



Employment Rights Bill factsheet

The Government's Employment Rights Bill (ERB) is part of the government's plan to "Make Work Pay" and aims to tackle low pay and improve working conditions and job security.

The impact on VODG members and the social care sector in general will be significant. The balance of flexibility between employers and employees will be shifted by proposed measures on guaranteed hours, bringing forward rights on unfair dismissal, paternity / parental leave and flexible working to the first day of employment and introducing bereavement leave. Proposed new measures to improve pay and terms and conditions of employment will include the creation of a fair pay agreement specifically for the adult social care sector, reform of the two tier code for private and voluntary sector workers in services transferred from the public sector and strengthen statutory sick pay entitlements. Other new measures have been proposed to promote fairness, equality and wellbeing including a range of protections from harassment, the extension of gender equality regulations and protection for whistleblowers. The ERB proposes to reform trade union legislation, creating new rights of access and recognition and reforming measures that control industrial action and enforcement will be strengthened through creation of a Fair Work Agency, doubling the timeframe from bringing Employment Tribunal claims and bringing umbrella companies within scope.

There are a number of things VODG members can do to prepare for these proposed changes set out in this table by Trowers & Hamlins. During the current development stages of the ERB this includes opportunities to contribute to consultations and raise awareness of the impact including any potential unintended consequences. Members will also want to use this period to analyse the impact on their own activities and prepare internally and externally for implementation.

TOPIC	PROPOSED CHANGES	ACTION POINTS	PROPOSED DATES OF CONSULTATION AND IMPLEMENTATION
April 2026			
Redundancy	Changes to the collective redundancy protective award	Tracking systems may be necessary for large multi-site employers to keep track of proposed redundancies across all of their sites.	Consultation: Winter 2025/ Early 2026

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	The cap on protective awards will increase from 90 days to 180 days. New collective consultation thresholds Collective consultation will be required if there are 20 or more redundancies at more than one establishment.	Larger employers may want to consider setting up a standing body of employee representatives.	Implementation: April 2026 (collective redundancy protective award) and 2027 (collective redundancy threshold)
Family rights	The introduction of a day 1 right to paternity leave and unpaid parental leave. New rights for pregnant workers Regulations will be introduced to protect employees who are pregnant, on maternity leave or during a six month return to work period from dismissal. Statutory right to bereavement leave.	Review your paternity and parental leave policies. Put in place measures to ensure that you don't unlawfully dismiss employees who have recently returned from maternity leave. These measures could include implementing a pregnancy and maternity policy and reviewing existing policies, such as policies around absence, recruitment or redundancy, to ensure these do not discriminate. Start taking steps to introduce a policy to deal with bereavement leave.	Consultation: Autumn 2025 Implementation: April 2026 (day 1 paternity leave) and 2027 (rights for pregnant workers and bereavement leave)
Enforcement	Fair Work Agency The Fair Work Agency (FWA) will be established. The FWA will be the single enforcement body for workers' rights such as statutory sick pay, the national minimum wage and holiday pay. Employers will be required to keep records showing compliance with the rules on statutory holiday entitlement and pay for at least six years. Failure to do so will be a criminal offence.	Review your records on holiday and holiday pay and to ensure that they are legally compliant.	Consultation: n/a Implementation: April 2026
Sickness	Statutory Sick Pay (SSP) SSP will be made available to all employees from the first day of sickness absence and will be extended to include low earners.	Review sick pay policies and contractual provisions on statutory sick pay. Cost-model for the removal of the waiting days but also for the new obligation to lower-paid employees.	Consultation: n/a Implementation: April 2026

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Harassment at work	Introduction of new category of protected disclosure relating to sexual harassment An employee reporting sexual harassment will potentially be able to benefit from additional protections, including for detriment and dismissal under amended whistleblowing legislation. Mandatory requirement on employers to take "all reasonable steps" to prevent sexual harassment of their employees The duty on employers to take reasonable steps to prevent sexual harassment at work will become a duty to take "all" reasonable steps. Employers will also have to prevent harassment of their employees by third parties. This will extend to all types of harassment. A ban will be imposed on confidentiality provisions preventing discussions of discrimination or harassment.	Review all protection from sexual harassment measures and policies. Ensure you have measures in place to prevent third party harassment. These measures could include implementing a specific policy on harassment in the workplace, training all staff on how to recognise harassment and having a process to review your policies and training. Introduce appropriate wording into contracts with clients and suppliers.	Consultation: n/a Implementation: April 2026 (whistleblowing protections) and October 2026 (mandatory requirement of all reasonable steps)
October 2026			
Fire and rehire	A dismissal will be automatically unfair (with no qualifying service needed) if the reason or principal reason is that the employer tried to vary the employee's contract without their agreement, or the employer terminated their contract to re-engage them under a new contract with the varied terms.	Ensure that employment contracts are drafted so that they contain as much in-built flexibility as possible. Try to gain consent to changes to terms and conditions. Consider offering favourable changes along with the less favourable changes as a way of making the whole package more acceptable.	Consultation: Autumn 2025 Implementation: October 2026
Pay and Terms and Conditions	The Fair Pay Agreement Adult Social Care Negotiating Body will be established. The ACSNB will negotiate changes to pay and terms and conditions for care workers and will include both employers and trade unions.	Review which terms and conditions are likely to be impacted by the Fair Pay Agreement.	Consultation: Autumn/Winter 2025 Implementation: October 2026
Trade unions	Various trade union measures	Engage more closely with your workforce. For those employers who	Consultation: Autumn 2025,

