Implementation of the Employment Rights Act 2025

Where employers should be focusing now

SQUIRE PATTON BOGGS

Local Connections. Global Influence.

With the next tranche of Employment Rights Act (ERA) 2025 reforms coming into force in October, now is the time for businesses to assess readiness and ensure that policies, processes and management capability are aligned with the new requirements.

This update highlights the practical steps that employers should have taken (or be taking now) to prepare for the October changes. Looking further ahead, it also provides a status update on some of the most significant outstanding ERA 2025 measures to help businesses with their planning and priorities for 2027 and beyond.

Checklist for October 2026

Below we set out a reminder of the key ERA 2025 changes that should be happening in October 2026, the dates on which they are expected to come into force and the practical steps that employers should have taken (or be taking now) to prepare for them.

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 will increase from three to six months. The new time limits will 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 Advisory, Conciliation and Arbitration Service (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 2027/2028 (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.	**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", as 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 and 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 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 duty to inform workers of their right to join a trade union	Employers will be required to give workers a written statement that they have a right to join a trade union. The initial information must be given at the same time as the Section 1 statement under the Employment Rights Act (ERA) 1996, with reminders after that. Further details on this new right will be set out in separate regulations, but these have still not been published by the government, including details about the information that must be included in such a statement. If this information is not provided and the worker is successful in a separate employment tribunal claim, they will be able to receive compensation of between two and four weeks' pay (subject to the statutory cap) – in the same way a worker can currently do this in relation to any other failure to comply with the information requirements in Section 1 of the ERA 1996. On 23 October 2025, the government published a consultation in relation to these proposals. The consultation closed on 18 December 2025, and we are still waiting for the government's response (so they are leaving things a bit late for an October implementation date!).	As we await final details of the changes, employers should be thinking about how they are going to share this information with new starters as part of their existing onboarding processes, e.g. whether they are comfortable to include it in a Section 1 statement/contract, or whether they would prefer to use another standalone format or as part of some other documentation. According to the consultation, the government's preference is for it to issue a standard statement for employers to use, adding only workplace specific details. The consultation indicated that the duty will also require periodic reminders, so employers should also consider how these updates will be provided. Once we have seen the government's response to the consultation and any implementing regulations, we will be able to provide further details on what is required, including confirmation of the precise wording that will need to be provided, what form any statement must take and when reminders must be issued, etc. Remember – the government's aim in introducing these provisions (coupled with the new right for trade unions to access workplaces – see below) is to raise awareness amongst workers of the role of trade unions, which in turn it hopes will lead to an increase in trade union membership and increased worker engagement in collective bargaining. As such, this new duty to inform workers should be viewed not simply as a compliance issue, but as part of the wider package of reforms that is being introduced. Non-unionised businesses should be considering their approach if trade unions seek access to their workplace and/or there is greater interest in trade unions among their workforces.

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 they are members of a trade union or not), and to facilitate collective bargaining. These new rights will not cover organising industrial action.	• Employers currently in non-unionised 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.
30 October 2026	Additional trade union changes	There will be new rights and protections for certain trade union representatives, as well as new protection against detriment for taking industrial action. Changes in relation to unfair practices in the trade union recognition process.	• No immediate action required – employers should however ensure that relevant managers are aware of these new rights and protections so as not to breach them. • Employers should also ensure they are familiar with the updated Acas Code of Practice on Time Off for Trade Union Duties and Activities and the revised Code of Practice on Access and Unfair Practices During the Recognition and Derecognition Process, once they have been published.

Coming into force	Topic	Change	Key steps employers should take to prepare
October 2026 – no specific date has been provided	Procurement: Two-tier code	One of the lesser reported provisions in the ERA 2025 is Section 32, which amends the Procurement Act 2023 to essentially reintroduce similar provisions to the previous "Two-Tier code" to avoid (as the name suggests) a "two-tier workforce" in a public outsourcing exercise, where one group of workers is treated less favourably than another working on the same contract. Further details of the changes can be found in the government's factsheet. Section 32 is expected to come into force in October, but further substantive regulations will be required to introduce the specific changes.	There has been very little information from the government in relation to what could potentially be a significant change for some employers, namely those that contract with the public sector. At this stage, potentially affected employers should monitor developments and keep an eye out for the draft code and regulations, which should provide specific details on the new regime that is going to be introduced.

