

# THE NEW EMPLOYMENT RIGHTS ACT:

The Changing Face of the Workplace



# FROM THE TACTICAL TO THE STRATEGIC: AN ANALYSIS OF COMPANY RESPONSES TO THE EMPLOYMENT RIGHTS BILL

The proposed Employment Rights Act is the most significant piece of employment legislation in decades and will require UK companies to update their contracts and policies to meet new legal standards.

Our report highlights the different approaches and attitudes being adopted by companies in response to the proposed legislation. We see a range of responses from those who will seek to minimise the impact and may see increased regulation as a threat, to those who will use the legislation to enhance workforce strategies, increase engagement, and foster a fair and transparent culture that can improve competitiveness.



A barista wearing a white shirt and a brown apron is pouring coffee from a metal pitcher into a blue and white patterned cup. The barista is wearing glasses and a bracelet. The background is a solid blue color.

# SECTION 1

## Introduction



# INTRODUCTION

**T**he term ‘Employee Relations’ can sound somewhat old fashioned. Still more so does its predecessor, ‘Industrial Relations’. Both tend to recall images of strikes, power cuts and mass meetings in car parks. In some organisations, in the 1970s and 80s, HR was ‘all about industrial relations’ but by the late 1980s, Employment Relations was sliding down the HR Director’s list of priorities. A more individually focused approach to managing workplace relations, with an emphasis on individual performance and shareholder value and a shift in the economy which raised the importance of less unionised sectors, saw a decline in trade union membership and, consequently, in their influence in the workplace and on national politics. Employment law governed individual terms and conditions, ‘employee engagement’ became the new term for managing day-to-day employment relations and ‘change management’ became the new skillset for handling any large-scale restructuring. Fewer employers involved unions (or any other employee representatives) in negotiating terms and conditions. Google Trends shows the eclipse of the term ‘Employee Relations’ by ‘Employee Engagement’ from the mid-2000s.

For reasons we will discuss in this paper, public opinion began to develop a negative view of large corporations after the Global Financial Crisis and a more positive view of trade unions and workers’ rights. The COVID-19 pandemic boosted these trends. Trade Unions sensed their moment. In September 2021, in partnership with its affiliated unions, the Labour Party published its New Deal for Working People, setting out its proposals for greater individual and collective workplace rights. This formed the basis of the Employment Rights Act (ERA).

In 2022 the Institute for Employment Studies declared that “Employment Relations is back with a bang.”<sup>i</sup> Citing skills shortages, wage growth and rising employee confidence, it remarked:

***“The balance of bargaining power is shifting. For now, at least some employees have the upper hand in a way not seen for many years. Today’s reality could not be more challenging for employers.”***

**T**his warning was prescient. Whereas once, managing Employee Relations might have been a key skill set for HR professionals, many organisations now have little experience of doing so. The proposals in the Employment Rights Bill have caused concern among employers unused to managing collective matters.

The purpose of this paper is therefore fourfold:

- Understand ‘the why of the ERA’ – the factors that got us to this point
- Summarise the main points of the ERA
- Assess the strategies employers are developing in response
- Discuss some potential next steps for members.



**In Section 2**, we look at the background to the Employment Rights Bill and the economic, social and political factors that have driven it.

**Section 3** charts the current status of the Bill and the likely phasing of its implementation.

**Section 4** provides a summary of the Bill’s main points.

**In Section 5** we analyse the strategies of the employers we have surveyed and identify 4 distinct responses we see within the sample group:

- **Minimise impact:** seek to maintain business as usual.
- **Minimise risk:** strengthen processes to limit risks.
- **Optimise value:** use new legislation and collectivism to advance business goals.
- **Revolutionising the Paradigm:** create new strategies for collective HR and employee relations, connecting improved network health within the organization to enhance strategic outcomes.

**Section 6** pulls together the main themes, draws some overall conclusions and discusses potential next steps.





# SECTION 2

We look at the background to the Employment Rights Bill and the economic, social and political factors that have driven it.

# BACKDROP TO THE LEGISLATION

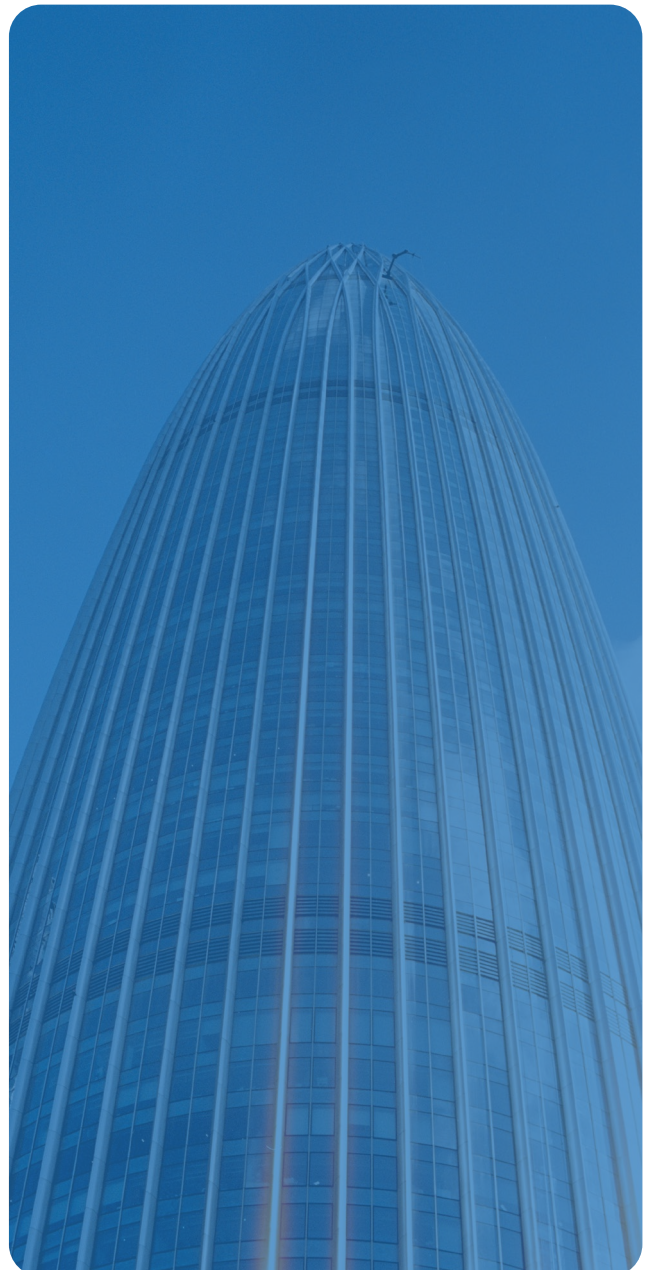
**T**he Employment Act is being introduced against the background of an economy that has experienced a long period of stagnation and, as a result, very slow growth pay and living standards. The legacy of the Global Financial Crisis led to an economic reset where low productivity growth became the new normal. It also gave rise to increasing criticism and scepticism of large corporations. The COVID-19 pandemic appears to have exacerbated these attitudes and given rise to more critical and questioning attitudes among employees. As a result, the political ground has shifted and public opinion is more in favour of increased workers' rights. Over the medium term it is likely that shrinking workforces will lead to labour shortages and possibly an increase in worker bargaining power.

