

Newsflash: Government abandons Day 1 unfair dismissal rights in favour of 6-month qualifying period

Following several rounds of debate between the House of Commons and the House of Lords on the Employment Rights Bill (**Bill**), the Government announced in a [press release](#) published on Thursday 27 November 2025 that it intends to drop its commitment to giving employees unfair dismissal rights from Day 1.

Instead, the Government has confirmed that they will implement the six-month qualifying period proposed by the House of Lords. The press release also announced that the compensation cap for unfair dismissal will be lifted, and the six-month period will only be able to be varied in future by primary legislation. The Government states that this is now intended to be a “*workable package*”.

This move follows considerable pushback from the Lords on the proposal for Day 1 rights in their latest [debate](#) on 17 November 2025, in which they expressed concern over the potential impact on employment rates and the Employment Tribunal system.

The question of Day 1 unfair dismissal rights has been a key sticking point for finalisation of the Bill, and this development therefore brings the Bill significantly closer to being passed. The House of Commons is due to consider the

Lords' message on 8 December 2025.

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Employment Rights Bill: First Consultations Launched on Trade Union Rights

On 23 October 2025, the UK Government launched the first of their consultations on the new rights set out in the Employment Rights Bill (Bill), which is expected to be passed into law imminently.

The Bill provides the framework for numerous changes to employment law but much of the substance of the new rights will be set out in regulations. As promised earlier this year, the Government has now published a series of consultations to help shape those regulations and determine exactly how the Bill's provisions will be implemented.

Below we will briefly cover two of the consultations which look at changes to trade union rights, each of which is due to close on 18 December 2025. These changes are vital for all

employers to understand as, even if their workforce is not currently unionised, they will nevertheless be impacted by the new duties.

Duty to Notify

The Bill introduces a new duty on employers to give their employees a written statement of their right to join a trade union from October 2026. The consultation paper is said to be aimed at ensuring the duty is effective, proportionate and workable for workers and employers.

The key questions considered as part of the consultation are:

- **Content:** What information needs to be included in the statement, and whether the statement should be drafted by the employer (in line with any minimum content requirements) or be based on a government standard.
- **Manner:** Whether information needs to be given directly or indirectly, and whether this should be different for new workers compared to existing workers.
- **Timing:** How often the information needs to be given, and whether this standard should be the same for all organisations regardless of sector or size.

Right of Access

The Bill sets out that trade unions will have a new right to access workplaces and engage with workers for the purpose of meeting, recruiting, supporting, representing or organising them, as well as for facilitating collective bargaining. This is expected to take effect in October 2026.

Access for these purposes means both physical access and digital communications.

Under the Bill's framework, unions and employers are expected to work together to voluntarily agree access arrangements, which will then be recorded by the Central Arbitration Committee (**CAC**). Where they are unable to agree, either the union or the employer can make a referral to the CAC to determine whether (and how) access should be granted. The CAC will also have the power to enforce agreements in line with the five 'access principles' set out in the Bill, with the ability to issue fines for non-compliance.

The substantive questions asked by the consultation are as follows:

- How access requests need to be made, including whether they should follow a standard government template (provided via a new Code of Practice on Trade Union Right of Access), and the level of information that must be included in the request and employer's response.

- How notification should be made to the CAC of successful agreements and any variations.
- The appropriate length of response and negotiation periods, and the maximum duration of an access agreement. The government proposes a relatively short initial 5 working day period for the employer to respond to a union's request, a 15 working day period to negotiate, and a maximum of 25 days from the request for a referral to be made to the CAC. The latter requirement is said to be aimed to ensure that employers are not left in a position of uncertainty about whether a referral will be made. Once an agreement is in place, the government proposes a maximum duration of two years.
- Whether small employers with fewer than 21 workers should be exempt.
- What factors the CAC will consider when assessing a request, with the government proposing that requests are likely to be unreasonable if there is already a recognised union, it would use a disproportionate level of resource, or if it would give the employer less than 5 working days to prepare. For the terms of agreements, the government suggests that weekly access may be reasonable, with a minimum of two working days' notice required.

Views are also being sought on the proposed £75,000 maximum standard cap on fines from the CAC, with a higher amount of £150,000 for repeated breaches, as well as the factors that the CAC should consider when assessing the fine.

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Employment Rights Bill: Consultation on expanding protection from dismissal for pregnant women and new mothers

Last month, the Government opened a consultation on enhancing protection from dismissal for pregnant women and new mothers during a protected period. At its most restrictive, the proposed protection would ban capability and SOSR dismissals altogether, permit redundancy dismissals only where a business is closing and allow conduct or illegality dismissals in very limited circumstances.

What is the current legal position and what did the Employment Rights Bill propose?

In the UK, there is already extensive protection from dismissal for pregnant women, new mothers and other parents. It is unlawful to:

- treat an employee unfavourably because of her pregnancy or maternity leave during the “protected period” (which begins when a woman becomes pregnant and ends when she returns from maternity leave);

- treat an employee less favourably than a male comparator for reasons to do with her pregnancy or maternity leave outside the protected period;

- dismiss an employee for a reason connected to her pregnancy or maternity leave (or to certain types of other family leave including adoption, shared parental and neonatal care leave);

- make an employee redundant during pregnancy or maternity leave (or adoption leave, shared parental leave or neonatal care leave) where there is a suitable alternative vacancy available; or

- make an employee redundant who has recently returned to work from a period of maternity leave (or adoption

leave, shared parental leave or neonatal care leave) where there is a suitable alternative vacancy available.

Despite this wide protection, the Government is concerned that pregnant women and new mothers remain especially vulnerable to mistreatment and dismissal. This is supported by a 2016 report from the Equality and Human Rights Commission which indicated that up to 54,000 mothers leave their jobs each year, including approximately 4,100 dismissals.

Accordingly, the Employment Rights Bill (the **Bill**) (currently on its passage through Parliament) provided that regulations would be introduced to allow enhanced protection from dismissal during pregnancy, maternity leave and following the return from maternity leave. This would mean that such employees could not be fairly dismissed at all, save where the law allowed for an exception. The Bill does not specify how long the protection would apply following the return from leave, however, the Government has said it should be at least six months.

The Bill also proposed extending the enhanced protection to those returning from certain other forms of extended family leave, namely, adoption leave, shared parental leave, neonatal care leave and bereaved partner's paternity leave (the latter of which is not yet in force).

What does the consultation paper propose?

On 23 October 2025, the Government published a consultation paper entitled *“Enhanced dismissal protections for pregnant women and new mothers”*, seeking views on how the enhanced dismissal protection should work in practice. The Government says it wishes to strike a fair balance between strengthening the protection for employees and preserving the ability to dismiss *“...in cases where continuing employment would have serious consequences for the employer or other staff”*. It is also concerned to avoid unintended consequences, such as employers becoming hesitant to hire women of child-bearing age if the protections are overly restrictive.

