Quarterly Board Briefing

Labour & Employment (UK)

Looking to Q4 2026 and beyond

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The Employment Rights Act (ERA) 2025 will make fundamental changes to the employment law landscape in the UK and will impact all employers.

The extent of the impact will depend on several factors, including the size and composition of your workforce, the sector in which you operate, levels of staff turnover, the processes and procedures you already have in place, and how generous your current terms and conditions of employment are.

Below, we set out brief details of the key ERA changes that we consider will be of strategic interest to the board and will be coming into force in October 2026, including the practical steps that employers should be taking now to prepare. We also include some further notes on the larger changes that are on the horizon for 2027 and beyond.

In this quarter's Spotlight, we look beyond the detail of the legislation to examine what the ERA may mean on a more strategic level, both within the boardroom and across the organisation.

ERA October 2026 checklist

Coming into force	Topic	Change	Key steps employers should take to prepare
1 October 2026	Extension of employment tribunal time limits	The time limit to bring most claims in the employment tribunal has increased from three to six months. The new time limits apply where the "relevant date" is on or after 1 October, e.g. an employee who is dismissed on or after 1 October will have to present any unfair dismissal claim before the end of the period of six months beginning with the effective date of termination. Tribunals will retain their existing power to extend time limits in certain circumstances, and the Acas Early Conciliation "stop the clock" provisions will also still apply.	This is more "need to know" rather than requiring any specific action on the part of employers. Employers should prepare themselves for the fact there will be an even greater time lag between, for example, a dismissal taking place and a claim form landing. If we couple these changes with the recent extension of the Acas Early Conciliation period from six to 12 weeks, this means that claimants will soon have almost 10 months to bring a claim. Delays with the Employment Tribunal system may mean that an employer is unaware that a claim has been brought against it for up to a year after the event. These changes will make it even more important that employers have appropriate documentation in place recording employment decisions in case any claims are brought, and that this and other potentially relevant evidence is retained long enough to cater for this possible delay.

Coming into force	Topic	Change	Key steps employers should take to prepare
30 October 2026	New obligation on employers in relation to sexual harassment in the workplace and harassment by third parties	The current mandatory duty on employers to take reasonable steps to prevent sexual harassment in the workplace will be amended to require employers to take "all" reasonable steps – a much more onerous duty. The government has provided very little indication of what employers will be expected to do to comply with the new expanded duty. While the power for the government to make regulations specifying the steps that employers will need to take is expected to come into force in October 2026, it is not anticipated that the regulations themselves will come into force until 2027/28 (likely following consultation), i.e. at least a year later. A new statutory obligation on employers to prevent the harassment of employees (whether sexual or related to any other protected characteristics) by third parties will also be introduced. An employer will be liable if a third party harasses the employee in the course of their employment, and the employer failed to take "all reasonable steps" to prevent the third party from doing so. **NB** – Please note that for regulated financial services firms, the scope of the rules on non-financial misconduct changed as of 1 September. For more information, please see our update.	**Sexual harassment** As a first step, we recommend that employers review the steps they are taking to comply with the current mandatory duty to take reasonable steps to prevent sexual harassment and consider whether there are any other things they could be doing, or be doing better or more often, that may further reduce the risk of sexual harassment in the workplace. We stress "may" – there is no obligation to take only those steps that can be guaranteed to make any difference. If the measure might conceivably influence a would-be harasser's behaviour, almost however marginally, it should probably be taken. **Harassment by third parties** To the extent they are not doing so (and employers should already be factoring into any sexual harassment risk assessment the types of third parties that staff might come into contact with), employers should consider any steps they could be taking to prevent harassment by third parties. Risk assessments will be key. We recommend employers look at any risks that may arise for their staff due to interactions of any kind with third parties (e.g. customers, clients, suppliers, etc.). See our recent Relatively Informal Guide on the New Duty for Employers to Take all Reasonable Steps to Prevent Harassment at Work", which provides further guidance for employers on how to prepare for these new obligations. Further restrictions on the use of nondisclosure agreements (NDAs) in relation to harassment and discrimination allegations will also be introduced in 2027. The government issued a consultation seeking views on its proposals. The consultation closed on 8 July 2026.