## Economic stagnation

Since the 2008 Financial Crisis, most advanced economies have experienced significantly slower growth than they enjoyed in the second half of the 20<sup>th</sup> century. Dubbed 'Synchronised Stagnation' by the Financial Times, persistently low productivity growth has suppressed wages and put pressure on public finances.<sup>ii</sup> In most countries, this has led to public spending cuts in parallel with stagnating living standards, leaving people feeling considerably worse off.

The UK has experienced a particularly acute case of this slowdown. The Resolution Foundation noted that productivity growth since 2010 has been "slower than every country in the G7 bar Italy."<sup>iii</sup>

The contrast between the decades since the Financial Crisis and the second half of the 20<sup>th</sup> century is stark. Like most advanced economies, the UK saw a period of rapid economic growth after the Second World War. This rate of growth was unprecedented but we quickly came to regard it as normal. This period shaped our assumptions about rising standards of living, with each generation being better off than the one before, increasing leisure time and earlier retirement. It also defined our expectations of the state and of public service and welfare provision.



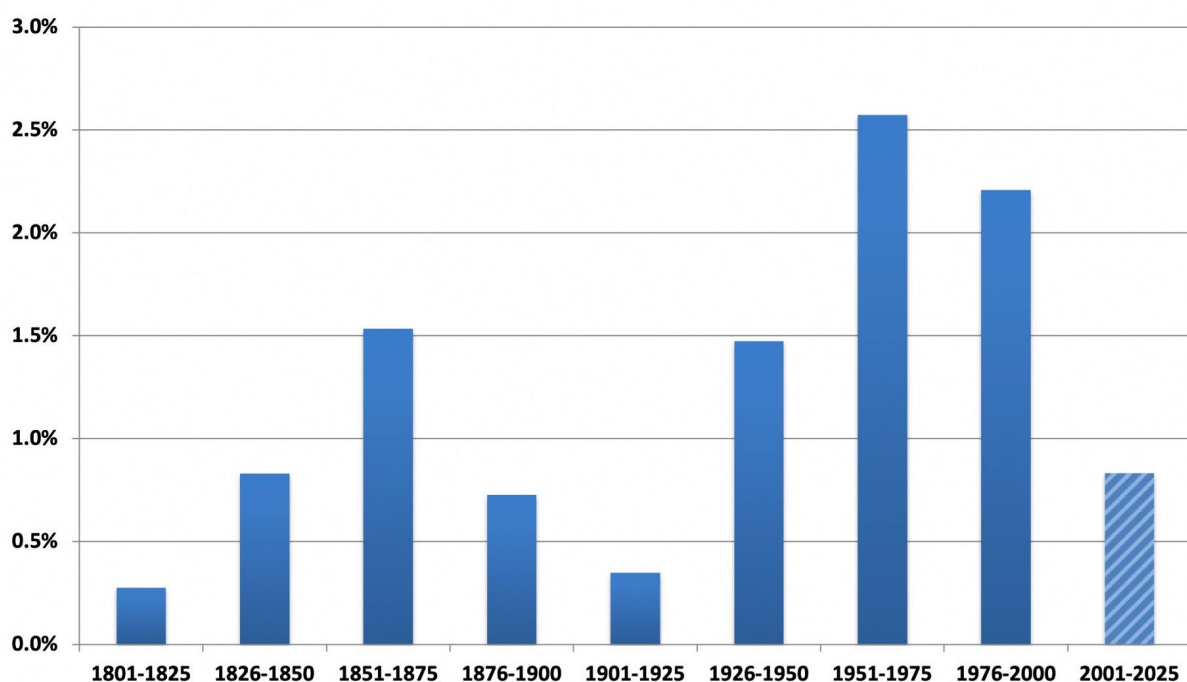


**B**ut falling productivity growth inevitably feeds through into people's incomes. The result has been a period of historically low-income growth for most households. As Paul Johnson, Director of the Institute for Fiscal Studies, remarked, the UK has experienced twenty years of pay stagnation, something the country hasn't seen for two centuries:

- Average earnings have barely risen. They are at least £10,000 a year below where they would have been had they continued to increase at the rate prevailing for the previous 60 years. With average earnings well under £40,000 a year, that's a huge loss, relative to reasonable expectations.
- These have probably been the worst two decades for earnings growth since Napoleon was threatening these shores.<sup>iv</sup>

It should come as no surprise that the severe slowdown in per capita GDP growth and its knock-on effect on living standards should have had a significant impact on public attitudes to work to companies and to the role of the state.