* Changes to tipping laws were due to come into force in October 2026, but the government has since indicated that these measures will be delayed and will now take effect "by the end of 2026". The changes will introduce new requirements for employers to consult with workers when developing or reviewing their tipping policies. The government has recently reissued for consultation the revised statutory code of practice on the fair and transparent distribution of tips. The consultation closes on 29 September 2026.

Extension of right to work checks – Not an ERA 2025 development, but another important item for employers to be aware of is the significant changes to the UK's rules on carrying out right to work (RTW) checks, which are due to come into force on 1 October 2026. Most notably, the changes expand both (i) the range of working arrangements in which RTW checks must be conducted to obtain a statutory excuse against a civil penalty; and (ii) the parties who may be liable for non-compliance. As a result, organisations that have not historically regarded themselves as the "employer" for RTW purposes in certain working arrangements may fall within scope from 1 October. This brings with it both new compliance obligations and increased exposure to civil penalties. See our Insight and also a link to our recent webinar on this topic.

2027 and beyond: What else is on the horizon?

We recognise that keeping track of the ERA 2025 reforms can be challenging. Over the past 12–18 months alone, the government has issued more than 15 separate consultation papers covering different aspects of the reforms. While some consultations have concluded and been followed by government responses indicating the intended direction of travel, responses to a number of important consultations are still awaited.

To help employment counsel, senior HR professionals and business decisionmakers stay abreast of developments, we set out below the latest position in relation to our "top 10" of the outstanding measures in the ERA 2025.

1 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 less than four 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 closes 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.

2 "Fire and rehire"

The ERA 2025 restricts the ability of employers to make changes to terms and conditions of employment via the dismissal and reengagement (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. A link to the recording is available here.

3 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. On 7 October 2026, we will be running a webinar on how the changes to the collective consultation regime will impact employers. Further details and the registration link can be found here.

4 Zero hours workers

The ERA 2025 will introduce key new rights for zero hours workers and other workers on low-hours contracts. The exact nature of the changes is still not clear, with the government's latest consultation on its proposals having closed on 25 August 2026. Although we do not yet have final details of what these new rules are going to look like, or a specific date when the changes are coming into force (the government's implementation timetable simply says "in 2027"), it is important that businesses that engage a significant number of zero hours workers, or those on similar contracts, are thinking now about what steps, if any, they can take to mitigate the impact of these changes. See our recent Insight for further details on the practical steps that employers could be taking now to prepare for the changes.

5 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. 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.

6 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. A link to the recording is available here.

7 Family-friendly reforms

Some changes to paternity and (unpaid) parental leave came into force in April 2026, but the ERA 2025 contains further measures to support specific groups. For example, the government has issued consultations on a new entitlement to bereavement leave, including pregnancy loss before 24 weeks and the employment rights that are available to unpaid carers and parents of seriously ill children. We are also currently waiting for the government's response to its consultation on enhancing dismissal protections for pregnant women and new mothers. The government is seeking feedback on two broad options: (i) introducing a new general test of fairness so that employers will still be able to rely on one of the five potentially fair reasons for dismissal, but they will also be required to meet a new stricter standard when relying on that reason to dismiss a pregnant woman or new mother, e.g. they will have to show that it was necessary to dismiss them to avoid serious harm to the business; and (ii) narrowing the scope of, and/or removing, some of the fair dismissal reasons altogether. So, for example, the "conduct" ground would be narrowed, such that it would only be possible to dismiss a pregnant woman or new mother if she has committed an act of gross misconduct. Other suggestions include removing "capability" as a fair reason and removing "some other substantial reason" (SOSR), which would prevent dismissals based on any other grounds that do not fall within the list of reasons that remained. Both options suggest that it will become practically impossible to dismiss such employees fairly during this period. See our previous Insight on its proposals, which would be very significant if introduced in the form initially proposed. These measures are expected to come into force in 2027.

8 Flexible working

The current position is that all employees can make two statutory requests in any 12-month period to change their working hours, work pattern or work location. The ERA 2025 amends employers' duties in relation to flexible working requests to provide expressly that they may only refuse such requests if they consider that one of the existing eight business grounds for refusal apply and "it is reasonable for the employer to refuse the application on that ground or those grounds". If an employer refuses a flexible working request, it will then be required to include in its decision to the employee its grounds for refusing the application, and an explanation of why it considers it is reasonable to refuse the application on that basis. On 15 September 2026, the government issued its response to a consultation on its proposed changes. Regulations are to follow setting out the process that employers will have to follow before rejecting a flexible working request. The changes are due to take place in autumn 2027. Acas is going to consult on changes to its code of practice on requests for flexible working.

