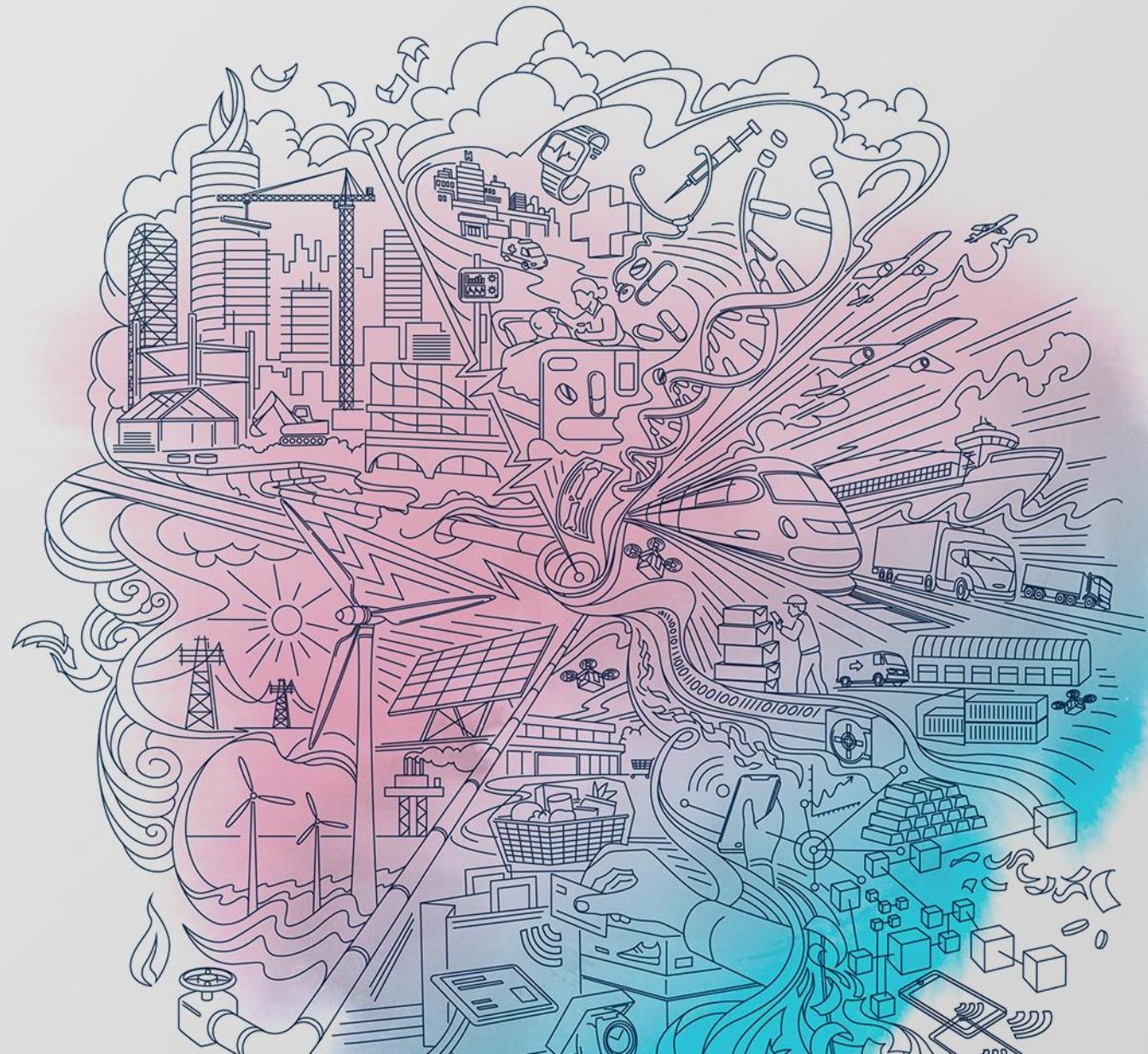


UK EMPLOYMENT HORIZON SCANNER

January 2026

ag ADDLESHAW
GODDARD



FUTURE KEY LEGISLATION DEVELOPMENTS

NO.	ACT OR STATUTORY INSTRUMENT	SUMMARY AND IMPACTS	IMPACT DATE
1	Employment Rights Act 2025	<p>Employment Rights Act 2025</p> <p>On 18 December 2025, the Employment Rights Bill received Royal Assent to become the Employment Rights Act 2025 (Act). The Act immediately repealed the Strikes (Minimum Service Levels) Act 2023.</p> <p>Over the next two years, the Act will phase in a total of 28 individual employment reforms over the common commencement dates of 6 April and 1 October each year. In December 2025, the Government confirmed in their Factsheet: ERA 2025 (Overview) that they remain committed to the timelines set out in the implementation roadmap for the ERB published in July 2025 (Roadmap) and will provide further updates and support to help employers and workers prepare for reforms in 2026.</p> <p>Most of the Act's provisions require commencement regulations to bring them into force, and many require further substantive regulations (following consultation) to give them full effect. On 5 January 2026, the Employment Rights Act 2025 (Commencement No 1 and Transitional and Saving Provisions) Regulations 2026 (SI 2026/3) were made to bring certain provisions of the Act into force on 6 January (mainly regulation-making powers), 18 February (mainly trade union changes and certain family-related leave provisions ahead of 6 April 2026) and 6 April 2026 (family-related leave).</p> <p>On 7 January 2026, the Government published an economic analysis (impact assessment) for the Act.</p> <p>See the separate entries below for a summary of key changes expected to come into force on each of the following dates: 18 February, 6 April 2026, 6 October 2026, 1 January 2027 and in 2027. For more details of the proposals contained in the Act as well as the consultation and implementation timetable, see our Employment Rights Act Tracker here.</p>	<p>Phased implementation over two years starting from 18 December 2025 until 2027. Key dates:</p> <ul style="list-style-type: none"> • 18 February 2026 • 6 April 2026 • 6 October 2026 • 1 January 2027 <p>2027</p>
2	Employment Rights Act 2025	<p>Changes to trade union rights coming into effect on 18 February 2026</p> <p>On 18 February 2026) the Act will:</p> <ul style="list-style-type: none"> - Repeal the majority of the Trade Union Act 2016 (and bring in a 12-month mandate and a 10-day notice period for industrial action) - Simplify the requirements for industrial action notices and industrial action ballot notices; and - Remove the 12-week cap that an employee is protected for when taking industrial action, where the reason for the dismissal is taking protected industrial action, so that employees are protected 	18 February 2026

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		<p>regardless of the length of the strike action against unfair dismissal when taking protected industrial action.</p> <p>The changes make it easier for trade unions to organise industrial action. As a result, it will become more important for employers to proactively engage with trade unions to encourage future collaboration and head off potential conflict.</p>	