### Average Real UK GDP Per Capita Growth



Source: Bank of England and Office for Budget Responsibility





# SOCIAL ATTITUDES

**T**he period since the Financial Crisis has seen a rise in concerns about fairness and inequality coupled with rising criticism of companies. Concern about inequality does not track inequality itself but tends to rise and fall in line with how people are feeling about their living standards. The sharp increase in inequality in the UK occurred in the 1980s and early 1990s, but the public and media focus on it became more intense after the 2008 financial crisis, when the level of inequality was largely flat.

This and the focus on corporate behaviour during the Financial Crisis have had an impact on how people view companies and their senior executives. Public scrutiny of companies and expectations about their standards of behaviour increased markedly during the 2010s. Anti-corporate rhetoric is now heard as much from the populist right as it is from the far left. Criticising corporate behaviour is no longer the preserve of political activists. Customers, employees and potential recruits are just as quick to call out what they see to be unethical behaviour and to do so publicly on social media.

Consequently, public opinion has become more open to significant intervention in employment law in a way it wasn't for much of the 1990s and 2000s. The sense that something needs to be done to 'redress the balance' was present before the pandemic. The disproportionate impact of COVID-19 on the lower paid served to heighten such feelings. Public opinion is broadly in favour of an increase in employment rights (though less so about trade union rights) with strong approval even among Conservative and Reform voters. <sup>v vi</sup>

# PRESSURE FROM THE TRADE UNIONS

**T**he idea of some sort of extension of employment rights, then, was an idea whose time had come. In 2021, under the headline “Trade Unions are back after a long absence,” the Financial Times commented on “a quiet change in economic orthodoxy”:

*“As Alan Manning, economics professor at the London School of Economics, says: “It’s incredibly popular among young economists now to think the balance of power between labour and capital has gone too far.” The OECD, hardly a hotbed of socialism, argues that collective bargaining “should be mobilised to help workers and companies face the transition and ensure an inclusive and prosperous future of work”.<sup>vii</sup>*

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Some extensions of employment rights were proposed by the Conservative government after the COVID-19 pandemic.<sup>viii</sup> As the likelihood of a Labour government increased, Trade Unions and other campaigners for employment rights began to step up the pressure for a significant reform of employment rights. Labour’s New Deal for Working People, launched by Angela Rayner at

the Labour Conference in 2021, was drawn up in partnership with Labour’s affiliated unions.<sup>ix</sup> It set out a plan to strengthen individual and collective rights and laid the groundwork for the measures in the Employment Rights Bill.

However, tensions soon emerged within the Labour Party. Before the 2024 election, business groups such as the CBI began to lobby for a softening of the proposals.<sup>x</sup> In response, trade unions accused the party of watering down its commitments.<sup>xi</sup> The ensuing battle within the Labour movement has persisted into government, with many unions seeing their role as ‘holding the government’s feet to the fire’ to ensure that it doesn’t backslide on any of its initial commitments. Unite, the UK’s second largest union, has repeatedly threatened to withdraw funding from the Labour Party if it does not implement its initial proposals. Speaking in September, Unite’s General Secretary, Sharon Graham, repeated the threat and criticised the “burnt out shell” of the government’s workers’ rights legislation.<sup>xii</sup> Unison, the largest union, has adopted a less combative approach while reiterating its commitment to “holding the government to account”.<sup>xiii</sup>

Trade unions have felt locked out of power for decades and many see this legislation as a chance to regain their influence over employment relations.<sup>xiv</sup> As well as campaigning to individual employment, they are keen to remove what they see as the more onerous restrictions on collective action, such as the 40% ballot threshold in public services. The phrase “once in a generation” is often heard, most recently in a November 2025 article by Labour’s former Deputy Leader, Angela Rayner.<sup>xv</sup> It is unlikely that this pressure will let up and any representations from business (or elsewhere) calling for changes to the proposals is likely to be balanced by equally strong pressure from the trade unions to stay true to what they see as the original spirit of the New Deal for Working People.

# AN UPTICK IN MILITANCY?

**T**here is some evidence that, for now, the trade unions seem to have public opinion on their side. After the COVID-19 pandemic, it looked as though there might be a rise in industrial action and worker militancy. In 2022 and 2023, the number of days lost to strikes reached a level not seen since 1989. However, the numbers fell again in 2024. There was also a slight increase in the proportion of employees who were members of trade unions in 2023 but, again, the numbers fell back in 2024.



ONS (December 2025) Labour disputes; working days lost due to strike action

The post-COVID militancy may look like a blip. However, employee resistance to management control takes many forms. One flashpoint since the pandemic has been the resistance to employers demanding an end to working from home. This has affected organisations and sectors that were previously un-unionised and had little experience of industrial unrest. The idea of employees at an investment bank organising a petition to the CEO about anything would have seemed bizarre before the pandemic. The incredulous reaction to 2,000 of them petitioning their boss with a demand to keep hybrid working arrangements suggests that the bank's senior management still haven't come to terms with the idea.<sup>xvi</sup>

The conflict over hybrid working is ongoing, with some firms resorting to surveillance in an attempt to enforce corporate policy.<sup>xvii</sup> Professor Thomas Roulet of Cambridge's Judge Business School has carried out extensive research in this area. He recently told a parliamentary inquiry that flexible working forms part of a 'new social contract' between employers and employees. Forcing workers back to the office

therefore "generates attrition and a drop in job satisfaction".<sup>xviii</sup>

A number of surveys have noted rising employee expectations since the pandemic and an "expectation gap" between what employers are offering and what employees are prepared to accept.<sup>xix</sup> Many employers are becoming acutely aware of their workforces becoming more demanding. PARC's January 2025 member survey noted rising employee expectations in several areas, and a perceived shifting in the balance of power from employer to employee.