Coming into force	Topic	Change	Key steps employers should take to prepare
30 October 2026	The right of trade unions to access the workplace*	Trade union officials will have a new statutory right to physically access workplaces or communicate with workers (or both) under "access agreements" entered between employers and "qualifying trade unions", namely those with a certificate of independence. Such agreements will give them rights to meet, support, represent, recruit or organise workers (whether or not they are members of a trade union) and to facilitate collective bargaining. These new rights will not cover organising industrial action.	• Employers currently in nonunionised workplaces should consider reviewing their current employee voice arrangements/practices, e.g. employee forums, etc. How effective are these? Do employees genuinely feel that they have a voice in the business? If your workforce is happy with your current employee engagement mechanisms, they are less likely to be interested in trade unions representing them. • Employers should consider entering a voluntary arrangement with the relevant trade union(s) to avoid requests being triggered under the statutory framework. • Employers should put in place a process/protocol for handling such requests to ensure they comply with the relevant timelines and that managers and other relevant individuals in the business are aware of this new statutory right. • In light of this new right and the new obligation on employers to inform workers of their right to join a trade union (see above), employers may need to update any existing policies governing dealings with trade unions or consider introducing such policies. See our updated FAQs, which set out the typical questions employers may have about this new right, and our outline answers.

***NOTE:** The duty to inform workers of their right to join a trade union was also due to come into force in October, but this has now been pushed back to January 2027. For more information, please see our latest alert.

2027 and beyond: What else is on the horizon?

We recognise that keeping track of the ERA 2025 reforms can be challenging. To help the board stay abreast of developments, we set out below the latest position in relation to our "top 5" of the outstanding measures in the ERA 2025.

- **Unfair dismissal** – The changes to the unfair dismissal regime are hugely significant (especially in relation to senior exits). There will be a reduction in the qualifying period of service to bring a claim from two years to six months, and the removal of the statutory compensation cap. They will be coming into force on 1 January 2027, so in just over three months' time. These changes are going to mean that unfair dismissal claims for high earners will become harder to settle, as the current line in the sand drawn by the compensation cap will be removed. For a practical guide as to how these changes will impact recruitment and senior exits, and the steps that employers should be taking now to mitigate the impact of these changes, listen to our recent webinars on the ERA 2025. Linked to this, Acas has recently issued a revised Code of Practice on Disciplinary and Grievance Procedures for consultation with an eye to promoting better the early resolution of concerns in the workplace. The consultation closed on 23 September 2026. As per our recent blog posts, its proposal to move mediation to address workplace grievances from the foreword to the main body of the Code is a significant change because it brings mediation under the penalty regime attached to the Code, i.e. a possible 25% uplift or reduction in compensation for any unreasonable departure from that suggestion. This means that employers would be required to regard mediation as the default starting point, not just a possible outcome in tackling workplace disputes. We do not yet know when these changes will take effect.
- **"Fire and rehire"** – The ERA 2025 restricts the ability of employers to make changes to terms and conditions of employment via the dismissal and re-engagement (or "fire and rehire") route. "Restricted variations" (involving changes to core terms and conditions) will only be possible in very limited circumstances where the employer can demonstrate financial difficulties such that the need to make the changes was unavoidable. For nonrestricted variations, employers will have more flexibility. We held a webinar on how these changes will impact employers once they come into force (which is currently scheduled to be 1 January 2027) and the steps that employers should be taking now to mitigate the impact of these changes.
- **Collective redundancy consultation** – The ERA 2025 changes the rules governing collective redundancy consultation. We will still have the reference to 20 or more employees "at one establishment", but there will also be a new "organisation-wide" threshold. At this stage, we do not know what this new threshold is going to be, although the government has expressed a preference in its recent consultation for a single fixed number between 250 and 1000 employees. The consultation closed on 21 May 2026. These changes are expected to come into force at some point in 2027.
- **Equality (Race and Disability) Bill** – We have yet to see the draft Equality (Race and Disability) Bill, but the government has confirmed that it will be introducing mandatory disability and ethnicity pay gap reporting for large employers (250+ employees). See our Insight for further details on its proposals. Any new legislation is also expected to cover measures on equal pay, including extending equal pay rights on the basis of race and disability. On that note, the government recently issued a consultation on equal pay and pay discrimination, which closes on 27 October 2026. See our Insight for further details. The government has indicated that the equal pay reforms will only be introduced after an extended implementation period, with a first phase of reforms to the existing equal pay framework taking place before any broader expansion of rights. That being said, although legislative changes are some way off, employers should note the direction of travel. The proposals would increase scrutiny of pay structures, widen potential avenues for claims relating to race and disability, and place greater emphasis on pay audits, job evaluation and proactive compliance. Employers may therefore wish to review existing pay governance arrangements and equality monitoring processes ahead of any future reforms. Mandatory equality action plans for large employers (250+ employees) showing the steps they are taking in relation to such matters as the gender pay gap and menopause are expected to come into force from spring 2027.
- **Fair Work Agency (FWA)** – The FWA was officially launched on 7 April 2026, creating a new single national enforcement body for workplace rights. We will have a clearer idea of its longer-term aims and priorities after it publishes its first statutory labour market enforcement strategy in April 2027, but it seems inevitable that it will adopt a targeted enforcement approach. We anticipate that holiday pay will become a key focus once it takes over responsibility for this next year. The government is currently seeking views on the FWA's proposed approach to holiday pay compliance and enforcement. We recently held a webinar on the role of the new agency and how businesses should prepare for this more coordinated and potentially more robust enforcement regime.