The consultation proposes two broad options:

- **Option 1 – Introduce a stricter fairness test:** one option is to introduce a stricter test to assess the fairness of such dismissals for any of the existing five fair reasons for dismissal (i.e. conduct, capability, redundancy, illegality or some other substantial reason (SOSR)).

- **Option 2 – Narrow the five fair reasons for dismissal:** an alternative option is to narrow the existing five fair reasons for dismissal (and/or potentially remove some of them entirely) when applied to pregnant women or new mothers. The proposals to narrow down the scope of each reason are as follows:

- **Conduct:** the options put forward range from permitting conduct dismissals only where the employee commits gross misconduct (as defined by the employer), to allowing dismissal only for a much narrower band of serious misconduct where continuing employment would either (i) pose a health and safety risk to a third party, (ii) have a serious negative impact on the wellbeing of others, or (iii) cause significant harm to the business.

- **Capability (covering both performance and ill-health):** again, various options are put forward, ranging from permitting capability dismissals only if there is no suitable alternative role available (or where one was offered and refused), to allowing dismissal only for a much narrower band of incapability where continuing employment would either (i) pose a health and safety risk to a third party, (ii) have a serious negative impact on the wellbeing of others, or (iii) seriously harm the business. An even more restrictive proposal of banning capability dismissals altogether is also given.

- **Redundancy:** two options are proposed. First, permitting redundancy dismissals only where there is no suitable alternative vacancy available and where termination would mitigate any financial difficulties that were affecting (or likely to affect in the immediate future) the employer's ability to continue the business. The

second and more restrictive option is to permit redundancy dismissals only where the business ceases to exist (and where any suitable alternative vacancy that is available has been offered).

- **Illegality:** only one possible change is put forward: to allow dismissal for illegality only if there is no suitable alternative role available (or where one was offered and refused).

- **SOSR:** various options are put forward, ranging from permitting SOSR dismissals only where there is no suitable alternative role available (or where one was offered and refused), to allowing SOSR dismissals only for a much narrower band of dismissals where continuing employment would either (i) pose a health and safety risk to a third party, (ii) have a serious negative impact on the wellbeing of others, or (iii) seriously harm the business. An even more restrictive proposal of banning SOSR dismissals altogether is given.

Additionally, in each of the above cases, the option of either making no changes to the law, or of making some other type of unspecified change are given (and in the latter case, the respondent is asked to set out what change they think should

be made).

When should the protection start and end?

The existing dismissal protections for pregnant women and new mothers are all “Day 1” employment rights. The consultation paper asks whether an employee should also be entitled to benefit from the proposed enhanced protections from Day 1 of employment. Set against that, it is acknowledged that this could require an employer to retain and pay an employee throughout pregnancy, maternity leave and for at least six months thereafter, and that this might be considered an unreasonable burden on employers especially in respect of new employees who may not have demonstrated their capability for the role. Therefore, the consultation gives the alternative option of only affording these rights to women who have completed a qualifying period of employment of somewhere between three to nine months. It is said that such a qualifying period could help to mitigate unintended consequences, such as reluctance to hire women of childbearing age.

In terms of when the enhanced protection should end, the consultation paper proposes either 18 months from the birth of the child (which has the benefit of aligning with the redundancy priority rules) or six months after the return to work from maternity leave, whenever that is. The first option would mean that all new mothers would have an 18-month window of protection – regardless of when they returned to work. The second option would mean that women taking less than 12 months maternity leave would have a shorter overall window of protection. However, it would be simpler for employers to navigate, since they would know that all returners have six months protection after their return from maternity leave. No

individual calculations would be needed.

Should the enhanced protection be available where certain other types of family leave are taken?

The consultation paper goes on to seek information and views on the extent to which parents taking either adoption, shared parental or neonatal care leave are subjected to unfair treatment, including dismissal. It goes on to ask whether the proposed enhanced dismissal protections should be extended to employees taking these forms of leave (and also bereaved partner's paternity leave) and, if so, when the protection should start and end. For adoption leave, it is proposed that the protection should end 18 months after the birth of the child or placement for adoption. For the other three types of leave, it is proposed that the protection should end either on the last day of the leave (where less than six weeks of continuous leave was taken), or 18 months from the birth or adoption placement (where more than six weeks of continuous leave was taken).

Other points and next steps

The consultation paper asks whether various unintended consequences could arise from the enhanced protection including increased discrimination, delaying dismissal decisions and unrealistic asks of small businesses. Finally, the consultation asks what the main causes of pregnancy and maternity discrimination are and what more the Government should be doing to tackle it.

The consultation closes on 15 January 2026, after which the

Government's response and final position will be published. The measures are due to be implemented some time in 2027.

[Consultation paper – Enhanced dismissal protections for pregnant women and new mothers](#)

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Employment Rights Bill: what are the latest changes and when will the Bill become law?

The Employment Rights Bill (**the Bill**) is currently in the final stages of progression through Parliament and is expected to become law in late 2025. The Bill is a significant development to UK employment rights and offers a broad range of new worker protections, including expansion of unfair dismissal rights, changes to Tribunal time limits, widening of access to family leave and strengthening of protections against harassment and discrimination.

On 15 September 2025, MPs considered the significant amendments to the Bill which had been put forward by the House of Lords and, as [published](#) on 16 September 2025, rejected the majority of the Lords' suggestions. This indicates a strong commitment to the original rights proposed by the Bill.

What are the implications of these changes?

As noted in a [press release](#) from the Government on 15 September 2025, the amendments proposed by the House of Lords were considered to dilute the protections offered to workers under the Bill and, as a result, have broadly been rejected by the House of Commons.

The most significant of the Lords' proposals was the removal of protection against unfair dismissal as a planned 'Day One' right, and replacement of this with a reduced qualifying period of six months (compared to the current two years' service requirement).

They had also proposed limiting the new obligation to offer guaranteed hours contracts to zero or low-hours workers to situations where the employee had made a request for such a contract, and allowing exceptions to this entitlement for those undertaking seasonal work.

Other amendments were additionally suggested to the right to be accompanied, whistleblowing protections and the planned trade union reforms.

All of these amendments were rejected, meaning that the

stronger protections for employees as originally contemplated by the Bill have been reinstated – most notably the protection against unfair dismissal from the first day of employment.

