

EMPLOYMENT BULLETIN

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NEW EMPLOYMENT RATES AND LIMITS

We have updated our [Employment Rates and Limits](#) document which summarises the various statutory rates of payment and limits on compensation for the main types of employment claim, applicable from April 2026. We have also included a summary of the current time limits and qualifying service requirements for claims, as well as a reminder of the collective consultation timeframes. We have noted where some of these limits and timeframes are expected to change over the year, under the Employment Rights Act 2025.

The new increased compensation limits for Employment Tribunal claims include:

- A revised figure of £751 for the maximum amount of a week's pay. This figure is used to calculate awards including statutory redundancy payments and unfair dismissal basic awards, so the maximum is now £22,530 (up from £21,570).
- A maximum unfair dismissal compensatory award of £123,543 (previously £118,223), or 52 weeks' actual pay if lower. We expect the limit to be removed from 1 January 2027.

The new limits apply where the "appropriate date" (effective date of termination, for dismissals) is on or after 6 April 2026.

GOVERNMENT CONFIRMS MANDATORY ETHNICITY AND DISABILITY PAY GAP REPORTING

The Government has [published](#) its response to consultation last year and confirmed that it will be introducing mandatory ethnicity and disability pay gap reporting for large employers (250 or more employees). The response does not lay out a timetable but does include [draft legislation](#), noting that the clauses may be subject to further refinement. Regulations will set out the reporting requirements in more detail.

Under the new rules, large employers will be required to disclose their ethnicity and disability pay gaps, provide breakdowns of their workforce by ethnicity and disability, state the proportion of staff who have shared this information, and outline, in action plans, the measures being taken to close any pay gaps. Where possible, the reporting process will mirror the existing framework for gender pay gap reporting.

As proposed in the consultation:

- Ethnicity data will be collected using the classifications set out in the [Government Statistical Service ethnicity harmonised standard](#) and ethnicity pay gaps reported with, as a minimum, a binary comparison of White (including White Other) with all other ethnic groups combined. For confidentiality reasons, there will need to be at least 10 employees in each group being reported.
- Disability pay gap reporting will be binary (disabled and non-disabled), using the definition of disability in the Equality Act 2010, again with at least 10 employees in each group.

Employers in Great Britain will be in scope, mirroring gender pay gap reporting. The Government has promised guidance on how to manage reporting for overseas and remote workers.

For more insight on the proposals and pay transparency more generally, please see our recent [Sustainable Matters blog](#) by Clare Fletcher and Gabriel Forrest-Lim.

WITHDRAWAL OF CONDITIONAL JOB OFFER WAS BREACH OF CONTRACT

Summary: The Employment Appeal Tribunal (EAT) decided that a prospective employer was in breach of contract by withdrawing a job offer without notice shortly before the scheduled start date. Although the offer was expressed to be subject to satisfactory references, right to work checks and a probation period, the acceptance of the offer created a binding contract with a right to reasonable notice (*Kankanalapalli v Loesche Energy Systems Limited*).

Key practice point: Even if a job offer says that it is “subject to” pre-employment checks, they are likely to be “conditions subsequent”, so that an accepted offer creates a binding contract (which can be terminated if the conditions are not fulfilled). Clear wording in the offer letter would be needed to make them “conditions precedent”, preventing the formation of a contract until the conditions were met.

Facts: In September 2022, the claimant was offered a job as a project manager, with a start date of 1 November. The offer letter set out all the key terms of the contract and stated that it was “*subject to receipt of satisfactory references, a right to work check and a successful six month probation period which will commence on your start date*”. The claimant emailed: “*Please take it that I accept the offer*” and the employer responded: “*that is excellent news and we look forward to you joining us*”. The claimant sent new starter information form, reference contact details and right to work documents to the employer as requested.

In early October, the employer advised the claimant that there had been a project delay and his role would not be required until January 2023. A few days later the employer emailed him, saying that it was no longer able to offer the contract starting on 1 November.

The claimant’s breach of contract claim was rejected by the Employment Tribunal. The Tribunal found that the offer had been accepted but was subject to the receipt of satisfactory references and the right to work check, neither of which had been satisfied. As the offer was still conditional when the employer withdrew, there was no binding contract. The claimant appealed.

