



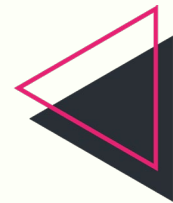
# HR & EMPLOYMENT LAW INSIDER: YOUR MONTHLY UPDATE

July 2025



**HR**  
Solutions

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# RECENT AND FUTURE CHANGES

## RECENT CHANGES

### EMPLOYMENT RIGHTS BILL UPDATE

Since last month's newsletter there have been many significant developments with regards to the Employment Rights Bill – and some of these may be good news!

In our last update, we reported that it was looking likely that the Bill wouldn't be passed before the summer recess, and this is now almost certain, however, the significant development is that in a recently published roadmap, the Government have set out how the reforms would be implemented and when (['Implementing the Employment Rights Bill – our roadmap for delivering change'](#)). The good news is that the dates for implementation appear to have been pushed back, giving employers more time to prepare.

Most of the reforms will require further detail to set out and clarify how they are to be implemented, and this will be through either secondary legislation or the development of Regulations. Plus, to further support the implementation, there will also need to be public consultations and the need for new Codes of Practice drafted, or the amendment or revoking of existing ones.

According to the Government's roadmap, this is the roadmap to change:

#### Measures that will take effect shortly after the Bill is given Royal Assent:

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

#### April 2026:

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

#### October 2026:

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

## Effective in 2027:

- Gender pay gap and menopause action plans to become mandatory
- Enhanced dismissal protections for pregnant workers, and those on and returning from family leave
- Introducing a power to enable regulations to specify steps that are to be regarded as “reasonable”, to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- Develop a modern industrial relations framework
- Updated rules relating to protections from blacklisting due to trade union membership or activity
- Changes to the threshold for when collective redundancy consultation applies
- An employer’s reason for refusing a flexible working request must be reasonable
- A new statutory entitlement to bereavement leave
- The regulation of umbrella companies
- Ending exploitative zero-hour contracts and applying zero-hour contract measures to agency workers
- ‘Day 1’ right protection from unfair dismissal.

## Further amendments to the Employment Rights Bill

On Monday 7 July 2025, the Government also published a list of all the amendments that had been made to the Bill. It is currently at the report stage in the House of Lords after which it will have its 3<sup>rd</sup> reading before being passed back to the House of Commons for their consideration. It will then be ready to be given Royal Assent. Which as we report above, is now expected to be around September 2025.

One significant amendment tabled was to extend bereavement leave for parents suffering a miscarriage before 24 weeks of pregnancy. The Government reported in their [announcement](#) that it is estimated that there are around 250,000 pregnancy losses caused by miscarriages alone in the UK with a further 12,000 suffering the loss of a child due to ectopic pregnancies.

Given that the changes to bereavement leave already incorporated within the Bill are not set to be implemented until 2027, it would suggest that this further leave entitlement would be introduced at the same time, if it was to be accepted.

A second significant amendment tabled by the Government is to introduce a ban on the use of non-disclosure agreements (NDA’s).

Announced earlier this month, the [Government said](#) that they wanted to ban the use of NDA’s as a move to protect workers and to stop victims from suffering in silence. This reform will also extend to those who witness abusive behaviour by protecting them too from being sued for calling it out.

NDA’s are typically used in discrimination or harassment cases, and they are contractual clauses effectively restrict what an individual can say, or who they can tell about something and were initially introduced to protect intellectual property or sensitive information. However, over the years, evidence shows that they have also become commonly used to prevent employees from speaking out about their workplace more broadly.

If this particular amendment is introduced, then at this stage, it is not clear at what point in the [Government’s roadmap](#) it will come in force.

## CHANGES TO SUBJECT ACCESS REQUEST RULES

In last month’s newsletter we informed you that the Data (Use and Access) Bill had been given Royal Assent making it the ‘Data Use and Access Act 2025’. This new Act makes changes to both the UK GDPR and Data Protection Act 2018, most of which will come into force approximately 12 months from being given Royal Assent.

There are a limited number of provisions within this Act that came into force upon Royal Assent, one of which relates to reasonable and proportionate searches for data subject access requests (DSAR), in fact, written into the legislation it says that this provision is to be “treated as having come into force on 1 January 2024”.

So, what are the changes? Well, there are two; one is something that should already be happening in practice because of case law having established the practice, but the other is a new obligation regarding response times, which we feel will be welcomed by employers:

1. First, there is a new ‘stop the clock’ provision meaning an employer can pause their response time without the risk of missing the one-month response deadline – but only where they need the data subject to clarify or refine their request or to provide more information.
2. Second, the legislation is now explicit in requiring an employer’s search for the requested data to be “reasonable and proportionate”. Previously, this was the element that had not been set out in law but had been established through case law.

## CHANGES TO THE PUBLIC INTEREST DISCLOSURE RULES

The Public Interest Disclosure Act 1998 is an important piece of legislation that provides legal protection to individuals from retaliation by their employer if they make a protected disclosure. Under the legislation, to get the legal protection, the disclosure must be for one of the reasons as prescribed in law and made to a specific person/body.

On the 26 June 2025, the Public Interest Disclosure (Prescribed Persons) (Amendment) Order 2025 came into force making changes to the list of prescribed persons and matters for which a whistleblower can make a protected disclosure which includes:

- adding HM Treasury as a prescribed person for whistleblowing
- prescribing specific sanctions-related matters that may be disclosed to:
  - the Secretary of State for Business and Trade (with respect to certain trade sanctions);
  - the Secretary of State for Transport (with respect to aircraft and shipping-related sanctions); and
  - HM Treasury (with respect to financial sanctions).

## REVIEW ANNOUNCED INTO GREAT BRITAIN'S WHISTLEBLOWING FRAMEWORK

This month, the Department for Business and Trade (DBT) published its report '[understanding the effectiveness of the Whistleblowing Framework in Great Britain](#)'. Grant Thornton had been commissioned by the previous Government to conduct a research study in order to provide evidence as part of the review of the whistleblowing framework [terms of reference](#). Their study then took place between September and December 2023.

The aim of the study was to explore the effectiveness of the existing framework against the original objectives of Public Interest Disclosure Act 1998 (PIDA), but more specifically, to establish the effectiveness of how the PIDA provides:

- a route for workers to make whistleblowing disclosures
- protection of workers who have made disclosures from detriment and dismissal, and the extent to which they are provided with a route of redress where this happens
- support a wider cultural change, in which the benefits of whistleblowing are recognised and lead to action among employers and others. Action includes, for example, employers and prescribed persons implementing policies and practices that support whistleblowing

We are currently reviewing the findings from this research and will provide our analysis in next month's newsletter.

