HR & EMPLOYMENT LAW INSIDER: YOUR MONTHLY UPDATE

May 2026

HR Solutions

Contents

RECENT AND FUTURE CHANGES
RECENT CHANGES:

URGENT: EVERY EMPLOYER NEEDS TO KNOW THESE 2 REFORMS

There are many significant reforms being introduced under the Employment Rights Act 2025 (ERA25), but there are two that are being introduced in less than 6 months that every employer needs to be prepared for:

- **New statement of rights obligation**

From October, the ERA25 will require all employers to give their workers a written statement of their right to join a trade union by their first day of employment and then to be notified of this right on an ongoing basis, most likely, to be annually. When it comes into force, not only will it need to be explicitly incorporated within the contract of employment for all new starters, but employers will need to issue this notice to its existing workforce.

It is expected that employers will be given specific wording from the Government for incorporating into the contract and informing their staff.

- **New 'right of access' law**

From October, if you employ 21 or more (which includes those across all associated companies in your group) an independent certified trade union(s) will have a statutory right to request ongoing workplace access whether this is in person, and/or digital.

Workplace access will be broad as it can be for a union to meet, support, represent, recruit, or organise workers – even if the worker isn't a union member. The access will also be to facilitate collective bargaining, but not for organising industrial action.

This new law is significant, and we expect this to be a precursor to trade union recognition. We encourage all employers prepare now because there will be strict and relatively short timescales that will need complying with, when dealing with a formal request.

ACAS RECOMMENDS STRENGTHENING FLEXIBLE WORKING RIGHTS

This month, Acas announced their formal response to the Government's consultation on access to flexible working. As you will know, under the Employment Rights Act 2025, the legal duty on employers when responding to an FWR will be widened.

At present, an employer only needs to demonstrate declining a request is for one or more of the prescribed statutory reasons, from 2027 the duty will not only be to demonstrate one of these prescribed decline reasons has been met, but that the decision to decline must be reasonable.

In responding to the public consultation, Acas have recommended:

- 'Compulsory meetings should be held in all cases, including where an employer intends to accept a request, to support effective workplace communication
- Meetings should be held with a view to reaching agreement
- Reasonable adjustments should be considered before the meeting takes place
- Managers should receive training on handling requests fairly, including identifying reasonable adjustments'

We now await the formal response from the Government, following the recent consultation.

PREPARE YOUR BUSINESS NOW FOR FIFA WORLD CUP

Next month marks the start of the FIFA World Cup 2026, running from 11 June until 19 July. While major tournaments bring global excitement, they also introduce distinct operational headaches for businesses. However, if properly managed, a major sporting event doesn't just have to be a disruption; it can be a powerful tool to build goodwill and boost team spirit across your organisation. Preparing ahead of time is therefore key to balancing productivity with morale – consider how you can use this global event as an employee engagement initiative.

WILL FIT NOTES BECOME A THING OF THE PAST?

The Government have announced several pilot schemes aimed at overhauling the UK's fit note system. According to the Government, 11 million fit notes are issued each year, with 90% determining the person is not fit for work.

Criticism of the current system is that it is a tick box exercise that fails to provide support or guidance. The aim of the four pilot schemes, which will take place in different areas across England, will am to address these criticisms. Instead, the scheme will create personalised stay in work and return to work plans.

Over the year in which the scheme will run, up to 100,000 appointments are expected to take place and throughout this time, there will also be regular testing for the purpose of narrowing down the most effective approach to reducing the number of fit notes issued.

Under the scheme, an individual will be offered either an initial fit note and then be referred to community health workers. Or they will go through the entire process without having that initial GP fit note and be supported by both clinical and non-clinical practitioners of a separate service.

This announcement coincides with the Government publishing results from the 'Fit Note Call for Evidence', which had run between April and July 2024. In these which shows just three in 10 Healthcare Professionals in Primary Care say fit notes are a good use of GPs time, while six in 10 employers think the current process is ineffective at supporting their employees' work and health needs.

NEWLY ANNOUNCED: DIGITAL ACCESS TO SERVICES BILL

As part of the King's Speech on 13 May 2026, a the new 'Digital Access to Services Bill' was announced. The aim of the Bill is to establish a legal framework for a national Digital ID system intended to facilitate digital identity verification.