However, two proposals were accepted to some extent by the Commons and will now feature in principle in the next version of the Bill. The effect of these changes is as follows:

- It has been confirmed that the prohibition of non-disclosure agreements (**NDAs**) concerning harassment and discrimination is accepted in principle by MPs, having been proposed as an amendment to the Bill by a Labour Peer earlier this year. It has also been clarified that this prohibition will extend to concerns regarding a failure to make reasonable adjustments under the Equality Act 2010. Please see our full briefing [here](#) for further guidance on the effect of these changes on NDAs.

- A provision will be inserted requiring a review of the extent of the right to time off for public duties, including specifically whether employers should be required to permit time off for performing the functions of a special constable. This acknowledges the Lords' proposal to introduce a new express right to time off for special constables, but falls short of introducing such a right.

What's next for the Employment Rights Bill?

The Bill will now return to the House of Lords for consideration of the MPs' amendments, on a date yet to be scheduled. It will then progress to receiving Royal Assent this Autumn.

For an updated outline of the changes planned under the Employment Rights Bill and the expected timeline for implementation, please join our webinar [“The Employment Rights Bill: Where are we now?”](#) on 7 October 2025.

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Rise in sexual harassment concerns: how can employers prepare for the Employment Rights Bill?

Recent research shows a 39% increase in sexual harassment

concerns since the introduction of the “duty to prevent” sexual harassment in October 2024. With the Employment Rights Bill set to make that duty even more onerous, we explore the steps employers should take to put themselves in the best position to ensure compliance with the enhanced duty. We also consider other changes in the Bill relevant to sexual harassment at work.

As recently published on [Law360](#), the volume of calls to ACAS about sexual harassment concerns has increased by 39% so far this year. According to figures obtained by Nockolds, ACAS received 5,583 calls in the first half of 2025 compared to 4,001 in the first half of 2024.

This increase is significant following the changes made to the legal duties on employers to prevent sexual harassment in October 2024, and gives an important insight into rising employee awareness of their employer’s responsibility to protect them.

What has led to this change?

In October 2024, the Equality Act 2010 was amended to introduce a duty on employers to take reasonable steps to prevent sexual harassment of their employees at work. This applies both to potential harassment from other workers and from third parties (such as customers or clients). The change sits alongside the pre-existing prohibitions against sexual harassment and related less favourable treatment, and places a proactive requirement on the employer to prevent their staff being subjected to unwanted conduct of a sexual nature in the course of their employment.

Failure to comply with this duty may lead to enforcement by the Equality and Human Rights Commission (**EHRC**) and/or an uplift of up to 25% to any related Employment Tribunal award made to the employee.

Whilst it is unclear whether the calls being made to ACAS relate directly to alleged failings on the part of employers to comply with this new duty, the significant increase in volume suggests that, at the very least, this legal change has encouraged employees to speak up about workplace harassment.

What is changing now?

As part of the widespread changes planned under the Employment Rights Bill, the employer duty to prevent sexual harassment will change from taking “reasonable steps” to taking “**all** reasonable steps”. This is expected to come into force in October 2026, with further clarification of potential “reasonable steps” expected to come via regulations in 2027.

According to current guidance from the EHRC, the existing preventative duty to take “reasonable steps” requires employers to conduct a tailored risk assessment, anticipating when their workforce may be at risk of sexual harassment and identifying steps that are reasonable for them to take to prevent it. The test of what is ‘reasonable’ will be objective and consider factors such as the size and resources of the employer, the nature of the working environment (including exposure to third parties), and any concerns raised by the workforce or responses to previous incidents.

Under the new legislation, the employer duty is being

'upgraded' to mean that employers must show not just that they took reasonable steps, but that they took all of the steps which were reasonable for them to take. On a strict reading, this means that businesses will need to justify why any steps which were not taken would not have been reasonable, and that this 'reasonableness' assessment may be more open to challenge by employees.

It remains to be seen how Tribunals will treat this change, in particular the extent to which they will scrutinise commercial decisions made by the employer when determining what is reasonable for their workplace. However, it is expected that the approach will broadly mirror that taken to the existing "all reasonable steps" defence available to employers in response to acts of discrimination by employees, as set out in the [factsheet](#) produced by the Department for Business and Trade. Particular attention will therefore be paid to the content and regularity of training, whether the employer had comprehensive policies in place (and whether those policies were enforced, including through disciplinary action), and what actions were taken in response to any complaints of harassment from staff.

What does this mean for employers?

In preparation for this new duty, employers should therefore now be considering what steps they have taken to prevent sexual harassment, if there any additional steps which might be reasonable for them to take, and be ready to defend not taking any steps which are identified but not considered viable.

Whilst employers may understandably feel apprehensive about

scrutinising their own approach in this way or highlighting steps that they have chosen not to take, failing to document any learnings or the rationale for business decisions is likely to leave more room for employees to challenge whether all reasonable steps have been taken to protect them.

Practical steps for employers to take now could include:

- Revisiting the existing risk assessment for sexual harassment (or if none has yet been undertaken, doing so promptly).
- Reviewing where employees might be at particular risk of sexual harassment based on the sector, type of work undertaken and level of engagement with both other workers and third parties.
- Assessing the response taken to any incidents that have occurred, including any trends in complaints, appropriateness of any disciplinary actions taken, and whether any pre-emptive steps might have reduced the possibility of those incidents occurring.
- Engaging with employees or appropriate representatives at regular intervals to identify any concerns or areas of exposure, and obtaining their input on what actions they feel might protect them at work.
- Reiterating anti-harassment policies and ensuring that regular mandatory training is delivered on both policies and reporting procedures.

- Displaying signage to raise both colleague and third party awareness of the workplace not tolerating sexual harassment.
- Documenting any steps which have been identified but which have not been taken, including why those steps would not have been reasonable for their particular business to take.

How does this fit into the wider landscape?

The upgraded employer duty to prevent sexual harassment is one of numerous significant changes planned for UK employment law under the Employment Rights Bill.

Most notably in relation to sexual harassment, the latest draft of the Bill proposes to ban non-disclosure agreements (**NDAs**) which prevent employees from speaking out about harassment (including sexual harassment) and discrimination. This includes confidentiality provisions in employment agreements and settlement agreements, and is covered in more detail in our latest update [here](#). The Bill also will clarify that raising concerns of sexual harassment can be a protected disclosure for the purposes of whistleblowing protections under the Employment Rights Act 1996.

In addition, employers will become liable under the Bill for harassment of their employees by third parties based on other protected characteristics such as race, disability and religion, under a similar “all reasonable steps” duty.

Businesses would therefore be wise to consider these other types of harassment when looking at the reasonable steps they can take to protect their staff from sexual harassment, and ensure that any changes they make comprehensively consider the risks that their employees might be exposed to in the workplace.

For a comprehensive insight into the key changes planned under the Employment Rights Bill, please join our webinar [“The Employment Rights Bill: Where are we now?”](#) on 7 October 2025.

