holiday, changes to hours) except where no alternative to remain viable (*January 2027*)
- Ban 'exploitative' zero hours contracts (including agency workers) - right to a contract reflecting regular hours and reasonable notice of shift changes - compensation for curtailed or cancelled shifts
- Alternative threshold for collective redundancy consultation determined by number of employees across the business as well as in one workplace
- Specifying steps to be regarded as 'reasonable', to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- Mandate gender pay gap and menopause support action plans (large firms)
- Day 1 right to flexible working as the default for all workers (refusal of requests only if reasonable on prescribed grounds)
- Day 1 right to new statutory bereavement leave going beyond existing parental bereavement leave (to include pregnancy loss before 24 weeks)
- Make it unlawful to dismiss a woman during pregnancy and up to 6 months after her RTW (except in specific circumstances)
- Update blacklisting regulations to protect wider range of people
- Industrial relations framework
- Regulation of umbrella companies
- Electronic and workplace balloting (Phase Two)
- Ban on confidentiality clauses/NDAs that seek to prevent allegations or disclosures of information relating to work-related harassment or discrimination

BEYOND 2027 (TBC)

- Consult on a simpler framework for single "worker" status that distinguishes between workers and the genuinely self-employed including how to strengthen protections for the self-employed e.g. written contract, H&S
- Review unpaid carer's leave – including benefits of introducing paid leave
- Consult with trade union / elected staff reps on introducing surveillance technologies
- Consult with ACAS on allowing collective grievances
- Review H&S guidance and regulations



Expected in the draft Equality (Race and Disability) Bill (TBC)

- ▲ Full right to equal pay for ethnic minorities and disabled people
- ▲ Mandate ethnicity and disability pay gap reporting for employers with 250+ employees
- ▲ New regulatory and enforcement unit for equal pay (with trade union involvement)
- ▲ Ensure outsourcing not used to avoid paying equal pay

REVIEW

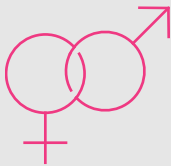
DEFINITION OF 'SEX' UNDER THE EQUALITY ACT



SUPREME COURT DECISION (2025)



FOR WOMEN SCOTLAND V SCOTTISH MINISTERS [UKSC]



'Sex' means
biological sex
under Equality
Act 2010



'Sex' under the
Equality Act 2010
means a reference
to a man or
a woman



Gender
Recognition
Certificates



Legal impacts?

FACILITIES

Health and safety legislation requires employers to provide:

SINGLE-SEX TOILET FACILITIES

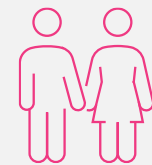
except where each toilet facility is in a separate lockable room

SINGLE-SEX WASHING FACILITIES

for employees (including showers if required by the nature of the work or health reasons), except where each facility is in a separate lockable room, except where facilities are provided for washing hands, forearms and face only

SINGLE-SEX CHANGING FACILITIES

for employees



Recommended ratios

Services that are open to the public

THREE RECENT CASES

PEGGIE CASE

- Nurse was harassed when suspended for complaining of having to share changing room with a transgender woman.
- Not “inherently unlawful” for a trans female to be given permission to use female changing room at work.
- Having protected characteristic of gender reassignment did not mean permission was necessarily lawful.
- “Objective justification” test should be applied.

S Peggie v Fife Health Board and Dr B Upton

WORKPLACE TOILET ACCESS POLICY

- Workplace toilet access policy permitted trans staff to use toilet facilities of their asserted gender identity.
- Did not constitute sex discrimination or harassment of female employees.
- Employer provided a sufficient number of suitable toilets including single occupancy toilets.
- Did not put women at a particular disadvantage in terms of making women more fearful or at greater risk of violence or sexual assault.