Spotlight: Compliance, culture and the leadership challenge

Moving beyond the detail of the legislation: What will the ERA mean for your business?

The ERA is set to usher in the most far-reaching changes to workplace law for a generation – not because any of the changes in and of itself is necessarily seismic or ground-breaking *per se* (although there are undoubtedly some biggies in there), but due to their aggregated impact, coupled with more active enforcement from the regulators, including the new FWA, all of which essentially moves the UK towards a more European-style employee-friendly landscape. So, how do you steer your organisation through this changing employment landscape while maintaining performance, managing risk and preserving culture?

In this quarter's Spotlight, we look beyond the headline reforms to remind employers why the ERA is a boardroom issue.

1. A missing voice in the boardroom?

The Chartered Governance Institute of UK & Ireland's most recent Boardroom Bellwether report was produced before the final detail of the ERA was known (in those halcyon days before the decision to remove the cap on the compensatory award for unfair dismissal claims) and even at that stage, the sentiment was clear: "People remain one of the critical risk factors for the vast majority of organisations, and additional regulatory burdens have joined wage inflation and higher employment taxes in making this a sizeable challenge for boards."

However, interestingly, a Chartered Institute of Personnel and Development (CIPD) report from 2023 on "The value of people expertise on corporate boards" showed that the majority of UK boards at that stage "lack[ed] directors with people expertise and thus may not be fully equipped to deal with these risks and opportunities. In all, 99% of boards ha[d] a chief financial officer or a finance director among their board members, but just 2% ha[d] an HR director as an executive board member." The CIPD also found that "only 25% of FTSE 350 companies have HR expertise on their boards (both executive and non-executive)."

Of course, this was a few years ago now, but unless there has been a sea-change in boardroom demographics since then, it appears that there is a disconnect – people issues are becoming ever more important to boards and will continue to do so due to the ERA, but not many have the requisite expertise on the board to deal with this new landscape.

To take one pertinent example, high-profile bullying and harassment allegations have repeatedly reached the boardroom, often involving senior leaders and carrying significant legal, regulatory and reputational consequences. Going forwards, boards are likely to face more of these cases, not fewer. Employers are already under a duty to take reasonable steps to prevent sexual harassment, with that duty increasing to the more onerous "all reasonable steps" and a further duty to prevent third-party harassment starting in October. Proposed restrictions on the use of NDAs in harassment and discrimination cases could expose more allegations to public scrutiny. For regulated firms, the pressure is greater still, with the Financial Conduct Authority (FCA) sharpening its focus on non-financial misconduct and senior accountability.

Of course, the appropriate HR processes will be needed to deal with issues as they arise. However, boards also need to understand any compliance and cultural failings that allowed those issues to emerge in the first place. That demands board-level oversight, strategic input and clear tone from the top. The bigger risk is when boards press ahead with strategy and leave people considerations to be wedged in later. That can turn HR into a perceived blocker rather than a strategic partner. Involved early enough, people experts can help deliver the board's objectives, not stand in their way.

