Quick guide to the April 2026 employment law changes

Various employment law changes are coming into force in April 2026. Our at-a-glance guide rounds them up and also links to BDBF briefings where you can find out more details about all of the changes.

Date**Reform**1 April 2026

- **Increase to the National Minimum Wage rates:** Annual increase to the National Minimum Wage rate, with the National Living Wage rate for those aged 21 and over increasing from £12.21 per hour to £12.71 per hour. You can view a table with all the updated rates here.

6 April 2026

- **Bereaved Partner's Paternity Leave Regulations 2026:** Regulations come into force, extending the period of available leave for bereaved partners to 52 weeks rather than the usual two weeks. You can read more about this reform here.
- **Increase to compensation limits, statutory payment rates and National Minimum Wage rates:** Annual increases will be made to Employment Tribunal compensation limits and to the statutory rates of maternity pay, adoption pay, paternity pay, shared parental leave pay, neonatal leave pay, parental bereavement pay and Statutory Sick Pay (**SSP**). You can view a table of the updated rates and limits here.
- **Employment Rights Act 2025 reforms:** The first wave of reforms will come into force as follows:
    - **SSP:** SSP will be payable from the first day of sickness (rather than the fourth) and the requirement for the employee to earn at least the lower earnings limit will be removed.

- **Holiday pay records:** There will be a new requirement for employers to keep records demonstrating compliance with worker annual leave and pay entitlements for six years. Failure to comply will be a criminal offence punishable by a fine.
- **Collective consultation – protective award:** The maximum protective award for failure to collectively consult will rise from 90 to 180 days for dismissals taking place on or after 6 April 2026.
- **Whistleblowing:** Sexual harassment will become a standalone category of whistleblowing malpractice.
- **Paternity Leave:** Paternity leave will become a Day 1 employment right and may be taken after a period Shared Parental Leave without being lost.
- **Parental Leave:** Parental Leave will become a Day 1 employment right.
- **Equality action plans:** Voluntary publication for employers with 250+ employees. You can read more about the Government's guidance on this here.

You can read more about each of these reforms in our Guide to the Employment Rights Act 2025 here.

7 April 2026

- **Fair Work Agency:** The Fair Work Agency will be established and have responsibility for enforcement of the following areas:
  - National Minimum Wage;
  - SSP;
  - holiday pay;
  - regulation of employment agencies and businesses;
  - the unpaid Employment Tribunal financial penalties scheme;
  - the licensing of gangmasters;
  - section 1 of the Fraud Act 2006; and

- parts 1 and 2 of the Modern Slavery Act 2015.

It is currently unclear when the Agency's enforcement powers will come into force. You can read more about the Fair Work Agency in our Guide to the Employment Rights Act 2025 here.

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Compensation limits and statutory payment rates: 2025-26 and 2026-27

In April 2026, increases will be made to the maximum compensation limits for certain Employment Tribunal awards, and to statutory pay and national minimum wage rates. Our handy at-a glance table sets out the new figures that will apply from April 2026 to April 2027, alongside the previous year's figures.

Compensation limits

Maximum award	6 April 2025	6 April 2026
A "week's pay"	£719	£751

Breach of right to be accompanied to a disciplinary or grievance hearing (up to 2 weeks' pay)	£1,438	£1,502
Unfair dismissal – maximum basic award	£21,570	£22,530
Unfair dismissal – compensatory award	£118,223	£123,543 *(but will be uncapped from 1 January 2027)*
Unfair dismissal – failure to reinstate or reengage (26 to 52 weeks' pay)	£18,694 – £37,388	£19,526 – £39,052
Redundancy – maximum statutory redundancy payment	£21,570	£22,530
Redundancy – failure to collectively consult	90 days' gross actual pay	180 days' gross actual pay *(for dismissals taking effect on or after 6 April 2026)*
Contracts – failure to give written particulars of employment (2 to 4 weeks' pay)	£1,438 – £2,876	£1,502 – £3,004
Contracts – breach of contract claim in the ET	£25,000	£25,000
Flexible working breaches (up to 8 weeks' pay)	£5,752	£6,008
TUPE – failure to inform and consult	13 weeks' gross actual pay	13 weeks' gross actual pay