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The unpaid intern-ship: sailing or sinking?

Last month the Government launched a Call for Evidence on unpaid internships and other similar roles, such as voluntary roles, unpaid work trials and work shadowing, to identify whether Government action is needed to ensure compliance with National Minimum Wage law.

What is the Call for Evidence about?

Currently, there is no legal definition of the term “intern” or of similar types of roles such as “trial work period”, “volunteer” or “work shadowing”. Historically, many employers have not paid individuals for carrying out internships and similar roles. However, where someone performing such a role meets the legal definition of “worker”, they are entitled to be paid at least the National Minimum Wage and benefit from certain other basic employment rights.

The Government is concerned that some employers are not complying with the law and misclassifying interns and possibly others in order to avoid making payment. The Government has said it wishes to crack down on non-compliance with the National Minimum Wage legislation.

In October 2024, the Government published [Next Steps to Make Work Pay](#), which set out plans to take forward workplace law reform commitments not covered by the Employment Rights Bill. This included a promise to issue a Call for Evidence on unpaid internships.

On 17 July 2025, the Government published the promised Call for Evidence, which seeks to understand the circumstances in which interns are not paid (or paid below the National Minimum Wage) and the reasons for this. Evidence is also sought on how similar roles operate in practice (namely, work trials, voluntary work, volunteers and work shadowing) in order to understand whether further work is required to ensure compliance with the law.

The Call for Evidence sets out various questions for employers including asking for the reasons for not paying an intern and whether unpaid internships (or those paid below the National

Minimum Wage) should simply be banned altogether.

What does this mean for employers?

Currently, this is just a Call for Evidence, so employers will not be affected for some time. However, it is implied that after the evidence has been reviewed there will be some reform on internships. Businesses who offer such roles should, therefore, keep track of further developments in this area.

The Call for Evidence closes on 9 October 2025, with the Government's response expected early in 2026.

[Call for Evidence on Unpaid Internships](#)

With thanks to our work experience student, Shaan Kailey, for his assistance in producing this article.

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Government launches 18-month long review of the UK's parental leave and pay framework

On 1 July 2025, the Government launched a wholesale review of the UK's parental leave framework, covering all existing leave and pay rights. Although the review is expected to run until December 2026, the Call for Evidence from stakeholders closes in August 2025.

Aims of the review

The Government recognises that the existing system of parental leave and pay entitlements have grown incrementally over time. The end result is a complex legislative framework of leave and pay entitlements that were never designed to operate as a single system. This piecemeal approach also means that an overarching set of objectives for the system has not been articulated before. The review is said to be an opportunity to reset the approach.

The Government's [Terms of Reference](#) for the review states that its aims are to:

- articulate the objectives for the parental leave and pay system;

- expand the existing evidence base and understanding of the current system;
- consider the options and principles for a system of parental leave and pay that better supports the Government's objectives; and
- develop a roadmap for how to move to a system that better supports those objectives.

In turn, the objectives against which the Government will assess the parental leave system are prioritising maternal health, supporting economic growth through labour market participation (thereby reducing the gender pay gap and the "motherhood penalty"), ensuring children have the best start in life and supporting parents to make balanced childcare choices, including co-parenting.

All current and upcoming parental leave and pay entitlements will be in the scope of the review, including maternity, paternity, adoption, shared parental, parental bereavement and neonatal care leave and pay. It will also cover unpaid parental leave, maternity allowance and the forthcoming right to bereaved partner's paternity leave. The review will also consider the needs of those who do not qualify for existing leave and pay entitlements, such as "kinship" carers and the self-employed.

The Call for Evidence

To inform the work of the review, the Government has published a [Call for Evidence](#) to receive information and evidence from a variety of stakeholders including businesses and parents. Specifically, the Call for Evidence is seeking views on the Government's objectives (as outlined in the Terms of Reference) and whether the existing parental leave framework meets these objectives. It also asks whether further objectives should be added, and which objectives are the most important.

There is a particular focus on receiving new information and evidence which has not previously been shared with the Government. To this end, a [summary of existing evidence](#) has also been published alongside the Call for Evidence. Amongst other things, this reveals that 83% of mothers took maternity leave, with the average length of leave being 44 weeks. 70% of mothers received statutory maternity pay and just 13% received enhanced maternity pay from their employer. In contrast, 59% of fathers took paternity leave, with the average length of leave being 1.7 weeks. Over half of those who took paternity leave received full pay from their employer (which is perhaps unsurprising given its short length). A further 4% of fathers took shared parental leave for an average of 14 weeks. Financial constraints were reported as the biggest barrier to taking leave.

Although the review is open for 18 months, the Call for Evidence itself is only open for just under two months, closing on 26 August 2025.

Next steps?

The review is expected to run for 18 months until 31 December

2026. The Government then plans to release a set of findings, together with a roadmap of future reforms. Accordingly, the earliest that we can expect to see any changes to the current system would be mid to late 2027.

Employers (and other stakeholders) are encouraged to participate in the review. It is said that “*Government convened round tables*” will be held, providing the opportunity to contribute views and expertise. Employers may also submit written responses to the Call for Evidence – this can be done online or by email before 26 August 2025.

[Parental leave and pay review – 1 July 2025](#)

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Government softens fire and rehire provisions in the Employment Rights Bill

The Government has proposed amendments which would soften the impact of the “fire and rehire” restrictions in the Employment Rights Bill.

On 7 July 2025, an [Amendment Paper](#) setting out a running list of proposed amendments to the Employment Rights Bill (the **Bill**) was published. The paper includes Government-backed amendments, which are likely to be pass into law, including plans to soften the “fire and rehire” provisions in the Bill.

What did the Bill originally say about fire and rehire?

“Fire and rehire” is a shorthand used to describe the practice of dismissing an employee then offering to re-engage them on inferior terms and conditions. Before the election, the Labour Party had talked about wanting to end fire and rehire practices altogether. This was slightly watered down during the General Election, with a promise to end the practice, save in exceptional circumstances.

The first draft of the Bill delivered on that promise and proposed that it would be automatically unfair to dismiss an employee:

- for failing to agree to a change to their terms and conditions of employment; or

- in order to re-engage them (or someone else) under varied terms and conditions of employment, but where the role is otherwise substantially the same.

The sole exception was where the reason for the variation was to eliminate, prevent or significantly reduce or mitigate the effect of any financial difficulties which, at the time of the dismissal, were affecting, or were likely in the *immediate future* to affect, the employer's ability to carry on its business, and there was no way the need to make the variation could reasonably have been avoided. However, even where the exception applied, the dismissal could still be *ordinarily* unfair, even if not automatically unfair.