## FUTURE CHANGES (CURRENT BILLS PROGRESSING THROUGH PARLIAMENT)

### EMPLOYMENT RIGHTS BILL

This Bill, when passed, will introduce the biggest changes in employment law in decades. Impacting the entire employment lifecycle, it will change how we recruit and retain our employees, and in managing the ending of the employment relationship.

The Bill is currently in the House of Lords, and will shortly return to the House of Commons for final consideration of the amendments before being passed for Royal Assent. We expect that it could be given Royal Assent around September 2025.

### 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 2<sup>nd</sup> reading in the House of Commons, which was scheduled for 11 July 2025, so very early on in its passage through Parliament. We are waiting for information regarding the next stage.

### BULLYING AND RESPECT AT WORK BILL

This [private members Bill](#) if passed, would introduce a statutory definition of bullying at work. In addition, it would make a provision relating to bullying at work that includes enabling claims relating to workplace bullying to be considered by an employment tribunal. It would also introduce a Respect at Work Code that would set minimum standards for positive and respectful work environments and give powers to the Equality and Human Rights Commission to investigate workplaces and organisations where there is evidence of a culture of, or multiple incidents of, bullying and to take enforcement action. The Bill had its first reading in the House of Commons on 21 October 2024 and the second reading was scheduled to take place 11 July 2025, and we're waiting for information regarding the next stage.

### CHILDREN'S WELLBEING AND SCHOOLS BILL

This [Bill](#) is about the safeguarding and welfare of children, support for 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. This Bill is currently at the Committee Stage in the House of Lords, after which a report will be published before it is then passed for its third and final reading.

## FUTURE CHANGES (LEGISLATION BY IMPLEMENTATION DATE)

### 2025

#### 1 August 2025 – The Apprenticeships (Miscellaneous Provisions) (England) (Amendment) Regulations 2025

These regulations change the minimum duration of the practical period for when a person is expected to work and receive training from 12 months to 8 months.

#### 1 September 2025 – The economic crime and corporate transparency Act 2023

This Act will make it an offence where certain organisation's (turnover greater than £36 million and more than 250 employees) have failed to prevent, or to have in place reasonable policies and procedures designed to prevent fraud. It includes where there has been fraud, false accounting, fraud by false representation, fraudulent trading and cheating the public revenue. Employers will be liable even if the fraud is committed by an associated person such as self-employed contractors, agency workers.

#### Employment Rights Act Reforms (expected shortly after Royal Assent given):

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

### OCTOBER 2025

#### 1 October 2025 - The Victims and Prisoners Act 2024 (Commencement No.6) Regulations 2025

These Regulations make any provision in a settlement agreement void, when it purports to preclude the making of a protected disclosure by a victim of crime, or a person who reasonably believe to be a victim of crime to specified bodies void.

## 2026 BEYOND

### Employment Rights Act Reforms: April 2026:

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

### June / July 2026 (date to be confirmed)

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

The date is yet to be confirmed, but it is anticipated to be approximately 12 months from when the Bill was given Royal Assent (19 June 2025). The Act will amend certain sections of the General Data Protection Act in areas such as automated decision making, data subject access requests and a new requirement in regard to complaints. You can find out more about the reforms in our 'recent' section of this area of the newsletter.

However, a limited number of provisions will come into force upon Royal Assent, including section 78, which relates to reasonable and proportionate searches for data subject access requests.

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

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

### Employment Rights Act Reforms: October 2026:

- Dismissals connected to an employer seeking to vary an employee's contract but the employee does not agree will be automatically unfair
- Establish the Fair Pay Agreement Adult Social Care Negotiating Body in England
- Tightening tipping law by requiring employers to consult with workers to ensure fair tip allocation

- Requiring employers to take "all reasonable steps" to prevent sexual harassment of their employees
- New obligation on employers not to permit the harassment of their employees by third parties
- Introducing a new duty to inform workers of their right to join a trade union
- Strengthen trade unions' right of access
- New rights and protections for trade union reps
- Extending protections against detriments for taking industrial action
- Employment tribunal time limits extended from 3 months to 6 months

## 2027

### Employment Rights Act Reforms: 2027:

- Gender pay gap and menopause action plans to become mandatory
- Enhanced dismissal protections for pregnant workers, and those on and returning from family leave
- Introducing a power to enable regulations to specify steps that are to be regarded as "reasonable", to determine whether an employer has taken all reasonable steps to prevent sexual harassment
- Develop a modern industrial relations framework
- Updated rules relating to protections from blacklisting due to trade union membership or activity
- Changes to the threshold for when collective redundancy consultation applies
- An employer's reason for refusing a flexible working request must be reasonable
- A new statutory entitlement to bereavement leave
- The regulation of umbrella companies
- Ending exploitative zero-hour contracts and applying zero-hour contract measures to agency workers
- 'Day 1' right protection from unfair dismissal.

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

This Act received royal assent 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 57 years from 2028, following the amendment to Part 4 of the Finance Act 2004 (pension schemes etc).

#### LEGISLATION DATE UNKNOWN

##### **Pensions (Extension of automatic enrolment) Act 2023** (date to be confirmed)

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

##### **Paternity Leave (Bereavement) Act 2024**

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

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

##### **Sunday trading – Protection for shop workers**

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

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

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



# CONSULTATION AND GUIDANCE

## CONSULTATIONS RELATING TO THE EMPLOYMENT REFORMS

### TIMETABLE FOR PUBLIC CONSULTATIONS ANNOUNCED

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

#### Summer/Autumn 2025 consultations:

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

#### Autumn 2025:

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

#### Winter/early 2026:

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

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

## OPEN CONSULTATIONS

### PARENTAL LEAVE AND PAY REVIEW: CALL FOR EVIDENCE

Earlier this month, the Government announced a formal review into parental leave and pay to understand how it could better support working families. They are calling for evidence to help consider the UK's current system for leave and pay, which includes:

- maternity leave and pay
- paternity leave and pay
- adoption leave and pay
- shared parental leave and pay
- parental bereavement leave and pay

- parental leave (unpaid)
- neonatal care leave and pay
- maternity allowance
- a new employment right, currently under development – bereaved partner's paternity leave (unpaid)

The core objectives of the review will focus on:

- How can parental leave measures support the physical and mental health, recovery, and overall well-being of women during pregnancy and postpartum, and how can we ensure they have adequate time off work with appropriate pay.
- How can our parental leave system work more effectively to boost economic growth by helping more parents remain in the workforce and advance careers after starting a family. In particular, consider how to improve women's labour market outcomes, narrowing the gender pay gap, reducing the "motherhood penalty," and providing benefits for employers.
- Ensuring that new and expectant parents have sufficient resources and time away from work to support their well-being and facilitate the best start in life for babies and young children, promoting positive health and development outcomes.
- Helping to empower parents to make balanced childcare choices that suit their family situation, including enabling co-parenting, whilst also aiming for flexibility that reflects the realities of modern work and childcare needs.

