

## What's coming up? Quarterly horizon scan

Topic	Summary	Timescale	What can you do to prepare?
<b>Legislation on the statute books</b>			
<b>Fire and rehire</b>	The government has relaid an Order that will give tribunals the power to uplift (or reduce) compensation by up to 25% in claims for a protective award, where the tribunal finds that one of the parties unreasonably failed to follow the statutory Code of Practice on Dismissal and Re-engagement.	This legislation is expected to come into force on <b>20 January 2025</b> .	Ensure you are familiar with the terms of the Code and follow it in any situations where you contemplate dismissing and re-engaging employees.
<b>Neonatal leave and pay</b>	The legislation creates a statutory right to paid leave of between one and 12 weeks (in addition to other family leave) for a parent where their child has received, or is receiving, neonatal care.	This legislation is expected to come into force in <b>April 2025</b> .	<p>Familiarise yourself with the four conditions that must be satisfied for a person to be entitled to statutory neonatal care leave.</p> <p>Consider if you wish to enhance the statutory level of neonatal care pay if you offer enhanced pay for other forms of family leave.</p> <p>The government will need to lay around seven pieces of secondary legislation to bring the new right to leave and pay into force and, prior to the election being called, the then Secretary of State for Business and Trade had indicated that the government was working to introduce the new entitlements by April 2025 "at the earliest".</p>
<b>Paternity leave for bereaved parents</b>	The legislation introduces a "day-one" statutory right to paternity leave of up to 52 weeks for a father or partner if the child's mother or adoptive parent dies. Employees who take bereavement paternity leave will be able to take keeping-in-touch days and separate regulations may provide enhanced redundancy protection during and on return from extended paternity leave.	There is not yet a date for this to come into force.	Once we have a date for the new right to come into effect, update your paternity leave policy to reflect it.

<b>Pensions: automatic enrolment</b>	Provides the Secretary of State with the power to reduce the lower age threshold for automatic enrolment into a pension scheme from 22 to 18.	There is not yet a date for this to come into force.	The government decided not to utilise the new powers for the 2024/25 tax year. Watch out for our updates on these provisions coming into force.
<b>Employment Rights Bill proposals</b>			
<b>Bereavement leave</b>	The Bill would make bereavement leave available to all workers by adapting the existing parental bereavement leave regime to provide unpaid leave to all eligible bereaved people. The government would set out in secondary legislation the types of relationship to a deceased person that will qualify for bereavement leave.	Likely to be 2026.	Nothing to do yet. In due course, you would need to update any policy covering bereavement leave, or consider introducing one, and ensure managers are aware of the new entitlement.
<b>Day-one rights</b>	<p>The Bill would make certain "basic" rights available from day one of employment, including:</p> <ul style="list-style-type: none"> <li>• protection from "ordinary" unfair dismissal;</li> <li>• paternity leave; and</li> <li>• parental leave.</li> </ul> <p>The government will consult on introducing a statutory probation period and has indicated that its preference is for this to last nine months. For more information, please see the "Unfair dismissal" entry below.</p> <p>The Bill will also make entitlement to statutory maternity pay, paternity leave and parental leave day-one rights.</p>	Likely to be 2026 and no earlier than autumn 2026 for the removal of the two-year qualifying period for unfair dismissal claims.	Be ready to update your policies if these changes come into effect. Consider if you wish to maintain a qualifying service entitlement for any enhanced maternity pay you offer and ensure you make this clear in your policy.
<b>Employment contracts: substitution clauses</b>	The recent amendment paper proposes adding a clause to the Bill that would prohibit the use of substitution clauses in employment, worker or dependent contractor contracts. The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.	Likely to be 2026.	If you allow the use of substitutes to supply services on behalf of an employee, worker or dependent contractor, you would have to review your template agreements. It is not yet clear if this clause would have retrospective effect.

