

Employment law highlights from 2025

In this briefing, we look back at the key developments that took place in this significant year for employment law, reflecting on the most interesting cases and legal changes to be aware of as 2025 draws to a close.

Success at BDBF

This year at BDBF, we celebrated [13 years of excellence and 30 years of expertise](#) and were proud to be the only firm in our category with all six of our partners [top ranked by Chambers UK](#) and by [Legal 500](#). We were also featured as one of The Times Best Law Firms 2026 for employment law, as endorsed by our peers, and were honoured to be awarded [Senior Executive Team of the Year](#) at the International Employment Lawyer Awards 2025.

Our partners continued to share their expertise far and wide, speaking at a [White Paper Conference](#), the [International Forum of Senior Executive Advisers Forum](#), the [ELA Annual Conference 2025](#), the [ABA International Labor and Employment Law Committee Midyear Meeting](#), and the [International Employment Lawyer's Spring European Employment Summit in Paris](#) (to name a few). They were also individually recognised in the [Spears Employment Lawyers Index](#) and [Lexology Index](#), and developed groundbreaking case law in cases such as [Lapinski](#).

In 2025, we also welcomed new Managing Associate [Jamie Barton](#),

Senior Associate [Leigh Janes](#), Associates [Edward Duthie](#), [Esmat Faiz](#) and Knowledge Lawyer [Rose Lim](#). In recognition of their exceptional talent, we also promoted [three of our outstanding employment lawyers](#) (Blair Wassman, Theo Nicou and Connie Berry) and welcomed [Samantha Prosser](#) to the partnership.

Employment Rights Act 2025

The year has been a whirlwind of legal developments, primarily due to the proposals under the landmark Employment Rights Bill (the **Bill**).

The Bill completed its passage through Parliament on 16 December 2025 and is expected to receive Royal Assent in the coming days, turning the Bill into the Employment Rights Act 2025 (the **Act**). The Act will mean significant changes for day-to-day employment practices and Employment Tribunal claims. The latter will also be impacted by the [increase](#) to maximum ACAS early conciliation period from six to twelve weeks, which came into effect on 1 December 2025. Although there had been suggestion that they might do so, the Government has confirmed that they will *not* be reintroducing fees for bringing a case in the Tribunal.

In our October [webinar](#) and prior [briefings](#), we covered the major changes expected under the Bill, including extension of Tribunal time limits, restrictions on 'fire and rehire' practices, expanded whistleblowing protections and a new prohibition on non-disclosure agreements for discrimination and harassment.

No doubt the biggest concern for many employers had been the

Bill's promise of 'Day 1' unfair dismissal rights, which would have removed the current two-year time limit for bringing claims altogether. However, the Government dropped this proposal following considerable pushback from the House of Lords. In exchange, claims for unfair dismissal will be available after six months' employment and the cap on the compensation for unfair dismissal will be removed. You can read our article on what the removal of the compensation cap means for employers [here](#).

The first consultations on the proposed new rights were also launched this year. In particular, we looked at the requirements to engage with [trade union rights](#) and [expanding protections for pregnant women and new mothers](#), which will impact all employers when they come into force.

Whistleblowing

- **Detriment of dismissal:** In [Rice v Wicked Vision Ltd \(Protect Intervening\)](#); (2) [Barton Turns Developments Ltd v Treadwell](#), the Court of Appeal held that they were bound by the case of [Osipov](#) to conclude that employers can be vicariously liable for the detriment of dismissal (even if they cannot be directly liable). The Court made it clear in their reasoning that they disagreed with *Osipov* but were bound to apply it. Permission to appeal to the Supreme Court has been granted.
- **Innocent decision-makers:** In [Henderson v GCRM Ltd & Ors](#),

the Employment Appeal Tribunal (EAT) decided that an 'innocent' decision-maker cannot be found personally liable for the detriment of dismissal. They concluded that unlike the way in which a state of mind can be attributed to the employer because of a tainted or manipulated decision-making process, it would not be correct to impute such knowledge in a way that exposes the innocent decision-maker to unlimited liability.

- **Consultants as agents:** In [*Handa v Station Hotel \(Newcastle\) Ltd and others*](#), the EAT concluded that independent HR consultants could (in theory) be viewed as agents for the employer and liable for detrimental treatment of a whistleblower, if they are contracted to make the decision to dismiss or run a process closely related to the employment relationship.
- **Protection for job applicants:** In [*Sullivan v Isle of Wight Council*](#), the Court of Appeal determined that whistleblowing protection for job applicants remains very limited. Unlike workers or applicants for NHS posts, who are protected by the specific whistleblowing detriment provisions, general job applicants who believe they have made a protected disclosure will not be protected (save for where their treatment amounts to discrimination based on a protected characteristic under the Equality Act 2010).