The uptick in what we have traditionally understood as militancy, in the form of industrial action and trade union membership, seems to have been short-lived, but the rise in workplace conflict is taking new forms and appears to be ongoing. How far these developments will survive a downturn in the economy remains to be seen, but the long-term changes in the dynamics of the labour market suggest that skills shortages may increase worker bargaining power over the second half of the decade.

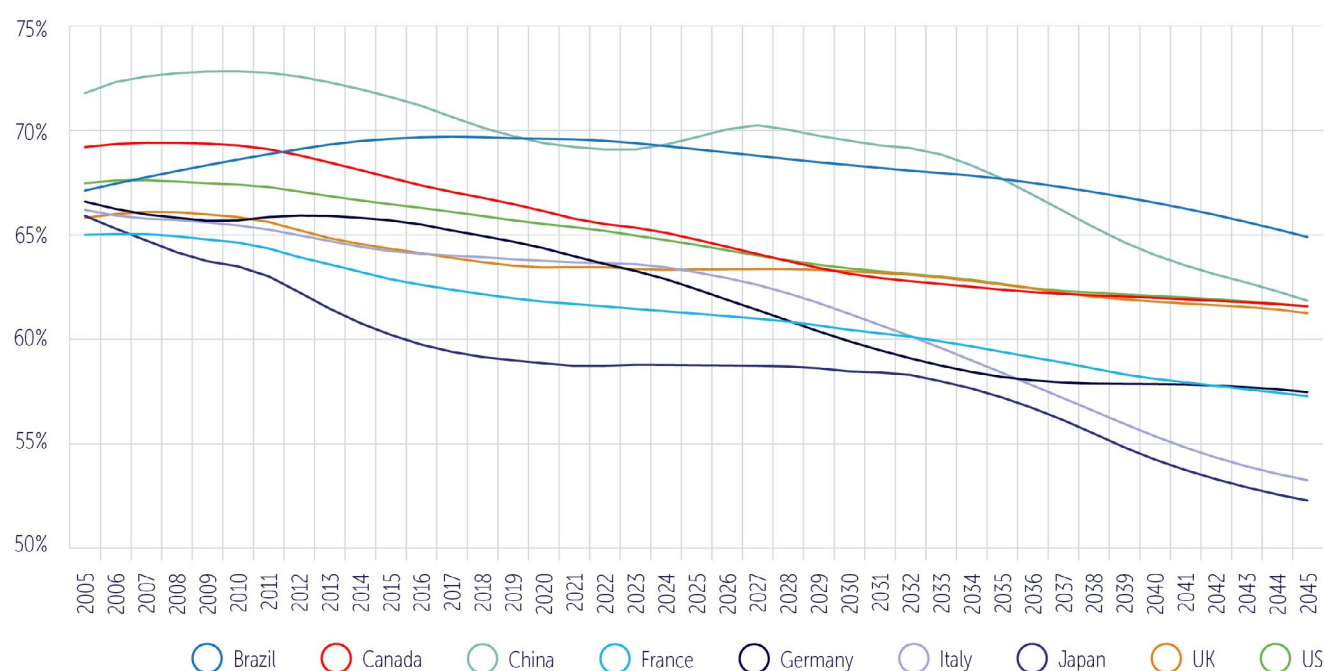


# DEMOGRAPHICS AND LABOUR SHORTAGES

**D**emographic trends across the world point to a looming labour shortage. Working age populations are shrinking in most parts of the world as a proportion of a country's total population and, in some countries, in absolute terms.

The population aged 15-64 is already shrinking in France, Germany and Italy and is projected to start doing so in the UK, US and Canada early in the next decade. In the emerging economies, falling birth rates and rising life expectancy are happening at a much faster rate than in the advanced economies. Their rate of ageing is such that they will catch up rapidly with the advanced economies during this decade and the next. The size of the working age population of China is already in decline and is forecast to shrink by more than 50 million over the next decade.

## Working Age Population (15-64) as percentage of total



A McKinsey Global Institute report in July 2024 noted that labour markets have been tightening since the financial crisis and that there is now very little labour surplus in the advanced economies. Across the eight economies it studied (the G7 plus Australia) there were 24 million surplus workers in 2010 and only 1 million by 2023. Employment rates are at record or near-record highs in most advanced economies. Although the employment rate in the UK has fallen over the last year, it is still high by historic standards.<sup>xx</sup>

The mathematics of this suggest a rise in workers' bargaining power is likely over the course of this decade. As former member of the Monetary Policy Committee Charles Goodhart points out, the post-Cold War period saw "the largest ever positive supply shock" as new resources, new markets and millions of new workers came into the capitalist system. This process, he says, has now gone into reverse.<sup>xxi</sup>

***"The coming reversal of these demographic trends will mean that future inequality is also likely to reverse. Rising wages will mean a larger share of national output for labour and falling inequality within economies."***

***"Labour scarcity will put [workers] in a stronger bargaining position. They will use that position to bargain for higher wages."***

Professor Rebecca Riley of Birmingham University notes the high birthrate cohorts are now moving out of the labour market while those in the low birthrate cohorts are now moving into senior management, creating a potential double-whammy of skills shortages:

***"The labour pool will continue to reduce significantly. Businesses will continue to find it difficult to fill posts. As the 1970s trough is now moving into senior and middle management this also reduces the pool of experienced people who will lead responses to this labour constraint."***

***For the next 10 years, it is likely that we will see a natural decline in the labour pool as the reduced birth rate cohorts move into the workforce. However, this will probably lead to an overall stabilisation in the labour pool but at a much lower level than seen in previous years. This points to challenges for the policy as the labour constraints continue for many decades."***<sup>xxii</sup>

Until recently, businesses have paid little attention to these demographic shifts but, as Ben Page, CEO of Ipsos, remarked:

***"Demography is already politics. Soon it will be a business issue too. One 'known known' is today's dramatic demographic shifts. The prospect of global population decline from the middle of this century now looks irreversible."***<sup>xxiii</sup>

Against this background it is likely that worker bargaining power will increase, particularly in those areas like construction where skills are already in short supply.