<p><b>Fire and rehire</b></p>	<p>The Bill would make it automatically unfair to dismiss an employee if the reason for dismissal is:</p> <ul style="list-style-type: none"> <li>• that the employee did not agree to a variation of their contract; or</li> <li>• to enable the employer to employ another person, or re-engage the employee, under a varied contract of employment to carry out substantially the same duties as the employee carried out before their dismissal.</li> </ul> <p>There would be an exception where the employer shows that the reason for the variation was to address financial difficulties that were affecting (or were likely to affect) the employer's ability to carry on the business as a going concern and the employer could not reasonably avoid the need to make the variation in the circumstances.</p> <p>The government has consulted on removing the 90-day cap on protective awards, or increasing the cap to 180 days, if a tribunal finds that an employer did not follow the collective consultation process properly. The consultation also sought views on allowing employees to apply for interim relief where they have brought a claim for a protective award or a claim for unfair dismissal in a "fire and rehire" situation.</p>	<p>Likely to be 2026.</p>	<p>Nothing to do yet other than ensure you follow the existing code of practice on dismissal and re-engagement, which came into force in July 2024 (see first entry in the table above).</p> <p>If these provisions come into force, they would significantly restrict the circumstances in which an employer may dismiss and re-engage employees to those situations in which the viability of the business is under serious threat.</p>
<p><b>Flexible working</b></p>	<p>The Bill contains provisions to make flexible working the default from day one by requiring an employer's refusal to be both from the list of specified grounds and to be reasonable. The employer would also have to explain in writing to the employee why their refusal is reasonable.</p>	<p>Likely to be 2026.</p>	<p>You would need to prepare to accommodate flexible working for all roles, except where it is not reasonably feasible. It might be helpful to carry out an audit of where flexibility already exists and consider how you can overcome any barriers to flexible working in particular roles.</p>
<p><b>Gender pay gap</b></p>	<p>The Bill would require employers with more than 250 employees to publish and implement an equality action plan showing the steps they are taking in relation to prescribed matters related to gender equality, which include addressing the gender pay gap and supporting employees through the menopause.</p>	<p>Likely to be 2026.</p>	<p>If you have or expect to have more than 250 employees and do not already have an action plan for closing your gender pay gap, you would need to work on putting one in place. Many employers already publish an action plan alongside their gender pay gap data and you may wish to consider publishing your plan before it becomes a legal requirement. It</p>

	<p>The recent amendment paper proposes to add menstrual problems and menstrual disorders to the matters that employers would be required to cover in an equality action plan.</p> <p>Secondary legislation is likely to follow setting out various other requirements that an equality action plan must meet.</p>		<p>makes sense to start implementing your plan before you are required to do so.</p>
<b>Harassment</b>	<p>The Bill would re-introduce employer liability for harassment of employees by third parties.</p> <p>This provision covers harassment on the grounds of any relevant protected characteristic, not just sexual harassment. The relevant protected characteristics for the purposes of harassment are age, disability, gender reassignment, race, religion or belief, sex or sexual orientation. Harassment related to marriage and civil partnership, or pregnancy and maternity, is not covered, but harassment because of these protected characteristics is likely to give rise to a claim of harassment on the grounds of sex or sexual orientation.</p> <p>The recent amendment paper includes the addition of a new clause, which would render any non-disclosure agreement void to the extent that it purported to prevent the worker from making a disclosure about harassment (including sexual harassment). The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.</p>	<p>Likely to be 2026.</p>	<p>Consider the risks of third parties harassing employees and take steps to mitigate those risks in advance of the new liability taking effect.</p> <p>If the prohibition on non-disclosure agreements preventing the disclosure of harassment comes into force, review the terms of any non-disclosure agreements you use.</p>
<b>Kinship care leave</b>	<p>The recent amendment paper includes the addition of a new clause that would entitle kinship carers to up to 52 weeks' statutory leave. The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.</p>	<p>Likely to be 2026.</p>	<p>Nothing to do yet.</p>
<b>Maternity and other statutory</b>	<p>The Bill would pave the way for enhanced protection against dismissal during pregnancy and for six months upon return</p>	<p>Likely to be 2026.</p>	<p>Nothing to do yet. If the new protection comes into force, you would need to ensure managers are aware of it. This</p>