3	Working Paper on non-compete clauses, published 26 November 2025	<p>Consultation on non-compete clauses</p> <p>The Government has published a working paper seeking views on options for reforming non-compete clauses in employment contracts. Responses must be made by 18 February 2026. The objectives set out in the paper are to seek to increase job mobility, reduce barriers to recruitment, promote competition for talent and avoid workers spending time out of the labour market in their area of expertise.</p> <p>Alternative policy options being put forward include:</p> <ol style="list-style-type: none"> 1. Statutory time limit on the length of non-compete clauses (3-months) 2. Statutory time limit on length of non-compete clauses according to company size 3. Ban on non-compete clauses in employment contracts, making them unenforceable. 4. Ban on non-compete clauses below a salary threshold, given that the highest earners most often have non-compete clauses in their contracts. 5. Combining a ban below a salary threshold and a statutory time limit of 3 months. <p>The Government is also seeking views on enforcement and whether the threat of high legal costs is an obstacle to bringing claims on restrictive covenants, including non-compete clauses.</p> <p>Interested parties have until 18 February 2026 to respond to the government consultation if they wish to do so. We await the government's response which will be published in due course.</p>	18 February 2026
4	Regulations will be required	<p>Increase in National Living Wage (NLW) and National Minimum Wage (NMW)</p> <p>From 1 April 2026, the NLW for all workers aged 21 and over will rise from £12.21 to £12.71 per hour (a 4.1% increase).</p> <p>NMW rates will also rise:</p> <ul style="list-style-type: none"> • from £10.00 to £10.85 for those aged 18-20 (an 8.5% increase); 	1 April 2026

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		<ul style="list-style-type: none"> from £7.55 to £8.00 for those aged 16-17 (a 6% increase); and from £7.55 to £8.00 for Apprentices (a 6% increase). <p>The Government's press release states that the increase in the National Living Wage "<i>will ensure a real-terms pay rise for low-paid workers. It will meet the Government's aim to ensure the rate does not drop below two-thirds of median earnings. The increase to the 18-20 year-old rate makes progress towards alignment with the National Living Wage.</i>"</p> <p>Employers will face higher wages bills and will need to be alive to the common risk areas that create NLW / NMW underpayment. Employers should take a proactive approach to ensuring compliance to avoid incurring penalty payments to the new Fair Work Agency (who will be taking over enforcement from HMRC, supported by extra funding from Government), as well as paying any sums owed to employees and workers.</p>	
5	Regulations will be required	<p>Increases to statutory sick pay, maternity, paternity and adoption pay</p> <p>The following updated statutory payment rates and thresholds proposed by the Department for Work and Pensions to apply from April 2026 are as follows:</p> <ol style="list-style-type: none"> A weekly rate of £123.25 (up from £118.75) for statutory sick pay (SSP). A weekly rate of £194.32 (up from £187.18) for statutory maternity pay, maternity allowance, statutory adoption pay, statutory paternity pay, statutory shared parental pay, statutory neonatal pay and statutory parental bereavement pay. <p>For maternity allowance the threshold remains at £30 a week.</p> <p>The lower earnings limit (the weekly earnings threshold for qualifying for the above payments, except maternity allowance) will increase to £129 (up from £125).</p>	April 2026
6	<p>The Paternity Leave (Bereavement) Act 2024</p> <p>The draft Bereaved Partner's Paternity Leave</p>	<p>Paternity Leave (Bereavement) Act 2024</p> <p>The Paternity Leave (Bereavement) Act 2024 (PLB Act) came into force on 29 December 2025. It applies where the mother / adopter of a child dies in childbirth, or within a year of the birth or adoption, to facilitate the father, or partner of the mother / adopter, taking an extended period of paternity leave (bereaved partner's paternity leave). The PLB Act amended the Employment Rights Act 1996 to remove the six-month qualifying period for paternity leave in such situations, with further regulations required to provide details of the new right.</p>	6 April 2026