Discrimination – injury to feelings awards (the "Vento" bands)	**Lower band:** £1,200 – £12,100	**Lower band:** £1,300 – £12,600
	Middle band: £12,100 – £36,400	**Middle band:** £12,600 – £37,700
	Upper band: £36,400 – £60,700	**Upper band:** £37,700 – £62,900
	Exceptional cases: £60,700+	**Exceptional cases:** £62,900+

Statutory payments for time off work

Weekly pay at the prescribed rate	**6 April 2025**	**6 April 2026**
Maternity pay (first 6 weeks at 90% of normal pay and up to 33 weeks at the prescribed rate)	£187.18	£194.32
Adoption pay (first 6 weeks at 90% of normal pay and up to 33 weeks at the prescribed rate)	£187.18	£194.32
Paternity pay (up to 2 weeks)	£187.18	£194.32
Shared parental pay (up to 39 weeks less any weeks of SMP, MA or SAP claimed)	£187.18	£194.32
Parental bereavement pay (up to 2 weeks)	£187.18	£194.32
Neonatal care pay (up to 12 weeks)	£187.18	£194.32
Statutory sick pay	£118.75	£123.25

National minimum wage

Hourly rate	1 April 2025	1 April 2026
National Living Wage (age 21+)	£12.21	£12.71
Age 18-20	£10.00	£10.85
Age 16-17	£7.55	£8.00
Apprentices	£7.55	£8.00

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Discrimination and disability: failing to actively consider impact of neurodiversity can render a disciplinary dismissal unfair

In Madden v Commissioner of Police of the Metropolis, the Employment Tribunal concluded that an employee with ADHD was unfairly dismissed and discriminated against for making jokes containing sexual innuendos, as his employer had failed to consider the impact of his condition before making its decision.

What happened in this case?

Mr Madden was employed as a Quality Control Officer with the Police from November 2001 and had a clean disciplinary record until his dismissal in February 2024. He suffered from stress and anxiety from October 2021 onwards, including a mental health crisis, and was referred to Occupational Health by his employer. Mr Madden received counselling and was subsequently diagnosed with ADHD in October 2022, as well as several conditions related to his ADHD which are known to cause significant difficulties with interpersonal relationships.

In September 2022, Mr Madden's line manager emailed him raising concerns about several messages from him which she felt had been "*forward*". She acknowledged that he was having counselling and explained that whilst she was happy to have a laugh, she felt a line had been crossed. In subsequent emails, Mr Madden explained that whilst he had meant the comments as a joke, he could not risk this misunderstanding happening again so would keep things work-related in future. The Tribunal later acknowledged that, from this point on, the relationship remained on a more professional footing.

In October 2022, Mr Madden shared his diagnostic report with his manager, and in November 2022 they discussed the fact that he would not yet be able to start medication for his ADHD until his high blood pressure was under control.

In April 2023, Mr Madden had several allegations against him brought to his attention by an unexpected Teams call. He was referred to a message that he had sent to a female colleague about a "*joystick*" but was not given details of any of the other allegations. Mr Madden responded in writing apologising

for the message, which he explained had been sent outside of work, noting that his ADHD blurred boundaries of what might be appropriate and caused impulsive behaviour.

Mr Madden was subsequently investigated in relation to allegations of inappropriate behaviour towards several female colleagues, specifically unwanted attention, inappropriate conversation and comments containing sexual innuendo.

During the investigation, Mr Madden explained that only one of the colleagues (his manager) had raised concerns with him and that he had stopped making jokes with her after this. He had considered the colleagues to be friends and joked with them as he would in his personal life, but having accepted that he may have interpreted this incorrectly, he was mortified to have upset them. Overall, Mr Madden was remorseful and accepted responsibility for his actions but asked that they be viewed in the context of his ADHD, which caused impulsive speaking / typing and difficulty with social cues and interactions. He also provided his diagnostic report.

Despite their original investigative report stating there was not a sufficient case for gross misconduct (only misconduct), Mr Madden's employer proceeded with a disciplinary process for potential gross misconduct. He again raised the impact of his ADHD and, by this point, he also had engaged a solicitor who sent a letter to the case manager for the disciplinary hearing. This letter set out Mr Madden's health conditions, the impact of the prolonged disciplinary process, the causal link between the conduct and his ADHD, potential premeditation of the process and a range of procedural flaws. It also highlighted his 22-year unblemished record and that because he struggled to pick up on social cues, the incidents could largely have been avoided if the concerns (which were by this

point historic) had been raised earlier. This letter from his solicitor, plus a supporting statement from his psychiatrist, were not included in the disciplinary bundle and were not before the disciplinary panel.

