UK Employment Law Update – August 2025

Our August 2025 update covers the latest developments on the Employment Rights Bill, upcoming new laws on the enforceability of NDAs, and the usual round-up of recent case law, including notable cases on neurodiversity awareness training and the risks to employers when staff are manipulated into disclosing confidential information.

In this issue

Recent publications

- Employment law implications for shipowners and charterers sailing through areas of conflict
- FCA publishes rule on non-financial misconduct for non-banks as well as draft guidance for all firms
- One in seven UK workers have 'revenge quit' survey reveals – what can HR do to prevent it?
- UK employment law reform – further amendments to the Employment Rights Bill
- Edinburgh tartan shop pays out nearly £5,000 over mishandled sexism row
- UK employment law reform roadmap published – buckle up for the ride

Follow us on LinkedIn to stay up to date with our latest news and publications.

Case law updates

Disclosure of personal information: An employer was found liable for breach of confidence, misuse of private information and breach of data protection rules when private information about a former employee (a relative's phone number) was shared with her abusive ex-partner. The ex-partner obtained the information from the employer by deception, having pretended to be a police officer, and used the information to continue a campaign of harassment. The case highlights the need for employers to raise staff awareness of manipulation techniques that can be used to extract personal or confidential information. (*Raine v. JD Wetherspoon*)

Reasonable adjustments – ADHD: An employment tribunal (ET) has ruled that an employer who failed to act on an occupational health recommendation to provide training to raise awareness and equip staff with practical knowledge and skills to support neurodiverse colleagues was in breach of its obligations to make reasonable adjustments. The training was recommended to support a senior employee with ADHD, whose performance was affected as a result (e.g., she struggled with ambiguity, multitasking and tight deadlines, and tended to overcomplicate things), and was intended to help her colleagues to understand how they could work better with her. The claimant did not want the training to be made obviously about her, which her employer mistakenly interpreted as her not wanting it to happen at all. The ET was critical that the training was not arranged, concluding that it could have been delivered without putting the claimant in an awkward position. The employer also failed to make reasonable adjustments by not arranging sessions aimed at improving time management and coping strategies, and by failing to set the claimant achievable and realistic targets. (*Khorram v. Capgemini UK Plc*)

Constructive unfair dismissal – final straw: The Employment Appeal Tribunal (EAT) has provided a clear and helpful summary of the test to be applied in final straw resignation cases, reminding employers that whatever prompts a resignation does not need to be a serious breach of contract if the broader context and history of an employer's conduct are sufficiently serious to amount to a repudiatory breach of contract giving rise to constructive dismissal. The relevant five-stage test is: (i) what was the employer's most recent act or omission which the employee says caused or triggered their resignation? (ii) has the employee affirmed the contract since that time? (iii) if not, was that act or omission by itself a repudiatory breach of contract? (iv) if not, was it part of a course of conduct which, when viewed cumulatively, amounted to a repudiatory breach? and (v) did the employee resign in response to that breach? The EAT noted that these questions

are not always easy to answer, depending on the circumstances, but that a resignation in response to an objectively minor issue may nevertheless give rise to a successful constructive unfair dismissal claim. (*Marshall v. McPherson Ltd*)

Discriminatory constructive unfair dismissal: A senior executive who succeeded with claims of constructive unfair dismissal and disability discrimination when she resigned in response to being permanently replaced while on sick leave with cancer, having been misled by her employer that the cover was temporary, has been awarded over £1.2 million in compensation. While it was not inappropriate for cover to be arranged during her absence, the deception and poor communication about her replacement had costly consequences. (*Wainwright v. Cennox plc*)