This call for evidence is seeking the views, and evidence presented where available to the following questions:

- *"Do you think that the current parental leave and pay entitlements supports these objectives (noted above)*
- *For each objective (as above), briefly explain the reasons for your selection above. Please provide any evidence (including links) to support your view.*
- *Are there further or other objectives that you would like to see included as part of the parental leave and pay review? Please list and briefly explain each one, including providing links to any relevant evidence."*

If you would like to have your say, and share your evidence on how all the various forms of leave operate, you can do so either [online](#), [email](#) or by post to:

Parental Leave Review Team  
Department for Business and Trade  
Old Admiralty Building  
Admiralty Place  
London  
SW1A 2DY

The deadline for participating is **25 August 2025**.

## REGULATORY FRAMEWORK FOR APPRENTICESHIP ASSESSMENT

Earlier this year, the Department for Education published a set of principles ([Apprenticeship Assessment Principles](#)) that when implemented, would change the current end point assessment approach (EPA) currently in use for assessing apprentices.

These new principles aim to make the design and delivery of all types and levels of apprenticeships more flexible by:

- Making the assessment more proportionate to the competency being tested and to remove duplication
- assessment can happen on programme
- training providers can deliver and mark elements of the assessment, with appropriate oversight

Existing assessment plans that all EPAs are based upon will be streamlined on a phased basis, and employers are invited to share their views in a new [public consultation](#) which is an opportunity in which to comment on the proposed new way of regulating apprenticeship assessments. If you wish to participate in this consultation you can [do so here](#), consultation is open until 27 August 2025.

## FINANCIAL CONDUCT AUTHORITY: CONSULTATION IN TACKLING NON-FINANCIAL MISCONDUCT IN FINANCIAL SERVICES

The Financial Conduct Authority (FCA) are changing their rules relating to non-financial misconduct in non-banks and have opened a public consultation. This consultation is aimed at addressing a reported "failing culture" of non-financial misconduct, including issues like bullying and sexual harassment, which often go unchallenged. Since such misconduct is a significant regulatory concern, it's crucial for the FCA to implement effective mechanisms to combat these problems.

Mishandling these issues can have serious consequences, leading to financial, reputational, and regulatory damage and currently, there's an inconsistency in the rules applied to banks versus non-banks, which the FCA aims to rectify.

If the changes are to impact your organisation, you can participate in this consultation until **10 September 2025** and do so via online, by [clicking here](#).

## CALL FOR EVIDENCE: 2026-2030 GENDER EQUALITY STRATEGY

The European Commission has launched a consultation on its [2026-2030 gender equality strategy](#). This particular initiative is about setting out a long-term vision for achieving full women's rights in Europe.

The aim is to further progress a gender-equal Europe and promote gender equality globally. This latest strategy builds on the previous of 2020-2025 and is Europe's roadmap for achieving their aim.

If you would like to contribute to this important call for evidence, you can do so [here](#). The closing date is **11 August** (midnight Brussel time).

## CONSULTATION: LOCAL GOVERNMENT PENSION SCHEME IN ENGLAND AND WALES

The Ministry of Housing, Communities and Local Government have opened a new public consultation on proposed new reforms to tackle inequality and to help boost benefits. The consultation runs until **7 August 2025**, and you can take part in this consultation [here](#).

Note, it applies only to England and Wales.

## WELSH GOVERNMENT CONSULTATION: DISABLED PEOPLE'S RIGHTS PLAN 2025-2035

The Welsh Government have opened a [consultation](#) in which it is seeking views on existing rights for those with disabilities. It encompasses all aspects of society such as access to services, travel and employment and income.

From the perspective of employment and income, the Government are specifically wanting to know whether the proposed outcomes set out in 'Employment, Income and Education' will help reduce the problems and barriers that people with disabilities face? Therefore, what, if anything, should be added or removed from these outcomes? Views are sought on to what extent:

- Someone with a disability can access timely and co-ordinated advice and services to enable them to achieve equitable access to paid and unpaid volunteering/work experience, self-employment, and long-term job opportunities/careers.
- Someone with a disability engaged in promoting inclusive recruitment, retention, and progression practices.
- Someone with a disability is represented at all levels in the workforce, that employers are aware of their legal responsibilities and the employment rights of the employee.
- Employees with disabilities are represented at all levels within the Welsh workforce
- Are employers encouraged to adopt inclusive practices to eliminate prejudice and discrimination in the workplace
- Are employers encouraged to promote the equitable recruitment, retention, and progression of employees with disabilities
- Are employers aware that understanding that different treatment, through the provision of reasonable adjustments is often the means of achieving equity in employment outcomes.
- That jobseekers and workers with disabilities and of all ages understand their employment rights and have the means to exercise them, including through positive action to ensure equitable opportunities for lifelong learning.
- Employees with disabilities are not disadvantaged in the job market by barriers to education, training, or recruitment support.

As noted, this is a consultation specific to Wales and closes **7 August 2025**.

## CLOSED CONSULTATIONS: RESPONSES BEING ANALYSED AND WAITING FORMAL RESPONSE

### UPDATED EHRC GUIDANCE ON THE EQUALITY ACT 2010 MEANING OF 'SEX'

Following the Equality and Human Rights Commission's (EHRC) [interim guidance](#) on the practical implications of the UK Supreme Court's judgement in case '[For Women Scotland v The Scottish Ministers](#)', the EHRC launched a new public consultation seeking views and feedback on a new Code of Practice.

By way of a reminder, the implication of this ruling is that employers must treat 'sex' under the Equality Act 2010 to mean biological sex. In other words, a 'woman' is a biological woman (a person born female), a 'man' is a biological man (a person born male). That if somebody identifies as trans, they do not change sex for the purpose of the Equality Act, even if they have a Gender Recognition Certificate (GRC). Meaning a trans woman is a biological man and a trans man is a biological woman.

The consultation closed 30 June, and the feedback is currently being reviewed where we are to expect an updated Code to be sent to the Minister for Women and Equalities for approval and laying in Parliament.

### THE ANNUAL LOW PAY COMMISSION CONSULTATION

Each year, the Low Pay Commission (LPC) recommends to the Government new minimum wage rates for the coming April. In readiness for their submission this autumn, the LPC ran a public consultation in which it sought views from members of the public and employers.

The consultation is closed, and we can expect the findings in the Autumn, when the new statutory minimum pay rates are announced.

### EQUALITY (RACE AND DISABILITY) BILL: MANDATORY ETHNICITY AND DISABILITY PAY GAP REPORTING

This consultation sought views on how ethnicity and disability pay gap reporting for large employers could be implemented. The aim of the consultation is to create a more equal society by focussing on inequalities in the areas of ethnic minority and those who have disabilities.