Individuals will be able to verify their identity securely without relying on physical documents. One of the initial proposed use cases is for Digital Right to Work checks by the end of the current Parliament.

ACCESS TO WORK – WHY YOUR EMPLOYEES MAY BE EXPERIENCING DELAYS IN THEIR CASE

Access to Work is a crucial government department that supports employees returning and staying in work. Unfortunately, with a backlog of 60,000 claims waiting decisions and with the number of claims doubling since 2018/19, the Government have announced a recruitment drive to hire nearly 500 new case managers.

Access to Work is vital for employee attendance levels and their wellbeing and health and safety needs and of course, the actions resulting from it could be a reasonable adjustment under the Equality Act 2010. During a spell of long-term absence, an employer's priority is about exploring how a return to work may be possible. Clearly, not all cases of long-term ill health will lead to a return, but where a return is foreseeable then engaging with Access to Work is key.

CHILDREN'S WELLBEING AND SCHOOLS ACT 2026

The Children's Wellbeing and Schools Bill was given Royal Assent on 29 April 2026. This legislation is focussed on the safeguarding and welfare of children, supporting children in care, the regulation of care workers, establishments and agencies and independent educational institutions and inspections of schools and colleges, as well as dealing with teacher misconduct.

It is unclear when this Act will come into effect, although we know that it will be phased in over time.

FUTURE CHANGES

LEGISLATION – BY IMPLEMENTATION DATE

2026

October 2026 – Employment Rights Act 2025

- 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 power to enable regulations, that specify steps that are to be regarded as reasonable to determine whether an employer has taken all reasonable steps to prevent sexual harassment (the actual steps to specify what is to be regarded as reasonable is due in 2027)
- Introducing a new duty to inform workers of their right to join a trade union
- Strengthen trade unions' right of access
- Unfair practices in the trade union recognition process
- New rights and protections for trade union reps
- Extending protections against detriments for taking industrial action
- Two tier procurement

Not before October

Employment tribunal time limits extended from 3 months to 6 months

December 2026 – Amendment to the Seafarers Wages Act 2023

The Employment Rights Act 2025, section 56, scheme 5 strengthens workers' rights at sea in relation to wages, terms and conditions of employment or engagement and working conditions.

New regulatory framework to bar NHS managers for misconduct (mid-late 2026/early 2027)

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.

Children's Wellbeing and Schools Act 2026

It is expected that this Act will be phased in over time, with potentially some changes coming in before the end of this academic year and the bulk of change in September.

2027

1 January 2027 - Employment Rights Act 2025

- 6-month qualifying service for ordinary unfair dismissal protection
- Removal of the compensatory cap.
- Dismissals connected to an employer seeking to vary an employee's contract, but the employee does not agree will be automatically unfair

January 2027 - Employment Rights Act 2025

- Gender pay gap and menopause action plans to become mandatory
- Enhanced dismissal protections for pregnant workers, and those on and returning from family leave
- Specifying steps that are to be regarded as 'reasonable', to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- Updated rules relating to protections from blacklisting due to trade union membership or activity
- Industrial relations framework
- Changes to the threshold for when collective redundancy consultation applies
- Enhanced redundancy protections against dismissal or redundancy
- An employer's reason for refusing a flexible working request must be reasonable
- A new statutory entitlement to bereavement leave, including pregnancy loss
- The regulation of umbrella companies
- Right to guaranteed hours and the right to reasonable notice and short notice payments
- Electronic and workplace balloting for recognition and derecognition ballots
- Provision of information relating to outsourced workers, a requirement for private and voluntary sector employers with at least 250 employees in Great Britain, and public authorities, to publish information
- Extends the scope of the Employment Agencies Act 1973 to cover other types of business, such as umbrella companies, that participate in arrangements under which people are supplied by their employer to work for other people or organisations.
- Non-disclosure agreements (NDAs) and confidentiality provisions in employment making void a contractual provision that purports to preclude a worker from making an allegation or disclosure about relevant harassment or discrimination (or an allegation or disclosure relating to the employer's response).

April 2027 - Mandatory Payrolling Benefits

From April 2027, all employers will be required to payroll benefits in kind. A P11D will still be required for the tax year 2025/26 and 2026/27, but from 2027/28 onwards, it will be mandatory for benefits to be payrolled. Until such time, it continues to be voluntary, and we expect draft legislation and guidance to be provided in due course. The Government have published a timeline in preparing for this change, available here.