Shortly after the Bill was published, the Government consulted on extending the remedy of interim relief to employees who had fire and rehire dismissal claims. It was argued that permitting interim relief in this situation would lead to greater protection of employees and further disincentivise employers from using fire and rehire at all. However, the Government ultimately declined to extend interim relief to such dismissals. Instead, it confirmed that it planned to revise the [Statutory Code of Practice on Dismissal and Re-engagement](#) to reflect the new rights in the Bill. Importantly, where the Code is breached, a Tribunal may uplift compensation by up to 25%.

What amendments have been proposed?

Automatic unfair dismissal for "restricted variations" only

The most significant amendment would be to restrict the automatic unfair dismissal protection only to cases where the employee is dismissed:

- for failing to agree to a “restricted variation” to their terms and conditions of employment; or

- in order to re-engage them (or someone else) under varied terms and conditions of employment, where one of more of the differences between the two sets of terms constitutes a “restricted variation”, but where the role is otherwise substantially the same.

A “restricted variation” means variations relating to:

- pay;

- pensions or pension schemes;

- working hours;

- the timing or duration of shifts; and

- a reduction in the amount of time off.

It would also cover other variations of a description specified in regulations made by the Secretary of State or the inclusion of a term enabling the employer to make any other restricted variation without the employee's agreement.

Where an employee is dismissed for refusing to agree to a variation (or in order to re-engage them or someone else on varied terms), and the variation in question is **not** a restricted variation, then the dismissal will not be automatically unfair. Instead, certain matters must be considered by the Employment Tribunal to determine whether the dismissal is ordinarily unfair including the reason for the variation, any consultation carried out about the proposed variation (including with a trade union), anything offered to the employee in return for agreeing to the variation and any other matters specified in regulations.

Other proposed amendments

Other proposed amendments to the fire and rehire provisions of relevance to private sector employers include limiting the scope of the automatic unfair dismissal protection:

- only to cases where the variation in question would result in a reduction of the employee's pay and benefits;

- to exclude minor and non-detrimental variations which do not relate to pay, working hours or place of work; and/or

- to exclude place of work redundancy dismissals (i.e. these would be subject to the ordinary unfair dismissal regime in the usual way).

A further amendment provides that an employee's dismissal would be automatically unfair if the reason for the dismissal was to enable the employer to replace the employee on a broadly like-for-like basis with someone who is not employed, for example, an agency worker or a self-employed contractor. The exception to this rule would be where the employer can show that the reason for the replacement was to address financial difficulties and the employer could not reasonably have avoided the need to replace the employee.

What will these changes mean for employers in practice?

Given that many of the amendments have been proposed by a Labour Peer, including the “restricted variation” line of amendments, it seems likely that at least some of these changes will make their way into the final version of the Bill.

If the “restricted variation” amendments are taken forward, this will soften the impact of the fire and rehire provisions somewhat, but employers will still have a higher exposure to automatic unfair dismissal claims. The terms which would constitute “restricted variations” if varied are the very terms that would usually lead an employer to consider the extreme solution of fire and rehire in the first place – pay, benefits, hours and leave entitlements.

Nevertheless, it would be reassuring to employers to know that dismissals connected to other types of variations do not give rise to automatic unfair dismissal claims. It would also be helpful for the Bill to clarify that a place of work redundancy dismissal does not give rise to a fire and rehire automatic unfair dismissal claim.

The amendments to the Bill were considered by the House of Lords on 14 July 2025 and will need to be reconsidered by the House of Commons. Although the Bill is expected to pass later this year, the fire and rehire provisions will not come into force straight away, meaning employers still have time to digest and adapt to the final rules. In its recently-published [roadmap](#) for implementing the Bill, the Government said it intends to commence consultation on fire and rehire-related regulations in Autumn 2025, with the regime expected to come into force in October 2026.

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Government publishes outcome of whistleblowing law review highlighting areas for future reform

A new report sets out the findings of a detailed Government-commissioned review into the state of whistleblowing law in the UK. The report also contains numerous suggestions on how the law may be extended to encourage whistleblowing and protect whistleblowers.

Back in March 2023 the Conservative Government launched a [review](#) of the UK's whistleblowing legal framework. The purpose of the review was to take stock of the whistleblowing framework and consider whether it was meeting its original objectives, namely to:

- provide a route for workers to blow the whistle about certain types of wrongdoing;

- protect those who have blown the whistle from detrimental treatment and/or dismissal, and provide a route of redress where it does happen; and
- support wider cultural change, in which the benefits of whistleblowing are recognised and promote action by employers and others.

On 14 July 2025, the Department for Business and Trade published a detailed report setting out the observations, emerging themes and suggestions for change raised during the review process.

Key findings and suggestions for change

Legal definitions

The UK whistleblowing framework is built upon certain framework terms including “reasonable belief”, “public interest” and “worker.” The report finds that these terms are often seen as subjective, vague, inconsistent and narrow, resulting in uncertainty and confusion. More broadly, it is noted that some individuals are excluded from whistleblowing protection

The suggestions for change in this area include:

- widen the existing definition of “worker” to cover those currently excluded from protection (e.g. job applicants) or extend protection to anyone raising a concern in the public interest, regardless of their status;
- creating a statutory code of practice in relation to “public interest”; and
- creating a statutory definition of “whistleblower”.

Disclosure channels

While some organisations have internal frameworks in place which facilitate reports, barriers to making disclosures remain, including accessibility, trust, confidentiality, senior management commitment, and independence. Further, gaps in the “prescribed person” regime (which allows workers to blow the whistle to certain prescribed persons outside of their organisation) are present, with no specific prescribed person to report to in certain sectors such as retail, construction, technology and manufacturing. Even where there is a prescribed person, individuals generally have difficulty identifying the correct prescribed person to contact.

The suggestions for change in this area include:

- creating obligations for organisations to have reasonable procedures to receive and respond to concerns (and offences for failing to do so);

- creating further sector-specific prescribed persons or creating a central prescribed body (or similar office or ombudsman); and
- allowing information to be shared more freely between prescribed persons.

Raising concerns

The organisational response to concerns is variable and often depends on the resources available and appetite to investigate. Even where investigations are conducted, there are questions over matters such as consistency, independence, capability to conduct the investigation, engagement and conflicts of interest. Issues also arise in relation to the management of an individual's expectations about the potential outcome and how informed the individual is kept about those outcomes.

The suggestions for change in this area include:

- creating national standards on providing proactive protection and responding to concerns (with consequences for non-compliance);
- establishing board or most senior level accountability for effectiveness of frameworks; and

- establishing independent oversight of response and management of individuals.

