

The Employment Rights Act 2025 What next?

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Employment Rights Act 2025

Legislative process

- The Employment Rights Bill was originally published on 10 October 2024
 - Difficult journey through Parliament
 - It received 'Royal Assent' on 18 December 2025
 - The [Implementation Roadmap](#) sets out the original plan (as at July 2025) some elements of which may be subject to change
 - Much of the detail will be subject to consultations, after which it will be submitted to Parliament in secondary legislation
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Main provisions



Winter 2025/26

On the Bill passing into law

- The removal of rules around minimum service levels for strikes (keeping services running during strikes) took effect as soon as it was passed

February 2026

Trade union activity

- Protection against dismissal for taking industrial action
 - Electronic balloting was expected (but late consultation)
 - Notice of industrial action reduced from 14 to 10 days, reduced information
 - Repeal of the support thresholds (NB not turnout thresholds yet)
 - Industrial action ballot mandates will last for 12 months, instead of 6 months
 - Information provided by the trade unions to employers to be simplified
 - Provision of information on voting papers for members will be reduced
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Winter 2025 / 2026 (cont.)

February 2026 (cont.)

- Changes to check-off in the public sector
 - Repeal of publication requirements in public sector around facility time
 - Picket supervisors will no longer be required
 - Changes to the provision of information to members after a ballot
 - Provision of annual returns information (including political expenditure) to the Certification Officer
 - Requirement to contribute to political fund
 - Investigatory and enforcement powers for the Certification Officer
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April 2026

Statutory Sick Pay (SSP)

- The 3-day waiting period is gone. SSP will be payable from day one of sickness instead of day four, and the lower earnings limit will be removed

Family Rights

- Paternity leave and unpaid parental leave become "day one" rights (no more qualifying periods, currently 26 weeks or one year respectively)
- the restriction on taking paternity leave after shared parental leave will be removed

Fair Work Agency

- A new "super-enforcer" launches to oversee holiday pay, NMW, and SSP compliance
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April 2026 (cont.)

Collective redundancy protective award

- The maximum 'protective award' for failure to consult in collective redundancy will double from 90 days' pay to 180 days' pay

Whistleblowing protections for sexual harassment

- Sexual harassment will become a 'qualifying disclosure' under whistleblowing law, meaning protection from detriment and unfair dismissal for whistleblowers making a sexual harassment disclosure

Gender pay gap action plans

- Voluntary action plans gender pay gaps (including menopause) will be encouraged from April 2026, becoming mandatory some time in 2027

More trade union changes

- simplifying how a trade union can gain recognition in a workplace
 - allowing trade union members to vote electronically
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October 2026

Fire & Rehire

- Practically banned. Dismissing an employee for refusing a contract change will be "automatically unfair" in almost all circumstances

Sexual Harassment

- The duty shifts from taking "reasonable steps" to "all reasonable steps" to prevent harassment, including liability for third parties (clients/customers)

Tribunal Limits

- The window for employees to bring claims doubles from 3 months to 6 months.
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October 2026 (cont.)

More changes to trade union rules

- a new duty for employers to inform workers of their right to join a TU
- updated rules on a trade union's right of access to the workplace
- a new right to reasonable accommodation and facilities for trade union representatives carrying out their duties
- a new right to time off for union equality representatives to carry out their duties

Increased protection against detriment for industrial action

- Workers taking part in industrial action will be protected against 'detriment' (being treated less favourably by an employer, not including wage deduction for strike action), in addition to unfair dismissal
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October 2026 (cont.)