Date to be confirmed (must be by June 2027) - The Terrorism (Protection of Premises) Act 2025 (Martyn's Law)

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.

2028

6 April 2028 – Pension age increase

The new normal minimum pension age will become 67 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.

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.

KEY EMPLOYMENT BILLS PROGRESSING THROUGH PARLIAMENT

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 date of the second reading is due to be announced.

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.

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 we are awaiting confirmation of when this will take place.

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 is expected to be launched following a period of public consultation, in which it will lead to:

- 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.

In the recent King's speech however, there was no mention of this Bill, so it is unclear of the next steps at this stage.

CONSULTATION AND GUIDANCE OPEN CONSULTATIONS

MAKE WORK PAY: MISUSE OF NON DISCLOSURE AGREEMENTS (NDAS)

As part of reforms under the Employment Rights Act 2025, the Government are seeking to ban non-disclosure agreements that prevent speaking out on workplace harassment and discrimination. Before any legislation is drafted, the Government have opened a public consultation which runs through to 8 July 2026. If you would like to contribute to this consultation you can do so either online here, or by emailing to NDAconsultation@businessandtrade.gov.uk. The consultation questions to respond in this manner is here.

WOMEN AND EQUALITIES COMMITTEE INQUIRY: EQUALITY AT WORK: FLEXIBLE WORKING AND DISABILITY

The Women and Equalities Committee has opened a call for evidence as part of their examination of disabled workers' and jobseekers' access to flexible working arrangements.

The inquiry will consider:

- People's experiences of flexible working
- People's experiences across different sectors of the labour market
- How effective current legislation is for facilitating flexible working and
- Existing duties on employers to make reasonable adjustments under the Equality Act 2010.

You can read more about the call for evidence on the Committee's website, where you can also submit evidence. The deadline for submissions is Friday 26 June 2026.

LOW PAY COMMISSION CONSULTATION 2026

Each year, the Low Pay Commission (LPC) recommend to the Government the national minimum pay rates for introduction the following April (National Minimum Wage, National Living Wage). As part of this process, the LPC are seeking evidence via a public consultation to help inform their research and ultimately what is recommended for 2027/28. If you would like to contribute by providing your feedback, you can do so online here, the deadline for responses is 26 June 2026.

MAKE WORK PAY: TRANSFER OF UNDERTAKINGS (PROTECTION OF EMPLOYMENT) REGULATIONS

The Government have opened a public call for evidence on the 2014 Transfer of Undertakings (Protection of Employment) (TUPE) Regulations.

It is seeking to strengthen existing rights and protections for employees subject to TUPE processes while simultaneously improving the efficiency of the regulations for businesses. By updating these rules, the government hopes to facilitate smoother mergers and acquisitions, creating a stable environment for business expansion.

The call for evidence invites feedback on several critical aspects of the current framework:

- Balancing needs: Whether the regulations strike the right balance between employer flexibility and employee rights.

- Clarity of transfers: How clear it is to determine when a ‘relevant transfer’ has taken place.
- Varying terms: The circumstances under which an employer can change contract terms for Economic, Technical, or Organisational (ETO) reasons.
- Consultation requirements: Whether current requirements are sufficient to ensure employees are adequately informed and consulted during a transition.
- Business impact: The navigation challenges and overall costs to businesses associated with TUPE-protected transfers

We encourage all employers to participate in these key processes as the responses help to formulate final Codes of Practices, guidance and any secondary legislation required.

Consultation closes: 1 July 2026

How to participate: Respond online here or via email to TUPEpolicy@businessandtrade.gov.uk.

CLOSED CONSULTATIONS: RESPONSES BEING ANALYSED

KEY CONSULTATIONS WAITING FORMAL RESPONSE.

The following consultations are now closed. The relevant authorities are currently analysing the responses and will issue formal updates on next steps shortly. These findings will inform the development of future regulations and updated Codes of Practice.

