

## Employment Rights Bill 2024: Proposed areas of change

Proposed area of change	Current regulations	Proposed changes	Timings	What do you need to do now?
	What you should be doing already	What you may have to do		
Unfair dismissal	<p>You can dismiss an employee fairly for one of the following reasons:</p> <ul style="list-style-type: none"> <li>• Misconduct at work</li> <li>• Lack of capability (or qualifications) to do the job</li> <li>• Redundancy</li> <li>• A statutory requirement</li> <li>• Some other substantial reason</li> </ul> <p>Unfair dismissal is a statutory right available to employees who believe they have been dismissed unfairly or unreasonably by their employer.</p> <p>Only employees with two year's service have a right to bring a claim for unfair dismissal.</p> <p>There are some exceptions for employees who are dismissed automatically and who are dismissed principally for a reason related to political opinion or affiliation.</p>	<p>Employees will have the right to bring a claim of unfair dismissal from day one of employment - removing the two-year unfair dismissal qualifying period.</p>	<p>Not until Autumn 2026 at the earliest</p>	<p>Check that you comply with current legislation</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Are you clear on who to manage dismissals?</li> <li><input type="checkbox"/> Do you keep records of service dates (how long employees have been employed)?</li> <li><input type="checkbox"/> Do you use probationary periods?</li> </ul>

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Probationary periods	<p>You do not legally need to use probationary periods. If you do, and there are certain rules you should follow to comply with UK employment law probation period rights - you should include it in any contract of employment with the option to extend the probation period if needs be, and details of what would happen both if the probation period is passed or if unsatisfactory progress has been made.</p> <p>There's no set probation period length. Probation periods can vary in length, but most tend to be around six months long and should not extend beyond two years (due to unfair dismissal rights). Remember that once an employee has been continuously employed for one month or more, the statutory minimum notice period is one week - which applies to both sides - they need to give you one week's notice too.</p> <p>It is also important to note when the probation period will come to an end and check any clause in contracts - do you need to provide confirmation the probation has been passed or is the probation passed by default?</p>	You will need to implement a new statutory probationary period, likely to be set at nine months, subject to consultation.	Not until Autumn 2026 at the earliest	<p>If you do not already use probationary periods, consider implementing them with a clear policy and training for managers and remember to amend contracts to reflect this.</p> <p>If you are already using probationary periods check to make sure that contracts detail how you manage them and that you are managing them correctly.</p>

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Fire and rehire	<p>Where you need to make contractual changes to an employee's terms and conditions and agreement cannot be reached, you can sometimes be justified in unilaterally changing terms and conditions by terminating their contract and re-hiring them on new terms and conditions but this should only ever be considered as an absolute last resort; if changes to employment contracts are critical and voluntary agreement is not possible.</p> <p>Any 'fire and rehire' (dismissal and reengagement) processes should comply with the statutory Code of Practice relating to 'Dismissal and Re-engagement' which come into force in July 2024 with a recommended procedure for you to follow when considering changing an employee's contract.</p>	Your ability to use fire and rehire will be restricted further - if you dismiss employees for failing to agree to a change in their contract of employment, those dismissals will be treated as automatically unfair unless you can evidence financial difficulties and demonstrate that the need to make the change in contractual terms was unavoidable.	No confirmed dates	Check that you comply with current legislation - always seek legal advice before considering a change to terms and conditions of employment.

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Sick pay	<p>Employees have the right to Statutory Sick Pay (SSP) with the following requirements:</p> <ul style="list-style-type: none"> <li>• Period of Incapacity to work</li> <li>• SSP is only payable if there's a period of incapacity for work (PIW). This is a period of four or more days in a row when the employee can't work because they're sick or incapacitated.</li> </ul> <p>The days that make up a PIW don't need to be working days.</p> <p><b>Waiting Days</b> The first three qualifying days (days the employee normally works for you) of a PIW are called 'Waiting Days' and SSP isn't payable for these waiting days. SSP is payable from the first qualifying day after the three Waiting Days. However, if several PIWs are linked, the Waiting Days only apply to the first PIW.</p> <p><b>Qualifying Days</b> These are the employee's contractual or normal working days. SSP is paid for each Qualifying Day after the waiting days.</p> <p><b>Employee Earnings to Qualify for SSP</b> In order to qualify for SSP an employee must have weekly average earnings of at least the Lower Earnings Limit (LEL) for NIC, which is currently £123.00 per week.</p>	<p>Employees will have the right to SSP from day one of illness - this removes the Waiting Days.</p> <p>All employees will have the right to SSP from the start of employment with the removal of the LEL.</p>	No confirmed dates	<p>Check that you comply with current legislation</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Do you pay SSP?</li> <li><input type="checkbox"/> Who do you pay SSP to?</li> <li><input type="checkbox"/> Do you monitor absence and know what is a PIW and how to apply Waiting Days?</li> </ul>