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	<u>Regulations 2026</u>	<p>On 13 January 2026, the <u>draft Bereaved Partner's Paternity Leave Regulations 2026</u> were published which will provide a right to up to 52 weeks' paternity leave where the child's "primary carer" (usually the mother or other adoptive parent) has died within 52 weeks of the birth or adoption placement.</p>	
7	The Employment Rights Act 2025	<p>The Employment Rights Act 2025: Changes coming into effect in April 2026</p> <ul style="list-style-type: none"> Collective redundancy: Maximum period of protective award to double from 90 to 180 days for failure to properly consult on collective redundancies. Day 1 right to paternity leave and to unpaid parental leave (and enabling parents to take their paternity leave and pay after their shared parental leave and pay). Day 1 right to statutory sick pay (no 3-day waiting period and removal of lower earnings limit). Establishing the Fair Work Agency (FWA) to enforce workers' rights. The FWA will bring together the enforcement of domestic agency rules, the National Minimum Wage, licensing of gangmasters, and action against serious labour exploitation. It will also take on additional functions (such as the enforcement of holiday pay) and creates the flexibility to bring in additional legislation to respond to future challenges. The Act will give the FWA the tools it needs to do its job, including an expanded civil penalty regime, clear gateways for sharing information and the power to bring tribunal cases on behalf of workers. Strengthen protections for whistleblowers, by making it clear that workers who 'blow the whistle' on sexual harassment can benefit from whistleblowing protections against detriment (adverse treatment) and unfair dismissal. Simplify the trade union recognition process, including providing better access arrangements for unions and dealing more effectively with unfair practices. Electronic and workplace balloting: Following the consultation on electronic balloting which closes on 28 January 2026, the Government will seek to roll out electronic balloting from April 2026. <p>Increasing the maximum penalty from 90 days' pay to 180 days' pay per affected employee for breaching the collective consultation requirements will mean that the costs of failing to inform and consult properly on large scale redundancies will increase significantly.</p> <p>Removing the qualifying periods for paternity and unpaid parental leave will entitle many more employees to take these types of leave. However, since paternity leave is for a maximum of two weeks, and many employees do not take parental leave because it is unpaid, it seems unlikely that there will be a significant impact on employers from this change.</p>	6 April 2026

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		<p>Removing the Lower Earnings Limit (LEL) for statutory sick pay (SSP) will mean that up to 1.3 million of the lowest-paid employees will become entitled to SSP. Part-time workers, casual workers, and low earners who previously received nothing will now all be entitled to SSP. Employers will be obliged to pay sick pay from day one (rather than day four) which is three extra days per sick episode. Employers may see increased absence rates (particularly where sick pay is more generous) although there's an argument that the anticipated reduction in presenteeism may bring down infection rates in / on transport to the workplace and therefore reduce sickness absence levels overall. DWP analysis suggests the additional SSP payments made by employers are expected to cost around £400 million per year.</p> <p>The FWA aims to transform how employment rights are enforced across the UK. There will be new powers to enforce failure to pay statutory holiday and statutory sick pay. Currently, enforcement of rights to holiday pay is not currently subject to enforcement by a state agency and is a notoriously complex area where employers may make mistakes. From 2027, the FWA will oversee the regulation of umbrella companies and, over time, take on enforcement of a wider range of employment rights. The government has said that the FWA will be "using new powers to ensure the estimated 900,000 people who have holiday pay withheld each year finally receive it" and "cracking down on those employers failing to pay the minimum wage", so it seems likely that these two areas may be a particular focus in the FWA's initial enforcement strategy. Employers should conduct a thorough compliance check ahead of the FWA becoming operational in April 2026.</p> <p>The change to whistleblowing legislation means that workers will not need to identify an existing legal obligation, criminal offence or breach of health and safety in order to make a qualifying disclosure about sexual harassment, provided that they have complied with the other requirements in the legislation, such as holding a reasonable belief that the issue is in the public interest.</p> <p>Statutory recognition will become easier for trade unions as they will no longer need to show that at least 50% of the workers in the bargaining unit supported recognition. The Government have sought to reserve the power to reduce the requirement for the union to show that at least 10% of workers in the bargaining unit are union members and support for recognition only needs a simple majority vote.</p>	
8	The Finance Bill 2026 will amend Part 2 of the Income Tax (Earnings and	<p>Umbrella Companies – tackling non-compliance in the umbrella company market</p> <p>Recruitment agencies will be 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), making the agency and umbrella company jointly and severally liable, and allowing HMRC to pursue either or both.</p>	6 April 2026