If people considerations need to be embedded in strategy from the outset, boards should ask whether they have sufficient people expertise around the table to do so effectively. An approach that treats HR as a specialist function brought in only when workforce issues arise may no longer be enough. Increasingly, the question is whether strategic HR input should form part of board decision-making as a matter of course, and whether people expertise deserves a permanent seat at the table.

2. Getting the culture right

Creating a healthy workplace culture will be a business imperative, not a "nice to have", in light of the ERA reforms and the increased risk of claims. This is about far more than free fruit and subsidised gym memberships – culture has a direct bearing on governance, compliance and how effectively an organisation manages risk. Done well, it can prevent many grievances and disputes from arising in the first place, or from turning sour later.

Employees increasingly expect fair treatment, transparency, flexibility and meaningful support. Organisations that invest in leadership, wellbeing, career development, inclusive behaviours and a culture where people feel safe to speak up tend to see stronger performance and higher productivity. Those that do not often face the opposite, including higher attrition, lower morale, weaker trust and reduced productivity.

Another factor to consider is that many organisations now have five generations working side by side, creating the most age-diverse workforce in modern history. Different generations bring different expectations of work, leadership and communication. We particularly see this in relation to expectations around flexibility and work-life balance. Younger employees, in particular, are often quicker to question decisions and judge employers on whether their actions align with their stated values.

Building a healthy workplace culture does not happen overnight, and there is no magic bullet. It requires time, honesty about things that need to change, and significant strategic input from someone senior enough to be able to make a real difference (see our comments above re having the right people expertise on the board). If you think there are aspects of your culture that have gone sour, or if there is an issue simmering in any part of the business, our strong recommendation is to be proactive – whether that means carrying out an investigation or a culture review (or whatever you might badge it) or just asking questions to draw the teeth on it early. To continue the metaphor, do not wait for things to boil over. It is increasingly important that organisations are on the front foot with these issues to the extent that they can be, rather than waiting for the allegations to land.

3. The "professionalisation" of management

One of the less discussed implications of the ERA is the likely acceleration of the so-called "professionalisation" of management. The reality is that managers will be at the coalface of many of the reforms, and a far greater burden of operational and financial risk will sit heavily on their shoulders. As workplace decisions come under greater scrutiny, boards will need confidence that managers can exercise sound judgement, handle employee relations issues effectively and apply policies consistently. A significant proportion of future litigation risk will be determined by the quality of frontline management.

For example, once the new unfair dismissal provisions come into force, it will be more important than ever that managers are confident when recruiting, managing and dismissing staff. Rather than the line-management aspect of their roles being an optional/low-priority task (as can be the case even in the best-run businesses), being proactive, disciplined and strategic about these conversations and following proper processes (while ensuring that these are properly documented) will become an absolute imperative.

Employers may need to rethink not only how they develop managers, but also how they choose them. Strong individual performance does not necessarily translate into strong people management, and the cost of getting that judgement wrong is rising. At the same time, managers will face growing pressure to tackle difficult issues head-on and at a much earlier stage than in days past. Too often, underperformance is ignored, inflated ratings are awarded and bonuses fail to reflect performance or conduct concerns in order to avoid difficult conversations. Increasingly, that will no longer be sustainable. Managers will need the confidence and capability to address problems early and directly.

Alongside stronger promotion criteria and management training, employers should consider conducting a lessons-learned review of recent recruitment decisions, performance and disciplinary processes, and dismissals to identify weaknesses and areas for improvement. Grievances and whistleblowing complaints can also provide valuable insight into recurring issues and cultural blind spots. Used effectively, these reviews can help pinpoint training needs, process improvements and wider cultural changes.

Finally, given the growing demands placed on managers, boards should consider whether performance objectives and reward structures adequately reflect their people-management responsibilities. If managers are measured only on operational delivery, leadership and employee management can quickly become secondary priorities. Increasingly, employers are linking elements of management remuneration to effective handling of people processes and broader leadership behaviours. Ultimately, what gets measured and rewarded is far more likely to get done well.