The Government are committed to ensuring that ethnicity and disability pay gap reporting will address that on average, ethnic minority groups earn less than white British peers and those with disabilities have lower average incomes than those who do not.

The responses are currently being analysed, and once published, we will provide an update.

### TRIBUNAL PROCEDURE COMMITTEE

A consultation on further changes to the Employment Tribunal Rules where it is expected that rule changes will come into force later in 2025. The changes are unlikely to significantly impact current practice; however, it is still worth employers knowing of the upcoming changes as it will impact on the technical procedures of managing a tribunal claim. The rules proposed include:

- More often be asked to submit a draft case management order
- Changes in the way an ET treats a failure to submit a reply to an employer's contract claim

We await the Government's response.

### INQUIRY INTO GENDERED ISLAMOPHOBIA

This [public inquiry](#) ran between 13 February 2025 and 21 March 2025 and was in response to evidence that shows Muslim women and girls are much more likely to be victims of Islamophobic abuse than men.

## COSTS PROTECTION IN DISCRIMINATION CLAIMS

In this consultation, the Government sought views in respect of the current arrangements for bringing discrimination claims under the Equality Act 2010. The proposals include:

- The Ministry of Justice is considering whether costs protection should be extended to all discrimination claims as currently it only applies in certain areas.
- Costs protection applies in certain circumstances, and when granted it means that if a claimant loses a case, they do not have to pay adverse costs. This of course is not the norm, since the general position in civil cases in England and Wales is that the loser pays the winner's legal costs as well as their own.
- Consultation which sought views in respect of the current arrangements for bringing discrimination claims under the Equality Act 2010
- The Ministry of Justice is considering whether costs protection should be extended to all discrimination claims as currently it only applies in certain areas.
- Costs protection applies in certain circumstances, and when granted it means that if a claimant loses a case, they do not have to pay adverse costs. This of course is not the norm, since the general position in civil cases in England and Wales is that the loser pays the winner's legal costs as well as their own.

## PROPOSALS TO REGULATE NHS MANAGERS

The Government are proposing to introduce a Leadership and Management framework that will include a Code of Practice, a set of core standards and a development curriculum for managers.

## NORTHERN IRELAND GENDER PAY GAP INFORMATION REGULATIONS

The Northern Ireland Government are considering consultation responses in connection with proposals in relation to section 19 of the Employment Act (Northern Ireland) 2016, which sets out an employer's obligation to publish gender pay gap information.

## PRUDENTIAL REGULATION AUTHORITY AND THE FINANCIAL CONDUCT AUTHORITY – REMUNERATION REFORMS

This consultation sought views on how both the Prudential Regulation Authority (PRA) along with the Financial Conduct Authority (FCA) could make the remuneration regime for dual regulated firms, more effective, simple and proportionate in its aim in ensuring accountability for risk taking.

## EUROPEAN DATA PROTECTION BOARD – GUIDELINES ON PSEUDONYMISATION

The European Data Protection Board's consultation sought public input on new guidelines proposed on Pseudonymisation.

## CLOSED CONSULTATIONS: FORMAL RESPONSE PUBLISHED

### NEW PUBLIC GUIDANCE ON THE EQUALITY ACT 2010 MEANING OF 'SEX'

We reported last month that the Equality and Human Rights Commission (EHRC) issued interim guidance following the UK Supreme Court's judgement in case '[For Women Scotland v The Scottish Ministers](#)'. This continues to remain the latest guidance, as the EHRC consult on the updated Code of Practice of Services, Public Functions and Associations.

## GUIDANCE

### UPDATED GUIDANCE ON THE MEANING OF 'SEX' UNDER THE EQUALITY ACT 2010

In our [newsletter for June](#), we reported that the Equality and Human Rights Commission (EHRC) had issued interim guidance following the UK Supreme Court's judgement in case '[For Women Scotland v The Scottish Ministers](#)', however, the Commission have since further [updated this guidance](#) in respect to accessing toilet and washing facilities in workplaces.

The original guidance stated:

*"In workplaces, it is compulsory to provide sufficient single-sex toilets, as well as sufficient single-sex changing and washing facilities where these facilities are needed"*

The new updated statement, published 24 June 2025 states:

*"In relation to workplaces, requirements are set out in the Workplace (Health, Safety and Welfare) Regulations 1992. These require suitable and sufficient facilities to be provided including toilets and sometimes changing facilities and showers. Toilets, showers and changing facilities may be mixed-sex where they are in a separate room lockable from the inside. Where changing facilities are required under the regulations, and where it is necessary for reasons of propriety, there must be separate facilities for men and women or separate use of those facilities such as separate lockable rooms."*

#### **What does this mean?**

They have not changed their position, which is, if there are single-sex toilet/cleaning facilities and they are not separate lockable rooms, then access should be on a biological sex only basis. So our guidance remains the same. 'Sex' under the Equality Act 2010, is to mean biological sex. In other words:

- A 'woman' is a biological woman or girl (a person born female)
- A 'man' is a biological man or boy (a person born male)
- A trans woman is a biological man
- A trans man is a biological woman.

#### **DATA (USE AND ACCESS) ACT FACTSHEET: UK GDPR AND DPA**

To support the recently introduced 'Data Use and Access Act 2025', an Act that will make changes to the UK GDPR and Data Protection Act 2018, the Government have published a new fact sheet ([publication date 27 June 2025](#)), setting out a summary of the most significant changes, which will be implemented in several different stages. The summary provides an overview on the changes in respect of:

1. Meaning of research and statistical purposes
2. Consent to processing for the purposes of scientific research
3. Lawfulness of processing
4. Purpose limitation principle
5. Processing in reliance on relevant international law
6. Data subject rights
7. Data subject rights to information: legal professional privilege exemption
8. Automated decision making
9. Data protection by design (children's higher protection matters)
10. Logging of law enforcement processing
11. Transfer of personal data to third countries
12. Safeguards for processing for research purposes
13. National security exemption
14. Joint working designation notices (law enforcement)

In our 'recent and future changes' newsletter this month, we provide further information on the changes to rules in handling data subject access requests; a common practical scenario many employers face, [read here to find out more](#).

# CASE RULINGS

## WHAT NOT TO DO WHEN MANAGING SICKNESS ABSENCE

### WHAT IS THE CASE ABOUT?

In this case, Mr. M. Kerita, an assembly associate at BMW (UK) Manufacturing Limited suffered from chronic back pain.

### THE CASE

Mr. Kerita began working for BMW in 2015. His work as an assembly associate was physically demanding, involving job rotation between multiple roles. He developed severe back pain in 2017, which significantly worsened from July 2020 after training on a new task.