The hearing took place by way of written submissions as a reasonable adjustment for Mr Madden, and his responses were read out to the panel by the Chair. The panel unanimously decided that Mr Madden should be dismissed without notice, concluding that the behaviour was a sufficiently serious breach of the expected standards that the breakdown in confidence was irretrievable. They did not consider the risk of recurring behaviour or mention Mr Madden's disability.

Mr Madden appealed his dismissal, providing additional evidence from his original diagnosing psychiatrist, as well as again sending both the letter from his solicitor and supporting psychiatric statement. His employer sought Occupational Health advice and made the adjustment of permitting a virtual appeal hearing with his wife attending as companion, as well as permitting written answers to questions. The appeal was unsuccessful, with the Appeal Chair noting that they were satisfied that medical evidence had been properly considered by the original panel and that the new evidence did not change this.

Mr Madden therefore brought claims under the Equality Act 2010 (**EqA**) for a failure to make reasonable adjustments (Section 20 and 21), discrimination arising from disability (Section 15) and indirect disability discrimination (Section 19). He also brought a claim for unfair dismissal. It was accepted by the employer that his condition amounted to a disability under Section 6 EqA.

What was decided?

The Employment Tribunal upheld Mr Madden's claims of unfair dismissal and of a failure to make reasonable adjustments on the following grounds:

- With regards to unfair dismissal, there had been several elements of substantive and procedural unfairness in the dismissal process rendering it unfair. In particular, the Tribunal considered:
    - There had been significant delays in the process, which had caused substantial distress to Mr Madden.
    - The employer had failed to offer virtual attendance (with his wife permitted to be present) as an adjustment at the original disciplinary stage, rather than just on appeal. The Tribunal concluded that there was no good reason why this wasn't originally offered, it was unreasonable not to have done so, and that only permitting written attendance deprived Mr Madden of the ability to challenge evidence and present his case.
    - The employer had failed to consider the solicitor's letter and psychotherapist's statement at the disciplinary hearing, which had set out his case clearly and explained the behavioural work that Mr Madden had undergone in recent months. The Tribunal considered that these could have altered the outcome, particularly in a case where the investigative report had not found sufficient evidence for gross misconduct. This rendered the

substantive decision unsafe.

- There had been no consideration of Mr Madden's disability prior to disciplinary action (contrary to the employer's own standard operating procedures) and the lack of reference to this in the minutes of the hearing meant it was likely that this was given little, if any, weight.

- The impact on the complainants had been exaggerated in the investigative report compared with their actual evidence, and this factual inaccuracy was carried through to the disciplinary panel's reasoning.

- There had been no actual reputational damage evidenced, so the panel's purported concern about potential damage was purely speculative.

- The appeal had not rectified these defects as they had not conducted any form of rehearing, meaning they couldn't have balanced the conduct and mitigation to the extent required.

The Tribunal therefore concluded that whilst there had been a genuine belief in misconduct after a proportionate investigation, in all the circumstances of the case it was not fair and reasonable (or within the band of reasonable responses) to have dismissed Mr Madden.

- The Tribunal considered that Mr Madden's struggle to communicate with colleagues and adhere to social norms arose in consequence of his disability (ADHD). They concluded that the comments he had made were an element of this, as his social boundaries were blurred and he did not appreciate that his actions were inappropriate in a workplace (or realise their potential impact). His dismissal for the comments in question was therefore unfavourable treatment because of something arising from his disability. This could not in their view be justified with reference to the legitimate aims relied on by the employer, which included appropriate management of resources and effective management of employee behaviour (including upholding relevant standards).

However, the Tribunal did not find that the employer's action amounted to a failure to make reasonable adjustments or indirect discrimination. In particular:

- It was not clearly established that the employer had a practice of not considering ADHD or making sufficient reasonable adjustments for employees in gross misconduct disciplinary processes.

- It would not have been a reasonable adjustment, as argued by Mr Madden, to allow him to be represented by a proxy at the disciplinary hearing. This was not something that was permitted by the employer and, despite any disadvantage, it was not reasonable to

expect them to do so.

The remedy judgment for the Tribunal's decision has not yet been published.

What can employers learn from this case?

This decision highlights the real issues that employers can encounter if they fail to give proper attention to an employee's disability during a disciplinary process.