Public sector outsourcing 'two-tier code'

- There will be new measures for public sector outsourcing, to avoid having different terms and conditions for ex-public sector employees and private sector employees

New Adult Social Care Negotiating Body

- There will be a new negotiating body for those working in the adult social care sector

Re-establishment of School Support Staff Negotiating Body

- A statutory, national pay body for school support staff (including teaching assistants, caretakers, office staff, technicians, catering staff and cleaners) who make up roughly half of the school workforce
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January 2027

Unfair Dismissal

- The two-year qualifying period is scrapped. Following a major U-turn on 'day-one right proposal' it is being replaced with a six-month qualifying period
 - Compensation caps: The current cap on unfair dismissal payouts is set to be removed entirely.
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During 2027

Increased pregnancy and maternity rights

- The Act will strengthen protections against dismissal for pregnant workers and those returning from maternity leave

Bereavement leave

- There will be a new right to statutory bereavement leave, to be confirmed whether this will be paid or unpaid leave

Zero-hours contracts

- Workers on zero-hours contracts will get the right to guaranteed working hours, if they want them
 - Also changes to workers receiving reasonable notice of shifts, and the right to be paid if a shift is cancelled, moved to another date, or cut short by an employer
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During 2027 (cont.)

Flexible working

- If an employer rejects a flexible working request because of a genuine business reason, they will have to state the reasons AND explain why they believe their refusal is reasonable

Further harassment change

- The law will specify what 'reasonable steps' means when preventing sexual harassment, following earlier changes in October 2026

Mandatory gender pay gap and menopause action plans

- Action plans around menopause and gender pay gaps will become mandatory, following their voluntary introduction in April 2026
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During 2027 (cont.)

Collective redundancy

- Employers will need to consider the total number of redundancies across their whole organisation, not just individual workplaces – currently, collective redundancy rules only apply to individual workplaces

2027 trade union changes

- Extending laws that protect trade union members from discrimination and being 'blacklisted'
 - A new industrial relations framework, to help employers and trade unions work together
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FOCUS ON PROVISIONS



Trade union law changes

- Simplification of ballots and notices
 - [Draft Code of Practice](#)
 - Industrial action ballots
 - Support threshold for important public services (40% of those entitled to vote must say 'yes') – Feb repeal
 - 50% turnout threshold for all ballots – date of repeal?
 - Linked to introduction of electronic balloting – current consultation on Code of Practice
 - When introduced, increased number of ballots?
 - Workplace balloting will also be allowed
 - Employer consent required and costs fall on TU
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Fire and rehire

- Automatic unfair dismissal where:
 - Dismissed for refusing to agree “restricted variation” to enable employer to re-employ or engage another (whether as employee or otherwise) under varied terms to carry out substantially the same duties
 - What changes?
 - Reduction in pay, pensions, variation in hours/shifts, reduction in time off, insertion of variation clause, a variation of a description specified in regulations made by the Secretary of State
 - Does not include location
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Fire and rehire

- Limited exceptions
 - For local authorities: due to financial difficulties a “relevant intervention direction has effect in relation to the authority” and change will reduce/significantly mitigate financial difficulties
 - Other public sector: reason is to address financial difficulties affecting/about to affect “the financial sustainability of carrying out the employer’s statutory duties”
 - Note: where the dismissal and reengagement is to put people on terms requiring the person to carry out duties which are not substantially the same the ‘ban’ would not apply
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SSSNB

- School Support Staff Negotiation Body (SSSNB) will be reinstated in England
 - Previous SSSNB repealed 2010: only applied to support staff in local authority maintained schools
 - SSS definition: non-school teacher employed “wholly” to work in a maintained school(s) or an academy/ies (limited exemptions, and non-academy located staff may be specified as within scope e.g. Head Office staff)
 - Remit: pay, terms and conditions, training and career progression – move from ‘old’ terms to new SSSNB terms
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SSSNB

- Membership: employer and employee reps plus DfE
 - SSSNB come to an agreement, implemented by SoS sign off/legislation - overrides existing contract
 - SSSNB cannot change term(s) to an employee's detriment
 - Does not prevent more favourable term(s)
 - Implementation secondary legislation, guidance. First pay recommendation 2027/28?
 - Equal pay issues around treating staff in the same employer differently where work was rated as equivalent prior to the re-instatement of the SSSNB
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ASCNB

- Adult Social Care Negotiating Body (in Wales Social Care Negotiating Body)
 - Who? In England 'a person who is employed wholly or mainly in, or in connection with, the provision of social care to individuals aged 18 or over'
 - social care 'includes any form of personal care or other practical assistance provided for individuals who, by reason of age, illness, disability, pregnancy, childbirth, dependence on alcohol or drugs, or any other similar circumstances, are in need of such care or other assistance'
 - Recent [consultation](#) on details – LGA proposed exclusion of local authority directly employed staff
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ASCNB