Protections for whistleblowers

The protections under the legal framework provide redress through the Employment Tribunal system for workers who suffer a detriment or are dismissed for blowing the whistle. However, individuals either do not understand the scope of the protections or remain deterred from blowing the whistle for fear of retaliation. Within organisations, anonymity and confidentiality are key protections, although there are limits to what organisations can do to protect anonymity in practice.

The suggestions for change in this area include:

- making it a civil or criminal offence to harm a whistleblower or to not fulfil responsibilities to protect whistleblowers;
- imposing greater consequences for organisations found to be victimising individuals than currently applied by Employment Tribunals, and potentially for this to be governed outside of Employment Tribunals;
- creating an independent body to investigate retaliation against whistleblowers with the power to fine employers and dissuade the organisation (and others by proxy) from retaliating;

- holding senior management accountable for detriment caused to whistleblowers under their management; and
- providing protections for whistleblowers raising concerns with journalists or the media.

Redress

There are concerns that the current system of redress (through the Employment Tribunals) is not balanced or fair and does not deliver meaningful outcomes or sufficient financial rewards. Further, Employment Tribunals are concerned with workplace fairness, not the substance of the concern raised. As a result, whistleblowers may feel they “win the battle but lose the war”.

The suggestions for change in this area include:

- amending time limits associated with interim relief and filing an Employment Tribunal claim to prevent premature adversarial situations;
- providing additional financial support to whistleblowers;
- reversing the burden of proof within the proceedings;
- awarding costs to whistleblowers if they win their case;

and

- introducing public fines for organisations that fail to comply with Employment Tribunal judgments.

Awareness and guidance

While many employers are aware of guidance on whistleblowing, some find it unhelpful or confusing. And other employers remain unaware – indeed, the majority of employers participating in the review said they did not refer to Government guidance in this area.

The suggestions for change in this area include:

- introducing more accessible guidance for individuals;
- introducing better guidance and education for organisations and prescribed persons; and
- more frequent communication between prescribed persons and from the Government to prescribed persons.

Cultural change

Even with better laws, many challenges are cultural, namely, fear of being labelled a troublemaker, lack of support, management defensiveness, and stigma.

The suggestions for change in this area include:

- creating a central body for whistleblowing;
- improving mental health support for whistleblowers; and
- consideration of disincentives and incentives, for example implementation of a United States style reward system for whistleblowers.

Next steps

Under the Employment Rights Bill, the law will be changed to provide that disclosures about actual or likely sexual harassment are included as one of the types of wrongdoing about which a whistleblowing disclosure may be made. That change is due to come into force in April 2026. Given the very wide scope of the Employment Rights Bill, it seems unlikely that the numerous recommendations contained in the report will be taken forward any time soon. However, there is certainly no shortage of “food for thought” for a Government committed to enhancing and extending workers’ rights.

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Government releases roadmap for implementing the measures in the Employment Rights Bill

The Government has published a roadmap setting out how it plans to implement the workplace reforms set out in the Employment Rights Bill. Reforms will be introduced on a phased basis with dates stretching into 2027.

The Government's flagship piece of employment legislation is nearing the end of its passage through Parliament. You can read more about the Bill's measures in our briefings [here](#) and [here](#). However, not every part of the Bill will come into force straight away. The measures will be introduced in tranches to give employers time to prepare and adapt. And further consultation is required on some measures to fine tune the details – in some case further regulations may be needed.

Given the sheer volume of reforms in the Bill, a phased timetable for introduction is helpful for employers – if a little confusing. To assist with this, the Government has recently published a “roadmap” setting out its proposed

timetable for further consultation and for implementing the reforms. Employers may be relieved to see the timetable stretches over 18 months, with the most hotly anticipated change – the introduction of Day 1 unfair dismissal rights – pushed back to 2027.

Consultation roadmap

The Government says that the implementation of the measures outlined in the Employment Rights Bill must work for all stakeholders and that consultation may be needed to determine the most effective way to introduce the reforms. Such consultation will be phased to allow stakeholders to engage fully with the “*complex policy issues at hand*”. Following consultation, the Government will develop its final policy positions to deliver the measures. Below is the planned consultation timetable for some of the key measures in the Bill. You can view the full consultation timetable [here](#).

| When? | Area for consultation? |
|--|--|
| <p>Summer / Autumn 2025</p> | <ul style="list-style-type: none"> • Day 1 protection from unfair dismissal (including what the dismissal process should look like during the statutory probationary period). |
| <p>Autumn 2025</p> | <ul style="list-style-type: none"> • Limits on fire and rehire practices. • Introduction of bereavement leave. • Introduction of new rights for pregnant workers. • Restrictions on the use of zero hours contracts. |
| <p>Winter / Early 2026</p> | <ul style="list-style-type: none"> • Collective redundancy reforms. • Flexible working reforms. |

Commencement roadmap

Although some of the trade union-related measures will come into force as soon as the Bill passes, the commencement of other key measures will be phased in to allow stakeholders to *“plan their time and resources to make sure they are ready when the changes come in”*. Below is the planned implementation timetable for some of the key measures in the Bill. You can view the full implementation timetable [here](#).

| When? | Commencement date |
|----------------|---|
| 6 April 2026 | <ul style="list-style-type: none">• Collective redundancy protective maximum award to be raised from 90 to 180 days.• Day 1 Paternity Leave and unpaid Parental Leave.• New whistleblowing protections.• Fair Work Agency body established.• Statutory Sick Pay – removal of the Lower Earnings Limit and waiting period. |
| 1 October 2026 | <ul style="list-style-type: none">• Fire and rehire reforms.• Employers required to take “all reasonable steps” to prevent sexual harassment of their workers.• New obligation on employers not to permit the harassment of their employees by third parties.• Extension of Employment Tribunal time limits to six months. |

| | |
|-----------|--|
| "In 2027" | <ul style="list-style-type: none">• Day 1 protection from unfair dismissal.• Gender pay gap and menopause action plans (to be introduced on a voluntary basis in April 2026).<ul style="list-style-type: none">• New rights for pregnant workers.• Power to enable regulations to specify steps that are to be regarded as "reasonable", to determine whether an employer has taken all reasonable steps to prevent sexual harassment.• Collective redundancy consultation threshold expanded.<ul style="list-style-type: none">• Flexible working reforms.• Introduction of bereavement leave.• Ending the exploitative use of zero hours contracts. |
|-----------|--|

Next steps?

For now, employers should diarise the proposed 2026 implementation dates and consider which policies and practices will need to be reviewed and updated in readiness for the changes.

BDBF will keep you updated with dedicated briefings and webinars on the reforms of most significance to you.

[Implementing the Employment Rights Bill: roadmap](#)

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contact.