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	Pensions) Act 2003	<p>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's no agency in the supply chain or where the agency holds a material interest in the umbrella company, the responsibility will sit with the end client. The change is expected to protect around £2.8 billion from being lost to umbrella company non-compliance. See Policy Paper: Umbrella companies — tackling non-compliance in the umbrella company market.</p>	
9	The Employment Rights Act 2025	<p>The Employment Rights Act 2025: Changes coming into effect in October 2026</p> <ul style="list-style-type: none"> 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 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. Sufficient access to facilities and strengthened right to facility time off for trade union reps and statutory rights for trade union equality reps. Extend the time limit for bringing an employment tribunal claim from 3 to 6 months. 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). New rights for trade unions to access the workplace for recruitment and organising purposes. Protection against detriment for taking part in protected industrial action. Amend the Procurement Act 2023 to protect transferring workers on outsourcing 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. <p>Whilst the change to fire and re-hire does not represent an outright ban on fire and re-hire, it will be much more difficult for employers to use the practice save in very much last resort circumstances. Reinstating the "two-tier Code" to address disparities in terms and conditions seeks to ensure fair employment conditions for private sector employees working on outsourced public sector contracts, aligning them with those transferred under TUPE from the public sector.</p> <p>The law on tipping will be strengthened to make it mandatory for employers when developing tipping policies to consult with workers at the place of business. Currently, consultation should take place with recognised trade union or other elected representatives where possible, unless, if they are absent, directly with the workers affected. Employers will be required to review their policy on tipping at least once every three years and to make an anonymised summary of the views expressed in the consultation available to all workers of the employer at the place of business where the policy applies. Measures will be enforced via the tribunal system, with</p>	October 2026

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		<p>employers who fail to consult properly with their workers liable to compensate workers by up to £5,000 for financial loss sustained by the worker that is attributable to the employer's failure.</p> <p>Employers will need to update contracts/onboarding documents to ensure these adequately inform employees of their right to join a trade union.</p> <p>New rights for unions to access the workplace for recruitment and organising purposes could be disruptive for employers and lead to more recognition requests, particularly in businesses or parts of businesses that are currently non-unionised.</p> <p>Reintroducing employer liability for third party harassment for all relevant protected characteristics (age, disability, gender reassignment, race, religion or belief, sex, and sexual orientation), save for where an employer can show that they took all reasonable steps to prevent the harassment, is a significant change which will be a concern to employers particularly where employees regularly come into contact with customers, contractors, members of the public etc, as employers will be held vicariously liable where an employee is harassed by a third party in the course of their employment and it is shown that the employer failed to take all reasonable steps to prevent the third party from harassing them.</p> <p>Extending the time limit for bringing claims in the Employment Tribunal from 3 to 6 months may increase the number of employment tribunal claims.</p>	
10	The Employment Rights Act 2025	<p>The Employment Rights Act 2025: Reducing the qualifying period for unfair dismissal protection to 6 months and removing the compensation cap for unfair dismissal</p> <p>On 27 November 2025 the Government dropped their manifesto pledge for 'day one' unfair dismissal protection. Instead, they will:</p> <ol style="list-style-type: none"> 1. Reduce the qualifying period for unfair dismissal protection from 24 months to six months; 2. Remove the overall limit on the compensatory award for unfair dismissal (both the 52-weeks' pay and the compensation cap (currently £118,223)); and 3. Remove the power to vary the qualifying period by regulations (meaning that the six-month limit could only be amended by primary legislation). <p>Reducing the qualifying period for unfair dismissal by 18 months is likely to significantly increase the number of unfair dismissal claims. However, it may reduce the number of whistleblowing and discrimination claims (which do not require a qualifying period) which are often used as a way of bringing what is essentially a claim about a dismissal.</p>	1 January 2027

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		<p>There are concerns over the complete removal of the limit on the compensatory award for unfair dismissal without any debate or consultation. It is likely to have far-reaching consequences leading to higher compensation awards in some cases (e.g. high-earners or those with limited re-employment opportunities) as well as affecting settlement expectations and negotiations.</p> <p>We could see an increase in disputes over the loss of valuable benefits and changes in litigation tactics as well as employers needing to act promptly within the first six months of employment on any capability or conduct issues. On 7 January 2026, the Government published an impact statement, which notes that:</p> <ul style="list-style-type: none"> - the estimated cost to business of these changes is large – between £10-£100 million (covering both the reduction to the qualifying period and removal of the compensation cap); and - the estimated impact of reducing of the qualifying period is likely to lead to an additional 9,000 Acas EC notifications and 3,000 ET claims, of which 570 would progress to needing judicial time. 	
11	The Employment Rights Act 2025	<p>The Employment Rights Act 2025: Changes coming into effect in 2027</p> <ul style="list-style-type: none"> • Ban 'exploitative' zero hours contracts (including agency workers) - right to a guaranteed hours 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 • 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) • Mandate gender pay gap and menopause support action plans (large firms) • Unlawful to dismiss a woman during pregnancy and up to 6 months after her RTW (except in specific circumstances) • 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 • Update blacklisting regulations to protect wider range of people • Industrial relations framework • Regulation of umbrella companies <p>The obligation to provide a guaranteed hours contract and providing compensation for curtailed or cancelled shifts will reduce flexibility for employers and increase administrative and payroll requirements. Sectors with high fluctuations in demand, such as hospitality and care, are likely to be particularly affected.</p>	2027