- Extending the Right to Work Scheme
- Fair Pay Agreement process in adult social care
- Information commissioner – Consultation on draft complaints guidance for organisations
- Information commissioner – Consultation on draft recognised legitimate interest guidance
- Make Work Pay:
    - Call for evidence on unpaid internships
    - Draft Code of Practice on Electronic and Workplace Balloting for Statutory Union Ballots
    - Duty to inform workers of right to join a union
    - Enhanced dismissal protections for pregnant women and new mothers
    - Fire and rehire – changes to expenses, benefits and shift patterns
    - Improving access to flexible working
    - Leave for bereavement including pregnancy loss.
    - Modernising the agency work regulatory framework
    - Strengthening the law on tipping
    - Threshold for triggering collective redundancy
    - Trade Union Recognition code of practice and e-balloting unfair practices
    - Trade Union Right of Access
- Acas Consultation on draft Code of Practice on time off for trade union duties and activities
- Migration Advisory Committee launches stage 2 Review of Temporary Shortage List
- Parental leave and pay review - call for evidence
- Welsh Government: Draft disabled people's rights plan 225 to 2035
- Work and Pensions Inquiry: Employment support for disabled people
- Working in the UK - earned Settlement
- Working paper on options for reform of non-compete clauses in employment contracts.
- Draft Code of Practice on the Right of Trade Unions to access workplaces

GUIDANCE:

WORKERS AND TEMPORARY WORKERS – GUIDANCE FOR SPONSORS, PART 1

The Government have updated its guidance for employers on how to apply for a sponsor licence for a person on Worker and Temporary Worker immigration routes.

The guide sets out the requirements employers must meet, how an application is considered and what an employer can do if an application is refused.

The guide confirms the following changes:

- 'L8.4, L8.5: new paragraphs inserted illustrating examples of where we are unlikely to be satisfied an organisation is operating or trading for the purposes of the sponsorship scheme
- L8.8 (former L8.6), L8.9, Annex L1(v): new provision added – we will refuse a sponsor licence application if we have reasonable grounds to consider or suspect that a prospective sponsor organisation has been established or exists mainly to facilitate the entry or residence of a worker who would not otherwise have the relevant permission to work in the UK
- Annex L2(g): redrafted to clarify that we will normally revoke a licence if a sponsor is sponsoring or employing a worker who does not have the relevant permission to work and the sponsor has failed to carry out the appropriate right to work checks or could otherwise have been reasonably aware the worker did not have the relevant permission'.

This latest version (05/26) is available here.

HMRC INTERNAL MANUAL: BUSINESS INCOME MANUAL

You will read in our Payroll Newsletter that an increase to the approved mileage allowance payments (AMAPs) has been introduced. In light of this, HMRC's internal manual - Business Income Manual has been updated accordingly.

CASE RULINGS

WHY A FAIR PROCEDURE IS CRITICAL

The Toxic Relationship Trap: Lessons in Unfair Dismissal and "Retaliatory" References

Brief overview

This article examines the case of *Ms P Ong v Aberystwyth University*, which serves as a cautionary tale for line managers dealing with long-term workplace friction. While the employer successfully defended dozens of discrimination claims, they ultimately lost the case because of flawed disciplinary procedures and a job reference that the tribunal deemed a "retaliatory" act of victimisation.

What the case was about

Ms Ong, a long-serving cleaning operative with a shoulder disability, had a deeply challenging and difficult relationship with her manager that spanned several years. After numerous grievances and counter-grievances, the University suspended Ms Ong, alleging she had breached a private mediation agreement and created a hostile environment. They eventually dismissed her, claiming the working relationship had irretrievably broken down. Later, when Ms Ong applied for a new job, the University provided a reference stating they were "unable to comment" on her record because she was "in dispute" with them.

What the Tribunal ruled and why

The Tribunal ruled that Ms Ong was **unfairly dismissed** and **victimised**.

- **Unfair dismissal:** The investigation was found to be "fundamentally failing" because the investigator simply accepted the manager's version of events as true without independently verifying the facts with other witnesses. Furthermore, the University committed a "fundamental failing" by never holding an appeal hearing, which denied the employee her basic legal rights.
- **Victimisation:** The Tribunal found the University's job reference was "irresponsible and retaliatory". Mentioning a legal dispute in a reference was irrelevant to the questions asked and was clearly intended to "poison the well," leading the new employer to withdraw their job offer.