Kelly v Leonardo UK Ltd

DARLINGTON NURSES

- Policy permitting transgender staff to use changing rooms corresponding to their asserted gender.
- Employer liable for indirect sex discrimination and harassment for allowing trans woman to use female changing rooms.
- Employer’s conduct in dealing with grievance violated dignity and created a hostile, intimidating, humiliating and degrading environment.
- Failed to balance sensitively competing rights.

Hutchinson and others v County Durham and Darlington NHS Foundation Trust

Cases fact specific

Employment tribunal cases, so non-binding until appealed

EHRC DRAFT CODE OF PRACTICE FOR SERVICE PROVIDERS, ASSOCIATIONS AND PUBLIC FUNCTIONS: **KEY TAKEAWAYS**

01

Sex means biological sex under the Equality Act 2010

02

Single /separate sex provision is lawful if justified (proportionate means of achieving a legitimate aim)

03

Decisions must be structured and evidence-based

04

Trans users remain protected (gender reassignment)

05

Mixed-sex / alternative provision may be necessary

06

Enquiries about sex may be lawful but must be sensitive (unlikely to be appropriate for toilets / incidental facilities)

07

Data may be collected but must be handled carefully

SERVICE PROVIDERS: STEPS TO TAKE



Audit facilities – review toilets and changing areas. Design the environment appropriately - layout and facilities matter



For any single/separate-sex provision, document the legitimate aim (e.g. privacy in changing rooms) and why that approach is proportionate



Consider offering self-contained, single-occupancy lockable unisex facilities as a practical solution (where feasible)



Have a clear, balanced, central policy (not localised) and ensure consistency across locations



Avoid confrontation or public confrontation of customers – escalate difficult situations to management



Avoid questioning or requiring customers to produce ID or documentation. Draft Code indicates that enquiries are unlikely to be practical or appropriate in relation to incidental services. Where necessary, ensure any discussion is private, limited and proportionate.



Train staff carefully



NB: EHRC plans to update the Code of Practice for Employment “in due course”, but no timescale for this



MONITOR ONGOING DEVELOPMENTS



EQUAL PAY

LATEST DEVELOPMENTS

NEXT RETAIL LTD & ORS V THANDI & ORS (EAT)



- 2024: ET held Next had breached equal pay provisions by paying warehouse staff a higher rate of basic pay than shop floor sales staff.
- Material factor defence (including market forces) were indirectly discriminatory as there was a disproportionate effect on women.
- The difference in pay could not be objectively justified because motivated **entirely** by cost-cutting, not a legitimate aim on its own.
- EAT: Heard Next's appeal on 16 June 2026 – *decision awaited*.

TESCO V ELEMENT (CA)



- 2023: ET decided to use Tesco's detailed training manuals and operational documents as the best evidence of what employees' jobs entailed, rather than witness evidence. Tesco appealed.
- CA: Rejected Tesco's argument that the ET should have focused on what the employees did day-to-day rather than what it required them to do. Materials were "*so detailed and prescriptive*" that ET entitled to regard them as strong evidence of the demands and requirements of the jobs in question.
- *Appeals will now continue to the next stage.*

EQUAL PAY

KEY TAKEAWAYS

- Maintain clear, consistent and up-to-date job documentation - tribunals will seek, where possible, to rely on objective contemporary evidence.
- CA warned against “*a tidal wave of trivial factual and semantic disputes*” in equal-value litigation.

Paying market rate defence:

- Consider if underlying markets are themselves tainted by historical discrimination; and
- Beware outdated perceptions of work done by men or work done by women.

- Need to show saving money is not the only compelling business reason to justify keeping salaries low



RELIGION AND BELIEF

MANIFESTATION OF BELIEF



Ngole v Touchstone Leeds (EAT)

ET failed to determine whether employer's actions were because of Christian job applicant's beliefs or their inappropriate manifestation of beliefs

Remitted to ET. Claimant seeking permission to appeal to the CA.