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		<p>The additional threshold for collective redundancy consultation will mean that the collective consultation duty is triggered more easily and more frequently. Employers will need processes in place to track redundancies and changes to terms and conditions, not only on a site-specific basis, but also across the entire business.</p> <p>Changes to flexible working will make refusal of flexible working requests more difficult for employers as the employer has to be reasonable in its reliance on the factors. Currently it only has to deal with the request in a reasonable manner and base the refusal on one of a list of reasons. There is no change to the penalty for a breach of the requirements (currently, 8 weeks' pay).</p> <p>The new 'day 1' right to statutory bereavement leave (including pregnancy loss before 24 weeks) establishes a statutory 'day one' right to at least one week of unpaid bereavement leave for those in a qualifying relationship to the deceased. A "bereaved person" will be defined under separate regulations. Mothers and their partners will be entitled to at least one week of leave, although the exact amount of leave is still to be consulted on.</p> <p>The Act will allow regulations to require employers with 250+ employees to detail the evidence-based actions they are taking to improve gender equality and to support employees during the menopause. Employers will be provided with information and guidance about effective actions which are backed up by evidence and support to help them select appropriate actions. Employers will publish their plans on the gender pay gap reporting service. To motivate employers to support efforts to improve gender equality in organisations that they are linked to, regulations will also require employers to name who they received outsourced work from on the gender pay gap reporting service.</p> <p>To strengthen protections for pregnant women and new mothers returning to work, the Act will extend the current protection from redundancy during or after a protected period of pregnancy so that it applies to redundancy or dismissal during or after a protected period of pregnancy. Regulations will set out details of the enhanced dismissal protection policy, including (a) the circumstances in which it will be fair to dismiss a pregnant woman or new mother (the Government has consulted as to whether a new, stricter general test of fairness should apply to pregnant women and new mothers or whether the individual existing five potentially fair grounds for dismissal should be narrowed in the event of dismissal of a pregnant woman or new mother); (b) the six-month period of protection after the employee has returned to work; and (c) any procedural elements, such as notice and evidence requirements. Other powers in the Act will allow regulations to extend the enhanced dismissal protections to parents returning from other types of family-related leave such as adoption leave and shared parental leave.</p> <p>Responding to reports of non-transparent pay practices, tax non-compliance and fraud in the umbrella company market, and to ensure workers get comparable rights and protections when working through an umbrella company as when taken on directly by an employment business, the Act will expand the legal definition of</p>	

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		<p>“employment business” to include umbrella companies from 2027. This will allow the FWA to take enforcement action against any umbrella companies that do not comply. The Government will consult on amending The Conduct of Employment Agencies and Employment Businesses Regulations 2003 to ensure they adequately apply to umbrella companies and to address the main harms (e.g. lack of pay transparency and difficulty in enforcing employment rights). This consultation was due in Autumn 2025, so is expected imminently. Employers are advised to review labour supply chains to understand where umbrella companies are being used; (b) undertake due diligence on those umbrella companies to ensure that non-compliant umbrella companies are not used going forwards; and (c) work with all the parties in the supply chain to develop procedures and practices to ensure full tax compliance.</p>	
12	Draft Equality (Race and Disability) Bill	<p>Draft Equality (Race and Disability) Bill</p> <p>The Government announced the draft Equality (Race and Disability) Bill in the King's Speech in September 2024. The draft Bill will include the following reforms to:</p> <ul style="list-style-type: none"> Enshrine in law the full right to equal pay for ethnic minorities and disabled people, making it much easier for them to bring unequal pay claims. Introduce mandatory ethnicity and disability pay reporting for larger employers (those with 250+ employees) to help close the ethnicity and disability pay gaps. Ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay. <p>In March 2025, the Government consulted on how to implement mandatory ethnicity and disability pay gap reporting for large employers (those with 250 or more employees) in Great Britain. The Government is proposing to mirror the gender pay gap reporting framework where appropriate in terms of geographical scope, pay gap measures (with two additional measures to give context to the employer's ethnicity and disability pay gap figures), reporting deadlines and enforcement policy. It also proposes to follow the voluntary guidance for ethnicity pay gap reporting for a consistent approach to classifications and proposes certain protections to preserve employee privacy on data collection. The consultation closed on 10 June 2025 and the Government's response is awaited.</p> <p>In April 2025, the Government also conducted a call for evidence seeking feedback on areas of existing equality legislation and possible equality law reform to help shape the forthcoming Equality (Race and Disability) Bill. The call for evidence was wide ranging and included seeking views on:</p> <ul style="list-style-type: none"> The prevalence of pay discrimination on the basis of race and disability. Making the right to equal pay effective for ethnic minority and disabled people. 	<p>Before May 2026.</p> <p>The Government consultation on the Equality (Race and Disability) Bill closed on 10 June 2025. A draft bill is expected to be published. In March 2025, the Minister for Equalities stated in the House of Commons that the draft Bill will be published later in the July 2024-May 2026 Parliamentary session.</p>