Employer guidance following the ruling

- **Don't skip the appeal:** No matter how certain you are of the decision, failing to provide an appeal process is a major procedural error that can make a dismissal automatically unfair.
- **Verify, don't just listen:** When investigating conduct, don't just take a manager's "list of incidents" at face value. You must independently interview other witnesses to ensure a fair and objective process.
- **Keep general employment references neutral:** When providing a general employment reference (i.e you have no obligation under any regulator or law), stick to agreed facts (like job title and dates). Mentioning that an employee is "in dispute" or has filed a tribunal claim is legally considered victimisation if it causes them to lose a job offer.
- **Record everything:** The University failed to record the disciplinary hearing due to a technical error, which the tribunal noted as a procedural flaw. Always ensure meetings are properly documented or recorded as per company policy.

Equal Pay and the power of the manual: What Line Managers need to know from the Tesco case

Brief Overview

This news update reports on a recent significant legal ruling involving Tesco that clarifies how the law defines "work" when employees claim they are being paid less than someone else doing a job of equal value. The case highlights that in large, standardised organisations, official company manuals and training materials are often more important than individual accounts of daily tasks.

What happened

The dispute involved approximately 34,000 Tesco store workers, mostly women, who argued that their work was of **equal value** to that of workers in Tesco's distribution centres, who are mostly men and receive higher pay.

A major part of the legal battle focused on how to establish exactly what these employees do for a living. Tesco argued the focus should be on the specific tasks performed by individuals every day, while the claimants leaned toward using the company's own prescriptive training documents to define the roles.

What the Tribunal ruled and why

The Employment Tribunal decided that Tesco's training manuals and instructions were the "key documents" and the best evidence of what the jobs required. The Court of Appeal largely upheld this approach, explaining that for a massive employer like Tesco, which operates in a highly regulated environment, standardised requirements are more reliable than subjective witness testimony. The tribunal was entitled to treat the training materials as the most reliable starting point because the jobs were prescribed in granular detail because of the regulated nature of work.

The court noted that an employee's "work" is essentially the "wage/work bargain", meaning the tasks the employer requires and pays them to do, rather than just the way an individual might happen to perform them on a given day.

However, the Court of Appeal did issue one correction to the original verdict of the original tribunal, in that the tribunal cannot ignore or override facts that both the employer and the employees have already agreed upon.

Employer guidance following the ruling

- **Maintain accurate documentation:** Ensure that training manuals, safety instructions, and job descriptions are precise and up to date, as courts may treat these as the primary evidence of what a job entails.
- **Define requirements clearly**: Remember that "work" is legally defined by what the company requires from the role; if employees are doing things differently without company approval, it may not count as part of their official "work".
- **Generic consistency matters**: In large organisations, it is helpful to view roles as generic and standardised across all locations to ensure pay is based on the requirements of the role rather than individual idiosyncrasies.
- **Respect agreed facts**: During legal disputes, any facts agreed upon by both management and staff are binding and should be used to simplify the process.

What is equal pay?

All contracts of employment are deemed to include an 'equality clause'. This means that if, for example, a woman proves her right to equal pay, the equality clause will be activated. The effect of this is that any term contained in her contract of employment which is less favourable than any terms contained within her male comparator's contract will become an equally favourable term in her contract.

In addition, any term not included within her contract, but included within his contract, will be automatically incorporated into her contract.

PAYROLL

NEW MILEAGE ALLOWANCES

The Government announced 21 May 2026 steps it would be putting in place to support families and business with the cost of living, given its continued rise. One of the changes will be to increase the mileage rate to 55p for the first 10,000 miles (for mileage of 10,001 and above, the rate remains at 25p per mile).

This increase will be backdated to 6 April 2026 for the 2026/27 tax year.

You can read the announcement here.

THE KING'S SPEECH - PAYROLL IMPLICATIONS

The King's Speech this month has announced two significant financial Bills.

The Small BusinessPayments Bill will introduce legislation to tackle late payments suffered by small businesses from larger clients. Specifically, it will give powers to the Small Business Commission to issue penalties to persistent late payers and the ability to settle disputes out of course.

The Regulating for Growth Bill, which the Government says that it is to provide for the inclusion of economic growth as an objective for certain statutory regulators. Furthermore, the statutory interest rate has been set at 8% for all commercial contracts.

You can read more about the King's Speech here.

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 in due course.

HEALTH AND SAFETY

NO FALLS WEEK: 18–22 MAY 2026

In the UK the most common cause of fatal accidents and serious injuries is from 'falls from height', especially in the Construction Industry. The HSE recently published their construction industry 2024/2025 statistics, which showed:

- 35 deaths
- 44,000 people injured
- 416,000 working days lost

These are significant numbers, and we know from the statistics that during the last 10 years, 361 people have lost their lives and 425,000 people have sustained injuries because of a fall from height.