Lister v New College Swindon (EAT)

ET dismissed Cl's claims for discrimination following dismissal for refusing to use a gender transitioning student's name and preferred pronouns

EAT: At what point does expressing a belief become "manifestly objectionable" conduct?

MANIFESTATION OF BELIEF

POINTS TO NOTE

01

Avoid hasty reactions / stereotypical assumptions. Will require a carefully considered approach.

02

Objectively consider what has been said or done - without inference. **Context is key.**

03

Focus on proportionality: If an employee refuses to comply with a policy, consider whether a less severe sanction than dismissal is possible (unless they make it clear they will never change their conduct).

04

Review equality policies: Ensure policies on gender reassignment and religion/belief are balanced. They should emphasise respect and dignity for all without appearing to indoctrinate or silence protected beliefs.

05

Other considerations: Trust and confidence / Fidelity and confidentiality / Harassment?

06

Competing protected beliefs in the workplace - cultural approach? Seek to encourage staff to be able to tolerate differences of opinion. Goal is to manage the impact of the behaviour, not the belief itself.



OTHER CASES

Afshar and others v Addison Lee Ltd (EAT)



Unlawful deduction from wages

ET held that the Regulations bringing in a two-year backstop were *ultra vires*.

Appealed to the EAT. Appeal decision will be binding so an important case to watch.

Augustine v Data Cars Ltd (Supreme Court)



Part-time worker discrimination

Do the Part-Time Workers Regulations 2000 apply if a worker's part-time status is an effective cause, but not the sole cause of their LFT?

UKSC to determine.

Wicked Vision v Rice with Protect intervening (Supreme Court)



Whistleblowing detriment

Can employers be vicariously liable for co-workers who subject employees to dismissal detriment?

UKSC to determine whether claimants can bring both a claim for automatic UD and a whistleblowing detriment claim (even when the detriment was the dismissal itself).

MONITOR
IMMIGRATION:
WHAT DO YOU
NEED TO HAVE ON
YOUR RADAR?



RIGHT TO WORK REGIME EXTENDED

CURRENT RIGHT TO WORK FRAMEWORK

- Duty on employer to perform right to work checks on all its employees regardless of nationality.
 - BEFORE employment begins.
 - In prescribed manner to establish statutory excuse, i.e. defence from civil penalty.
 - Civil and criminal penalties if illegal working found.
 - Depending on nationality, may establish continuous excuse, meaning there is no further check required.
 - Time-limited statutory excuse
 - Time-limited permission - further checks required to ensure employee continues to have the correct RTW in place
-

RIGHT TO WORK REGIME EXTENDED

CHANGES FOR SPONSORS

- On 8 April 2026, the Sponsor Guidance was updated to state the following (bold emphasis added):
 - S1.40. You must check that any worker you wish to sponsor (including a worker who is not your direct employee), or **any worker** you otherwise wish to employ **or directly engage**, has permission to enter or stay in the UK and can do the work in question before they start working for you."
- On 20 May 2026, clarification was published stating:
 - "Amendments to paragraph S1.40 ... suggested that sponsors were required to undertake right to work checks on unsponsored workers '(directly) engaged' but not employed by them. Following user feedback, this reference has now been deleted and any reference in those versions to unsponsored workers 'engaged' or 'directly engaged' by the sponsor should be disregarded."

EXTENSION OF RIGHT TO WORK REGIME

Border Security, Asylum and Immigration Act 2025 – in force potentially from October 2026 - Section 48

Awaiting Government response to consultation

“Worker’s contract” means

a contract, other than a contract of service or apprenticeship, under which

- (a) Individual A undertakes to do or perform personally work or services for person A or another person (whether or not that other person is specified in the contract), and
- (b) Person A is neither a client nor customer of any profession or business undertaking carried on by individual A.

Individual sub-contractor means

An individual (“individual B”) who has entered into a contract with person B to provide work or services in circumstances where person B has entered into a contract with a third party to provide, or arrange for the provision of, the work or services but individual B has not.