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		<ul style="list-style-type: none"> Measures to ensure that outsourcing of services can no longer be used by employers to avoid paying equal pay. Improving the enforcement of equal pay rights by establishing an Equal Pay Regulatory and Enforcement Unit with the involvement of trade unions, including ways that a new unit could strengthen equal pay provisions, whether by building on the Equality and Human Rights Commission's existing role or through new functions. Improving pay transparency. Government is looking to build evidence before deciding whether changes in this area would be appropriate. Strengthening protections against combined discrimination. Dual discrimination in s14 of the Equality Act 2010 has never been brought into force despite repeated calls from Women and Equalities Committee. Creating and maintaining workplaces and working conditions free from harassment. <p>The call for evidence closed on 30 June 2025 and the Government's response is awaited.</p>	
13	Consultation on employment status	<p>Employment status</p> <p>In 2025, the Government announced that it will publish a consultation on employment status by the end of 2025. It acknowledges that this is a complex issue, but it is committed to consult on tackling the pressing issues with the existing framework for employment status, such as substitution clauses. It will also consult on additional measures to strengthen protections for the self-employed, including health and safety protections. However, by January 2026, the consultation had not been published.</p>	TBC. Was expected by the end of 2025 but has not yet been published.
14	EHRC Statutory Code of Practice for Services, Public Functions and Associations and EHRC non-statutory interim guidance	<p>EHRC Interim Guidance and Consultation on updates to its Code of Practice for Services, Public Functions and Associations</p> <p>The Equality and Human Rights Commission (EHRC) published its consultation to update its statutory Code of Practice for services, public functions and associations following the Supreme Court's <i>For Women Scotland</i> judgment. The EHRC made a number of technical amendments to its draft Code of Practice and sought views on whether the updates outlined in the consultation clearly articulate the practical implications of the judgment and enable those who will use the Code to understand, and comply with, the Equality Act 2010. The consultation closed on 30 June 2025 and an updated Code of Practice was handed to Government on 5 September 2025 for ministerial approval. If Government approves it, it will be laid before Parliament for 40 days after which the Government may make an order bringing it into force if neither House has rejected it.</p>	Consultation closed on 30 June 2025. An updated Services Code has now been handed into Government for consideration and approval.

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		<p>In response to a question as to why the Services Code has not yet been approved, the Government explained that it has asked the EHRC to provide a costs assessment to help Government to decide whether it needs a full regulatory impact assessment prior to approval.</p> <p>Employers have been asking whether the EHRC's Employment Code of Practice will also be updated following the Supreme Court's judgment. Work on the Employment Code is expected to begin after the Services Code is complete.</p> <p>Following the Supreme Court judgment on the definition of "man", "woman" and "sex" in the Equality Act 2010, the EHRC published non-statutory interim guidance on the practical implications of the judgment pending the updated Services Code. The interim guidance has now been removed from the EHRC's website pending Parliamentary approval of the new Services Code.</p>	
15	<p>The Employment Rights Act 2025 (clause 24)</p> <p>The Victims and Prisoners Act 2024 (Permitted Disclosures) Regulations 2025</p> <p>The Victims and Courts Bill</p>	<p>Confidentiality clauses and non-disclosure agreements</p> <p>The Employment Rights Act 2025 includes a provision at section 24 banning clauses/NDAs that seek to prevent allegations or disclosures of information relating to work-related harassment or discrimination. However, it is not yet clear when this provision will come into effect. Further, the Government recognises that in some cases, both parties may genuinely wish for confidentiality about certain details. An amendment therefore gives the Secretary of State powers to:</p> <ul style="list-style-type: none"> set criteria for "excepted NDAs" in limited, legitimate circumstances; and specify situations where disclosures will always be allowed, even if an "excepted NDA" exists. <p>Section 17 of the Victim and Prisoners Act 2024 clarifies that confidentiality clauses and NDAs cannot be legally enforced if they prevent victims from reporting crime and will ensure information related to criminal conduct can be discussed with specified groups without fear of legal action, including police, lawyers, victim support services and close family members. New regulations came into force on 12 December 2025 adding to the list of persons to whom disclosures are permitted which are:</p> <ul style="list-style-type: none"> The Criminal Injuries Compensation Authority, for the purpose of a claim for compensation in relation to the relevant criminal conduct under the Criminal Injuries Compensation Scheme or the Victims of Overseas Terrorism Compensation Scheme. A court or tribunal, for the purpose of issuing or pursuing any proceedings in relation to a decision of the Criminal Injuries Compensation Authority made in connection with a claim mentioned above. 	<p>The Employment Rights Act 2025 came into force on 18 December 2025, but it is not yet clear when section 24 will come into force.</p> <p>The Victims and Prisoners Act 2024 (Permitted Disclosures) Regulations 2025 came into force on 12 December 2025.</p> <p>The Victims and Courts Bill is currently making its way through Parliament.</p>

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		<ul style="list-style-type: none"> A person authorised to receive information on behalf of either of the above, for the relevant purposes mentioned above. <p>Separately, the proposed Victim and Courts Bill will go further than the current s.17 of the Victim and Prisoners Act 2024 (which came into force on 1 October 2025) and is intended to be a simpler protection allowing victims and direct witnesses of crime to disclose information about the conduct to anyone and for any purpose, not just to the bodies and for the purposes set out in the previous Act.</p>	
16	The Border Security, Asylum and Immigration Act 2025	<p>Extending Right to Work Checks</p> <p>On 2 December 2025, the Border Security, Asylum and Immigration Act 2025 received Royal Assent. The Act expands the scope of the Right to Work Check scheme to those engaged under workers' contracts, individual sub-contractors and online matching services. It will include those working in the gig economy or on zero hours contracts and will require employers to confirm that individuals working on their behalf have the legal right to work in the UK before hiring them.</p> <p>Penalties for non-compliance include fines up to £45,000 for a first offence and up to £60,000 per illegal worker for repeated offences. In serious cases it could also lead to the closure of the business, director disqualification, seizure of earnings made as a result of illegal working and, where a criminal offence has occurred, a prison sentence of up to five years.</p> <p>A consultation on extending the right to work regime closed on 10 December 2025 and we await the Government's response. The expanded regime is expected to come into force in 2026.</p>	Expected in 2026