Neurodiverse conditions, such as ADHD, are not automatically classed as disabilities under the EqA 2010. Each employee's circumstances will therefore be subject to the usual test of whether the condition causes an impairment that has a substantial and long-term adverse effect on the employee's ability to carry out normal day-to-day activities. However, where an employer becomes aware of an employee having been diagnosed with a condition, it will likely be wise to approach with caution and assume that the employee *may* qualify for legal protection.

During a disciplinary process (or by analogy, any grievance or other formal process), employers dealing with a neurodiverse employee should consider the following:

- Employment-related decisions will always be highly fact-

specific, and Tribunal cases such as these do not mean that employers can never dismiss employees who have a disability. They nevertheless serve as a helpful reminder that employers must always pay proper attention to employees' disabilities, and document this appropriately. This applies both to the disciplinary process that they follow (and any adjustments that the employee might need to that process), and the substantive decision on the conduct and appropriate sanction. Taking occupational health advice at the earliest opportunity can really help to inform this assessment, as this ensures that the employee's condition and its impact is clearly set out at the start.

- A policy or business aim to uphold high standards of behaviour, or perhaps even a zero-tolerance stance on certain types of conduct, can be legitimate and understandable. However, applying it on a blanket basis to all employees, without considering whether the behaviour is linked to a disability, puts employers in danger of breaching their legal obligations. Any case of potential misconduct should always be considered on its own merits, and employers should be wary of treating all breaches as equal without regard to the circumstances.

- Decision-makers should always be made aware (with the employee's consent) of any relevant conditions, and actively consider any explanations provided by the

employee that indicate a causal link between their conduct and their condition. Even if a breach of policy is proven, when deciding on the appropriate sanction they will need to consciously assess whether the association with the disability provides any mitigation. For example, if the employee's explanation is that their disability impacted their ability to understand that their conduct was prohibited or inappropriate, using a warning rather than dismissal may be advisable to clearly set out expectations of behaviour and offer a chance to improve. If the conduct is repeated, an employer is then in a much safer position to dismiss. Conversely, if the decision-maker feels that the conduct is not mitigated by the condition, they should clearly explain their reasoning to the employee.

- It is always advisable to offer an appeal process, particularly as this demonstrates compliance with the ACAS Code of Practice and can permit the employer to rectify any procedural issues with the original process. However, if the appeal does not offer any actual examination of the evidence or issues, it won't necessarily assist the employer if the substantive decision is found to be unfair. In *Madden*, the Tribunal felt that in order to "*cure the defects, and undertake a sound balancing exercise between conduct and mitigation, the panel would have needed to reconsider the matter de novo*" – as the employer had insisted the appeal was "*not a rehearing*" and did not do so, the flaws in the decision weren't corrected.

- During any formal process, employers should remain open to adjustments even if they are outside of their usual policy. As noted above, the employer in *Madden* was criticised by the Tribunal for failing to offer virtual attendance options or companions outside of the usual categories at the disciplinary stage. This was despite other adjustments (written submissions) having been offered and accepted. If any adjustments are genuinely not reasonable, it would be wise to remain consistent in this regard; any later accommodation of such a request (as happened in *Madden*) could end up as evidence that it would have been reasonable for them to do all along.

- Managers and colleagues of neurodiverse staff should also bear in mind the potential impact of that condition in their dealings with them outside of any formal process. The extent to which this is possible will of course vary depending on the information shared, and it would rarely be appropriate to make assumptions about whether an employee has a condition or how it might affect them. However, where someone is on notice of a potential impact, the proactive duty to make reasonable adjustments will apply even if no request has been made by the employee. This could include, for instance, addressing conduct informally at an earlier stage to ensure the employee understands the implications of their behaviour and how it is being perceived. Such an approach will of course require a careful balancing of duties towards the employee and their colleagues, particularly if the conduct concerns sexual harassment.

- For all employees, including those with disabilities, employers should ensure that they consider any efforts made by the employee to improve or learn from their behaviour. This is particularly crucial where the sanction decision turns on whether the actions are likely to recur (which can often be the line between a warning and dismissal). If, as in *Madden*, the employer concludes that they can't have confidence that the conduct wouldn't happen again, this will be hard to justify as fair if there is demonstrable evidence of them taking accountability and/or changing their ways.