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Zero-hours contracts	<p>Zero-hours contract is not a legal term - it is considered an example of ‘atypical’ working (usually work that falls outside of full-time, open-ended employment with regular hours).</p> <p>The CIPD defines a Zero-hours contract as <i>“an agreement between two parties that one may be asked to perform work for another but there is no minimum set contracted hours”</i>.</p> <p>The contract will state what pay the individual will get if they do work, and what will happen when they turn down work offered.</p> <p>The exact nature of Zero-hours contracts can differ for example:</p> <ul style="list-style-type: none"> <li>• Individuals may be employees or workers</li> <li>• Some contracts state that the individual will have to accept work if offered, but in others they will not.</li> <li>• Pay arrangements and benefits provided may differ from individuals doing the same job with a contract offering guaranteed hours.</li> </ul>	<p>Workers on Zero-hours contracts and workers with a ‘low’ number of guaranteed hours, who regularly work more than these hours, will have the right to move to a guaranteed hours contracts which reflect the hours they regularly work.</p> <p>There is likely to be a 12-week reference period, subject to consultation - meaning that regular hours will be determined based on a 12-week period.</p> <p>Zero-hours contract workers will also have a right to reasonable notice of changes to shifts or working hours and have a right to compensation that is proportionate to the notice given for any shifts cancelled or curtailed.</p>	No confirmed dates	<p>Check that you comply with current legislation</p> <p><input type="checkbox"/> Do you use Zero-hours contracts?</p> <p><input type="checkbox"/> Do you have any casual workers or Bank workers?</p> <p>If you currently use Zero-hours contracts make sure that contracts set out the individual’s employment status, rights and obligations</p> <p>Start looking at the hours any Zero-hour individuals are working - are they actually working regular hours?</p>

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Right to switch off	<p>A right to switch off allows employees to disconnect from work outside of normal working hours. This right fundamentally means that every employee is able to switch off outside of their normal working hours and enjoy their free time away from work without being disturbed, unless there is an emergency or agreement to do so, for example while 'on call'.</p> <p>Currently there is no right to switch off but you may have your own policies which set out what is expected of staff outside of their working hours.</p> <p>The Working Time Regulations 1998 limit working hours and ensure rest, however this does not include any limits or restrictions around a person's work and home life, although you do need to be conscious of when excessive contact with employees outside of their working hours may fall under a harassment claim.</p>	The Government plans to consult on the right to switch off although it is unlikely that this will be a legal requirement but more likely a Code of Practice meaning it could be more of a suggestion for you to consider implementing.	No confirmed dates	Think about the culture of your organisation and what you expect from your employees - would it be beneficial to define when you might need to contact them outside of their working hours and how this will be managed and monitored.
National Minimum Wage	<p>The National Minimum Wage (NMW) is the statutory minimum pay per hour almost all workers of at least school leaving age are entitled to (usually age 18).</p> <p>The National Living Wage (NLW) is higher than the NMW - workers get it if they're 21 and over. It does not matter how small an employer is, they still have to pay the correct minimum wage.</p> <p>This is different to the Real Living Wage (RLW) set by the Living Wage Foundation</p>	The NMW will be scrapped, removing the lower rate for workers aged under 21.	No confirmed dates	<p>Check that you comply with current wage legislation</p> <p><input type="checkbox"/> Do you make sure that you apply NMW and NLW pay rates?</p>

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	which is not statutory and applies to all workers age 18 and over.			
Flexible working	<p>All employees have the legal right to request flexible working.</p> <p>Employees can request a change to:</p> <ul style="list-style-type: none"> <li>the number of hours they work</li> <li>when they start or finish work</li> <li>the days they work</li> <li>where they work</li> </ul> <p>Employees can make a request for flexible working from their first day in a job.</p> <p>You must make a decision on a flexible working request within 2 months.</p> <p>You can only refuse a flexible working request for the following reasons:</p> <ul style="list-style-type: none"> <li>extra costs that will damage the business</li> <li>the work cannot be reorganised among other staff</li> <li>people cannot be recruited to do the work</li> <li>flexible working will affect quality</li> <li>flexible working will affect performance</li> <li>the business will not be able to meet customer demand</li> <li>there's a lack of work to do during the proposed working times</li> <li>the business is planning changes to the workforce</li> </ul>	<p>Employees will have a strengthened right to work on a flexible basis, but it will remain a right to request flexible working.</p> <p>You will still have the ability to refuse a flexible working request on the specified statutory grounds, provided you notify the employee of the grounds for refusal and that it is reasonable to refuse on that basis with valid, practical reasons and you must carefully consider and document your decisions.</p>	No confirmed dates	<p>Check that you comply with current legislation</p> <p><input type="checkbox"/> Do you have a Flexible Working Policy?</p>