FUTURE KEY CASES

NO	CASE	SUMMARY AND IMPACTS	CURRENT STATUS
1.	Miller v University of Bristol	<p>Discrimination: Protected philosophical belief</p> <p>An employment tribunal held that an academic's anti-Zionist beliefs qualified as a protected philosophical belief under the Equality Act 2010 and that his summary dismissal was an act of direct discrimination and was unfair.</p> <p>The case was heard by the EAT on 12 November 2025. Judgment is awaited.</p>	Heard in the EAT on 12 November 2025. Judgment awaited.
2.	Dobson v Cumbria Partnership NHS Foundation Trust	<p>Indirect Sex Discrimination: Flexible working</p> <p>Having been remitted, the employment tribunal has upheld its original decision that the claimant had not been indirectly discriminated against or unfairly dismissed. Dismissal for refusing to work weekends was a proportionate means of achieving a legitimate aim of providing 24/7 care in the community, balancing workload among the team and reducing costs of using more senior nurses at the weekend. An employer's needs as a whole must sometimes prevail and the principle of allowing flexible working cannot be applied too strictly.</p> <p>The case was heard by the EAT on 16 December 2025. We await the decision.</p>	Case was heard on 16 December 2025. Judgment awaited.
3.	Jiwanji and others v East Coast Main Line Company Ltd and others	<p>Trade Unions: Inducements relating to collective bargaining</p> <p>An employment tribunal ruled that a pay award put directly to rail workers did bypass collective bargaining and was an unlawful inducement under s145B TULRCA. It concluded that when the offer was made to staff there was no impasse in the negotiations and there was a realistic chance of the terms being agreed collectively. It held that the employer decided unilaterally to end collective bargaining because it no longer wished to participate in it.</p> <p>On the question of the employer's sole or main purpose for making the offer, it was held that the offer was not a result of a genuine belief on management's part that collective bargaining was already at an end and the employer's purpose was to achieve the result that the terms would not be collectively bargained.</p> <p>The EAT granted permission to appeal on 21 March 2024 and the case was scheduled to be heard on 1 May 2025.</p>	The EAT granted permission to appeal on 21 March 2024. Heard scheduled for 1 May 2025. Pending settlement awaiting withdrawal by consent order.

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4.	Augustine v Data Cars Ltd	<p>Employment status</p> <p>Although a part-time private hire driver was treated less favourably than a full-time comparator, it did not breach the Part-Time Workers (Less Favourable Treatment) Regulations 2000. The EAT felt bound to follow the ruling of the Court of Session (though not strictly bound by the Court's decisions) which applied a "sole reason" test. The EAT preferred a construction which considered the "effective and predominant cause" of the less favourable treatment. The case was appealed to the Court of Appeal. While a majority considered the Court of Session case (McMenemy v Capita Business Services Ltd) was wrongly decided, it held that it was highly desirable that the decision be followed, given that it pertained to a statutory provision applicable throughout Great Britain. Given its misgivings about McMenemy, the Court granted leave to appeal to the Supreme Court so that the issue can be decisively resolved.</p> <p>The case is due to be heard in the Supreme Court on 7 May 2026.</p>	Due to be heard in the Supreme Court on 7 May 2026.
5.	Corby v ACAS	<p>Belief discrimination: opposition to critical race theory</p> <p>An employment tribunal held that a claimant's opposition to critical race theory (as opposed to his anti-racist beliefs based on the ideas of Martin Luther King Jr) is a protected belief under the Equality Act 2010. The claimant's beliefs passed all five stages of the <i>Grainger</i> test and were therefore capable of protection under the EqA. An appeal has been lodged and a preliminary hearing was heard by the EAT on 4 September 2025.</p>	Preliminary hearing heard in the EAT on 4 September 2025.
6.	Thandi and others v Next Retail Ltd and another	<p>Equal Pay</p> <p>An employment tribunal found that the retailer Next breached equal pay law by paying its warehouse staff more than its shop-floor sales staff, despite the jobs being of equal value.</p> <p>The tribunal determined that the material factors relied on by Next to justify the pay disparity for basic pay, including market forces, indirectly discriminated against female employees, who predominantly worked in sales roles. Next's argument that the pay difference was motivated by cost-cutting measures was rejected, as cost-cutting alone was not a legitimate aim.</p> <p>For the time being, this is an employment tribunal decision, so it is not binding on future tribunals. If it is not overturned on appeal, it could have significant ramifications for employers</p>	A preliminary hearing was heard by the EAT on 22 May 2025.