Government calls for evidence on a raft of new equality law reforms

In April 2025, the Government published a Call for Evidence seeking views on a number of proposed equality law reforms. In this briefing, we consider the key areas of interest for private sector employers.

Background

The Government's flagship workplace law, the Employment Rights Bill, will take forward a number of the Labour Party's Election Manifesto commitments in the sphere of equality law, for example requiring large employers to publish equality action plans and strengthening the duty to prevent sexual harassment at work. You can read our detailed briefing on the Employment Rights Bill [here](#).

However, the Labour Party's [Election Manifesto](#) and the subsequent [Next Steps to Make Work Pay](#) outlined plans for further workplace reforms – including more equality law reforms – to be taken forward separately from the Bill. Last month, the Government started the ball rolling on many of these further equality law reforms, when it issued a “Call for

Evidence" seeking views and evidence on the proposals from various stakeholders, including employers. It also raises, for the first time, the prospect of new pay transparency laws.

This briefing considers the key areas of interest for private sector employers – but it is worth noting that the Call for Evidence also seeks views on compliance with the public sector equality duty and the implementation of the socio-economic duty by public authorities in England.

Expanding equal pay law

The Government states that it is committed to end pay discrimination at work and that it intends to take forward its previous commitments in this area. The Call for Evidence seeks evidence and views to help shape policy development in four areas.

Understanding the prevalence and patterns of pay discrimination

It is acknowledged that pay inequality persists for disabled and ethnic minority workers but that different groups may experience different types of pay discrimination. The example is given of disabled workers tending to face discrimination in respect of the criteria applied in performance-related pay or bonus schemes, whereas this is less common for ethnic minority workers. In order for its next steps to be effective, the Government says it wishes to fully account for the particular contexts and patterns of pay discrimination on the basis of race, disability and sex and seeks evidence on these issues.

Making the right to equal pay effective for ethnic minority and disabled people

Currently, sex discrimination in relation to contractual pay must be brought as an equal pay claim. However, someone who has experienced race or disability discrimination in relation to contractual pay is not able to bring an equal pay claim but must bring a discrimination claim – usually direct or indirect discrimination. However, the Government says it is only aware of a limited number of such cases being brought in comparison to “*thousands of equal pay claims brought each year*”, which could suggest that the equal pay regime offers a stronger form of redress.

The Government intends to give disabled and ethnic minority workers the right to bring equal pay claims in relation to contractual pay discrimination. However, it first wishes to understand the reasons why claims of pay discrimination on the basis of disability and race are so rare and so it is seeking views and evidence on this.

Commentators have been sceptical of this proposal due to the fact that equal pay claims are notoriously complex, and it is easy to see how claimants will get bogged down in questions of who the correct comparator is and whether work is of equal value. In a nod to this concern, the Government also seeks views on whether the procedural rules and use of job evaluation schemes could be simplified.

Including outsourced workers within the scope of equal pay comparisons

Currently, a worker wishing to bring an equal pay claim must be able to compare themselves to someone employed by the same or an “associated” employer. This permits a worker to compare their terms to someone employed by a company which is a subsidiary of their own employer, or where both workers are employed by companies which are subsidiaries of a third company. However, outsourced workers who are employed by independent companies would not be able to compare their terms to “in-house” workers.

In response to evidence that outsourced staff are underpaid, the Government is considering allowing comparisons to be made between outsourced workers and in house workers in equal pay claims. The Government believes this will raise standards, stop undercutting and allow businesses to compete in a race to the top.

The Call for Evidence seeks views on the prevalence of pay discrimination suffered by outsourced workers, which practices should fall within the scope of the new law and where liability for such claims should lie – the direct employer, the end user or both?

Improving enforcement, including through the implementation of the Equal Pay Regulatory and Enforcement Unit

Under the current equal pay regime, workers must enforce their rights through the Employment Tribunal system. However, the complexity of such claims means achieving a resolution takes time. The Call for Evidence states that in the 10 years to March 2021 over 200,000 equal pay claims were made brought, but less than 1% were resolved by way of a full hearing. Of those that did, under one third were successful.

The Equality and Human Rights Commission (the **EHRC**) is already able to take action to enforce equal pay law, however, the Government wishes to go further. It is considering improving the enforcement regime by establishing an Equal Pay Regulatory and Enforcement Unit, which could build on the EHRC's existing role or have new functions such as undertaking litigation, facilitating dispute resolution and providing training to employers. The Call for Evidence seeks views on the effectiveness of the existing framework and what more can be done.

Improving pay transparency

The Government is considering introducing new pay transparency measures to help end pay discrimination and tackle the gender pay gap. The Call for Evidence says that possible measures include requiring employers to:

- provide the specific salary or salary range on a job advert or prior to interview;
- not ask candidates their salary history;
- publish or provide employees with information on pay, pay structures and criteria for progression;
- provide employees with information on their pay level and how their pay compares to those doing the same role or work of equal value; and
- identify actions that they need to take to avoid equal pay breaches occurring or continuing.

The Government seeks views and evidence on the impact of increased pay transparency to help it decide whether additional pay transparency measures would be proportionate and effective.

Views are also sought on the effectiveness of separate regulations which allow Tribunals to order employers who lose equal pay claims to conduct equal pay audits and whether they should be expanded to cover race and disability in due course.

Introducing combined discrimination protection

The Government has committed to enact the combined discrimination protections which already exist under section 14 of the Equality Act 2010, but which have not yet been brought into force. Enacting the dual discrimination provisions would mean that workers may complain about discrimination arising out of the combination of two protected characteristics, rather than one as is presently the case. The Government considers this will help ensure that the “full reality of claimants’ experience is recognised” and that discrimination law can better address disadvantage.

The Call for Evidence seeks views and evidence on the prevalence of combined discrimination including across different sectors and region and also whether section 14 is fit for purpose.

Clarity on sexual harassment at work

Effective steps to prevent workplace sexual harassment

Last year, the mandatory duty on employers to take reasonable steps to prevent sexual harassment at work was introduced. Under the Employment Rights Bill (currently on its passage through Parliament), this duty will be extended to require *all* reasonable steps to be taken. Added to which, employers will become liable for all forms of discriminatory harassment of their workers committed by third parties.

The Government says it plans to publish regulations which will specify the steps that employers must take to prevent sexual harassment, however, it will only do this if there is a clear evidence basis supporting the use of particular steps (in light of the fact that a Government report from 2021 had concluded that evidence does not support a clear understanding of “what works” to reduce and prevent sexual harassment at work). Therefore, the Call for Evidence seeks input on what steps are effective and how best practice may differ according to employer size, sector or other factors.