Decision: The appeal was upheld. The contractual conditions (the provision of references, right to work documents and the probation period) were all “conditions subsequent”. The satisfactory conclusion of probationary period was clearly a condition subsequent - it could only occur after the contract had started - and the three conditions were grouped together with no attempt to differentiate between them as conditions precedent and subsequent. The employer was in breach of contract by terminating the contract without reasonable notice. The offer letter had not specified a notice period, so the EAT considered what reasonable notice might be. Given that the claimant was travelling to a different country to take up the post, the interview process had taken several months, the position was a senior one and the employer had suggested that he take on a 12-month rental, reasonable notice would have been three months.

The claim for breach of contract succeeded and the EAT ordered damages equivalent to three months’ notice.

NEW REQUIREMENT TO HAVE DATA PROTECTION COMPLAINTS PROCESS

Under the *Data (Use and Access) Act*, from 19 June 2026, all data controllers, including employers, must provide a way for individuals to complain about data protection issues. The complaints process must meet certain requirements.

The Information Commissioner’s Office (ICO) has issued [guidance](#) on what a complaints process should look like. Some of the guidance (where it refers to what an organisation “must” do) reflects existing data protection law; other parts (“should” and “could”) are good practice. Key points for employers to note are:

- The process has to cover a wide range of data protection complaints, including the employer’s responses to subject access requests, the security measures used to store personal information, and how personal information has been

collected or stored. If it is not clear whether a complaint relates to data protection, the complainant should be asked to clarify.

- The ICO guidance confirms that complaints procedures already in place can be adapted to include data protection complaints. However, complainants are not obliged to use that process and can contact any part of the organisation, or any of its employees, including via social media. This means that staff should be trained to recognise and triage data protection complaints that come in through other channels.
- Complaints must be acknowledged within 30 days of receipt (which includes bank holidays and weekends). There is no prescribed form of acknowledgement, but a record should be kept showing that the 30-day timeframe has been met.
- Appropriate steps must be taken to investigate a complaint, and the complainant must be kept informed and told of the outcome, all “without undue delay”. The guidance says that this means without “an unjustifiable or excessive delay”, starting from when the complaint is received. If an employer chooses to have their own timeframe for dealing with data protection complaints and they can complete the data protection investigation in a shorter time, they must do that.
- Individuals must be told about their right to complain to the organisation, and to the ICO, and this information must be given both when personal information is collected (in the privacy notice, for example) and when responding to a subject access request.

For more insight on the new requirements, please see this [blog](#) from our Data Privacy colleagues.

SECONDEE HAD NOT BECOME EMPLOYEE OF HOST COMPANY FOR UNFAIR DISMISSAL CLAIM

Summary: The Employment Appeal Tribunal (EAT) decided that a secondee’s employment contract had not transferred to the host company and therefore the Employment Tribunal had been wrong to find that the secondee had been automatically unfairly dismissed and subjected to whistleblowing detriment by the host company (*Bank of Africa United Kingdom PLC v Hassani*).

Key practice point: In order to reduce the risk of the secondee being found to be the host’s employee, particularly where the secondment may run for many years, the seconding company and the host should agree, and the secondment letter to the employee should make clear, that the secondee will remain employed by the seconding company. It is also helpful to set out how the secondee should raise whistleblowing concerns.

If the work done by the secondee could on its own amount to an “undertaking”, there is a risk that the secondment arrangement could be subject to the Transfer of Undertakings Regulations (TUPE), resulting in the secondee becoming employed by the host. The risk of TUPE applying increases where a group of employees is seconded, or secondments could be seen as being used to circumvent the effect of TUPE.

Facts: The claimant was employed by the Bank’s parent company, from 2013. In 2016 she was seconded to the Bank under a secondment agreement and letter, both of which expressly stated that she remained an employee of the parent company throughout the secondment. The claimant raised some compliance concerns in 2019, after which her relationship with the host deteriorated. After the secondment was terminated in 2021 and she returned to a role with parent company, she brought claims including automatic unfair dismissal and whistleblowing detriment against the Bank and two of its employees. The Employment Tribunal upheld her claims, finding that her employment had transferred to the Bank. The Bank appealed.