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New rights for bereaved partners set to come into effect from 6 April 2026

The Paternity Leave (Bereavement) Act 2024 came into force on 29 December 2025, giving the Government power to make regulations about paternity leave entitlements where the

primary carer of the child dies within the first 52 weeks following birth.

These regulations have now been made, meaning that these new rights will apply to such bereavements taking place after 6 April 2026.

What is the current position?

Where the primary carer (usually anticipated in law to be the mother or co-adopter) of a child dies within the first year following birth, the bereaved partner may have the right to take leave such as:

- **Paternity leave and pay**: 2 weeks' statutory paternity leave, to be taken either as a single period or two separate weeks, and statutory paternity pay.

- **Shared parental leave and pay:** Ability for parents to share the mother (or primary adopter)'s entitlement to 50 weeks' maternity leave, with statutory shared parental pay.

- **Parental leave:** 18 weeks' unpaid leave to be taken before the child's 18th birthday.

- **Bereavement leave:** 2 weeks' leave following the death of a child or a stillbirth with statutory parental bereavement pay.

- **Dependants Leave:** Right to take 'reasonable' unpaid time off to help a dependant (including a child or partner) with an emergency.

Each of these rights have strict eligibility criteria, and in many cases are unpaid. Crucially, unless the partner is eligible for shared parental leave, none of these options would allow for a prolonged absence from work in an equivalent sense to the primary carer's maternity leave.

What is changing?

Under the Paternity Leave (Bereavement) Act 2024 (the **Act**), employed bereaved partners will now benefit from new rights allowing them to take a single period of leave lasting up to 52 weeks after the birth of the child (or adoption placement).

There is no minimum service period required, making this a ‘Day One’ right.

In order to be eligible, the child’s primary carer must have died within 52 weeks of the birth or adoption placement, and the partner must have the necessary relationship to the primary carer. Broadly this means that they must be the father of the child, or the spouse, civil partner or partner of the primary carer. Equivalent provisions apply for parental order cases.

The leave can be started immediately within eight weeks of the bereavement, or with a week’s notice at a later date. The partner will also benefit for up to 10 keeping-in-touch (KIT) days, and they and their employer can make reasonable contact with each other during the leave.

There is no statutory right to be paid, but statutory paternity pay is likely to apply for up to two weeks (provided that this has not already been taken). Employees who are eligible for shared parental leave may therefore prefer to take that route, due to the statutory pay potentially on offer.

During the period of leave and on their return, the partner will benefit from protections similar to those applicable on other types of longer periods of family leave, including:

- preservation of all terms and conditions during the

leave (except for pay);

- a right to return to the same job on no less favourable terms and conditions;

- a right to be offered a suitable alternative in redundancy situations for up to 18 months after the birth or adoption placement; and

- protection from detriment and automatic unfair dismissal.

What does this mean for employers?

Employers will need to update their policies to ensure that, from 6 April 2026, their managers and HR teams are prepared to deal with situations of bereaved partners in the workplace. This could either be as a standalone policy or as part of any existing family leave policies. Those dealing with relevant requests should receive training in order to communicate sensitively and with full understanding of the types of leave

available.

Employers will also need to consider whether they wish to offer any enhanced packages, such as making the leave paid in a similar way to maternity leave, or otherwise extending pay beyond the other statutory entitlements that may apply.

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Victims and Prisoners Act 2024: Further changes pending to non-disclosure agreements

What is the current position?

From 1 October 2025, new provisions came into force under the Victims and Prisoners Act 2024 (**VPA 2024**) enabling victims of crime to speak out about their experiences and limiting the ability of non-disclosure agreements (**NDAs**) to restrict them from doing so.

In summary, individuals who are a “victim of crime” may make a

“permitted disclosure” to certain categories of persons for the purposes of obtaining relevant support or co-operating with the relevant function. The categories include law enforcement, regulators or key family members. A person can be a “victim” if they have experienced or witnessed criminal conduct, or reasonably believes they have done so, and suffered harm as a result. A police report or conviction is not required.

A “permitted disclosure” can be made about the relevant criminal conduct regardless of any NDA signed by the individual, and any provision purported to restrict this ability will be invalid.

For full information on the changes introduced under the VPA 2024, please see our briefing here.

As highlighted in our briefing, a key feature of the current ability to make a “permitted disclosure” is that it must be to one of the specified recipients and must be for the specified purpose. Sharing information for the primary purpose of releasing information into the public domain, such as to the press, will not be a “permitted disclosure” and therefore can be validly restricted by an NDA.