<b>family leave: dismissal protection</b>	from leave for workers on maternity leave and on return from other statutory family leave.		protection against dismissal is wider than the enhanced protection introduced in April 2024, which covers redundancy situations only.
<b>Maternity and other statutory family leave: pay</b>	The recent amendment paper includes the addition of a new clause that would double the rate of statutory maternity, paternity, adoption, shared parental and parental bereavement pay. The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.	Likely to be 2026.	Nothing to do yet. In due course, you may need to budget for the increase in these statutory payments.
<b>Maternity and other statutory family leave: publication of policies</b>	The recent amendment paper includes the addition of a new clause that would require employers with more than 250 employees to publish online information about their policies on parental leave and associated pay. The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.	Likely to be 2026.	Nothing to do yet. In due course, you may have to publish your policies on parental leave and associated pay online.
<b>Menopause</b>	The Bill would require employers with more than 250 employees to produce an equality action plan (see the "Gender pay gap" entry above), which includes the steps they are taking to support employees going through the menopause.	Likely to be 2026.	You could consider preparing a menopause action plan now, ahead of it becoming a legal requirement.
<b>Minimum service levels during industrial action</b>	The Bill would repeal the legislation that allows employers in certain sectors to impose minimum service levels in the event of strikes.	Likely to be 2026.	The government has encouraged employers not to impose minimum service levels pending repeal of the legislation.
<b>Parental leave</b>	The Bill would make eligibility for statutory parental leave a day-one right.	Likely to be 2026.	You would need to update your policies and procedures in due course.
<b>Paternity leave</b>	The Bill would make eligibility for statutory paternity leave a day-one right and would allow employees to take paternity leave after taking shared parental leave.  The recent amendment paper includes the addition of a new clause that would increase the length of statutory paternity leave to six weeks. The government has not proposed this	Likely to be 2026.	You would need to update your policies and procedures in due course.

	clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.		
<b>Redundancy</b>	The Bill would require employers to consult collectively if the number of people impacted across the business meets the threshold, rather than treating each workplace separately.	Likely to be 2026.	Nothing to do yet. This would impact future redundancy exercises and would mean more proposals trigger an obligation to consult collectively.
<b>Sexual harassment</b>	<p>The Bill would strengthen the new duty to take reasonable steps to prevent sexual harassment in the workplace by requiring employers to take <b>all</b> reasonable steps to prevent it.</p> <p>It would also give the government the power to make regulations setting out what steps are to be regarded as "reasonable" for the purposes of this duty.</p>	Likely to be 2026.	<p>The duty to take reasonable steps to prevent sexual harassment came into effect on 26 October 2024. For more information, see our recent <a href="#">insight</a> and <a href="#">blogs</a>. For now, you only have to show you have taken "reasonable steps", but this will change to taking "<b>all reasonable steps</b>" if these provisions in the Bill come into force.</p> <p>In the meantime, ensure you have taken reasonable steps to prevent sexual harassment in the workplace and pay particular attention to assessing the risk of sexual harassment by third parties so that you are well placed to defend any claims if the new liability for harassment by third parties takes effect.</p>
<b>Sick pay</b>	<p>The Bill would remove the lower earnings limit and three-day waiting period for SSP.</p> <p>The government has consulted on what the percentage weekly rate of SSP should be for those who earn less than the current flat SSP rate.</p>	Likely to be 2026.	You would need to update your policies and procedures on sick pay to reflect the new requirements and ensure your payroll team is ready to implement them.
<b>Single enforcement body</b>	The Bill would create a single enforcement body called the Fair Work Agency. The new body's role would be to ensure greater protection of workers' rights, with representation from trade unions and businesses to improve cooperation.	Likely to be 2026.	No action needed from employers. The Fair Work Agency would work with employers to provide support on employment law compliance.
<b>Social care for adults</b>	The Bill would enable a framework for a Fair Pay Agreement process in the adult social care sector.	Likely to be 2026.	Nothing to do yet for employers in this sector. The government will consult on how the Fair Pay Agreement should work.

<b>Tips and gratuities</b>	<p>The Bill would require employers to consult with a recognised trade union or employee representatives (or affected workers if there is neither) before producing the first version of a written policy about the allocation of tips.</p> <p>It would require employers to review that policy at least once every three years.</p>	<p>Likely to be 2026.</p>	<p>Nothing to do yet. Prepare to review your allocation of tips policy on a three-yearly basis if these provisions come into force.</p>
<b>Trade unions</b>	<p>Amongst other things, the Bill would:</p> <ul style="list-style-type: none"> <li>• remove the requirement for at least 50% of those entitled to vote in a ballot for industrial action to vote and replace it with a requirement for a simple majority of those who vote;</li> <li>• reduce the required period of notice before industrial action to seven days;</li> <li>• introduce protection from detriment on the grounds of industrial action;</li> <li>• give trade unions a reasonable right to access workplaces and put in place a framework for entering into an access agreement with an employer;</li> <li>• place a duty on employers to inform new employees of their right to join a union at the same time as providing their section 1 statement of conditions of employment and to remind employees on a regular basis;</li> <li>• give equalities representatives statutory rights to ensure they have adequate time to support colleagues facing discrimination or inequality and to contribute to changes in the workplace; and</li> <li>• require employers to provide accommodation and other reasonable facilities where requested by an employee</li> </ul>	<p>Likely to be 2026.</p>	<p>If you recognise a trade union, you would need to comply with the new right to reasonable access to workplaces and respect the new rights for equalities representatives if they come into force.</p> <p>All employers would need to update documentation for new joiners to inform them of their right to join a union and devise a process for reminding employees of this on a regular basis.</p>