This week (May 18-22) is 'No Falls Week', promoted by the No Falls Foundation, which is a UK charity devoted to the 'work at height' sector exclusively, and whom promote an annual powerful campaign to safe working at height.

Working at Height

The meaning of 'working at height' in workplaces is where a worker could fall a distance where there are no safety precautions in place. Most common causes may include workers falling from ladders or through fragile roofs. Employers have a duty to comply with the Work at Height Regulations 2005 to prevent workers from serious injury or death from a fall at height accident and should therefore:

- Avoid where 'reasonably practicable' activities working at height
- Have people plan and undertake the work where possible from the ground.
- Develop risk assessments for the task and equipment.
- Provide training and instruction prior to workers using any work at height equipment.
- Supervising all activities.

RECENT PROSECUTION

A construction company and its director based in Staffordshire have recently been sentenced after a worker during construction of an apartment block fell through an unprotected stairwell opening suffering serious injuries that included skull and head fractures.

At the time of the incident, the injured 26-year-old worker was appointed as a labourer by BHG (Stone) Limited the principal contractor. On 5 December 2023, he was assisting on the first floor of the building with the installation of wall insulation. He placed a ladder across the stairwell opening to enable him to reach the top corner of the wall, but whilst doing so, he fell from the ladder through the opening to the ground below, sustaining serious injuries.

The Health and Safety Executive investigation found that the company had not properly planned or put suitable measures in place to prevent or protect workers against a fall from height. The investigation also found that the director who was working in close proximity and had therefore allowed the work to be carried out by unsafe working practices.

On 1 April 2026, BHG Stone Limited pleaded guilty to breaching regulation 2(1) and 3(1) of the Health and Safety at Work etc. Act 1974:

- Regulation 2 (1) states *'it shall be the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees.'*
- Regulation 3 (1) states *'it shall be the duty of every employer to conduct his undertaking in such a way as to ensure, so far as is reasonably practicable, that persons not in his employment who may be affected are not thereby exposed to risks to their health or safety.'*

Separate to the company pleading guilty, the Company Director also pleaded guilty to breaching Section 37 of the Health and Safety at Work etc. Act 1974:

- Section 37 states: *'Where an offence under any of the relevant statutory provisions committed by a body corporate is proved to have been committed with the consent or connivance of, or to have been attributable to any neglect on the part of, any director, manager, secretary or other similar officer of the body corporate or a person who was purporting to act in any such capacity, he as well as the body corporate shall be guilty of that offence and shall be liable to be proceeded against and punished accordingly.'*

The court fined the company £16,000 and ordered them to pay costs of £4,000, with the Company Director being fined £2,000 and ordered to pay costs of £1,386.

Following the case the HSE Inspector said:

'This incident highlights the importance of undertaking a thorough assessment of the risks associated with all work at height activities and ensuring suitable control measures are in place. Had the work been properly planned and sequenced, and suitable work equipment provided, this incident would not have happened.'

COSHH - HOW TO PREVENT ACCIDENTS WITH HAZARDOUS PRODUCTS

Hazardous products can be found in any working environment; employers have a duty to comply with the **Control of Substances Hazardous to Health Regulations 2002** to protect their workers from illness or injury and exposure to hazardous products. Obligations include:

- Plan, manage and monitor the use of hazardous substances. There are many forms of hazardous products or substances i.e. dust, wet working, wet cement, paint, lubricants, detergents, metalworking fluids, flower and fruit bulbs, Benzene in crude oil.
- As far as 'reasonably practicable' remove the use of hazardous products or find a safer product that could be used instead.
- Look at processes and use extraction in the area where the task is being undertaken
- Section other workers away from the area
- Provide personal protective equipment (PPE).

WHEN A HSE INSPECTOR CALLS

Are you familiar with how the HSE operates, particularly in regard to onsite visits?

Well the HSE assists employers in keeping all workers safe and well whilst undertaking their normal duties and each year, the HSE will visit many locations, which can be without warning - which is not unusual.

HSE inspectors have the power to enter workplaces and are required to follow the government's code of practice when they do.

If an HSE Inspector visits your company, what can you expect?

During a visit the HSE Inspector will review how workers and contractors are kept safe and may give advice on welfare facilities.