9 Transfer of Undertakings (Protection of Employment) Regulations 2006 (TUPE)

In April 2026, the government published a call for evidence on TUPE. There does not appear to be any appetite from employers for any changes to the current regime (as evidenced by responses to previous consultations on this topic), but the government has said that it will use this call for evidence to inform development of policy options to reform the TUPE Regulations. We do not anticipate significant changes will be happening any time soon, if at all.

10 ERA 2025

For a visual overview of the ERA 2025 changes and the likely implementation dates, see our ERA 2025 Implementation Roadmap.

Contacts

Alison Treliving
Partner and Co-Chair, Labour & Employment Practice, Manchester
T +44 161 830 5327
E alison.treliving@squirepb.com

Charles Frost
Partner, Birmingham
T +44 121 222 3224
E charlie.frost@squirepb.com

Miriam Lampert
Partner, London
T +44 207 655 1371
E miriam.lampert@squirepb.com

Matthew Lewis
Partner, Leeds
T +44 113 284 7525
E matthew.lewis@squirepb.com

Janette Lucas
Partner, London
T +44 207 655 1553
E janette.lucas@squirepb.com

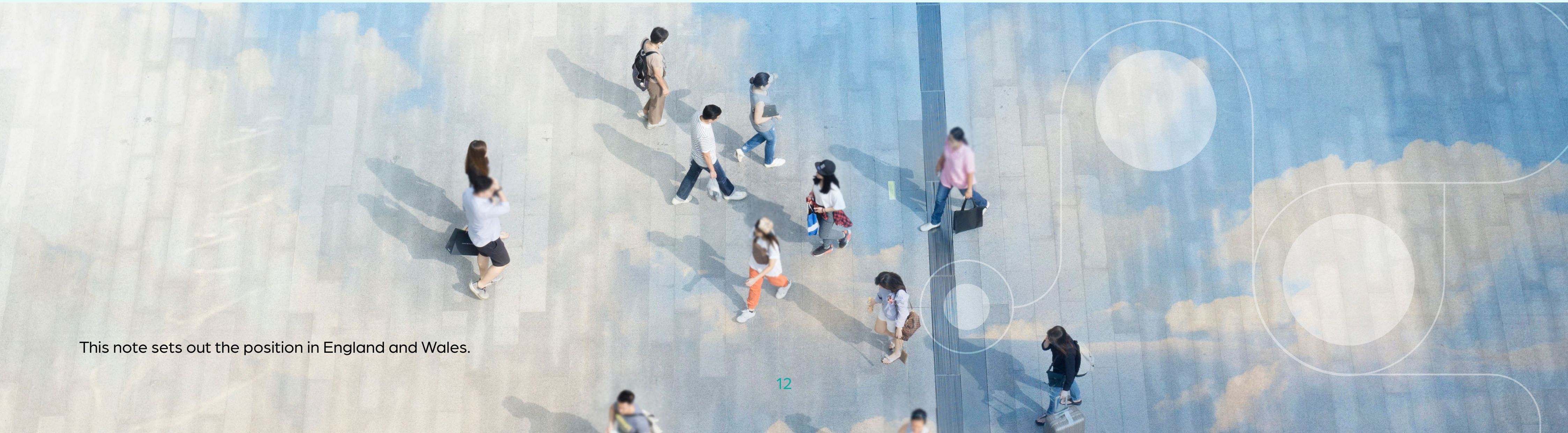
Annabel Mace
Partner, London
T +44 207 655 1487
E annabel.mace@squirepb.com

Ramez Moussa
Partner, Birmingham
T +44 121 222 3346
E ramez.moussa@squirepb.com

James Pike
Partner, Manchester
T +44 161 830 5084
E james.pike@squirepb.com

Andrew Stones
Partner, Leeds
T +44 113 284 7375
E andrew.stones@squirepb.com

David Whincup
Partner, London
T +44 207 655 1132
E david.whincup@squirepb.com



This note sets out the position in England and Wales.

SQUIRE
PATTON BOGGS

Local Connections. Global Influence.

72176/09/26