Race discrimination: A British national of Indian origin was discriminated against when she was subjected to disciplinary action for alleged wrongdoing. The claimant was not told what the allegations against her were and, when responsibility for the investigation passed to someone new, it was dropped because there was no case to answer. The claimant identified two comparators of a different race whom she argued would have been treated differently and discovered, via a data subject access request, specific examples of differential disciplinary treatment between white and non-white staff. The employer was unable to provide an adequate explanation for its actions. While the appeal focused on technical issues of law, the case acts as a reminder to employers to act consistently and be able to justify the decisions they make. (*Leicester City Council v. Parmar*)

Agency workers: A pilot supplied to an airline on a five-year fixed-term contract through an agency was covered by the Agency Worker Regulations 2010 (AWR). The Court of Appeal (CA) found that the pilot had worker status with the agency, and his protection under the AWR turned on whether he was supplied to work "temporarily" with the airline. The CA interpreted this as meaning "not permanent" rather than "short-term", concluding that the pilot had indeed been supplied temporarily. It was irrelevant that the agency had a routine practice of automatically renewing fixed-term contracts. (*Lutz v. Ryanair DAC*)

National minimum wage (NMW) – working time: The CA has concluded that zero-hours contract poultry workers were not undertaking "time work" for NMW purposes when travelling between their home and the farms where they undertook work, and therefore were not entitled to be paid the NMW. Travel was organised through the employer, with a minibus collecting them from home and returning them after each assignment, but this often added several hours (sometimes up to eight hours) to their day, prompting the question whether this travel time should be paid at the NMW. As work was only undertaken while they were on site, it was not the case that they would have been working if they had not been travelling and, in any event, an exception to the NMW rules applied because they were travelling from home and not their employer's premises. (*Commissioners for HMRC v. Taylors Services Ltd*)

Employment Rights Bill

Key points at a glance:

- The Employment Rights Bill (ERB) is still being debated in parliament, and the final content is not yet settled.
- The process has paused for the summer parliamentary recess and will resume in early September.
- Royal assent is expected in autumn 2025.
- Provisions will be phased in, with most reforms not becoming law until at least April 2026.
- Changes to unfair dismissal are not expected until 2027 – it is currently unclear whether protection from unfair dismissal will be a day-one right (as initially proposed) or involve a reduction in the qualifying service period to six months.
- The detail of many of the reforms will follow – expect consultations from autumn 2025.

Roadmap: On 1 July 2025, the government published its roadmap for consultation and implementation of the various employment law reforms once the ERB is passed. A phased approach is planned, with a roadmap taking us through to 2027. We can expect a series of consultations in the second half of 2025, but with the exception of some provisions around industrial action, reforms are not expected to become law until at least April 2026. Read more on our Employment Law Watch blog.

ERB developments: On 7 July 2025, further amendments were introduced to the content of the ERB. These included extending bereavement leave to cover baby loss before 24 weeks of pregnancy; a softening of the fire and rehire provisions; a proposal to render void any agreement which seeks to prevent a worker from making an allegation or disclosure of information about work-related harassment; and changing the zero-hours contract provisions to a right to request guaranteed hours rather than an employer obligation to offer them. Read more on our Employment Law Watch blog.

Ongoing debate: The ERB, including these and other amendments, was debated by the House of Lords (HoL) at the report stage throughout July. The amendments noted above were accepted. In respect of proposals around confidentiality provisions, an impact assessment suggests an intention to permit these where requested by the employee. Interestingly, the HoL pushed back on proposals to make unfair dismissal a day-one right, instead accepting changes which would see a reduction in the qualifying period to six months (down from the current two years). In our view, this would be a much simpler way forward, but it runs contrary to the government's mandate to make it a day-one right.

More consultation: The debates also revealed the government's intention to reflect on the need to make changes to the early conciliation process, given plans to extend ET time limits, and to consult on employment status, AI, membership thresholds for trade union recognition and the use of non-compete clauses in employment contracts. The government had not previously indicated it intended to review post-termination restrictions as part of its reforms, and its proposals for change are unclear. The last government consulted on this issue in 2023, but nothing came of it.