- What? pay, terms and conditions and 'any other specified matters relating to employment as a social care worker' (no detriment etc)
 - Membership: employer and employee reps
 - Ultimate sign off by SoS (or Welsh minister)
 - First agreement - 2028
 - Equal pay issues around treating staff in the same employer differently where work was rated as equivalent prior to the ASCNB
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Collective redundancy

- Collective redundancy consultation duties will be triggered where:
 - 20 or more dismissals in one establishment OR
 - TBC number (or % of headcount) of proposed dismissals across whole employer: must not be lower threshold than 20
 - Robust monitoring will be needed including on proposed dismissals in schools
 - Remember: it's not just redundancy dismissals – it's any dismissal reason 'not related to the individual concerned...'
 - 2027
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Unfair dismissal

- Six-month qualifying period: Jan 2027
 - Damages: removal of cap - currently the lower of 52 week's pay or £118K will be removed
 - Impact in local government
 - Many awards already well below the cap?
 - Older workers and loss of defined benefit pension could mean scope for awards to be higher
 - Will we see claimants focusing on less complex claims rather than e.g. discrimination or automatic unfair dismissal?
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What should employers do now?

- **Timetable:** some changes will need longer lead-ins for compliance, and some may need other colleagues' input
 - **Risks:** consider where implementation of ERA 2025 provisions should sit on your organisation's risk registers, and who needs to be made aware of additional resources likely to be needed
 - **Fire and re-hire:** any issues you can address now, ahead of changes
 - **Removal of industrial action ballot threshold:** consider how your communications could be improved where there are disputes and ballots
 - **Review paperwork and processes:** ensure contracts, handbooks and policies are fit for purpose and practice around probationary periods, family-related leave etc.
 - **Communication:** consider how / when communications about changes will be managed, including with unions
 - **Keep in touch with the LGA:** ways to do that linked at the end
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Public Office (Accountability) Bill

Public Office (Accountability) Bill

- The 'Hillsborough Law'
 - Designed to address concerns around holding public officials to account
 - Making its way through Parliament
 - Applies to public authorities and their officers and members (includes local/fire authorities/schools)
 - Duty of candour and assistance in dealings with inquiries and investigations (coroner or fatal accidents ones)
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Public Office (Accountability) Bill

- Code of ethical conduct required for employees/workers and those who exercise functions for the council setting out:
 - expected standards on candour
 - disciplinary consequences for non-compliance
 - how failures can be reported, reference to whistleblowing disclosures and external complaints procedure
 - Duty to make people aware of it and for it to be published
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Public Office (Accountability) Bill

- Misconduct in public office: new statutory offence replacing common law one
 - Use of public office to obtain benefit or cause detriment to another, and person knows or ought to know it is seriously improper
 - Seriously improper: would a reasonable person think so
 - Benefit and detriment includes but is not limited to:
 - Financial gain or loss
 - Protection of, or enhancement of or damage to a person's reputation
 - A benefit or detriment of a physical or sexual nature
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Public Office (Accountability) Bill

- Offence where breach of duty to prevent death or serious harm
 - By virtue of their public office a person is under a duty to prevent another person suffering critical harm (death/GBH)
 - Know (or ought to know) under such a duty
 - Intentionally or recklessly cause such harm or significant risk
 - Act falls far below what could be reasonably expected of person
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Public Office (Accountability) Bill

- Misleading the public
 - In capacity of public authority/official acts with intention of misleading the public or are reckless about misleading
 - They know or ought to that their act is seriously improper (dishonesty on a matter of significant concern to public, caused or could cause harm to person(s) and departed significantly from what is to be expected)
 - Reasonable excuse defence
 - Does not apply to persons exercising Welsh devolved matters
 - Journalistic purposes exemption
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Questions?



Further information

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Contact: eru@local.gov.uk