Throughout his struggles, Mr. Kerita frequently saw GPs and his employer's own on-site physiotherapists. His GP recommended BMW amend his duties and make workplace adaptations. BMW also received advice from their Occupational Health advisor, who advised that Mr. Kerita's health condition was likely to fall under the Equality Act 2010 as a disability. They too advised lighter duties and a workplace assessment.

Despite medical advice and his ongoing pain, Mr. Kerita progressed through the company's sickness absence process and was issued with a formal attendance warning due to his absences, which included absences connected to back pain.

In March 2023, after a physiotherapist expressed 'inconsistencies' about Mr. Kerita's pain - without his consent to discuss with managers, BMW took the highly unusual step of instructing covert surveillance.

This surveillance showed Mr. Kerita walking for about 1.5 hours, approximately 3 miles, yet BMW thought that he had claimed he couldn't walk more than 20-30 metres, therefore contradicting what the footage showed. However, what Mr. Kerita had stated was that prolonged walking caused him pain, sickness, or dizziness, and not that he could not walk more than 20-30 metres. The surveillance footage, taken from behind, did not show his face, making it difficult to fully assess pain.

Based on this, Mr. Kerita was invited to a disciplinary hearing in May 2023, accused of fraudulently claiming company sick pay and having unacceptable absence levels. He was dismissed for gross misconduct on 26 May 2023. At the time of surveillance and dismissal, Mr. Kerita was not receiving company sick pay, which had expired in November 2022, nor statutory sick pay, which expired in March 2023. From a medical perspective, prior to dismissing him, BMW's own physiotherapists continued to assess him as unfit for work and accepted his reports of pain.

BMW's internal appeals procedure stated that "dismissals will not be implemented prior to the appeal being completed. Associates will remain on full basic pay pending their appeal". However, Mr. Kerita's dismissal was implemented immediately, yet he did not receive basic pay, and he was not told that he remained employed pending an appeal.

Whilst he did appeal, he missed these hearings because he was abroad dealing with a family issue and did not receive timely notifications, despite informing BMW he would be away. His dismissal was upheld.

### TRIBUNAL RULING

The Employment Tribunal heard the case over six days in April and June 2025. The Tribunal made the and unanimous decision that he had been directly discriminated against and had been unfairly dismissed, on the basis that:

- Mr. Kerita's health was deemed to be a disability for the purpose of the Equality Act 2010 (EQA) due to his back pain having a substantial and long-term adverse effect on his daily activities.
- BMW was deemed to have known that his condition was a disability for the EQA from 28 June 2021.
- BMW had failed to make reasonable adjustments by not providing suitable adjusted duties or consider lighter roles in the department or business and did not relax some of the processes of the role despite it being a reasonable adjustment.
- BMW's belief that Mr. Kerita had fraudulently claimed sick pay was not supported by evidence; he was entitled to sick leave and was not receiving sick pay at the time of the surveillance or dismissal.
- Discrimination arising from a disability was also established because Mr. Kerita had been issued with an attendance warning. If BMW had not failed in their duties to provide reasonable adjustments, the absence may have been prevented. Therefore, the formal warning was not considered to be a proportionate means to achieving the aim of managing sickness absence.



- The Tribunal found that BMW did not have reasonable grounds for believing he was guilty of misconduct and failed to carry out a reasonable investigation. Fundamental procedural failures, including how the appeal was handled (e.g., failing to notify him of appeal hearings, not following their own policy on continuing pay during appeal), took the dismissal outside the range of reasonable responses.
- Mr. Kerita was not guilty of gross misconduct justifying his summary dismissal and therefore, BMW was not entitled to dismiss him without notice resulting in it being a wrongful dismissal/breach of contract.

## KEY LEARNING POINTS:

- Long-term or fluctuating health conditions can be a disability under the Equality Act.
- Act on medical advice: Implement recommendations from Occupational Health, GPs, and physiotherapists regarding employee conditions and suitable duties. Document reasons if a request is deemed unreasonable.
- Fulfil the duty to make reasonable adjustments: Take proactive steps like providing lighter duties, adapting roles, or transferring to vacancies, even if it means treating the employee more favourably.
- Exercise caution with disciplinary action for disability-related absences: Such actions may be "discrimination arising from disability" if not proportionate. If reasonable adjustments were not made to prevent the absence, disciplinary action for that absence is difficult to justify.

The amount of compensation is yet to be determined, and we will provide an update on this case once known.

## WHAT CLASSIFIES AN INDIVIDUAL AS A WORKER VS SELF-EMPLOYED?

In this month's newsletter we discuss employment status a lot, so it is a good opportunity to look at one of the recent case rulings we have about this topic.

### OVERVIEW

The primary matter considered in this [employment tribunal](#) case was whether Bolt drivers were classed as self-employed or workers.

The Employment Rights Act 1996, section 230(3) defines a worker as:

"an individual who has entered into or works under a contract or any other contract whether express or implied and whether oral or in writing whereby the individual undertakes to do or perform personally any work or services for another party to the contract whose status is not by virtue of the contract that of a client or customer of any profession or business undertaking carried on by the individual".

In recent years, we have seen several high profile cases examine employment status; whether it is between determining if someone is self employed or a worker (as in this case), or if they are an employee or work. It is a complex area of law, but the case rulings do provide clarity in how the law is to be applied.

### THE CIRCUMSTANCES

Bolt Operations OU & Others is a company that offers ride-hailing, shared cars, scooters and food and grocery delivery services. Following the Supreme Court ruling in the case of [Uber v Aslam and others in 2021](#), which ruled that Uber drivers were workers not self-employed, Bolt drivers raised a claim against Bolt Operations OU & Others making the same claim.

Individuals who are self-employed have limited employment rights, whereas a worker would qualify the national minimum wage, paid annual leave, rest breaks and having a maximum working week and may even qualify statutory sick pay depending upon the circumstances.

The claim argued that they should be classed as workers and not self-employed, and therefore be entitled to the national minimum wage and holiday pay.

## THE JUDGEMENT

The tribunal determined that the Bolt drivers are workers. This decision was reached using a test which determines if an individual is considered a worker. Some of the test findings were as follows:

Bolt has control over the service provided by the drivers including setting the driver's fares, collecting fees, applying a service fee, and in some instances the company can block a driver from using the app and only Bolt can unblock this.

The effort of Bolt to create the right to substitution using their Bolt Link function was rejected as it is up to the company to allocate the trip to the next driver in line rather than the drivers substituting the work themselves.

The drivers are not running a business of which Bolt are their customers, rather Bolt are purchasing the drivers labour strictly on its 'take it or leave it' terms.

The ruling means that the Bolt drivers will now have a number of employment rights including being paid national minimum wage, entitlement to holiday pay, and protection against unlawful deduction of wages and a hearing to determine the issue of compensation will be held next year.