Next steps: Parliament is now in recess until September, so the process is paused until then. There will be a third reading of the ERB in the HoL on 3 September 2025. To the extent there remains disagreement between the House of Commons (HoC) and HoL (e.g., on issues such as unfair dismissal and the zero-hours contract changes), there will be further debate and a period of "ping-pong" between the houses to agree on the final form of the legislation before it receives royal assent.

Legislative developments

Non-disclosure agreements (NDAs): Legislation took effect on **1 August 2025** preventing higher education providers from using NDAs to silence staff, students, members or visiting speakers in relation to bullying, non-sexual and sexual harassment, sexual abuse, or other forms of sexual misconduct.

Further, on **1 October 2025**, new rules come into force affecting the enforceability of NDAs in England and Wales with individuals who are (or reasonably believe they are) victims of crime, regardless of whether they have told anyone about the offence. The legislation applies to all sectors and all relationships and circumstances where NDAs may be used. Broadening the existing rules, the changes, which apply to NDAs signed on or after 1 October 2025, allow victims of crime to disclose details of the relevant offence to the following without breaching their NDA: (1) police or other criminal investigation/prosecution bodies (for the purpose of investigating or prosecuting the crime); (2) qualified lawyers (for the purpose of seeking legal advice); (3) regulated professionals and professional support services (for the purpose of obtaining support); (4) regulators (for cooperation purposes); (5) close family (parents, children and spouses/partners, but not extended family or friends); and (6) persons authorised to receive information on behalf of any of the above. NDAs signed before 1 October 2025 remain subject to the current legal framework.

Data subject access requests: Provisions in the new Data (Use and Access) Act 2025, which create a court procedure to determine whether a data subject is entitled to information, come into force on **20 August 2025.**

Fraud: Large organisations will be criminally liable from **1 September 2025** if an employee, agent, subsidiary or other associated person commits fraud with the intention of benefiting the organisation, unless reasonable processes were in place to prevent it.

Other news

Financial services – non-financial misconduct: The Financial Conduct Authority (FCA) has published a policy update on non-financial misconduct and launched a consultation (see below) on proposed amendments to its conduct rules and fitness and propriety assessments. The current position and draft rules reflect feedback received on a previous consultation on this topic, with earlier proposals to amend threshold conditions and rules specifically relating to non-financial misconduct for regulatory references not being taken forward. The FCA is aiming to set out its final policy position by the end of the year, with new rules taking effect from September 2026.

Good work: The HoC Library has published a research briefing, "'Good work' and the Employment Rights Bill", which collates policy discussions around the concept of "good work" in the context of the ERB, including how good work can be mapped and measured over time. The paper highlights the importance of flexibility and family-related rights, together with various challenges which create disparities in access to, and measurement of, good work.

Supply chains: The Joint Committee on Human Rights has published a report on forced labour in supply chains, concluding that the UK's current framework is not adequate in addressing the issues. The report recommends a strengthening of modern slavery reporting obligations, mandatory human rights due diligence throughout supply chains, a new civil duty to prevent forced labour, and steps to protect UK markets from goods tainted by forced labour. The government has two months to respond.

Immigration: Various changes to business immigration rules apply from **22 July 2025**. These include increasing the skills threshold for sponsorship through the skilled worker route to graduate level and above (RQF level 6) except for

roles on the temporary shortage list where time-limited access may be permitted. The minimum salary thresholds for sponsored visas are also increasing.

Sickness absence: The Department for Health and Social Care has launched a pilot, WorkWell, in 15 regions across England aimed at easing the burden on GPs and supporting people back into work. The pilot sees changes to the fit note scheme, with patients receiving more support to manage their health and given options for staying in or returning to work as alternatives to being signed off as unfit to work. The regions participating in the pilot can be found in the press release.