Whilst on site, they may take photographs, review documentation and check machinery and if there are any possible health risks arising from work activities. They will also speak with workers.

HSE Inspectors have the power to issue Notification of Contravention (NoC) (Improvement and Prohibition Notices).

Improvement Notice is issued if the HSE Inspector believes that there is a 'material breach' under the health and safety law or that there is a possibility of further breaches. The notice will be issued if the HSE Inspector does not think that there is any risk of injury to workers and the notice will be served to the person in charge of the activity or workplace (normally the employer), with the timescale to introduce improvements that cannot be fewer than 21 days. The company has the right to appeal within 21 days of issue.

Prohibition Notice is issued if the HSE Inspector believes that there is an imminent risk to workers from serious injury. The notice will state that the activity must **stop** and cannot resume until the imminent risk is rectified. The notice will be served to the person in charge of the activity or workplace (normally the employer), with no timescale. The company has the right to appeal within 21 days of issue.

It is an offence under the Health and Safety at Work Act Etc.1974 for failure to comply with enforcement notices, which may lead to prosecution by enforcing authorities.

HSE Fee for Intervention (FFI) costs the Duty Holder (normally the employer) £188 per hour to pay for the time the HSE Inspector spends when visiting, where there has been a failure to comply with the law identified, or where the failure is serious that it warrants formal action. The fee does not apply where no breach is found.

The FFI applies when the HSE Inspector takes time to:

- Investigate a health and safety breach
- Assist with guidance to mitigate against further breaches
- Issue enforcement action.

INTERESTING HR STATISTICS

NEW REPORT REVEALS SCALE OF LABOUR MARKET BREACHES

In 20222, a project was commissioned which had the objective of filling significant evidence gaps regarding minimum wage enforcement, employment agency standards, and broader labour exploitation. The report 'Working Lives: the scale and nature of labour market non compliance and other work based harms in the UK' (executive summary) was published earlier this month, and below are the key findings.

Although the project was commissioned before the introduction of the Employment Rights Act 2025 and the establishment of a new Fair Work Agency (FWA), the responsibility for these areas have now transitioned to the FWA. The findings are intended to help the FWA develop its first strategy in 2027, striking a balance between supporting employers and implementing strong enforcement for deliberate non-compliance.

Key Findings:

- **Widespread violations:** Approximately 14% of the full workforce (around 5.4 to 5.8 million workers) experienced at least one clear legal violation—such as issues with the National Minimum Wage (NMW), payslips, or contracts—in the two years prior to the survey.
- **Broad workplace harms:** When looking at a broader range of eight main issues (including health and safety and bullying), 7 in 10 workers (roughly 26.6 to 28.7 million people) reported experiencing at least one harm.
- **The precarious worker divide:** Workers in 'precarious' positions (often characterised by low income or non-traditional work) are at an even higher risk, with 26% experiencing clear legal violations.
- **Financial and administrative harms:** Unpaid extra hours were the most common financial harm, affecting nearly 32% of the workforce. Additionally, nearly a third of precarious workers did not receive a contract or Key Information Document (KID) within the legally required timeframe.
- **Mental health and bullying:** Negative mental health impact was the most prevalent issue overall, affecting 37.5% of the workforce, while bullying and harassment impacted nearly 24%.

Recommendations

While the specific detailed recommendations are contained within the full report, the executive summary advocates for a realist approach to enforcement that includes:

- **Enhanced state enforcement:** The FWA will take on expanded responsibilities, including holiday pay and sick pay enforcement.
- **Strategic targeting:** Moving toward industry-level enforcement rather than just regional targeting.
- **Support for worker voice:** Encouraging trade union coverage and worker representation as vital backstops for rights.
- **An approach based on incentives, regulation and information:** Combining incentives for compliance with decisive deterrents and sanctions for those who break the law.

FIT NOTE REFORM – RESULTS FROM THE CALL FOR EVIDENCE

The 'Fit Note Reform: Call for Evidence', conducted between April and July 2024, gathered 1,959 responses from patients, employers, and healthcare professionals. The findings reveal a significant divide in how different stakeholders perceive the effectiveness of the current system and highlight several systemic challenges.