## KEY LEARNINGS

Understand the difference between all types of employment status: Employers must learn what classifies an individual as a worker, employee or self-employed and act according to the law when employing people. Applying the wrong status can have significant implications not just in terms of employment rights, but also from a tax perspective. If you need help working out the status of an individual for the purpose of tax, the [government website has a useful tool](#).

Regularly review contracts and working practices: These should be reviewed regularly to ensure they are legally compliant. Remember custom and practice can have implications for employment rights. These are unwritten rules that become an accepted part of the employment relationship over time.

## NON-DISCLOSURE AGREEMENTS

The Government have made an amendment to the Employment Rights Bill that will see a ban introduced on the use of non-disclosure agreements (NDA's).

Announced earlier this month as part of the Employment Rights Bill being debated in the House of Lords, the Government said that they wanted to [ban the use of NDA's](#) as a move to protect workers and to stop victims from suffering in silence. This reform will also extend to those who witness abusive behaviour by protecting them too from being sued for calling it out.

NDA's are typically used in discrimination or harassment cases, and they are contractual clauses effectively restrict what an individual can say, or who they can tell about something and were initially introduced to protect intellectual property or sensitive information. However, over the years, evidence shows that they have also become commonly used to prevent employees from speaking out about their workplace more broadly.

The Bill is in its final stages, but we expect it to be given Royal Assent around September. If this particular amendment is introduced, then at this stage, it is not clear at what point in the Government's [roadmap](#) it will come in force.

## DO YOU EMPLOY SEASONAL WORKERS?

If you employ season workers over the summer, then HMRC have issued a reminder in respect of pension schemes:

1. Employers must check if these workers are eligible for automatic enrolment into a workplace pension
2. Individually assess any seasonal or temporary staff every time they pay them. This includes staff with variable hours and pay, whether they are employed for a few days or longer
3. The assessment of the workforce is required to identify potential eligible jobholders as they will need to be automatically enrolled into a workplace pension, the definition of such workers includes:
  - Short term seasonal workers
  - Staff who work irregular hours (casual workers) with variable work patterns or earn flexible incomes
  - Temporary workers on a fixed contract for less than 3 months\*

To clarify, to be an eligible jobholder for enrolment, the worker must have earnings when first paid in the relevant pay cycle that is above the qualifying threshold (£192 per week / £833 per month if paid monthly).

On enrolment, an employer will then be required to pay regular contributions into the pension scheme; the minimum of which is 8%, but this is split between employer and worker. 5% minimum for the employer, and 3% worker.

## HMRC COMPLIANCE TOOL

Recently introduced, the [compliance check tool](#) offers employers information to help understand compliance checks, why HMRC requests specific information or documents, and help on how to seek extra support. This tool is one of many offered by HMRC, others available include [corporation tax](#), [employment status and off payroll working \(IR35\)](#), and [national insurance and PAYE](#).

## DON'T FORGET – MANDATORY PAYROLLING BENEFITS IN KIND IS DELAYED!

The Government announced previously that it would be delaying the roll out of legislation that would [mandate Payrolling Benefits in Kind \(BIK\)](#) until April 2027. Mandating payrolling of BIK is the inclusion of the estimated value of non-cash employee benefits directly in the regular payroll instead of reporting separately on an annual P11D form.

Until such time, it continues to be voluntary, and we expect draft legislation and guidance to be provided from around Autumn 2025.

# HEALTH & SAFETY

## SEASONAL AND TEMPORARY WORK

With the Summer now upon us, the number of seasonal and temporary workers in employment significantly increases. This is an opportune moment to emphasise the importance of protecting the health and safety of workers in the gig economy, as well as agency and temporary workers. Workers are just as likely to have an accident in the first six months of a new job as they are during the entire rest of their working lives. This increased risk can be attributed to several factors, such as:

- Unfamiliarity with the duties and environment
- Lack of experience and awareness of personal responsibilities
- Desire to impress the new employer and reluctance to raise concerns
- Insufficient understanding or training on equipment and procedures

Consequently, new or young workers may not recognise hazards that more experienced employees would notice, they may overlook or not remember instructions and important information, and they miss things that seem obvious to others. Therefore, employers must ensure that they are taking steps to adequately protect all new seasonal and temporary workers, including those who may have worked with them previously. The HSE provide advice on this subject [here](#).

## ‘SIMPLER RECYCLING’ IN THE WORKPLACE IN ENGLAND

In England as part of the ‘Simpler Recycling’ initiative which stems from the Environment Act 2021 all businesses and non-domestic premises effective since 31st March 2025 are required to separate their waste into four waste streams; food waste; paper and card; mixed recyclables (plastic, metal, glass) and non-recyclables.

Micro-firms who have fewer than 10 full time equivalent employees are required to comply with the policy by 31st March 2027.

The legislation applies to all businesses, public sectors and charities for example, offices, warehouses, construction sites, supermarkets, theatres, zoos, warehouses, charity shops, places of education, outdoor events. Businesses should provide workers, visitors, contractors with clear guidance on what can and cannot be recycled in each bin.

The aim is to create consistency for all local authorities to adopt the same recycling system. From 31st March 2027 kerbside plastic film collections will be introduced for businesses and households. Waste collectors have a legal duty to ensure that they comply with the legislation and that waste is separated appropriately.

The aim is to increase recycling rates, and to reduce the amount of waste that is sent to landfills and incinerators, this is expected to deliver greenhouse gas emission savings.

The Government publication on this legal change can be [accessed here](#).

## CASE REPORT: CARRYING OUT UNSAFE WORK

In this health and safety case, it deals with when individuals breach health and safety rules in respect of gas safety.

### WHAT HAPPENED

In January 2022, Antony Clifton, who was a self-employed gas fitter, carried out unsafe gas work at a residential property, despite having been suspended by the Gas Safe Register and had previously been served with a prohibition notice by the Health and Safety Executive (HSE) for unsafe gas work.

Mr Clifton had falsely claimed to be a member of the Gas Safe Register when taking up residential property job, which resulted in a gas escape on the inlet, necessitating emergency repair work.

### CASE FINDINGS

An investigation by the HSE found that Mr. Clifton, a director of CS Appliance Repairs Limited, left the appliance in a dangerous condition due to the gas leak. His actions were found to be a blatant disregard for gas safety, given he knew of the legal requirement to be a member of the Gas Safety Register; the consequences of which placed the residents at risk of being killed.

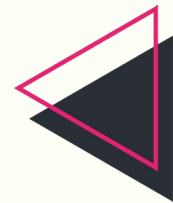
On 14 July 2025, Mr Clifton pleaded guilty to breaching Regulations 3(7s) and 5(3) of the Gas Safety (Installation and Use) 1998 Regulations. He was sentenced to a total of 46 weeks in custody and ordered to pay £1,000 in costs at Great Yarmouth Magistrates’ Court.