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Gender pay gaps  Ethnicity pay gaps  Disability pay gaps	Currently you must report Gender Pay Gaps if you employ more than 250 employees.  There is no requirement for smaller employers to publish any pay gap data.	If you employ more than 250 employees you will also have to report Ethnicity Pay Gaps and Disability Pay Gaps.  You will have to publish action plans to address Gender Pay Gaps, including outsourced individuals, as part of a required Equality Action Plan.	No confirmed dates	Check that you comply with current legislation <input type="checkbox"/> Do you employ more than 250 employees - if so are you monitoring gender pay?
Menopause action plans	There is no requirement for any employer to have a Menopause Action Plan	If you employ more than 250 employees you will have to publish a menopause action plan as part of a required Equality Action Plan.	No confirmed dates	What do you currently do to support employees going through the Menopause?
Race equality	Employees, workers, apprentices, agency workers, and self-employed people can make equal pay claims if they are paid less than someone else of the opposite sex for doing the same work	A proposed Race Equality Act will give black, Asian and minority ethnic and disabled, employees, workers, apprentices, agency workers, and self-employed people the right to make equal pay claims.	No confirmed dates	Check that you comply with current legislation <input type="checkbox"/> Do you provide training on equality?
Maternity and family leave returners	It is unlawful to dismiss an employee because of their pregnancy or maternity leave. An employee who is dismissed while pregnant can make a claim for unfair dismissal and discrimination if the reason for their dismissal is related to their pregnancy.	Pregnant women and new parents will have strengthened protections against dismissal, for six months after returning to work from a period of family leave (including adoption leave, shared parental leave, neonatal care leave and bereaved partners paternity leave). This will be subject to separate regulations that will prevent dismissals of these employees other than in specific circumstances.	No confirmed dates	Check that you comply with current legislation <input type="checkbox"/> Do you have a maternity policy? <input type="checkbox"/> What other family leave policies do you have?



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Parental leave	Employees with at least one year's service are eligible to take parental leave.	The right to take parental leave will be a day one right (removing the one year's service requirement).	No confirmed dates	Check that you comply with current legislation <input type="checkbox"/> Do you have a parental leave policy?
Paternity leave	Employees with at 26 weeks' service are eligible to take paternity leave.	The right to take paternity leave will be a day one right (removing the 26 weeks' service requirement).	No confirmed dates	Check that you comply with current legislation <input type="checkbox"/> Do you have a paternity leave policy?

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Protection from harassment and sexual harassment	The Equality Act 2010 already makes harassment unlawful when it's related to a protected characteristic, such as age, disability, gender, race, religion, or sexual orientation. Harassment is defined as unwanted conduct that creates an intimidating, hostile, or offensive environment. There are no provisions which expressly address harassment of employees by third parties (such as a client or customer).	<p>Amendments to the Equality Act 2010 will introduce express protection from third party harassment and strengthen the forthcoming duty for you to prevent sexual harassment (in force from 26 October 2024 as the Worker Protection (Amendment of Equality Act 2010) Act).</p> <p>You will be required to take 'all reasonable steps' to prevent sexual harassment, rather than 'reasonable steps' as currently provided. Sexual harassment will also be added to the list of protected disclosures, under existing whistleblowing provisions.</p>	No confirmed dates for further amendments to the new Worker Protection (Amendment of Equality Act 2010) Act) which comes into effect on 26 October 2024 introducing a new legal duty on employers to take 'reasonable steps' to prevent sexual harassment of their workers (the 'preventative duty').	<p>Check that you comply with current legislation</p> <p><input type="checkbox"/> Do you provide training on equality?</p>

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Trade Union rights	<p>All workers have the right to join a trade union.</p> <p>You must not treat workers unfavourably because they join a trade union, take part in trade union activities or use the services trade unions provide.</p> <p>You must allow workers the right to be accompanied by a trade union rep at grievance and disciplinary hearings and appeals.</p> <p>Some employers have collective agreements that give contractual rights for workers to be accompanied to other meetings with management.</p> <p>Workers have a right to take industrial action for an official strike - strict rules apply relating to official strikes.</p> <p>Trade Union reps have a right to reasonable paid time off to: negotiate pay, terms and conditions, represent members, for trade union training and to carry out trade union, health and safety and union learning activities.</p>	<p>You will have a duty to inform workers of their right to join a trade union.</p> <p>The proposed changes will make it easier for trade unions to achieve recognition.</p>	No confirmed dates	<p>Check that you comply with current legislation:</p> <ul style="list-style-type: none"> <li><input type="checkbox"/> Do you give workers the right to be accompanied by a trade union rep to a grievance or disciplinary hearing and appeals?</li> <li><input type="checkbox"/> Do you have a collective agreement giving workers the contractual right to be accompanied to other meetings with management?</li> <li><input type="checkbox"/> Do you allow workers to take industrial action for an official strike?</li> <li><input type="checkbox"/> Do you give Trade Union reps reasonable paid time off to carry out their duties?</li> </ul>