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		who want to defend equal pay claims on the basis they are paying market rate for certain roles. An appeal has been lodged and a preliminary hearing was heard by the EAT on 22 May 2025.	
7.	Ngole v Touchstone Leeds	<p>Religion or Belief Discrimination: Withdrawal of job offer</p> <p>A tribunal held that the retraction of a job offer from a Christian mental health support worker was direct discrimination. The charity does a significant amount of work with people in the LGBTQI+ community and the claimant had made Facebook posts expressing negative views about homosexuality. Withdrawing the job offer before the second interview was not proportionate and put too great a limitation on the claimant's freedom of expression.</p>	The case was heard in EAT on 29 October 2025. Judgment awaited.
8.	Afshar and others v Addison Lee Ltd	<p>Deductions from wages</p> <p>A tribunal held that Addison Lee drivers were workers for the purposes of holiday pay, national minimum wage and deductions from wages claims. It went on to find that the two-year backstop on deductions from wages claims in the Employment Rights Act 1996 was ultra vires and of no effect. An appeal has been granted. Awaiting hearing date.</p>	An appeal has been granted. Awaiting hearing date.
9.	Lister v New College Swindon	<p>Religion or belief discrimination: gender-critical beliefs</p> <p>A Tribunal dismissed claims for discrimination where claimant was dismissed for refusing to use a gender transitioning student's name and chosen pronouns and for subjecting the student to transphobic discrimination and harassment. An appeal has been granted as there were arguable points as to the boundary between belief and manifestation of belief and unqualified rights to hold a belief under ECHR. The case is due to be heard in the EAT on 20 October 2026.</p>	Due to be heard by the EAT on 20 October 2026.
10.	Appiah v Tripod Partners Ltd	<p>Agency worker and unlawful deduction from wages</p> <p>An employment tribunal held that a consultant who contracted with a recruitment agency through a service company was a worker for the agency for the purposes of an unlawful deduction from wages claim under the Employment Rights Act 1996.</p>	Due to be heard in the EAT on 29 October 2026.
11.	Cable News International Inc v Bhatti	<p>Cross-border jurisdiction</p>	Permission to appeal to the Court of Appeal has been sought.

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		The EAT has upheld a tribunal's decision that it has both territorial and international jurisdiction to hear the claims brought by a peripatetic journalist against her former US-based employer.	
12.	Peggie v Fife Health Board and another	<p>Harassment</p> <p>A tribunal held that nurse who was suspended for complaining that she had to share a changing room with a transgender woman was harassed by Health Board but it dismissed other claims. The tribunal acknowledged the <i>For Women Scotland</i> judgment but concluded that it did not result in it being inherently unlawful for a trans female (a biological male under the Equality Act 2010) to be given permission to use a female changing room at work, but nor did having the protected characteristic of gender reassignment mean that permission to use the changing room was necessarily lawful.</p> <p>The ET appreciated there was a conflict between protected characteristics, but the Equality Act 2010 does not provide a test in such cases. It concluded that the test that should be applied was one of "objective justification" (derived from Supreme Court judgment in <i>Bank Mellat v HM Treasury (No 2) (2014) AC 700</i>).</p> <p>The decision is expected to be appealed.</p>	The decision is expected to be appealed.
13.	Kelly v Leonardo UK Ltd	<p>Sex discrimination</p> <p>A tribunal dismissed claims of direct and indirect sex discrimination and harassment brought by a female employee who objected to her employer permitting transgender women to use the female toilet facilities. The tribunal found that the policy applied equally to men and women and was not inherently less favourable to a woman. It did not put female staff at a particular disadvantage compared to male staff. Even if it had, it would have been objectively justified by legitimate aims of treating transgender employees lawfully and fostering an inclusive workplace. In respect of the harassment claim, the policy did not have the prohibited effect of violating the claimant's dignity or creating an intimidating, hostile, degrading, humiliating or offensive environment for her.</p> <p>The decision is expected to be appealed.</p>	The decision is expected to be appealed.

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14.	Rice v Wicked Vision Ltd	<p>Whistleblowing detriment</p> <p>The EAT considered that in a whistleblowing claim it was only possible to bring a claim that dismissal amounted to a detriment under s47B ERA if it was not possible to bring a claim for dismissal for making a protected disclosure under s103A ERA.</p> <p>Due to be heard by the Court of Appeal on 14 October 2025.</p> <p>The Court of Appeal held that employers can be vicariously liable under s47B ERA 1996 for co-workers who subject employees to dismissal amounted to a detriment in whistleblowing cases. It felt bound by the precedent set in <i>Timis and another v Osipov [2018] (EWCA)</i> which established that the ERA 1996 does not prevent employees from bringing detriment claims against co-workers for dismissal, with corresponding vicarious liability against employers. It noted that the conflicting interpretation of the statutory provisions can only be resolved by the Supreme Court or by legislative amendment.</p> <p>Permission to appeal to the Supreme Court was granted on 5 December 2025.</p>	<p>Permission to appeal to the Supreme Court was granted on 5 December 2025.</p>

KEY CONTACTS

MICHAEL LEFTLEY

Partner & Head of Group

+44 (0)20 7788 5079
+44 (0)7909 996755



RICHARD YEOMANS

Partner

+44(0)20 7788 5351
+44(0)7747 800591



SARAH HARROP

Partner

+44(0)20 7788 5057
+44(0)7595 777926



MICHAEL BURNS

Partner

+44(0)161 934 6398
+44(0)7801 132448



SHAKEEL DAD

Partner

+44(0)113 209 2637
+44(0)7776 570433



REBECCA KITSON

Partner

+44(0)113 209 2627
+44(0)7867 721151



DAVID HUGHES

Partner

+44(0)131 222 9837
+44(0)7740 910671



ANDREW MOORE

Partner

+44(0)161 934 6412
+44(0)7920 700877



ANYA DUNCAN

Partner

+44(0)122 444 4347
+44 (0)73 5040 9991



PAUL MCGRATH

Partner

+44 (0)113 209 4928
+44 (0)7918 648433



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