

Employment Law Update October 2026

Rachel Ellis

ER Regional Manager & Partner

Thompsons Solicitors

**CHANGING
LIVES FOR
THE BETTER
STANDING
UP** *for you*

Overview

- Legislation in force since April 2026
- Key cases
- Employment Rights Act 2025 – overview



Legislation in force 2026



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February 2026

- **Removing some of the burdens on trade unions** introduced by the Trade Union Act 2016 removing ballot thresholds and reverting to simple majority with no requirements for a specific turnout, reduction in the amount of information included on the ballot paper and info to be provided to the employer is to be simplified as well as reversing the 'opt-in' for contributions to political funds to an opt out;
- **TU's mandate for IA will expire 12 months** after the ballot instead of 6

National Minimum Wage – 1 April 2026

The NMW wage rates from 1 April 2026 (2025 in brackets) are as follows;

- Age 21 and over: £12.71 (£12.21)
- Age 18 to 20: £10.85 (£10.00)
- Age 16 to 17: £8.00 (£7.55)
- Apprentice rate: £8.00 (£7.55)
- Accommodation offset: £11.10 (£10.66) per day

Statutory benefits

Statutory Benefits

- Statutory Maternity, Paternity, Adoption, Shared Parental and Parental Bereavement pay is increased to £194.32 from £187.18 per week
- SSP is to increased to £123.25 from £118.75 per week and is payable for a max 28 week period
- Lower Earnings Limit (LEL) – £129 up from £125 per week

Statutory Compensation Limits

The following rates are payable from 6 April 2026

- The rate for a statutory **week's pay** for calculating statutory redundancy pay and a basic award in a claim for unfair dismissal £751 per week (£719)
- The **minimum basic award** in cases where a dismissal is unfair by virtue of health and safety, employee representative, trade union, or occupational pension trustee reasons increased to £9,157 (£8,763)
- The **limit on compensation** for unfair dismissal is the lower of 52 weeks pay or £123,543 (£118,223)

Injury to feelings

Awards for injury to feelings in a claim for discrimination increased as follows with effect from 6 April 2026:

- Lower band of £1,300 to £12,600 (generally for one off acts of discrimination)
- Middle band of £12,600 to £37,700 (generally apply where there is a consistent course of discriminatory conduct)
- Upper band of £37,700 to £62,900 (prolonged periods of discrimination or serious assault).

6 April 2026

- Simplifying **trade union recognition** process.
- **Collective redundancy** - the protective award where an employer fails to consult with the appropriate representatives is doubled from 90 days pay to 180 days pa .
- **Day 1' Paternity & Unpaid Parental Leave.**
- **Statutory Sick Pay (SSP)** – removal of LEL and waiting days meaning SSP is payable from the first day of sickness absence
- **A disclosure of sexual harassment amounts to a protected disclosure** under the whistleblowing provisions of the Employment Rights Act 1996
- **Equality Action Plans** – voluntary on gender pay and menopause support for employers with 250 or more employees

Fair Work Agency

- Single state enforcement agency
- Responsible for enforcing
- “***relevant labour market legislation***”
- Issue a notice of underpayment within 28 days
- Bring ET proceedings on behalf of a worker
- Provide legal assistance
for employment related proceedings
- Recover its enforcement costs



25 August 2026

- Electronic balloting introduced for industrial action, union elections, political funds
- Electronic balloting . distribution of the voting pack, the casting and return of the votes, take place entirely through electronic means.
- Hybrid balloting. Voting materials are distributed by post, with members able to return their vote either by post or electronically (casting their vote online in an internet portal or website administered by the scrutineer).
- Workplace balloting (only in ballots for industrial action). Members can cast their vote in person at the workplace, using a physical ballot box and paper, or at an off-site location (where it is not possible to conduct the ballot on-site), with all balloting arrangements agreed in advance on a voluntary basis between the union, scrutineer and employer.

[Code of practice on electronic and workplace balloting for statutory TU ballots](#)

1 October 2026 – Employment Tribunal Time limits

- Extended for most claims from 3 months to 6 months less one day where the act complained of (e.g. date of dismissal) or failure to act (e.g. failure to make reasonable adjustments) is on or after 1 October 2026
- Also applies to breach of contract claims.
 - Where the breach of contract occurs on termination of employment on or after 1 October 2026
 - Where there is no effective date of termination, the last day the employee worked on or after 1 October 2026
- EC **must be started before the expiry of the time limit** and is extended by at least a month from the date of the EC Certificate
- Where **the act complained of wholly occurs before 1 October 2026 the 3 month less one day time limit** applies

30 October 2026 (1)

- Strengthen union access to the workplace to meet support, recruit or organise workers and to facilitate collective bargaining.
- Removal of unfair practices in the trade union recognition process.
- Extension of protections for union representatives, including equality representatives
- Protection from being subject to a detriment for taking industrial action.

30 October 2026 (2)

- Improved duty to take ***all*** reasonable steps to prevent sexual harassment
- Introduction of protection from third-party harassment.
- Regulations to establish the Fair Pay Agreement Adult Social Care Negotiation Body (ASCNB) in England.
- Reinstating the Two Tier Code to protect public sector employees' terms and conditions.