- **Judicial proceedings immunity:** In [*Rogerson v Erhard-Jensen Ontological/Phenomenological Initiative Limited*](#), the Court of Appeal decided that judicial proceedings immunity did not apply to the initiation of arbitration abroad, and doing so could therefore constitute unlawful whistleblowing detriment. The Court considered that only statements made within litigation are protected (e.g. witness' evidence), rather than the act of commencing proceedings based on a protected disclosure.

For more information regarding planned reform to whistleblowing legislation, please watch our October [webinar](#) on the Employment Rights Bill. In December it was also announced that the Government intends to review the UK's whistleblowing framework by the end of 2027.

Sexual Harassment, Equality and Discrimination

- **Beyond the workplace:** In [*AB v Grafters Group Ltd*](#), the EAT found that an employer's liability for sexual harassment may extend to situations where the employee is 'off the clock'. Actions can occur 'in the course of employment' even if they are not on work premises or during working hours, such as at work parties or during work-related travel. For more information regarding planned reform to the duty to prevent sexual harassment, please see our [article](#) on how employers can prepare for the changes expected under the Bill.

- **Neurodiversity:** In [*Halstead v JD Wetherspoons plc*](#), the Tribunal assessed the powerful impact of making reasonable adjustments in the workplace for neurodivergent employees, and set out a list of ‘exemplary’ suggestions for employers to consider. The Tribunal took a dim view of the harsh way in which a ‘zero-tolerance’ policy had been applied to a colleague whose condition affected his ability to understand its requirements and agreed that his employer had failed to make reasonable adjustments when applying its standard disciplinary procedures. This year also saw [new guidance from ACAS](#) on embracing neurodiversity in the workplace, which encourages support, understanding and adjustments to processes. The requirement to make adjustments will, however, have its limits; in [*Duncan v Fujitsu Services*](#), the EAT agreed with the Tribunal that a disabled employee’s use of abusive and offensive language remained sufficient grounds to justify dismissal, despite his arguments that his behaviour resulted from neurodiversity.

- **Expressing beliefs:** In our April [webinar](#), we explored the potential for conflicts and legal challenges surrounding controversial topics such as the war in Gaza and LGBTQ+ issues. This year saw the significant decision of [*For Women Scotland Ltd v The Scottish Ministers*](#), which determined that ‘sex’ in the Equality Act 2010 refers to biological sex only and not to acquired sex or gender under a Gender Recognition Certificate. This area of law continues to generate considerable debate, and both employers and service providers eagerly await the [new Code of Practice due to be published](#) by the Equality and Human Rights

Commission. In the meantime, there have been several other significant decisions on trans issues, including:

- The Court of Appeal considered in [*Higgs v Farmor's School*](#) that the dismissal of a school pastoral administrator for gender-critical social media posts had been directly discriminatory. The employee's posts were found to have reflected her protected belief, and dismissal had been a disproportionate response in circumstances where the language used had not been grossly offensive or intended to incite hatred.
- In [*Lockwood v Cheshire and Wirral NHS Foundation Trust and others*](#), the Tribunal concluded that a non-binary employee did not have the protected characteristic of gender reassignment under the Equality Act 2010, meaning their harassment complaints regarding incorrect use of pronouns could not succeed.
- In [*Kelly v Leonardo UK Limited*](#), the Tribunal decided that an employer's policy of permitting trans women to access female facilities did not constitute harassment or either direct or indirect

discrimination against female employees, as it did not place them at a significant disadvantage compared to male staff.

- Most recently in [*Peggie v Fife Health Board and another*](#), the Tribunal determined that the employer had unlawfully harassed a female employee by failing to revoke permission, temporarily, for a trans colleague to use women's changing rooms after her complaint (until replacement rotas could take effect) and by taking too long to investigate that complaint, as well as by referencing irrelevant matters and giving inappropriate instructions as to confidentiality. However, the Tribunal dismissed all remaining allegations of discrimination and harassment, noting the careful balancing required between individuals' protected characteristics and human rights.

For our top tips on managing risks associated with expressing beliefs in the workplace, see our [guidance note](#).

- **Pregnancy and maternity:** In our July [webinar](#), we took a closer look at the legal risks in redundancy exercises affecting pregnant employees and those on maternity, adoption or shared parental leave. This year also saw the introduction of [new rights to neonatal care leave and pay](#) as well as the Government's 18-month [review](#) of

parental leave and pay entitlements, which aims to reconsider the complex legislative framework of family rights. For further information on the rights currently available, take a look at our coverage for [National Work Life Week](#).

