

# EMPLOYMENT NEWSLETTER

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## Changes are coming....

The government has announced the Employment Rights Bill which aims to tackle poor working conditions and grow the economy.

Whilst it may provide extra protections to workers, the big question is how it will impact businesses and what changes you need to make

The purpose of this newsletter is to make it easier for you and your business to keep up to date with the changes in the law and what you need to be aware of.

We hope you find the newsletter helpful and if you have any questions, please do not hesitate to contact us.

We would like to thank all our clients for their continued support over the past year and look forward to working with you all in 2025.

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# Employment Rights Bill

Employers are going to be witnessing a big shift in employment legislation over the coming months and years, as the Employment Rights Bill gets introduced.

The Bill will introduce new workplace rights, replace out-of-date employment laws and aims to boost pay and productivity. At this stage the changes are proposed, with consultations due to be completed.



## **Unfair dismissal and probationary periods:**

Currently employees need to have worked for 2 years before they have the right not to be unfairly dismissed and there are no rules about probationary periods.

The proposed change is that the right not to be unfairly dismissed will become a day one right. It is expected that a procedure will need to be followed to allow employers do dismiss an employee during an “initial period” i.e. the probation period which is anticipated to be 9 months. However, it will be vital important that employers carry out probation reviews and regularly update staff on how they are doing during their probation before deciding to dismiss.

More detail on the procedures employees need to follow are anticipated and these changes are not expected to take effect until Autumn 2026.

### **Restrictions on ‘fire and rehire’:**

Currently the practice remains lawful, although high risk.

The proposed change is aimed to restrict employers’ ability to use fire and rehire to change terms and conditions, and would result in any dismissal being automatically unfair if an employer did this. There will be an exception where employers’ are in financial difficulties.

The government is also seeking to lift the cap of 90 days’ pay on protective awards for failure to inform and consult on collective redundancies.

When these changes will come into force are currently unknown. We will keep you updated.

### **Zero hours contracts**

The Bill does not seek to define and ban “exploitative” zero-hour contracts, as had been expected, however, they are introducing a range of rights such as:

- The right to guaranteed hours. Employers will be required to make an offer of guaranteed hours to qualifying workers.
- Right to reasonable notice. An Employer will need to provide reasonable notice of any change or cancelled shift, ‘reasonable notice’ will depend on the circumstances, but regulation is expected to provide clarity on this.

There is no confirmed date for these changes to come into force, however, the consultation will come to an end on 2 December 2024.

### **Stronger rights to flexible working**

Flexible Working rights recently changed on 6 April 2024, entitling staff to the right from day one and also allowing staff to make two requests.

However, the Bill intends to go further and require an employer to state and explain to the employee what the ground for any refusal is and why the refusal is considered reasonable. It is unclear when this will be introduced.

## **Trade Union Rights**

The Bill is intended to enhance Trade Union rights.

It is anticipated that employers will be required to inform employees about Trade Union rights when they commence employment as part of the written statement of terms. Trade Unions will also be granted a new right of access to workplaces.

## **Right to switch off**

This was expected to be set out in the Bill, however, the government has stated they intend to deliver the right to switch off through a statutory code of practice, which is expected to be introduced in 2025.

## **Stronger duty to prevent sexual harassment**

Changes came into force from 26 October 2024, which places an emphasis on employers to take 'reasonable steps' to prevent sexual harassment of employees and workers in the course of their employment.

The Bill intends for the law to be strengthened to require employers take 'all' reasonable steps to prevent workplace harassment and for employers to be liable for harassment by third parties.

## **SSP reforms**

SSP will become payable from day 1 of sickness. The lower earnings limit will also be removed, meaning all eligible employees, regardless of earnings, will be entitled to SSP.

We currently have no expected date of when we expect this to be introduced.

## **Extension of time limits**

Nothing has been announced in the Bill, however, it is anticipated that measures will be taken to extend the time limit for bringing an Employment Tribunal claim from three months to six months.

### **Extension of Maternity Protections:**

The Bill intends to amend the entitlement to SMP, employees will be entitled to SMP from day 1 of employment (instead of having to be employed for 26 weeks).