The background of the slide features a photograph of construction workers on a roof. One worker in the foreground is wearing a white protective suit, a green helmet, and a red safety harness, carrying a large white container. Another worker is visible behind them, and a third is partially seen on the left. They are working on a corrugated metal roof structure. The entire image is covered with a semi-transparent blue filter.

# SECTION 3

Charts the current status of the Bill and the likely phasing of its implementation.



# THE PASSAGE AND IMPLEMENTATION OF THE EMPLOYMENT RIGHTS BILL SHORTAGES

**T**he Employment Rights Bill was introduced in October 2024, received its second reading in December 2024 and advanced through committee and report stages in early 2025. After passing the Lords Committee on June 28, report-stage debates were held in July. The Third Reading and further Commons consideration are pending, with delays due to Lords amendments not being accepted by the government. However, Royal Assent is expected by year end 2025, enabling the first tranche of changes to take effect April 2026.

## **Royal Assent (by year end 2025)**

Once Royal Assent is obtained, most sections of the Trade Union Act 2016 and the Strikes (Minimum Service Levels) Act 2023 will be immediately revoked. The Bill will bring about easier processes for strike ballots and formally safeguard employees from dismissal when engaging in lawful industrial action.

## **6 April 2026**

Significant changes take effect, such as the creation of the Fair Work Agency, the introduction of statutory paternity and unpaid parental leave from day one, and the elimination of both the lower earnings threshold and the three-day waiting period for Statutory Sick Pay. Reforms also include stronger whistleblower protections, facilitation of electronic and workplace union balloting, a more straightforward union recognition process and doubling the upper limit for protective awards in collective redundancy cases. (It is also possible, as we go to print, that the 6-month qualifying period for unfair dismissal may be advanced).

## **1 October 2026**

From this date, employers must take “all reasonable steps” to prevent sexual harassment in the workplace. Other updates include new regulations restricting fire and rehire practices, supported by an ACAS Code, tighter tipping rules, a two-tier procurement code, improved union access and lengthier time frames for the majority of employment tribunal claims.

## **2027 (Phased Implementation)**

Reforms throughout 2027 will bring in unfair dismissal rights from six months of employment (if not brought forward), place restrictions on zero-hours contracts and extend comparable protections to agency workers. Further measures will regulate umbrella companies, require action plans for gender pay gaps and menopause, enhance pregnancy-related employment protections, set new consultation requirements for collective redundancies and grant statutory bereavement leave for pregnancy loss.

# CONSULTATIONS AND SECONDARY LEGISLATION

To support the Employment Rights Bill, the Department for Business & Trade is launching a series of consultations to shape and complete the secondary legislation needed for its successful rollout. These will take place over three phases, each targeting different aspects of the Bill's reforms.

## Phase 1:

### Through to the End of 2025

In the initial phase, consultations are ongoing regarding restricting 'fire and rehire' practices and changing rules for zero-hours and low-hours contracts. Other subjects include regulating umbrella companies and updating trade union laws. Five key consultations are expected during this period, focusing on fair pay wage agreements, statutory bereavement leave, union rights, protections for pregnant workers and related issues.

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## Phase 2:

### 2026

The second phase will address further areas, including additional trade union reforms, collective redundancy procedures, tipping regulations and flexible working arrangements. There may also be reviews or consultations on worker status, TUPE (Transfer of Undertakings—Protection of Employment), and health and safety standards.

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## Phase 3:

### 2027

Any consultations or reviews initially planned for 2026 that require extra time may continue into 2027, extending the schedule for finalising some aspects of the secondary legislation connected with the Employment Rights Bill.

A man with a beard, wearing a grey t-shirt and a dark apron, is working on a model in a workshop. He is holding a small object in his hands and looking at it intently. The background shows shelves with various materials and tools. The entire image is overlaid with a blue tint.

# SECTION 4

Provides a summary of the Bill's  
main points.



# THE EMPLOYMENT RIGHTS BILL:

## KEY PROVISIONS AND IMPLEMENTATION TIMELINE

### 1. Employment Rights

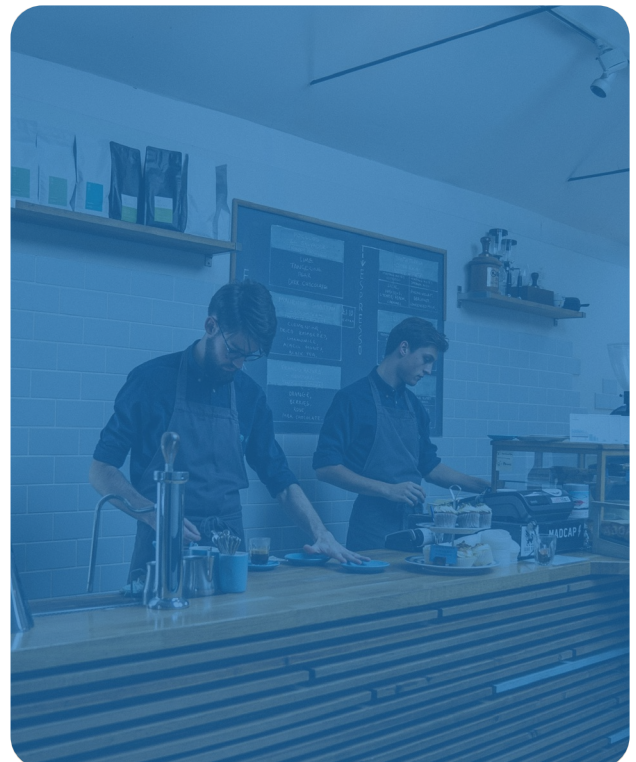
Starting April 6, 2026, the Employment Rights Bill gives new hires immediate eligibility for statutory paternity leave, unpaid parental leave and Statutory Sick Pay, with no minimum earnings or waiting period. In 2027, protections expand to include a 6 month waiting period to access unfair dismissal rights, (though the date for this may yet be advanced), a default right to request flexible working, stronger protections for pregnant workers and new limits on zero-hours contracts.