These changes sit in parallel to the planned changes under the Employment Rights Act 2025, which will prohibit NDAs that would restrict someone’s ability to discuss discrimination or harassment. You can find out more about these changes here.

What is changing?

In October 2025, the Government published a further update indicating that the relevant section of the VPA 2024 is in fact only a temporary measure and would be amended in due course to expand the scope of "permitted disclosures" even further. This was not indicated prior to the VPA 2024 coming into effect.

This proposed change is now rapidly making its way through Parliament as part of the Victims and Courts Bill, the final reading of which took place in the House of Lords on 17 March 2026. It is now with the House of Commons for their consideration on 25 March 2026.

According to the most recently published version of the Bill, the key effects of the change will be that:

- There will no longer be a list of specified recipients to whom a "permitted disclosure" can be made.

- The requirement that the "permitted disclosure" be for the purpose of obtaining support or co-operation from the person or function will be removed. Additionally, a disclosure will still be able to be a "permitted disclosure" even if it was made for the primary purpose of releasing the information into the public domain.

- The scope of possible disclosures will be expanded to include “an allegation of” relevant criminal conduct, and allegations or information about the “response of any other party to the agreement” to the conduct or allegation. The individual must still be a victim or reasonably believe they are a victim.

If passed in its current form, the clause will effectively bring the restriction on NDAs relating to criminal conduct in line with the prohibition under the Employment Rights Act 2025 on discrimination or harassment-related NDAs (which is not yet in force).

In practice, this means that disclosures related to criminal conduct (including alleged conduct or the response of another party to that conduct) can always be made to anyone for any purpose and cannot be restricted via an NDA. Individuals will therefore be able to freely share such information with the press or otherwise in the public domain, and cannot be restricted from doing so through an NDA.

Under the new provisions, the Secretary of State will have the power to set out conditions for “excepted agreements”, i.e. situations in which NDAs can be signed validly, but even in such cases restrictions on disclosure are unlikely to be permitted to be absolute. In its original update, the Government stated that this is intended to recognise situations in which both parties wish for confidentiality, whilst protecting situations where disclosures must always be allowed.

The proposed clause also clarifies the effect of NDAs entered into by the Crown.

What does this mean for employers?

Whilst these changes still need to be passed by the Commons, and will not come into force until relevant regulations are released, this unexpected influx of further NDA regulation may be challenging news for employers who have only recently updated their approach to accommodate the VPA 2024 and the planned changes under the Employment Rights Act 2025.

Most notably, the existing protections against the use of NDAs under both whistleblowing legislation and the VPA 2024 apply only in circumstances where the individual is sharing information either in the public interest or for the purpose of obtaining justice or support. Employers will therefore have had some confidence that NDAs can validly be used to prevent employees sharing information or allegations about criminal conduct for other purposes, for instance press attention or with competitors.

Under the new proposals, there is still the requirement that the individual must be (or reasonably believe) that they have been a victim of crime, which may be a deterrent from making ‘bad faith’ allegations. However, in practice, this is unlikely to offer employers much comfort given that once a disclosure has been publicly made, the question of whether it should have been restricted by an agreed NDA (or indeed whether the belief was reasonable) is of limited value.

Employers will therefore need to be prepared for anyone who

has experienced or witnessed conduct of a criminal nature, or reasonably believes they have done, to speak out about that conduct (including making allegations about that conduct or their response to it). Further updates to confidentiality clauses, in particular those in settlement agreements, are likely to be required to ensure that employers do not purport to restrict these disclosures in any way.

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Employment Rights Act 2025: equality action plan guidance published together with a menu of 18 actions for employers to consider

What is an "equality action plan"?

The Employment Rights Act 2025 provides that private sector employers with 250 or more employees must develop and publish "equality action plans" on an annual basis. The plans must set out the steps the employer is taking to address its gender

pay gap and to support employees going through the menopause.

The first action plans must be published on the Government's gender pay gap service from Spring 2027 (and employers may wish to publish them on their own website as well). However, the Government is encouraging employers to publish action plans on voluntary basis for the 2026-27 reporting year by 4 April 2027. Employers who are not in scope to publish a plan are also encouraged to consider producing and publishing one.

What does the guidance say?

To help employers prepare for voluntary publication of an action plan, the Government has published initial guidance for employers. Alongside that guidance, the Government has also published a list of 18 recommended actions for employers to consider.