- **Equality reforms:** Earlier in 2025, the [Government published](#) a call for evidence on proposed equality reforms including changes to equal pay, pay transparency, combined discrimination protection and clarity on sexual harassment at work. In addition, a consultation was launched on [mandatory ethnicity and disability pay gap reporting](#) for employers with 250 or more employees. Whilst some equality reforms are reflected in the Bill (see above), the response to these consultations is expected to predominantly shape the new Equality (Race and Disability) Bill.
- **Practicalities of bringing claims:** This year also brought some helpful case law regarding more practical aspects of bringing discrimination (and related) claims. In [HSBC Bank plc v Chevalier-Firescu](#), the Court of Appeal clarified that being unaware of a discriminatory motive could mean that it is just and equitable to allow a claim to proceed, even where it is outside of the statutory time limit. Additionally, in [Kokomane v Boots Management Services Ltd](#), the EAT confirmed that workers can be protected against victimisation even if they do not expressly refer to having suffered discriminatory

treatment; the key is what the employer can have reasonably understood the worker to mean in the context.

Dismissals and HR practices

- **Importance of proper disciplinary process:** In [*Alom v Financial Conduct Authority*](#), the EAT expressed their concerns over the extent to which HR had framed a pre-prepared disciplinary script that ultimately led to dismissal. Although they found that the employee's dismissal had been fair and non-discriminatory in all the circumstances, the EAT agreed with the submission that this had been inappropriate, particularly where the script seemed to state the decision-maker's opinion as to the nature of the conduct. Additionally, in [*Woodhead v WTTV Limited and anor*](#), the High Court concluded that an employer had breached their duty of care not to expose an employee to a risk of psychiatric injury during an investigation and disciplinary process into allegations against him of sexual harassment. The Court noted significant failings from the employer to take account of the employee's pre-existing conditions, as well as general inadequacy in the process which had caused considerable distress.
- **Constructive dismissal:** In [*Kinch v Compassion in World*](#)

Farming, the EAT considered that an employee had not necessarily affirmed her contract by extending her notice period several times. The employer argued that by continuing to work for eight months after her resignation (including two extensions which they said she had requested), pursuing a grievance and negotiating sick pay, the employee had clearly not been constructively dismissed and that the claim should be struck out. The EAT disagreed and said that this was not necessarily the case, and remitted the case for a full hearing. Delay in an employee's leaving was also considered in Barry v Upper Thames Medical Group and others, where the EAT held that a six-month delay in resigning did not mean the employee had affirmed their contract, in circumstances where she had been seeking to resolve the dispute that eventually led to her departure.

- **Parent company relationships:** In Fasano v Reckitt Benckiser Group plc and anor, the Court of Appeal found that an agency relationship did not exist between a parent company and subsidiary, as there was no basis to say that the employing subsidiary had authorised the parent entity to act on its behalf (or otherwise had control). The employee, a senior executive, had missed out on a valuable long-term incentive plan award when the rules were amended by the parent company of his employer, which he said constituted age discrimination. The Court disagreed and said that, even if the agency relationship had existed, the change would not have been discriminatory as it was a proportionate means of achieving the legitimate aim of retaining staff.

- **Competing for talent:** In September 2025, the [Competition and Markets Authority published guidance](#) for employers on staff recruitment, pay and other working conditions. This outlined how competition law may apply in the workplace, the potential consequences of anti-competitive practices (e.g. wage-fixing or sharing competitively sensitive information), and guidance as to what may constitute 'risky' behaviour.
- **Sickness absence:** In [*Kitching v University Hospitals of Morecambe Bay NHS Foundation Trust*](#), the Tribunal held that an employee who had been dismissed for 406 days of sickness absence in four years had been discriminated against and unfairly dismissed. The Tribunal considered that the employer had failed to accommodate her disability when applying its absence policies, failed to make reasonable adjustments, and in dismissing the employee had failed to evaluate her current and future capability to work with reasonable adjustments in place.
- **Directors' duties:** In [*Cheshire Estate & Legal Limited v Blanchfield & Ors*](#), the Court of Appeal confirmed that alleged breaches of statutory and fiduciary duties will be highly fact-sensitive. In this case, the Court considered that the directors had not crossed the line into breaching their fiduciary duties by planning to set up a competing firm prior to resigning from their roles,

as they had continued to serve their firm faithfully and had factored in a delay between their resignation and the new firm opening.