### 3. Reforming Casual and Fixed-Term Contracts

The Employment Rights Bill introduces new restrictions on zero-hours contracts, banning exploitative practices and requiring equal rights for agency workers by 2027. Employers may be required to offer contracts matching employees' usual work patterns, and anti-avoidance rules will address repeated short-term contracts. The Bill allows ministers to regulate fixed-term contract renewals and durations, with possible moves toward permanent employment after a set period. Consultations on exemptions and thresholds are planned for 2025–26.

### 2. Strengthening Trade Union Rights

The Bill streamlines union recognition and access. From April 6, 2026, unions can secure statutory recognition faster via electronic and in-person ballots. Starting October 1, 2026, employers must give unions reasonable recruitment access and inform new staff of their union rights. Guidance will be provided for sectors with low union density. Most provisions of previous union laws will be repealed immediately. Balloting rules will be eased, making lawful industrial action simpler and increasing protections for strikers. New penalties target employer interference with union activity, including higher compensation if union access is obstructed.



## 4. Restrictions on “Fire and Rehire” Practices

Expected October 2026 it will be deemed automatically unfair to dismiss and rehire employees solely to impose “restricted variations” to their contracts—such as modifications to pay, pensions, working hours, holidays or the introduction of flexibility clauses. Employers may only justify such actions if a refusal to change terms would result in imminent and significant financial hardship; public sector bodies must demonstrate that maintaining statutory functions would otherwise be financially unsustainable. For other types of contractual changes, employment tribunals will continue to evaluate the employer’s business justification, the extent of consultation undertaken and any inducements provided when determining fairness under section 98(4) of the Employment Rights Act 1996. Additionally, dismissing employees solely to replace them with agency or contract workers will be considered automatically unfair, except where an insolvency defense applies. A revised ACAS Code, coming into force on October 1, 2026, will set out procedural requirements for employers. Failure to adhere to these procedures may result in compensation being increased by up to 25%. Government guidance underscores that dismissal and re-engagement should only be considered as a measure of last resort, once all reasonable alternatives have been thoroughly explored. Non-compliance may lead to unlimited compensation awards for unfair dismissal.

## 5. Enforcement Powers: The Fair Work Agency

The Bill creates the Fair Work Agency (FWA), which will regulate workplace laws from April 6, 2026. FWA will serve as a single contact for pay and employment rights, with powers to inspect, request documents, interview staff, recover wages, issue penalties and refer cases for prosecution. It will also provide codes and guidance, run a public helpline, offer best practice materials and lead awareness campaigns about workplace rights and responsibilities.

## 6. Equality, Inclusion, and Workplace Standards

Large employers (250+ employees) must publish annual equality and inclusion action plans. Voluntary reporting templates will be available from April 2026, with mandatory requirements beginning in 2027. Action plans should address progress on closing gender pay gaps and include steps to boost diversity and inclusion. Reporting will also cover ethnicity and disability. Consultations on data and calculation methods are ongoing, ahead of mandatory implementation in 2027. Statutory guidance and an ACAS toolkit will support employers in making reasonable adjustments and creating inclusive workplaces.



## 7. Expanded and New Statutory Rights

Bereavement leave will be expanded to include early pregnancy loss before 24 weeks, with changes expected by 2027. Whistleblowing protections improve in April 2026: the FWA gains investigatory powers, anonymous reporting is supported and coverage broadens. From October 1, 2026, employers must actively prevent sexual harassment, including by customers or third parties, guided by a statutory code in early 2026; tribunals may boost compensation by up to 25% for non-compliance. Confidentiality clauses that restrict disclosures about harassment or discrimination will be invalidated, while commercial secrecy clauses remain enforceable after 2026. As we go to print, consideration is being given in parliament to remove all limits on tribunal financial compensation awards.

## 8. Supporting Legislation, Guidance, and Codes of Practice

Many key provisions of the Bill require secondary legislation and detailed guidance to take effect. For zero-hours contracts, the framework is set by primary legislation, but regulations in 2027 will define reference periods, exceptions, anti-avoidance rules and agency worker pay equality after consultation in autumn 2025. Ethnicity and disability pay-gap reporting will be mandatory from 2027, with further rules on data, calculation and publication following consultation. Equality action plan templates are expected in 2026, with standards and enforcement set by regulation in 2027. The Fair Work Agency's core powers are defined by the Bill, while penalty bands, appeals, Protocols and information-sharing will be clarified via statutory instruments before its April 2026 launch. Additional areas needing secondary legislation include defining "restricted variations" for the fire and rehire ban, statutory probation for unfair dismissal rights and a workplace sexual harassment code of practice.

**P**lease note that the Act will trigger a raft of secondary legislation, much of which is still under consultation. Exact dates may also change, once the Bill moves into Law. Furthermore, as we go to print, amendments to the proposed legislation are still possible.