Decision: The EAT upheld the appeal and dismissed the automatic unfair dismissal claims against the Bank, as it was not the claimant’s employer. She had remained an employee of the parent company; her employment had not transferred to the Bank. Any change to the employment relationship in 2021 would have required an express or implied novation of the contract between the claimant and the parent company to substitute the Bank as her employer. This would have needed the consent of the claimant, the parent company and the Bank.

The whistleblowing detriment claims were sent back for another hearing, as the Employment Tribunal had not considered whether the Bank might meet the extended definition of an employer under the whistleblowing legislation, or whether those who were alleged to have subjected the claimant to detriment were acting as agents for the parent company.

HORIZON SCANNING

What key developments in employment should be on your radar?

Expected effective date	Development
6 April 2026	ERA 2025: various provisions in force, including increase in maximum collective redundancy protective award; day-one statutory paternity leave and unpaid parental leave; Statutory Sick Pay; establishment of Fair Work Agency; employer duty to keep records of annual leave and pay; confirmation of sexual harassment whistleblowing protection; voluntary gender equality action plans; simplification of trade union recognition process
19 June 2026	Data (Use and Access) Act 2025: employers required to have data protection complaints process
August 2026	ERA 2025: electronic and workplace balloting (for trade union ballots) in force
1 September 2026	New rules and guidance on non-financial misconduct in financial services
October 2026	ERA 2025: further provisions in force, including employers required to take all reasonable steps to prevent sexual harassment of employees and employer liability for third party harassment; enhanced protections against industrial action detriment; further trade union measures (strengthening rights of access, employer duty to inform workers of right to join, enhanced protections for reps)
October 2026	Extension of employer right to work checks to working arrangements other than under a contract of employment under section 48 of the Border Security, Asylum and Immigration Act 2025
No earlier than October 2026	ERA 2025: increase in employment tribunal time limits from three to six months
January 2027	ERA 2025: reduction of unfair dismissal qualifying period to six months for dismissals from 1 January 2027 and removal of compensation cap; fire and rehire protections
2027	ERA 2025: further provisions in force, including new collective redundancy consultation threshold; certain NDAs to be unenforceable to the extent they prevent workers from making allegations or disclosures about workplace harassment or discrimination; mandatory gender pay gap and menopause action plans; zero hours workers - right to guaranteed hours; enhanced

dismissal protections for pregnant women/new mothers; bereavement leave; changes to flexible working requests; electronic and workplace balloting (recognition and derecognition)

We are also expecting important case law developments in the following key areas during the coming months:

Discrimination / equal pay: *Randall v Trent College Ltd* (EAT: whether worker's treatment was belief discrimination or was treatment because of objectionable manifestation of belief); *University of Bristol v Miller* (EAT: whether anti-Zionist beliefs were protected philosophical beliefs and summary dismissal was discriminatory); *Corby v Acas* (EAT: whether opposition to critical race theory was a protected belief); *Legge v Environment Agency* (EAT: whether employee discriminated against for not holding feminist belief); *Thandi v Next Retail Ltd* (EAT: whether there was a material factor defence to an equal pay claim by shop floor sales staff seeking to compare themselves with warehouse staff); *Augustine v Data Cars Ltd* (Supreme Court: whether part-time status must be the sole reason for less favourable treatment)

Employment contract: *Gagliardi v Evolution Capital Management LLC* (Court of Appeal: whether employer was in breach of contract in failing to pay discretionary bonus)

Industrial relations: *Jiwanji v East Coast Main Line Company Ltd* (EAT: whether a pay offer directly to staff during collective negotiations was an unlawful inducement)

Unfair dismissal: *Stobart v Zen Internet Ltd* (Court of Appeal: whether capability dismissal of senior executive was unfair; *Polkey* assessment of compensation)

Whistleblowing: *Wicked Vision v Rice* (Supreme Court: whether employer could be vicariously liable for whistleblowing dismissal detriment); *Argence-Lafon v Ark Syndicate Management Ltd* (Court of Appeal: whether employee was dismissed for making protected disclosures or because of subsequent behaviour).

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