- **Be careful what you say:** Several cases this year highlighted the importance of making accurate statements and promises, including during Tribunal proceedings:
 - In [*Dixon v GlobalData Plc*](#), an employer had provided verbal assurances regarding an employee's ability to exercise share options post-termination, and had entered into ambiguous settlement terms which incorporated those assurances. The High Court determined that the employer was bound by these assurances as a result of proprietary estoppel, emphasising the importance of checking share plan rules and exercising caution when drafting any explanations or settlement terms.
 - In [*Wainwright v Cennox plc*](#), the EAT agreed with an employee that she had suffered a repudiatory breach of contract due to misleading statements made by her employer. The employee, who was on sick leave for cancer treatment, was informed that she had been replaced on a temporary basis; in fact, the new

colleague had been appointed permanently, and other alterations had been made to the employee's role and responsibilities. The EAT agreed that providing untrue statements could be a contractual breach and that this should have been addressed by the Tribunal, therefore remitting the case for reconsideration.

- In [Easton v Secretary of State for the Home Department \(Border Force\)](#), the EAT considered that an employer had acted reasonably in dismissing an employee who had omitted details of a prior dismissal and a three-month employment gap on his application form. Particular attention was paid to the fact that the employer had thoroughly investigated the omissions and concluded that the employee had been dishonest in withholding this information.
- In [Commerzbank AG v Ajao](#), the High Court found an employee to have been in serious contempt of court for having made false statements of truth and giving false evidence in an Employment Tribunal claim. The employee had pursued a claim against his former employer and several former colleagues, alleging (among other matters) discrimination, sexual harassment (including assault), harassment and victimisation. Following an application by his employer, the High Court found that he had knowingly made false accusations which were designed to, and did, interfere with the administration of justice.

The employee has been sentenced to 20 months' imprisonment and ordered to pay £150,000 towards his employer's legal costs.

- **Legal privilege:** In [*Shawcross v SMG Europe Holdings Ltd and others*](#), the EAT found that the 'iniquity' exception did not apply to emails between the employer and their solicitors prior to dismissal of the employee, and therefore they were subject to legal privilege. The employee, who had been inadvertently copied into such a chain, argued that privilege could not apply where the emails showed her dismissal to be a sham and were evidence of iniquitous conduct. The EAT disagreed, finding that the emails were the sort of advice that employment lawyers would often offer around the risks of dismissal, and they were therefore privileged. The importance of careful handling of privileged materials was also considered in [*Sinclair Pharmaceuticals Ltd v Burrell*](#), where a without notice injunction obtained by the employer regarding the treatment of inadvertently disclosed materials was set aside by the High Court, who considered that the Employment Tribunal was best placed to decide whether (among other things) the documents were disclosable.

- **Non-disclosure agreements (NDAs):** The [*Victims & Prisoners Act 2024*](#) came into force on 1 October 2025, meaning that NDAs cannot be used to prevent victims of crime from making 'permitted disclosures' (such as to

regulated professionals, victim support services or family members). Shortly afterwards, the [Government announced that](#) this Act will be amended in due course to enable victims to speak to anyone for any purpose, including (for instance) the press. These changes sit alongside the [planned prohibition under the Bill](#) on NDAs preventing disclosure of discrimination and harassment.

- **Senior Managers & Certification Regime (SMCR):** Over the summer, the [Treasury launched a consultation paper](#) looking for views on changing the legal framework underpinning the SMCR to reduce the burden on the financial services sector. The Financial Conduct Authority (**FCA**) and Prudential Regulatory Authority similarly launched consultations on the same date. These consultations closed on 7 October 2025, and firms await the outcome to determine any reforms that will take place.
- **Non-financial misconduct:** In July 2025, the [FCA's new rules](#) on non-financial misconduct were published, setting out amendments to their Code of Conduct to empower firms to tackle serious misconduct such as bullying, harassment and violence. These will come into force in September 2026, and from then onwards all SMCR firms will be required to assess whether incidents of non-financial misconduct constitute breaches of the FCA conduct rules.

- **Non-compete clauses:** In November 2025, the [Government published a working paper](#) on options for reforming non-compete clauses in employment contracts. This paper, which is due to close on 18 February 2026, considers options such as limiting the length of non-competes on a blanket basis, limiting the length based on company size, banning such clauses altogether (or based on annual salary), or a combination of these suggestions.
- **Redundancy notifications:** From 1 December 2025, the Government moved to a [digital-only platform](#) for advance notification of redundancies. The HR1 form, which could previously be submitted by email, must now be completed online.

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 Rose Lim (RoseLim@bdbf.co.uk), Amanda Steadman (AmandaSteadman@bdbf.co.uk) or your usual BDBF contact