# SECTION 5

We analyse the strategies of the employers we have surveyed and identify 4 distinct responses we see within the sample group

# COMPANY RESPONSES:

## FOUR APPROACHES TO NEW LEGISLATION

**O**ur research has identified four distinct approaches that organisations are adopting in response to the new Employment Rights Bill. These approaches reflect varying priorities, organisational cultures and risk appetites:

- 
- **Minimise Impact**
  - **Minimise Risk**
  - **Optimise Value**
  - **Revolutionise Paradigm**
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### **Minimise Impact- trying for 'Business as Usual'**

A small number of respondents are seeking to downplay the effects of new legislation, aiming to continue 'business as usual'. These largely non-unionised organisations use casual and temporary labour for flexibility and cost control, focusing on cost-driven employment strategies within strict budgets.

## Example Case Study: Company A

All case Studies referenced in this report are created from a combination of company and press reports and general HR practices informed by responses to surveys and interviews. They do not describe any one organisation.

Company A is a small, family-owned, manufacturing business that has never recognised a trade union. The management style at Company A is paternalistic and places a strong emphasis on accountability, encouraging open and direct communication with employees. Although all staff received full pay throughout the COVID-19 pandemic, management has noticed changes in employee attitudes, such as increased expectations and declining trust in leadership, which have been shaped by social media, higher living costs and worries about job security.

The introduction of the new Employment Rights Bill has made Company A's owners concerned. They prefer to communicate directly with their staff rather than involve unions, viewing their paternalistic benefits as discretionary rather than contractual rights.

### Measures to Preserve Existing Arrangements

To keep current employment practices and maintain the status quo, Company A has taken precautionary steps based on established legal checklists. It has also launched an internal communications campaign so employees can better understand the unique benefits of working for a family-run business, such as competitive wages and contributing positively to society. Nevertheless, the company acknowledges that its culture of high accountability could prompt some workers to seek out trade union protection.

### Responding to Potential Union Recruitment

Preparing for the possibility of union recruitment efforts, Company A is creating strategies to manage these situations. The company consulted legal experts to ensure its actions complied with the law, particularly the Trade Union and Labour Relations Act 1992, including section 145A, which prohibits offering incentives to deter union membership, and section 146, which protects employees from negative consequences related to union activities. Company A recognises that future codes of practice may impose additional restrictions to their planned activities in this area.

## COMPARING US AND UK APPROACHES TO EMPLOYEE RELATIONS

**T**raditionally, US businesses have responded strongly to union campaigns with vocal opposition and mandatory meetings to present the company's position. US employers often hire consultants and restrict union access, sometimes increasing staff numbers to influence votes. In contrast, the UK relies on a law-based, neutral process, restricting specific employer actions during union drives. The Trade Union and Labour Relations Act of 1992 limits anti-union tactics, and British unions typically use subtler advocacy than US Unions.

However, the new Employment Rights Bill has the paradoxical possibility of changing these norms, especially regarding easier union access and recognition. As unionisation becomes more attainable, unions may focus more on businesses that previously had little union involvement, possibly leading to higher demand for union 'avoidance' consulting services in the UK, mirroring the US.



# MINIMISING RISK: ENSURING COMPLIANCE WITH NEW LEGISLATION

**T**he majority of the organisations we surveyed are taking proactive steps to minimise risk in response to the new Employment Rights Bill. These companies, which typically have well-established human resources administrative functions, are focused on updating their processes to comply with the latest legislative requirements. For most, the changes introduced by the Bill are incremental, building upon their existing policies and procedures.

The primary objective for this group is to maintain compliance by ensuring all internal processes reflect the new legal standards. To achieve this, they are systematically following a detailed checklist of recommended actions (as advised by an online checklist), reviewing current practices and making proactive adjustments to align with the evolving regulatory landscape.

## CASE STUDY: COMPANY B: MINIMISING RISK

### Background and Approach

With a strong history of trade union recognition and a robust Human Resources department, Company B has already adopted most policies tied to family leave, sick pay, equality and diversity. Thanks to this solid groundwork, meeting newer workforce flexibility standards will require only minor adjustments. The company's established systems and experience make these anticipated changes relatively simple to implement.

### Policy Review and Compliance

To stay compliant, Company B will carefully review employment contracts, focusing on updated confidentiality clauses. The company is also open to further updates where necessary to accommodate reasonable contract modifications allowed under new laws. Plans are in place to review probationary procedures, ensuring transparency and fairness—especially in situations involving dismissals during probation.

### Management Training and Employee Protections

As regulations evolve, Company B is committed to strengthening management training. New programmes will emphasise awareness of the latest employee and trade union rights, including safeguards for whistleblowers and anti-harassment measures. Special focus will be placed on preparing line managers to uphold these protections effectively.

### Union Representation and Access Protocols

Most employees at Company B belong to a union, but some office staff do not. To address new legal duties, the company will revise its access protocols as needed. Should future unionisation efforts target non-union office staff, Company B's leadership will maintain a neutral position, aiming to keep positive relationships throughout the business.

# OPTIMISE VALUE: ADOPTING A STRATEGIC EMPLOYEE RELATIONS APPROACH

**T**he second most common response among respondents centres on optimising value by incorporating new legislative requirements into their existing employee relations practices. Many of these organisations already recognise and work with trade unions, striving to implement partnership-based approaches that foster cooperative relationships wherever possible. For some companies that are currently non-unionised, there is an intention to proactively engage with prospective trade unions, initiate recognition processes and develop employee engagement strategies that emphasize collective involvement as a key organisational strategy.

From the government's perspective, these organisations are effectively aligning with the legislative intent, demonstrating a commitment to upholding the outcomes envisioned by the regulations.

## CASE STUDIES: ADOPTING A STRATEGIC RESPONSE

### **Company D: Proactive Union Engagement in a Growing Non-Unionised Business**

Company D is an expanding business that has historically operated without formal union recognition. As the organisation grows, it faces increasing administrative demands and communication complexities. In anticipation of potential unionisation, Company D proactively invited all three relevant trade unions to engage in discussions regarding union recognition.