4. People risk = deal risk

The ERA has important implications for boards contemplating a sale, acquisition or fundraising because it fundamentally changes the assumptions that have traditionally underpinned employment due diligence. Buyers and investors have often taken comfort from the ability to restructure post-completion, harmonise terms and conditions, or negotiate exits for senior individuals where necessary at relatively predictable cost. That analysis may no longer hold. Increased protections around dismissal, restrictions on "fire and rehire", enhanced collective consultation obligations and stronger trade union rights all increase the cost, timing and complexity of workforce change programmes.

Buyers will begin to look more closely at service agreements, incentive arrangements, good and bad leaver provisions, performance-management processes and the quality of management capability. Workforce risks that might previously have been viewed as manageable post-completion may instead become material transaction risks that affect valuation, pricing, warranties and deal strategy.

Workforce due diligence will swiftly become a key strategic issue rather than an HR workstream. The creation of the FWA, increased enforcement powers and increased record-keeping obligations mean that historic employment practices are likely to attract greater scrutiny, while future workforce costs and employment liabilities will become a more significant feature of red flag reports.

In short, people issues will become harder to fix after the deal, making it increasingly important for boards to identify and address them before it.

5. The icing on the cake: AI

The ERA will inevitably trigger a rise in employee complaints and claims. Combined with the explosion in both AI-generated grievances and tribunal claims (which are often extremely lengthy, overly complicated, unrealistic or even unintelligible), the management time and cost required to deal with them could quickly become unmanageable without a clear board-level strategy.

All of the factors above will be relevant to this strategy. For example, organisations with a good workplace culture receive fewer grievances and claims, as do organisations with capable, confident and competent managers (which as above, will come down to both selection and training).

AI also often inflates the merit of the claim and any potential compensation. As one client we spoke to put it, AI is trained to tell people what they want to hear, whereas real-life legal advice is much more likely to be measured and realistic. Among this flood of unrealistic expectations, there is a risk that the "real" complaints – those about important issues, or those with merit – get lost among the AI slop. To combat this, some organisations are using a triage system to funnel complaints down different channels depending on their perceived seriousness. However, this is still a time-consuming exercise and requires someone with a clear grasp of the potential issues to run it. For more information, please see our blogs on handling AI grievances here and here. .

To help organisations get ahead of this issue, we are running a webinar on "Managing AI-assisted grievances" on 18 November.

Beyond the legislation

Ultimately, navigating the ERA changes will involve far more than keeping up to date with employment law.

The organisations most likely to thrive in this new environment are unlikely to be those with the thickest rulebooks. They will be those with a clear tone set by the board, capable and confident managers, strong and visible leadership, transparent decision-making, and cultures built on trust, accountability and good judgement.

How we can help

We can support you in relation to all aspects of preparing for implementation of the ERA, including:

- **Board level training** – We are working with various employers to triage the key changes and to help boards plan their strategy to mitigate the impact of the ERA. Please get in touch if this would be of interest.
- **Management training** – As explained above, given the huge increase in employee rights and the increased sums they might expect to be awarded in the Employment Tribunal, there will be significant onus on managers to follow processes properly – from disciplinaries to grievances, capability and redundancy processes and so on. We have a comprehensive suite of training options available that can be tailored for your management team, including how to have "difficult" conversations.
- **Conflict resolution in the workplace** – We can also work with you to take steps internally to prevent disputes arising in the workplace, and to help you manage those complaints to resolve them quickly and fairly before they end up in an Employment Tribunal, including mediation.
- **Workplace culture reviews and external investigations** – We are seeing an increasing number of corporates relying on our expertise to carry out workplace culture reviews to deal proactively with any potential issues within their workplace that could place them at risk under existing legislation, or the changes being introduced under the ERA. Confronting any issues proactively will give you an opportunity to protect your workforce, avoid reputational damage and mitigate legal liability. Our cross-practice team of lawyers can also provide guidance, as well as leading, on workplace investigations. We conduct a range of investigations across different sectors, from complex financial matters, through highly sensitive public interest cases, to serious allegations of harassment, bullying and discrimination in the workplace. Our expert team has a proven track record of supporting clients when they need it most.

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If you would like to discuss the implications of the ERA for your business, please speak to your usual contact at the firm or one of our partners in the first instance.

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This note sets out the position in England.

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