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	These will include the duty to inform workers of their right to join a trade union. Trade unions' rights of access will be strengthened and new rights and protections for trade union representatives will be introduced. Extended protection will also be introduced against detriments for taking industrial action. The trade union recognition process will be simplified and the thresholds reduced.	recognise unions, you should be doing this to build positive industrial relations and adopt proactive industrial relations strategies, ensuring that you have effective ways of engaging your employees and addressing workforce concerns. For employers that don't recognise unions, it is a good time to review what internal arrangements are in place for effective employee engagement such as employee representative bodies, staff forums or works councils to ensure engagement. Employers who do not recognise union should consider whether managers and HR teams need training on dealing with unions to help manage challenging situations and to mitigate risks given the enhanced protections against detriment and the new access rules etc. You will need to update employment contracts to refer to the right to join a trade union.	Winter 2025 and Early 2026 Implementation: October 2026 (simplifying the trade union process) and 2027 (industrial regulations framework)
Public Sector contracts	Reinstatement of the Two-Tier Code for Public Sector Contracts Protection for those working under outsourced public sector service contracts will be introduced. This will ensure that transferring workers are treated no less favourably than they were when employed in the public sector and also that existing workers are treated no less favourably than transferring employees. Overall, this could mean that contracting authorities need to look more closely at the justification for outsourcing contracts.	Ensure that the right provisions are in any outsourcing contract. Be prepared for the possibility of having to enhance the terms of existing employees to match the more favourable terms of any incoming public sector staff working on the same contract. Review any applicable existing terms and conditions and assess cost implications to inform future bids for public sector contracts	Consultation: n/a Implementation: October 2026
Employment tribunal	Employment tribunal time limits will be extended from three to six months.		Consultation: n/a Implementation: October 2026.
2027			

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Dismissal	Day 1 right to protection from unfair dismissal The two-year qualifying service requirement for unfair dismissal will be removed. Employers will be allowed to operate probationary periods during which employees can be dismissed more easily for performance after following a "lighter-touch" process.	Ensure that recruitment processes are sufficiently robust and review pre-employment screening processes. Ensure that all new starters have a probation period in their contract. Review how employees are managed during their probationary periods to ensure that any issues with performance and conduct are picked up quickly. Train managers to ensure that they are aware of the importance of probationary periods and know that they need to keep on top of performance reviews during these periods. Managers should also be trained to apply a fair and documented disciplinary procedure from the outset of employment. Review probationary procedures and ensure managers are trained in the proper implementation of probationary periods as revised by this change in legislation.	Consultation: Summer / Autumn 2025 Implementation: 2027
Flexible working	Strengthening flexible working by making it harder for employers to refuse requests.	Check and update flexible working policies. Centralise decision making and record-keeping so that previous decisions can be easily referred to. Ensure that managers receive training in how to handle flexible working requests and are able to effectively manage competing requests.	Consultation: Winter 2025 / Early 2026 Implementation: 2027
Equality reporting	Mandatory publication of gender pay and menopause action plans There will be a duty on employers with 250 or more employees to develop and publish equality action plans. These will show the steps taken to reduce gender equality including the gender pay gap and supporting employees through the menopause. Action plans can be published on a voluntary basis from April 2026.	Consider the depth and quality of data already held and keep your existing employee data up-to-date. Review current pay and grading structures, analyse any risks and put in place plans for resolving differences. Start thinking about how you will approach putting equality action plans together (some of you may already publish action plans alongside your gender pay gap report).	Consultation: n/a Implementation: 2027

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	Whilst not contained in the Bill, the Government also plan to require employers with more than 250 employees to report on their ethnicity and disability pay gaps.	Put in place measures to support those experiencing the menopause in the workplace.	
Zero hour contracts	Zero hours workers and agency workers will have the right to have a contract that reflects the number of hours they regularly work for their employer based on a reference period. They will also be entitled to reasonable notice of their shift patterns, and of any changes to these patterns, with compensation for shifts cancelled at short notice.	Carry out an audit of your workforce to see how many zero hours workers and agency workers you currently use. Look at their contractual working pattern and any peaks and troughs in demand to see if you will be able to argue that there is only a temporary need. Review your use of limited/fixed hour contracts. Carry out an audit of the way you schedule shifts and how much notice is given of these shifts and consider whether these practices will need to change. Will you be able to give "reasonable" notice (whatever reasonable is!) of any last minute changes to shifts? Consider exploring more structured alternatives, such as job share models, in order to maintain flexibility while staying within legal boundaries.	Consultation: Autumn 2025 Implementation: 2027