Subsequent to these consultations—and following comprehensive feedback from staff—Company D commenced negotiations with the union most closely aligned with its strategic objectives and workforce preferences. This partnership aims to reinforce workplace practices and bolster HR effectiveness, while minimising the bureaucratic challenges commonly associated with organisational growth and change.

### **Company C: Collaborative Policy Review and Union Engagement**

**C**ompany C, a prominent multinational organisation, is distinguished by its well-established relationships with trade unions. The company's workplace policies consistently surpass the requirements stipulated in the new Bill. Of particular note, Company C already implements comprehensive data collection protocols and provides ongoing staff training in areas such as whistleblowing and sexual harassment. Furthermore, the organisation maintains a definitive position opposing fire-and-rehire practices.

In light of recent legislative changes, Company C is leveraging this opportunity to review and align specific policy arrangements—most notably those relating to sickness pay. Probationary policies and associated procedures are also under evaluation, and flexibility clauses within employment contracts will be updated where appropriate. Consistent with its collaborative philosophy, Company C actively includes trade union representatives throughout these review processes.

For temporary or casual employees, Company C prioritises the regularisation of employment whenever feasible, ensuring that temporary arrangements are confined strictly to seasonal or genuinely short-term needs.



# REVOLUTIONISING THE PARADIGM: RETHINKING 'COLLECTIVE HR' AND EMPLOYEE RELATIONS

**A** small group of organisations are rethinking their approach to HR, employee relations and change management. They realise that traditional methods are less effective with today's employees, whose expectations have shifted due to social media and a changing workplace.

In response, these companies are actively experimenting with innovative, leading-edge solutions for managing change. Their focus is on collaborating with employees throughout the change process, rather than imposing change upon them. By doing so, they are positioning themselves at the forefront of contemporary thinking about the future of work, as highlighted in the CRF research study on this topic [Building a Future Fit Workforce](#).

At the core of these organisations' strategies is a commitment to aligning people strategy and performance with their overall competitive objectives. Frequently, these are privately owned, medium-sized enterprises that place a strong emphasis on integrating employee engagement and development into their business models.







# CASE STUDY: COMPANY E

## Overview

**C**ompany E is a mid-sized private business that prioritises employee engagement and direct involvement in operations. Compensation includes team-based performance pay and profit sharing, linked directly to team based KPI tracking.

## Compensation and Benefits

Employees earn above-average wages, enjoy generous leave policies and managers can offer flexible, family-friendly options.

## Management and Employee Autonomy

Staff have significant autonomy within company guidelines. The organisation remains neutral on trade union membership, confident in its workplace values.

## Development and Empowerment Initiatives

Programmes for upskilling, volunteering and training are encouraged, aligning with the company's focus on empowerment. Employees are represented at the Board and supported through listening initiatives.

## Organisational Values and Policies

The company links employee satisfaction with customer satisfaction and views benefits as long-term investments. Contracts and legal compliance are routinely reviewed, and policy development involves all staff.

## Approach to Trade Union Activity

If trade union activity occurs, Company E will maintain neutrality and rely on its strong record of employee empowerment.

A woman with long dark hair, wearing a light-colored top, is smiling and looking to her right. She is holding a black tablet computer in her left hand. The background is a clothing store with racks of clothes. The entire image has a blue overlay.

# SECTION 6

Pulls together the main themes, draws some overall conclusions and discusses potential next steps.

# CONCLUSION

**E**mployee Relations is back on the corporate agenda. A combination of economics shifts in social attitudes, trade union pressure, a global pandemic and the 'swing of the pendulum' that moves the zeitgeist every few decades has brought both individual and collective rights to the fore again. The UK is not unique in this. To varying degrees, this is a phenomenon seen across developed economies. The demographic trajectory, with shrinking working-age populations, makes it more likely that skills shortages will be a recurring feature of the labour market in the second half of this decade. It is therefore reasonable to expect an increase in employee bargaining power. Surveys of HR professionals suggest that employees are becoming more demanding and, while there are some signs of a small uptick in traditional worker militancy, workplace conflict is also emerging in less unionised sectors over issues such as flexible working. This, then, is the background to the Employment Rights Bill. Public opinion is largely behind an extension of employment rights, and the trade unions have sensed their moment.

The data from our survey of employers shows some organisations adopting a defensive

approach, doing what they anticipate is needed to comply and minimise the impact on their businesses, while others are 'leaning in' to the changes and using them as an opportunity to revise their HR processes and reset relationships with trade unions or employee representatives. Some non-unionised companies are inviting unions in to begin discussions on recognition. A few organisations are using the reforms as a catalyst for organisational change, rethinking their strategies for employee engagement while developing strategies for the changes to the workforce discussed in Section 2 of this paper.

Each organisation must devise its response based on its assessment of its current and future business model. That said, this shift in the employee relations environment is based on something deeper than a government's legislative priorities. Given the weight of public opinion, even among right-of-centre voters, and the shifting balance of power in the workplace, it is likely that many of the measures will prove durable and will survive any change in government. The development of employee relations will therefore be a focus for our research over the next few years.

## The Next Steps

The Employment Rights Bill will remain a key focus for the 2026 programme of the CRF Employee and Industrial Relations Network as the legislation progresses towards Royal Assent and full implementation.

Our full-day in-person event *From Policy to Practice: Implementing the Employment Rights Bill* on 5th March in London will cover:

1. An update on the legislation
2. Refreshed insights on company approaches
3. Insight into the key changes required of companies
4. Implementation at an individual and collective level

Already a member? [\*\*Register for the event now to secure your place.\*\*](#)

Not yet a network member? Find out more about the [\*\*Network\*\*](#) or contact [\*\*Melissa Bull\*\*](#) to register interest.



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