## LEARNINGS

This case serves as a critical reminder of the dangers of unsafe gas work and the importance of due diligence.

- It is paramount for any employer commissioning gas work to always check and confirm that the gas engineer is registered with the Gas Safe Register before allowing them to commence work on any appliances or systems. The case highlights that Mr Clifton was jailed for carrying out unsafe work while suspended by the Gas Safe Register and falsely claiming to be a member. This underscores the critical need for verification to prevent engaging individuals who are not qualified or permitted to carry out such work.
- The case demonstrates the grave dangers posed by unqualified and unregistered gas work. His actions led to a gas escape on an inlet to a cooker, requiring emergency repair work, and an HSE inspector noted his "illegal actions meant the people living in that house could have been killed". Employers must understand that commissioning unsafe gas work puts lives at severe risk and can lead to serious legal consequences, including criminal prosecution for those responsible for health and safety.
- Mr Clifton was prosecuted for breaching Regulations 3(7) and 5(3) of the Gas Safety (Installation and Use) 1998 Regulations. This highlights the strict legal framework governing gas safety. Employers are indirectly responsible for ensuring that any work they commission adheres to these regulations, which inherently means using qualified and registered professionals.
- The fact that Mr Clifton "falsely claimed to be a member of the Gas Safe Register" emphasises that simply taking an individual's word is insufficient. Employers should utilise the official channels provided by the Gas Safe Register to verify credentials.
- Mr Clifton positioned himself as a "director of CS Appliance Repairs Limited". While the specific nature of his employment within this company isn't detailed, this detail underscores that responsibility for ensuring safe and compliant gas work extends to company directors and, by extension, to the businesses themselves. It implicitly stresses that companies must ensure their personnel, whether employees or contractors, are properly registered and compliant.
- An employer that commissions gas work must act with utmost diligence to ensure that all gas work is performed solely by fully registered and competent Gas Safe engineers to uphold safety standards and prevent injury and loss of life.

# EQUALITY, DIVERSITY & INCLUSION



## MENOPAUSE IN THE WORKPLACE

Earlier this month the Government announced that from 2027, menopause action plans will be mandatory for organisations employing 250+ employees.

Back in 2021, the UK Parliament's [Women and Equalities Committee](#) looked at the extent to which discrimination connected to the menopause occurs in the workplace and how government policy and workplace practices could be improved to support those going through it.

In fact, in the terms of reference published at the time, it reported 60% of employees had been negatively affected at work whilst going through the menopause, and nearly 900,000 reported leaving their employment because of their symptoms. There has also been an increase in the number of employment tribunal claims that cite menopause as part of the claim. In February 2025 figures from HM Courts and Tribunal Services reported menopause related claims increased three-fold in 2024 compared to 2022. Even prior to 2022 we were starting to see the first cases come through in this area, because back in 2019 there were just 6 cases.

So, what are menopause action plans? It is a written document that sets out how an employer is to support employees who go through the menopause, acting as a practical tool for line managers and employees. It becomes a structured strategy to raising awareness, provide support and foster an inclusive workplace for all.

Whilst it will be mandatory for certain employers to introduce them in 2027, the Government will introduce them voluntarily from 2026.

## UPDATE ON THE LEGAL MEANING OF 'SEX' UNDER THE EQUALITY ACT 2010

In our [newsletter for June](#), we reported that the Equality and Human Rights Commission (EHRC) had issued interim guidance following the UK Supreme Court's judgement in case '[For Women Scotland v The Scottish Ministers](#)', however, the Commission have since further [updated this guidance](#) in respect to accessing toilet and washing facilities in workplaces.

The new updated statement, published 24 June 2025 states:

*"In relation to workplaces, requirements are set out in the Workplace (Health, Safety and Welfare) Regulations 1992. These require suitable and sufficient facilities to be provided including toilets and sometimes changing facilities and showers. Toilets, showers and changing facilities may be mixed-sex where they are in a separate room lockable from the inside. Where changing facilities are required under the regulations, and where it is necessary for reasons of propriety, there must be separate facilities for men and women or separate use of those facilities such as separate lockable rooms."*

### WHAT DOES THIS MEAN?

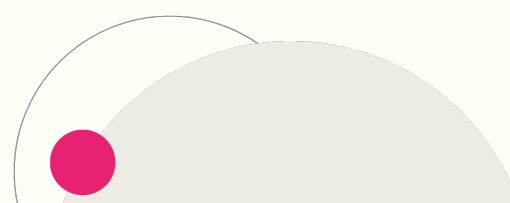
They have not changed their position, which is, if there are single-sex toilet/cleaning facilities and they are not separate lockable rooms, then access should be on a biological sex only basis. o our guidance remains the same. 'Sex' under the Equality Act 2010, is to mean biological sex. In other words:

- A 'woman' is a biological woman or girl (a person born female)
- A 'man' is a biological man or boy (a person born male)
- A trans woman is a biological man
- A trans man is a biological woman.

### SUPPORTING EMPLOYEES WHO ARE TRANSGENDER

Trans or transgender is an umbrella term for somebody who experiences gender incongruence, gender diversity or gender dysphoria, meaning they do not align to the sex they were assigned at birth.

The term trans is not restricted to individuals who intend to undergo or are undergoing or have undergone gender reassignment





The term is also used by:

- people who do not identify to the gender they were assigned at birth
- someone who is planning, or has had medical interventions
- someone who does not plan or has not had medical interventions
- someone who is non binary.

Gender equality is vital for creating an inclusive workplace as it means that people, of all genders have equal rights and opportunities. This means access to the same opportunities, whether this be for promotion and career progression, equal pay, and benefits to those in comparable roles with similar responsibilities as well as opportunities for training.

Building a workplace culture, inclusive of trans and gender equality is both morally important and legally necessary.

It is about treating employees with dignity and respect and recognising that people have many great things in common, as well as having many great differences that sets them apart. All of which is vital in ensuring that the organisation becomes a great place to work as well as becoming an employer of choice for future recruits.

Building an inclusive workplace culture will also safeguard the organisation from potential employment tribunal claims. Employers have a legal obligation under the Equality Act 2010 to protect individuals from unfair treatment and discrimination and to promote fairness and equality. Not only does this legal protection apply to employees, but it also applies to job applicants as well as other types of worker, such as casual/seasonal, and agency staff.



# INTERESTING HR STATISTICS



## ORGANISATIONS FINED MORE THAN £4M FOR UNFAIR WORKING PRACTICES WHEN SETTING FREELANCER PAY

In 2013, the Competition and Markets Authority (CMA), which is a non-ministerial department was established with the purpose of promoting competitive markets and tackling unfair behaviour.