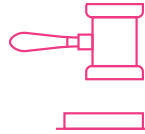
Online matching service means

A person who, in the course of a business –

- (a) Keeps a register of service provider for the purpose of matching them with potential clients or customers,
- (b) Provides an online service by which potential clients or customers can submit enquiries for the purpose of being matched with suitable service providers, and
- (c) Charges a fee or commission in return for making such matches.

POINTS TO CONSIDER

HOME OFFICE



- Stricter Home Office requirements on sponsors vs non-sponsoring entities.

AGREEMENTS WITH CONTRACTORS

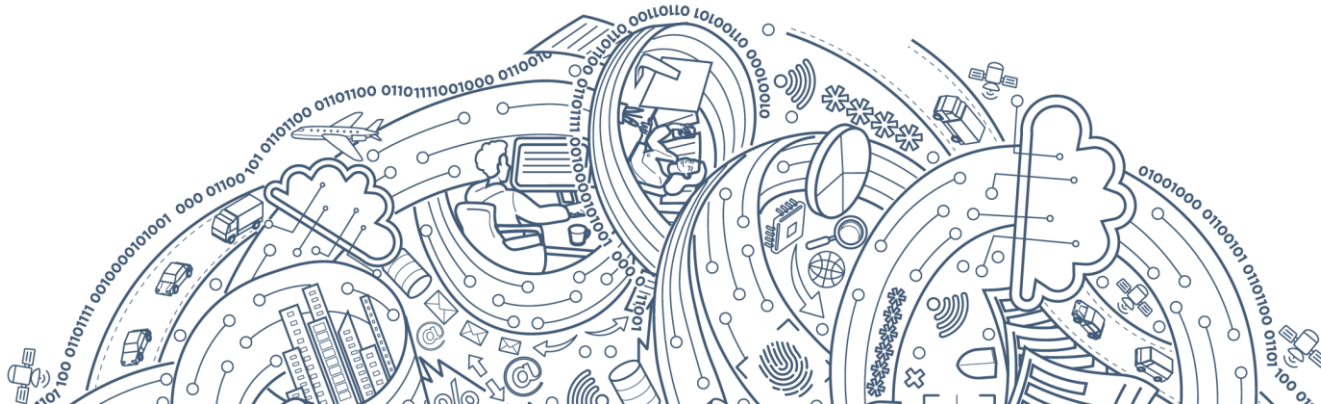


- Consider agreements with contractors requiring confirmation of RTW checks compliance, if not already in place.

MANAGING CHANGES



- Consider how to manage any possible changes.



OTHER DEVELOPMENTS

GRADUATE ROUTE

REDUCTION OF TIME ALLOWED ON GRADUATE ROUTE

- 1 January 2027 – Graduate visa route reduced from 2 years to 18 months for postgraduates.
- PhD graduates or other doctoral qualification will be for 3 years.
- Individuals cannot apply to extend Graduate visa route but can (if available) switch to another visa route.
- **Tricky issue:** Businesses who want to hire migrants on a 2-year Graduate scheme, but who are on an 18-month Graduate visa.



OTHER DEVELOPMENTS

INDEFINITE LEAVE TO REMAIN

CHANGES TO ILR QUALIFYING

- Current position: Exact qualifying period depends on immigration route, but typically 5 years.
- Proposed:
 - Recent Government consultation on:
 - Extending the standard qualifying period for ILR from 5 years to 10 years (resulting in longer sponsorship and higher costs); and,
 - Moving to an “earned settlement” model (based on an applicant’s contribution to the UK).
 - Consultation closed on 12 February 2026. Outcome awaited.



WEBINAR:
IMMIGRATION WHITE PAPER –
ONE YEAR ON & FUTURE
PLANNING

Thursday 2nd July 2026
13:00 - 13:45

Via Zoom

Further Details On Our Resources Page



QR code to access
resources from the
sessions.



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