Hybrid working: The Chartered Institute of Personnel and Development (CIPD) has published a report on flexible and hybrid working following a survey of over 2,000 HR professionals. The report recognises the importance of flexible working for recruitment and retention and shows overall positive perceptions of productivity and efficiency, although it also highlights challenges around ensuring and maintaining connectivity and inclusivity. While the survey suggests that an increasing number of requests are being accepted, it also reveals that requests for arrangements such as flexitime, compressed hours and the four-day week on full-time pay are less available.

Whistleblowing: The government has published a report, based on independent research carried out by Grant Thornton, reviewing the UK's whistleblowing framework. Commissioned by the previous government in 2023, the report gathers evidence on the current regime but does not draw conclusions on its effectiveness, instead highlighting themes for further consideration.

Minimum wages: The government has published its annual report into enforcement and compliance with the national living wage (NLW) and national minimum wage (NMW).

Assisted dying: As the Terminally Ill Adults (End of Life) Bill makes its way through the parliamentary process, an amendment has been proposed which would prohibit employers from dismissing employees or subjecting them to detriments in connection with assisted dying.

New guidance

Non-disclosure agreements (NDAs): The government has published guidance on the changes to the enforceability of NDAs which take effect from 1 October 2025 (see above).

Consultations

Parental leave: The government has launched an inquiry into reform of the parental leave and pay system and is seeking views from parents, employers and other interested parties on how the system could better support working families. The review covers a range of parental entitlements, including maternity, paternity, adoption, shared parental leave and parental bereavement leave and pay, and invites responses and evidence on a range of questions. Responses can be submitted until **25 August 2025**.

AI: An inquiry has been launched into human rights and the regulation of AI, including exploring appropriate legislation to protect these rights. The inquiry is open until **5 September 2025**.

Financial services – non-financial misconduct: The FCA has launched a consultation on its proposals to extend conduct rules and fitness and propriety assessments to include non-financial misconduct. As well as consulting on the new content, the FCA seeks views on whether any additional guidance is needed. The consultation is open until **10 September 2025**.

Financial services – SM&CR: The FCA, the Prudential Regulation Authority and Bank of England and HM Treasury have each launched consultations on potential reform of the Senior Managers and Certification Regime (SM&CR), proposing changes to reduce the burden on firms and to make requirements clearer. The consultations close on **7 October 2025**.

Disability: The Department for Work and Pensions has launched an inquiry into improving job prospects for disabled people, exploring barriers to entry and the effectiveness of support schemes currently in place. The inquiry closes on **29 September 2025**.

Internships: The government is seeking views on unpaid and low-paid (i.e., below the NLW/NMW) internships, work trials, voluntary work and work shadowing as part of its plans to ban these except where they form part of an educational or training course. The consultation is open for comment until **9 October 2025**.

Key contacts

Robin Jeffcott
Partner, London
rjeffcott@reedsmith.com

David Ashmore
Partner, London
dashmore@reedsmith.com

Carl De Cicco
Partner, London
cdecicco@reedsmith.com

Alison Heaton
Knowledge Management Lawyer,
Global Solutions - Leeds
alison.heaton@reedsmith.com

Follow us on LinkedIn

Reed Smith is a dynamic international law firm, dedicated to helping clients move their businesses forward.

Our long-standing relationships, international outlook, and collaborative structure make us the go-to partner for the speedy resolution of complex disputes, transactions, and regulatory matters.

ABU DHABI
ASTANA
ATHENS
ATLANTA
AUSTIN
BEIJING
BRUSSELS
CENTURY CITY
CHICAGO
DALLAS
DENVER
DUBAI
FRANKFURT
HONG KONG
HOUSTON
LONDON
LOS ANGELES
MIAMI
MUNICH
NEW YORK
ORANGE COUNTY
PARIS
PHILADELPHIA
PITTSBURGH
PRINCETON
RICHMOND
SAN FRANCISCO
SHANGHAI
SILICON VALLEY
SINGAPORE
TYSONS
WASHINGTON, D.C.
WILMINGTON

reedsmith.com