As an authority, it also plays a significant role in helping to determine if a proposed merger or acquisition could limit consumer choice.

Earlier this year, it reported its findings on the application of freelancer pay. An investigation started following Sky Broadcasting Unit's report of itself to the CMA about the payment of fees paid to freelance workers. Their workers included roles such as camera operatives, sound technicians and producers.

The working practices of other organisations such as BT, ITV, IMG and the BBC was also investigated and ultimately, the CMA found that there was a common practice of these five organisations sharing freelancer rates of pay with the aim of aligning pay rates and they were coordinating amongst themselves in determining how much to pay freelancers.

In the report, the CMA shared many examples of communications between the five organisations, which, were ultimately competitors, and one example stated *"we're thinking some rates might need adjusting for 22/23 but want to be aligned. Wanted to be clear we have no intention of getting into a bidding war just want to be aligned and benchmark the rates. Also sick of being told we are not paying what others are which I inherently distrust."*

Ultimately, the CMA found that these organisations effectively operated as a cartel. As Sky came forward to report themselves, they escaped a fine; however, BT, ITV, IMG and the BBC were collectively fined £4,240,356. Their fines were lower than what it should have been because once Sky had come forward, they voluntarily came forward about their involvement and supported the investigation. The breakdown of this combined fine is:

- BT fined £1,738,453, based on a 15% leniency discount and a 20% settlement discount
- IMG fined £1,737,820, which includes a 40% leniency discount and a 20% settlement discount
- ITV fined £339,918 that includes 42.5% leniency discount and 20% settlement discount and
- The BBC was fined £424,165 which includes a 20% settlement discount.

## EMPLOYMENT STATUS ANALYSIS – MAY 2025

HM Revenue and Customs commissioned the National Centre for Social Research (NatCen) to carry out [independent research on employment statuses](#) from the perspective of employment rights. They surveyed 8,767 UK adults, aged 18 to 64 years in May and June 2023, through online and over the phone surveys and fieldwork.

In this context, a person's employment status relates to how employment rights and entitlements are determined. Employment status in the context of tax is a separate legal system, and both are equally complex. The research found that in terms of employment status of those aged between 18-64 as of April 2023, 80% of UK adults aged 18 to 64 were in some form of paid work, as follows:

- 57% were categorised as the "assigned status workforce", meaning their employment status was either 'employee' or 'worker' (known as limb (a) and limb (b) workers). This equated to between 25.9 and 27.2 million individuals.
- Around 20.6 to 22.00 million of these were determined to have the employment status of 'employee' compared to between 4.8 to 5.7 million individuals being most likely be a 'worker' rather than self employed.
- Of the 80% of UK adults aged 18 to 64 and in some form of paid work, 24% were in the "unassigned status workforce, meaning their employment status couldn't be determined

- Of these, the research found they were likely to be younger and aged between 18-24, from an ethnic minority background (Black or Asian), have multiple jobs, and work part-time or be in education. They were also less likely to be in "managerial and professional occupations".
- In term of employment rights and in particular to the entitlement to paid annual leave, the study found that individuals categorised as "highly" or "fairly" likely to be workers were generally receiving holiday pay, in line with their statutory rights, and had their Income Tax and National Insurance contributions deducted by their engager (PAYE). This suggests alignment to employment rights and tax obligations according to their correct employment status.

The study also examined the worker status for those in the unassigned status workforce category (i.e. it could not be determined from the research which employment status). This involved assessing the circumstances in line with four key working relationship features.

1. Control: This is the extent to which an engager determines how, when, and where work is carried out. The presence of control suggests a higher likelihood of being a 'worker'.
  - a. 39% of the unassigned status workforce showed a positive association with control
  - b. 53% were undetermined.
2. Enterprise: This is the extent to which an individual can increase profits or risk losses based on their working practices. The absence of enterprise suggests a higher likelihood of being a 'worker'.
  - a. 51% of the unassigned status workforce were positively associated with the characteristics of enterprise (meaning low levels of enterprise).
3. Integration: The extent to which an individual is an involved part of the business.
  - a. The presence of integration suggests a higher likelihood of being a 'worker'. 60% of the unassigned status workforce had a positive association with integration.
4. Personal Service: This is the extent to which individuals are obliged to perform the work themselves, without the right to pay someone else to do it. The presence of personal service is a prerequisite for 'worker' status.
  - a. 45% of the unassigned status workforce showed a positive association with personal service
  - b. 53% were undetermined.

Overall, it was found for the unassigned status workforce:

- 9% were highly likely to be classified as a worker, by positively meeting each of the four features of what may constitute a 'worker'
- 46% were fairly likely to be workers'
- 38%, remained 'undetermined', indicating complexity in their status determination.
- 6% were likely deemed to be self-employed.

## CONCLUSION AND RECOMMENDATIONS FOR SMALL BUSINESSES

Despite evidence of alignment between the circumstances and employment rights and tax obligations, the research also suggests a "sizeable minority" of individuals who may not be receiving correct treatment for employment rights and protections highlighting the ongoing complexity and potential for misconception regarding employment status.

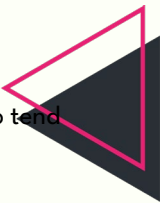
## HOW IS AI IMPACTING ON THE UK LABOUR MARKET?

With AI becoming more prevalent in employment, we are starting to see the evidence of its impact on employment both in terms of people practices, but also on the UK labour market.

In a recent study by recruitment firm Adzuna, their research found that the number of entry level jobs had fallen by 31.9% since the launch of ChatGPT in November 2022. They report a decline in jobs such as graduate positions, apprenticeships and the more junior roles in organisations.

The UK Government published a year later in November 2023, their research on how AI impacts UK jobs and training. Their report '[The impact of AI on UK jobs and training](#)', found:

- estimates that between 10-30% of jobs could be automatable giving AI the potential to boost productivity and create new, high-value employment opportunities. To harness these benefits, the UK education system and employers will need to adapt, ensuring the workforce is equipped with the necessary skills
- Occupations most exposed to AI include roles such as management consultants and business analysts, accountants, psychologists, and teaching occupations (particularly due to large language models).

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- Occupations identified as having "high automation" potential by the International Labour Organisation (ILO) also tend to have high AI exposure scores, including authors, writers and translators, bank and post office clerks, call and contact centre occupations, and telephone salespersons.
  - When looking at exposure by skill level, professional occupations (skill level 4), typically requiring a degree or equivalent, are more exposed to AI than other occupations.
  - Early-career employees with more advanced qualifications are typically in jobs with higher AI exposure. For instance, those with a Level 6 qualification (degree equivalent) are more likely to work in a highly exposed job than those with a Level 3 qualification (A-Levels equivalent).
  - Female students are in training paths that lead to jobs with higher overall exposure to AI compared to male students.

### Got any questions?

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