In addition to this, an extended protected period of six months is to be introduced. This means that an employee will be protected from being dismissed for a period of 6 months after their return to work.

The Bill will introduce a number of changes to the law as we know it. However, the good news is that the timescales are long. The implementation of the Bill is likely to be staggered, and it is anticipated that the changes set out above, will not come into force until 2026.

## **CHANGES COMING INTO FORCE IN APRIL 2025**

### **Neonatal Care (Leave and Pay)**

The Neonatal Care (Leave and Pay) Act 2023 is to come into force in April 2025. The Act will entitle parents whose babies are admitted to hospital up to the age of 28 days, and have a continuous stay in hospital of 7 full days or more. Parents will be able to take up to 12 weeks of paid leave, and the pay will mirror maternity pay.

### **National Living/Minimum Wage**

The gap between the national minimum wage of 18 - 20 years olds and the national living wage will be reduced. This has been confirmed in the governments budget. The NMW for 18 - 20 years olds will increase by 16.3% from £8.60 to £10.00 in April 2025.

We will confirm all the updated statutory rates for April 25/26 in March 2025. The statutory rates set out in this newsletter are the ones that are currently enforceable.

## Employer's National Insurance Contributions

The government confirmed in the Autumn budget that there will be no change to the employee National Insurance Contributions (NICs), however, there will be a change to employer NICs, as follows:

- Employer NICs rate will increase to 15% in April 2025.
- The threshold for contributions to be payable on an employee's pay will be reduced from £9,100 to £5,000 per year in April 2025.

We will keep you updated with regard to any further changes which are due to come into force in 2025.

## REMINDER OF CHANGES THAT CAME INTO FORCE IN 2024



## Employee wins unfair dismissal claim because boss failed to say “hello”

An employee, Ms Hanson, resigned from her job at Interaction Recruitment after her employer breached the implied terms of the contract namely that the employer destroyed and/or seriously damaged the implied term of trust and confidence.

What had happened for a breach of trust and confidence to occur?

Ms Hanson had been TUPE'd to Interaction Recruitment in September 2023. After the TUPE had taken place, her boss attend the office on 26 September 2023 and arrived before Ms Hanson, as she had attended a medical appointment, when Ms Hanson did arrive at work the following occurred:

- When Ms Hanson said good morning and attempted to say hello on two further occasions that day her boss failed to acknowledge her.
- Her boss then requested she go to a meeting room, in which he informed her that if she didn't want to be there, he suggested she leave. He did not provide her an opportunity to explain why she was late.
- After this meeting, her boss gave a pay rise to two employees who directly reported to Ms Hanson, without discussing it with her.
- Later that day her boss emailed a report to one of the employees which stated it was “good to see [Ms Hanson] getting stuck in”. Ms Hanson found out about this email due to her direct report telling her.

At this stage Ms Hanson felt humiliated, undervalued and undermined by her boss and as a result resigned from the position she had held for 17 years on 2 October 2024.

The Tribunal held that the employers conduct had destroyed or seriously damaged the trust and confidence between them and Ms Hanson had resigned because of this breach and had therefore been constructively dismissed.

This decision should come as a warning to those employers who think that this treatment would not give rise to a claim and/or jump to conclusions before speaking and finding out the facts of the situation first.

## **Employee dismissed due to refusal to use acceptable pronouns**

Jim Orwin was employed by Yorkshire Council. In April 2022, the Chief Executive of the council sent an email to all staff urging staff to consider adding pronouns to their email signatures. Staff were also informed that this was an individual choice.

The council's reasoning for introducing this policy was that it aimed to promote inclusion of people who identify their gender in a way that is not necessarily consistent with their biological sex.

However, Mr Orwin decided to add the words "XYchromosomeGuy / AdultHumanMale". When his manager asked why he couldn't choose other options of pronoun. Mr Orwin stated that by not adding a pronoun, he would be accepting this garbage. During the tribunal hearing Mr Orwin stated he saw the only way to challenge the policy was to adopt 'deliberately provocative pronouns', despite being informed this was unacceptable and may be deemed offensive to others.