Case Law

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Employment Status and Agency

- **Appiah v Tripod Partners Ltd** – the EAT is to consider an employment tribunal's finding that a consultant who contracted with a recruitment agency via a personal service company (PSC) was held to be a worker of the agency
- **Equity and others v Talent Systems Europe Ltd t/a SPOTLIGHT [2025] 002386** – the provider of an on-line talent directory was held by the High Court not to be an employment agency for the purposes of the Employment Agencies Act 1973

Part time Status

- **Augustine v Data Cars Ltd [2026] UKSC 30** - a part-time worker needs only to show that part-time status was an effective cause and not the sole cause of the less favourable treatment

Trade unions

- **Campbell v Livv Housing Group and Livv Maintenance** – whether a pay offer made by a blog post amounted to an offer for the purposes of a claim for unlawful inducements relating to membership and collective bargaining (s. 145A and s. 145B TULRCA).
- **London North Eastern Railway Ltd and ors v Jiwaji and ors [2026] EAT 102** – had collective bargaining been exhausted when the employer made a pay offer direct to the employees
- **Wolfe v Taka Mayfair Ltd [2026] ICR 952-** a failure to make a reasonable request to be accompanied at a disciplinary hearing even when the employer did not explain the nature of the meeting did not amount to a breach of the right to be accompanied.

Restraint of Trade and Contracts of Employment

- *Geeks Ltd v Watts [2026] EWCA Civ 889* – the employers clawback of a training fee amounted to a restraint of trade
- *Dr MN v NHS Foundation Trust L [2026] IRLR 440* – disciplinary terms were held to have contractual effect
- *Kankanalapalli v Loesche Energy Systems Ltd [2026] EAT 49; [2026] I.R.L.R. 459* - a conditional job offer that was withdrawn amounted to a breach of contract

Discrimination

- *Dobson v Cumbria Partnership NHS Foundation Trust ET Case No.2401798/17* – an employers rejection of flexible working did not amount to indirect sex discrimination
- *Merriman v 1st Staff Ltd & Ors [2026] EAT 128* – individual employees can be liable for a failure to make reasonable adjustments in certain circumstances

Religion & Belief

- *Ngole v Touchstone Leeds [2026] EAT 29* - was withdrawal of a job offer was because of the claimants' beliefs or inappropriate manifestation of those beliefs
- *Lister v New College Swindon [2024] EAT 0527* – was the dismissal of an employee due to the objectionable manner in which he expressed his gender critical belief

Unfair Dismissal and Tupe

- Chaudhry v Paperchase Products [2025] EAT 181 – can an employee recover a basic award from the employment tribunal after the employer has become insolvent
- Pal v Accenture
- ABC v Huntercombe (No 12) Ltd and others [2026] EWCA Civ 1161 -a transferor's vicarious liability for torts committed by its employees prior to a TUPE transfer does not pass to the transferee under TUPE.
- Milrine v DHL Services Ltd [2026] EAT 31; [2026] I.C.R. 571 – serious defects in an internal appeal meant that the employee was unfairly dismissed

Cases to watch
out for

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Cases to watch out for

- ***Afshar and ors v Addison Lee Ltd ET Case No.3306435/20*** – appeal against the two year limitation on the backdating of unlawful deductions from wages claims in S.23(4A) ERA – to be heard in the EAT on 20/21 January 2027
- ***Rice v Wicked Vision Ltd*** – the Supreme Court judgment is awaited as to whether employees can bring detriment claims against co-workers for dismissal on grounds of whistleblowing and if the employer is vicarious liable The case was heard on 21 May 2026
- ***Corby v ACAS*** – an appeal to the EAT against an ET finding that the Claimant's opposition to critical race theory was a protected belief under the Equality Act 2010. Listed for full hearing between 19 and 20 October 2027

Employment Rights Act – What next

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January 2027

Unfair dismissal

- An employee with 6 months continuous service will have the right to claim they have been unfairly dismissed from 1 January 2027
- Employees with 6 months service will have the right to request written reasons for dismissal
- Removal of the compensatory cap

January 2027

Fire and rehire

A right to claim automatic unfair dismissal where:

- the reason or principal reason is that the employer sought to dismiss an employee for refusing to agree a restricted variation in their contract, or
- the employer dismissed an employee in order to hire a new or existing employee on a varied contract to carry out substantially the same role

Unless the employer can establish:

- that the variation was to eliminate, prevent or significantly reduce, or significantly 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 the business as a going concern; and
- in all the circumstances the employer could not reasonably have avoided the need to make the variation

New right to statement of trade union rights

Employers must give workers a written statement that the worker has a right to join a union

The government proposes that the statement to workers should include:

- The core right
- An overview of trade union functions;
- A summary of statutory rights relating to union membership;
- A list of recognised trade unions (if any); and
- A signpost to a GOV.UK page listing trade unions.

Government preferred approach in consultation is that this is a standardised statement.



...and the rest of 2027

- Collective redundancy consultation threshold
- Flexible working requests
- Bereavement leave including pregnancy loss
- Introduction to the right to guaranteed hours, the right to reasonable notice and short notice payments.
- Non-Disclosure Agreements (NDA's)
- Electronic and workplace balloting for recognition and de-recognition ballots.
- Equality action plans and menopause support (mandatory)
- Protection from dismissal for pregnant women and new mothers
- Extending blacklisting protections
- Regulation of umbrella companies



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