	<p>granted time off to carry out trade union duties or as a union learning representative.</p> <p>The government has consulted on several of these proposals.</p>		
<b>Tribunal time limits</b>	<p>One of the most significant amendment proposals would increase the time limit for lodging any tribunal claim from three months to six months.</p>	Likely to be 2026.	No action required for employers but be aware that, if this proposal becomes law, employees will have much longer to lodge a tribunal claim.
<b>Unfair dismissal</b>	<p>As set out above, the Bill would remove the two-year qualifying period for unfair dismissal claims so that protection from "ordinary" unfair dismissal becomes a day-one right.</p> <p>The government will consult on introducing a statutory probation period and has indicated that its preference is for this to last nine months. The Bill would allow the government to make regulations disapplying the "day-one" unfair dismissal protection during that statutory probation period where the reason for dismissal is capability, conduct, legal bar or some other substantial reason relating to the employee. The recent amendment paper includes a proposal to set parameters for the statutory probation period so that it must be between three and nine months. The government has not proposed this clause – it has been put forward by an individual MP, so it is not clear if the government will take it forward.</p> <p>The government will consult on a lighter touch process for businesses to follow before dismissing someone during the statutory probation period. It will also consult on what compensation should be available in successful claims.</p>	No earlier than autumn 2026.	Review the probationary period clauses in your template employment contracts. Consider your process for assessing performance during a probationary period and put in place a/review your policy on this.
<b>Whistleblowing</b>	<p>The Bill would provide employees who report sexual harassment with the same protections as other whistleblowers by specifying that a disclosure that sexual harassment has occurred, is occurring or is likely to occur, is a disclosure qualifying for protection.</p>	Likely to be 2026.	You would need to train managers so that they are aware that employees who report sexual harassment benefit from the same protections as other whistleblowers. We recommend training should already be on this basis.
<b>Zero-hours contracts</b>	<p>The Bill would introduce a right for workers on zero-hours or low-hours contracts to:</p>	Likely to be 2026.	If you use zero-hours contracts, you should carry out an audit of your existing practices and



	<ul style="list-style-type: none"> <li>• a "guaranteed-hours" contract that reflects the employee's normal hours, based on a 12-week reference period;</li> <li>• reasonable notice of changes to shifts or working time; and</li> <li>• proportionate compensation for cancelled or curtailed shifts.</li> </ul> <p>Workers would be able to bring tribunal claims in relation to breach of these rights and for detriment or unfair dismissal in relation to the operation of these rights.</p> <p>The government has consulted on how to apply these reforms effectively and appropriately to agency workers. It also plans to consult on:</p> <ul style="list-style-type: none"> <li>• how reference review periods should work so that, if a worker's regular hours increase over time, workers have the opportunity to reflect this in their contract; and</li> <li>• what constitutes "low hours" for each measure.</li> </ul>		<p>consider how you would manage these new rights. You should budget for providing proportionate compensation for cancelled or curtailed shifts and ensure managers are aware of these new rights.</p>
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## Longer-term plans

Proposal	Further details/timescale
Call for Evidence on unpaid internships	To be launched by the end of 2024.
Working group on the use of secure electronic balloting for trade union statutory ballots	To be launched by the end of 2024.
Right to switch off through a statutory Code of Practice	To be developed alongside the Employment Rights Bill's passage and beyond Royal Assent.
Equality (Race and Disability) Bill, which would introduce mandatory ethnicity and disability pay gap reporting for large employers	Draft Bill to be published during this parliamentary session for pre-legislative scrutiny. The government will also consult prior to making secondary legislation to implement the reforms set out in this Bill.
Consultation on a single status of worker and a simpler two-part framework for employment status	Longer-term delivery.
Call for Evidence to examine a variety of issues relating to TUPE regulations and related processes	Longer-term delivery.
Consultation with Acas on enabling employees to raise collective grievances about conduct in their place of work	Longer-term delivery.
Review of health and safety guidance and regulations	Longer-term delivery.
Review of the parental leave and carers' leave systems	Longer-term delivery.