Mr Orwin continued to ignore the reasoning that he needed to use acceptable pronouns and refused to change his sign off. As a result, the council dismissed the employee, following their disciplinary process.

Mr Orwin brought a claim against Yorkshire Council on the grounds of discrimination because of his philosophical beliefs.

The Employment Tribunal held that Mr Orwin had not been discriminated against by being told to change his pronouns. Employment Judge Miller (EJ Miller) held that, the real reason Mr Orwin decided to use "XYchromosomeGuy / AdultHumanMale" was in protest and designed to provoke and offend others. Whilst EJ Miller held the policy had been poorly thought through and executed by Yorkshire Council, EJ Miller dismissed Mr Orwin's claims of discrimination and unfair dismissal.

It should be noted that EJ Miller found Mr Orwin's claim to be vexatious and is required to pay Yorkshire Council's legal fees of £12,000.

Employers should be aware that gender critical beliefs are protected under the Equality Act. However, an individual may not be able to claim protection where the manifestation of such beliefs is inappropriate, as is the case here and why Mr Orwin's case was subsequently dismissed.



# STATUTORY RATES 2024/25

Minimum Living Wage		
Age	April 2024	From April 2025
21+	£11.44	£12.21
18 to 20	£8.60	£10.00
Under 18	£6.40	£7.55
Apprentices <i>(aged under 19 and or aged over 19 in first year of their apprenticeship)</i>	£6.40	£7.55
Accommodation offset limit <i>(maximum daily deduction from NMW)</i>		£10.66
Compensation Limits and Awards		
	Maximum Award	
Low Earnings Limit (per week)	£123	
Limit on a week's pay	£700	
Maximum Basic Award (Unfair Dismissal 'UD')	£21,000	
Compensatory Award (UD)	£115,115*	
Additional award 26 – 52 weeks' pay (refusal to re-engage)	£18,200 - £36,400	
Maximum Redundancy Payment	£21,000	
Refusal of the right to be accompanied	Up to 2 weeks' pay	
Breach of Contract Claims in a Tribunal	£25,000	
Failure to provide written particulars	Up to 4 weeks' pay	
Statutory Guarantee Pay	£38 daily rate	
Breach of flexible working regulations	8 weeks' pay <i>(Limit on a week's pay)</i>	
Failure to inform or consult in respect of a redundancy	90 days' pay <i>(gross)</i>	
Failure to inform or consult in respect of a business transfer	13 weeks' pay <i>(gross)</i>	
<i>*£105,707 or 52 weeks' pay whichever is lower.</i>		

Leave Entitlements		
Right	Max. Period	Payment
Statutory Maternity Leave	52 weeks	See below
Statutory Maternity Pay (SMP)	33 weeks	£184.03 or 90% of normal weekly earnings, whichever is lower
SMP (Higher rate)	6 weeks	90% of normal weekly earnings
SMP (Basic Rate)	33 weeks	£184.03 per week (p/w)
Statutory Paternity Leave	1 or 2 weeks	See below
Statutory Paternity Pay (SPP)	1 or 2 weeks	£184.03 or 90% of normal weekly earnings, whichever is lower
Statutory Adoption Leave	52 weeks	See below
Statutory Adoption Pay ((SAP) Higher Rate)	6 weeks	90% of normal weekly earnings
SAP (Basic Rate)	33 weeks	£184.03 or 90% of normal weekly earnings, whichever is lower
Shared Parental Leave	52 weeks	See below
Shared Parental Pay (ShAPP)	39 weeks*	£184.03 or 90% of normal weekly earnings, whichever is lower
Statutory Parental Bereavement Leave	2 weeks	See below
Statutory Parental Bereavement Pay (SPBP)	2 weeks	£184.03 or 90% of normal weekly earnings, whichever is lower
Parental Leave**	18 weeks	Unpaid
<i>*is dependent on the leave which has been taken by their partner SMP/SAP</i>		
<i>**available to some working parents in addition to SMP, SPP, SAP and ShPP leave can be taken up until a child's 18<sup>th</sup> birthday.</i>		
Statutory Sick Pay		
SSP	28 weeks*	£116.75
<i>*Following four or more consecutive days absence</i>		