1. Overall effectiveness and stakeholder views

There is a sharp contrast in satisfaction levels across the different respondent groups:

- **Patients:** The most positive group, with 82% viewing the process as effective. They value the fit note for its simplicity, accessibility, and the legitimacy it provides for sickness absence and access to sick pay.
- **Employers:** Generally, find the process ineffective, with only 26% viewing it positively. Common complaints include a lack of detail regarding workplace context and insufficient advice on what work a patient *can* do.
- **Healthcare Professionals:** Views are mixed and vary by setting. While 70% of those in secondary care find the system effective, only 38% of those in primary care (GPs) agree.

2. The 'may be fit for work' category

While intended to facilitate returns to work, the 'may be fit for work' option is often seen as a point of friction:

- **Ambiguity:** Employers frequently find this category vague or ambiguous, making it difficult to assess risks or implement adjustments, which they believe promotes long-term absence.
- **Lack of detail:** Both patients and employers noted that these notes often lack actionable advice and realistic timelines for adjustments.
- **Utility:** Patients generally value receiving suggested adjustments from medical professionals, though they noted that some employers are unable or unwilling to implement them.

3. Barriers to effective work and health conversations

Health care professionals identified several challenges that prevent them from having in-depth conversations with patients about returning to work:

- **Time constraints:** Short appointment lengths and high workforce pressures limit the ability to provide tailored advice.
- **Knowledge gaps:** Many feel they lack sufficient occupational health training and knowledge of specific workplace environments to accurately assess work capability.
- **Relationship pressure:** Some expressed concern that denying a fit note request could damage the doctor-patient relationship or lead to complaints.

4. Key Suggestions for Reform

Respondents across groups made several recommendations to improve the system:

- **Widening certification:** There was significant support, particularly among health care professionals, for expanding the power to issue fit notes to a broader range of healthcare professionals, such as occupational therapists or physiotherapists, as a way to ease the burden on GPs.
- **System integration:** Many called for better links between the fit note process and **occupational health services**, as well as improved digital systems for sharing information between health care professionals and employers.
- **In-depth support:** Patients with mental health conditions, chronic illnesses, or those on long-term sick leave were identified as the groups that would benefit most from more intensive work and health conversations.

5. Private 'work sickness certificates'

The use of private online providers is currently very low, with less than 1% of respondents having purchased one. Those who did so cited the difficulty of obtaining an NHS GP appointment as their primary motivation. However, both health care professionals and employers raised concerns regarding the lack of regulation, potential for misuse, and the absence of a continuous relationship between the assessor and the patient.

The report concludes that the current system often acts as a 'barrier rather than a bridge' between employees and employers, indicating a need for systemic reform that includes better training for health care professionals and more actionable guidance for businesses.

UNEMPLOYMENT FOR THOSE WITH DISABILITIES IS DOUBLE TO THAT OF INDIVIDUALS WITHOUT A DISABILITY

The Trade Union Confederation (TUC) has submitted evidence to the Timms Review into Personal Independence Payment in which their analysis shows the level of unemployment for those with disabilities is double compared to those without. Other key findings reported by the TUC for the Timms Review include:

- Young people with disabilities (ages 16–24) face an exceptionally high unemployment rate of 24.2%, compared to 12.2% for those who do not.
- On average, workers with a disability earn £4,000 less per year than someone without a disability.
- 55% of workers with disabilities had their requests for reasonable adjustments either unmet or only partially met with 82% of those workers waiting between four months and over a year for adjustments to be implemented.
- The government's Access to Work scheme, currently has a backlog of 60,000 applicants, which has led to the Department for Work and Pensions recruiting 500 additional assessors.

These statistics above are just some of the analysis by the TUC, and in their submission to the Timm Review they are calling for a genuine reform of PIP to ensure it effectively supports people in entering and staying in work.

EQUALITY, DIVERSITY AND INCLUSION

CELEBRATE DIVERSITY AT WORK: JUNE IS PRIDE MONTH

Creating a workplace environment where every employee can bring their authentic self to work isn't just a matter of compliance—it is both a moral duty and a cornerstone of a thriving, innovative company culture.

As organisations evolve, understanding how to effectively support and manage a diverse workforce is critical.

With June being Pride Month, here are ways in which you can celebrate diversity at work:

1. Educational talks
2. Review and promote company policies
3. Organise company volunteering or donation campaign
4. Establish an Equality, Diversity and Inclusion employee group
5. Employee guide on what Pride is, how it started and the importance in today's society.