The key points to note from the guidance are as follows:

- As part of developing an action plan, employers must select at least one action to address their gender pay gap and at least one action that supports employees experiencing the menopause. However, the guidance urges organisations to be ambitious and take more steps where possible.

- As far menopause actions are concerned, the Government says it supports steps that employers may choose to take which also benefit employees experiencing other health conditions related to menstrual health (e.g. endometriosis or fibroids).

- Employers are asked to consider how employees may be disadvantaged in the workplace due to the overlapping impact of their sex with other characteristics, such as ethnicity, disability status and socioeconomic background.

- The importance of securing senior leadership buy-in is underlined and it is recommended that training is given to all senior leaders and managers on workplace gender equality and the chosen actions.

- Emphasis is also placed on the need to seek input from a range of employees when developing an action plan. It is said that gathering feedback on their experiences within an organisation can help employers better understand which actions could have the greatest impact. It is suggested that actions are discussed with unions, relevant employee networks and HR and people teams.

- Further guidance on the reporting process will follow in April 2026 which will cover the steps that employers should take when developing their action plans. This guidance will cover: understanding the issues within the employer's organisation, selecting actions, submitting the action plan, tracking the outcomes of the chosen actions and reviewing the plan.

Which actions are recommended?

A total of 18 actions are recommended – from which employers must choose at least two (one targeting the gender pay gap and one to support employees through the menopause). The actions are summarised in the table below, which includes hyperlinks to further details about each action (in each case providing more information about the purpose of the action, its benefits, how to implement it and how to track its progress).

Area	Action
Recruiting staff	• Make job descriptions inclusive. • Encourage applications from a range of candidates. • Reduce unconscious bias in CV screening. • Use fair and structured interview techniques. • Advertise leave policies in job adverts. • Advertise flexible working arrangements in job adverts.

Developing and promoting staff	• Automatically consider eligible employees for promotion • Encourage employee development through actionable steps • Offer mentoring, sponsorship and other development programmes
Building diversity into your organisation	• Set targets to improve gender representation
Increasing transparency	• Increase transparency for pay, promotion and rewards • Enhance and promote flexible working and leave policies
Supporting employees experiencing the menopause	• Train managers to support employees experiencing menopause • Offer occupational health advice for employees experiencing menopause • Set up menopause support groups and networks • Offer workplace adjustments for employees experiencing menopause • Conduct a menopause risk assessment for your workplace • Review policies and procedures to meet the needs of employees experiencing menopause

What does this mean for employers?

While there is no obligation for employers to produce and publish an action plan at this point, those employers who will be in scope to do so from 2027 may wish to have a “dry run” at producing a report this year.

When choosing which actions to pursue, employers should be aware that some of the Government's suggested actions may amount to "positive action" measures, which are measures aimed at overcoming disadvantage, meeting needs or correcting the underrepresentation of a group with a particular protected characteristic – in this case women. Encouraging applications from women, offering mentorship, sponsorship or other development opportunities to women and setting targets to improve gender representation would all likely be considered positive action measures.

Positive action is only lawful where an employer "reasonably thinks" that such action is needed. In other words, evidence showing the disadvantage, different need or underrepresentation will be needed – a poor gender pay gap figure may be sufficient evidence but, in some cases, more may be needed. Further, an employer must show that the proposed action is a "proportionate means of achieving a legitimate aim." This involves balancing competing relevant factors, including how serious the disadvantage, aim or underrepresentation is, whether the action is appropriate to achieve the stated aim and whether it would be possible to achieve the aim by other means less likely to adversely affect others (in this case, men). If an employer fails to have the required evidence, or to act proportionately in pursuit of a legitimate aim, then there is a risk that the measure will stray into unlawful positive discrimination. This could give rise to sex discrimination claims from men.

Therefore, it is important that employers do not assume that just because an action is listed in the Government's guidance, it could not be challenged in any such claim (although the fact that it is listed in the guidance could be cited in aid of any subsequent challenge). In some cases, additional groundwork must be undertaken before implementing the action.

Employers would be wise to seek legal advice before implementing an equality action plan.

BDBF is a leading employment law firm based at Bank in the City of London. If you would like to discuss any issues relating to the content of this article, please contact Amanda Steadman (AmandaSteadman@bdbf.co.uk), Rose Lim (RoseLim@bdbf.co.uk) or your usual BDBF contact.