Scope of protections against sexual harassment

Workplace protection from sexual harassment extends to employees, workers, apprentices and others, however, it does not cover volunteers. The Government believes that volunteers should be protected while recognising that the wide range of volunteering activity may pose difficulties in implementing a blanket arrangement. The Call for Evidence seeks input on the question of expanding protection to volunteers, in particular, whether it should be extended to all or just certain types of volunteer and whether some types of organisation would be more likely to be adversely affected by the change than others.

Next steps?

The Call for Evidence closes on 30 June 2025 and so interested employers should submit responses on areas of interest before then (it is not necessary to respond to every question). Separately, the Government has issued a Consultation paper on the introduction of mandatory ethnicity and disability pay gap reporting. You can read our briefing about that Consultation [here](#).

The responses to the Call for Evidence and Consultation will shape the forthcoming Equality (Race and Disability) Bill. However, it seems unlikely that these reforms would come into force before late 2026 or early 2027 at the earliest, given that employers have the immediate (and significant) challenge of complying with the Employment Rights Bill and given that the new Bill will need to complete its passage through Parliament.

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Government gears up to launch mandatory ethnicity and disability pay gap reporting

A consultation on mandatory ethnicity and disability pay gap reporting for employers with 250 or more employees has been launched. The plan is to use a similar reporting framework for ethnicity and disability pay reporting to the one that is already in use for gender pay gap reporting. The consultation closes on 10 June 2025.

The Government's [Next Steps to Make Work Pay](#), issued alongside the Employment Rights Bill last October, set out plans to take forward its remaining Manifesto commitments on workplace law reform. A new Equality (Race and Disability) Bill was promised which would, amongst other things introduce ethnicity and disability pay gap reporting for employers with 250 or more staff.

In advance of publishing the Bill, the Government has launched a consultation seeking views on the following proposals:

- **Geographical scope:** the proposal is to follow the same approach as gender pay gap reporting, namely, mandating reporting by large private and voluntary sector employers in Great Britain, large public sector bodies in England and certain public authorities across Great Britain.

- **Pay gap calculations:** the proposal is to require in-scope employers to report the same set of pay gap measures for ethnicity and disability as for gender, namely, mean and median hourly pay gaps and bonus gaps, the percentage of employees receiving bonus pay and the percentage of employees in four pay quartiles, ranked from highest to lowest hourly pay. In addition, the proposal is to make it mandatory for employers to report on the overall breakdown of the workforce by ethnicity and disability and the percentage of employees who declined to disclose their personal data on their ethnicity and disability. The aim here is to give context to the employer's disability and ethnicity pay gap figures and help build a clearer picture about an employer's overall commitment to inclusiveness.

- **Action plans:** the Employment Rights Bill contains provisions which will require employers to produce annual "equality action plans" setting out the measures being taken to close their gender pay gap. This consultation seeks views on whether employers should have to produce action plans for ethnicity and disability pay reporting – the intention is that reporting practices should be supported by initiatives to increase workplace equality. It is also said that employees will be able to use the plans to understand the actions the employer is taking and to hold them to account.

- **Additional reporting requirements for public bodies:** the Government intends to set higher threshold for public bodies (such as NHS bodies and schools) for reporting ethnicity information to drive transparency and accountability. The additional information required would be ethnicity pay difference by grade or salary band and data relating to recruitment, retention and progression. It is said this data will help public bodies identify where racial inequalities persist. Views are also sought on whether this additional information should capture disability.

- **Dates, deadlines and reporting:** again, the proposal is to mirror the gender pay gap reporting regime and ask private sector employers to use a pay snapshot date of 5 April each year to collect their pay data, with results to be reported within 12 months (and by no later than 4 April the following year). Different snapshot and reporting dates will be used for public sector employers. It is also proposed that the data is reported online in the same way as gender pay information is reported on the Government's gender pay gap service.

- **Enforcement:** the proposal is that ethnicity and disability pay reporting is enforced by the Equality and Human Rights Commission, in the same way as gender pay gap reporting.

- **Ethnicity and data collection:** it is proposed that employers collect ethnicity data using the [detailed ethnicity classifications used by the Government Statistical Service for the 2021 Census](#). In England and Wales, this presents 19 different categories, plus an option of “prefer not to say”. Using a harmonised standard will ensure employers are consistent with their calculations across different time periods and assists comparisons between employers.

- **Ethnicity and data reporting:** in terms of how ethnicity data is reported, all employers will be required to report on a binary basis comparing White British (or, alternatively, White employees or those in whichever is the largest ethnic group) with all other ethnic minority groups combined. Added to which, the Government says it will “encourage” employers to show pay gap measures for as many ethnic groups as they can since this will provide a much richer picture and better inform action plans. However, to protect employee privacy, it is proposed that data should only be reported for an ethnic group where there is a minimum of 10 employees in that group. Employers will be permitted to aggregate some ethnic groups to meet this threshold of 10. Alternatively, if an employer has small numbers of employees in different ethnic groups, they can report on a binary basis only, but this should be kept under review, with the aim of reporting on more ethnic groups in future.

- **Disability and comparing pay across employee groups:** the proposal is to require employers to report on the disability pay gap on a binary basis by comparing the pay of disabled employees with non-disabled employees (as opposed to reporting the gaps between employees with different types of disabilities and non-disabled employees). For these purposes, the definition of “disability” used in the Equality Act 2010 will apply to ensure a consistent definition of disability across equality-related measures. Employees will not be required to disclose their disability if they do not wish to do so. Again, to protect employee privacy, it is proposed that data should only be reported where there is a minimum of 10 employees in each group (i.e. disabled and non-disabled).

Next steps?

Employers with 250 or more employees (or those close to that threshold) should consider submitting their views on the consultation proposals. Responses may be submitted online, by email or by post by 10 June 2025.

Separately, the Government has issued a Call for Evidence seeking views on a wide range of additional equality law proposals. You can read our briefing on the Call for Evidence [here](#).

The responses to the Consultation and the Call for Evidence will shape the forthcoming Equality (Race and Disability)

Bill. However, it seems unlikely that these reforms would come into force before late 2026 or early 2027 at the earliest, given that employers have the immediate (and significant) challenge of complying with the Employment Rights Bill and given that the new Bill will need to complete its passage through Parliament.

In the meantime, in scope employers should begin to consider the following questions:

- Who will have ownership of the data collection and reporting processes within the business? Is additional resource needed? Will relevant staff need training?

- Are systems in place to collect and hold the relevant data securely? It should be remembered that ethnicity and disability data will constitute “special category data” for the purposes of data protection laws.

- How and when will you inform staff about the exercises and who will do this?

- Would a “dry run” of collecting and analysing the data

be desirable to test the robustness of the process and to understand the likely results?

[Equality \(Race and Disability\) Bill: mandatory ethnicity and disability pay gap reporting – Government Consultation](#)

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