UK Employment Law Update

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UK Employment Law Update – July 2026

Our July 2026 edition provides the usual round-up of interesting case law and legal updates, including new data protection obligations and corporate criminal liability for organisations, and cases on duress to commit misconduct. We have also seen new consultations launched on time off for public duties and how the Fair Work Agency should approach enforcement of holiday pay entitlements.

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Case law update

Unlawful deduction from wages: The Employment Appeal Tribunal (EAT) has upheld an appeal by an employee in an unlawful deduction from wages claim, awarding a £500,000 bonus in place of the $150,000 which the employer had paid. The claimant, a salesman, was told of a discretionary bonus of up to 1% on revenue from new business in the first year, subject to approval from the sector lead. However, subsequently the bonus was made subject to secondary sign-off and a financial cap of $150,000, prompting the claim. The case serves as a reminder to employers of the need to have clear terms for an incentive scheme and not to "move the goalposts" by attaching further conditions after the terms had been provided and satisfied. (*Chandrashekarappa v. Wipro Ltd*)

Wrongful dismissal – duress: The EAT has concluded that whether an employee is under duress when committing misconduct is a relevant factor in determining if that misconduct justifies summary dismissal. In this case, the claimant, a head teacher, sent sexual messages to a person she understood to be a boy aged under 18, having been persuaded to do so by someone with whom she was in a controlling and coercive relationship. She did not report these messages to her employer, but 18 months later they were brought to her employer's attention by her abusive partner. She was summarily dismissed. Her claim for wrongful dismissal failed, with the Employment Tribunal (ET) saying that the duress or pressure she was under was irrelevant to whether summary dismissal was justified. The EAT disagreed and allowed the appeal on the basis that duress was a relevant factor that should have been taken into account as part of the wider circumstances. The case has been referred back to the original ET to be reconsidered. (*XX v. YY*)

ET procedure – extending time to file a response: Acting as a cautionary tale for employers about the adequacy of their internal processes, the EAT has upheld a decision to refuse an extension for filing a response where it was submitted 10 months after the deadline. The employer argued that it was unaware of the claim until the head office received notice of a preliminary hearing, yet evidence showed that postal correspondence to the claimant's place of work had been ignored and email correspondence from the ET to the general manager had been deleted. The appeal turned on the factors relevant to exercising discretion to extend time, but more generally highlights the need for employers to have a reliable process for dealing with correspondence from the ET, ensuring people know how to identify important ET documentation, and to make sure it reaches the right people. This is especially important in multi-site businesses where a local site may receive correspondence that is handled by head office based elsewhere, as in this case. (*Costco Wholesale UK v. Nash*)

Payslips: All workers have a right to be "given" a written itemised payslip, and in an important decision the EAT has confirmed that this does not need to be a physical document; the requirement is capable of being satisfied by allowing access to digital payslips through an app or web browser, providing that access is not restricted by reason of, for example, cost, technical barriers, or another impediment. A free access site that a worker could access but chooses not to is sufficient for them to have been "given" their payslip. (*Leedham v. Royal Mail Group Ltd*)

Vicarious liability: The Court of Appeal has concluded that a pub operator was not vicariously liable for the serious assault of a customer by two doormen. The doormen were employed by a third-party security company which, on a thorough analysis, was a true independent contractor. As such, the relationship between the pub and the doormen was insufficient to amount to being "akin to employment". As the security company had dissolved, the victim of the assault was left without remedy. (*Burger v. Risk Solutions BG Ltd and JD Wetherspoon plc*)

Restrictive covenants: Reminding employers of the importance of tightly drafted post-termination restrictions, the High Court has ruled that an area sales manager's six-month non-compete was void as a restraint of trade. The High Court accepted that the claimant was an exceptional salesman and that his former employer had legitimate business interests to protect. However, the court was critical of the geographical scope of the clause – contrary to assertions that it limited the claimant working at a competitor's branch within 20 miles of any of his former employer's branches he'd had responsibility for, it in fact prevented him from working for a competitor anywhere in the UK. The court also deemed the carve-out provisions to be ineffective and was critical of a six-month restriction relative to a one-month notice period. (*Huws Gray Ltd v. Gentleman*)

Employment Rights Act 2025

Key points at a glance:

- The Employment Rights Act 2025 (ERA 25) received Royal Assent on 18 December 2025.
- The reforms will be phased in over the next couple of years, with the next wave of changes due in August and October 2026, although commencement regulations are outstanding for some.
- Details of many of the remaining reforms will still need to follow, shaped by consultation.
- There are open consultations on non-disclosure agreements in discrimination and harassment cases, zero-hours contracts and guaranteed hours, and enforcement of holiday pay entitlements.
- We have updated our ERA 25 timeline and next steps.
- We will keep you updated here and on our Employment Law Watch blog.

Upcoming changes

- **ET time limits**
  - Regulations have been made that will extend the time limit for bringing certain ET claims in England and Wales, including breach of contract claims, from three to six months from 1 October 2026. The equivalent extensions in Scotland are expected to take effect from mid-November, but this is to be confirmed.
  - These regulations are a "mop-up", dealing only with extending time for bringing claims that were omitted from the schedule in the ERA 25 (which seeks to extend time to six months for most statutory employment claims). We do not currently have commencement regulations for these, although they are also expected to apply from 1 October 2026.
- **Industrial action**
  - Workplace, electronic, and hybrid voting for industrial action ballots are expected to be introduced in August 2026.
  - Changes expected to apply from August 2026 mean an employee who is dismissed for redundancy will be automatically unfairly dismissed if the reason they were selected for redundancy was that they had taken part in industrial action. This applies in respect of industrial action started on or after 18 February 2026.
  - Following a consultation, the government has confirmed that it will legislate to prohibit employers from exposing workers to any detriment that has the purpose of penalising, deterring, or preventing industrial action. This is expected to be in force from 30 October 2026.
- **Other anticipated October 2026 changes**
  - A further wave of changes, expected in October 2026 (but subject to commencement regulations, which have not yet been published), includes employer liability for harassment by third parties, a duty to take all reasonable steps to prevent sexual harassment, extended time limits for bringing ET claims, obligations to tell workers of their right to join a trade union, new rights of access and facilities for trade unions, and

tightened tip laws. A revised code of practice on the tipping reforms has been published in response to the recent consultation.

- **Unfair dismissal**
  - Commencement regulations confirming the unfair dismissal reforms, including a reduction in the qualifying period from two years to six months and the removal of the cap on compensation, have been published and are now confirmed to take effect from 1 January 2027. These changes will apply where the effective date of termination falls on or after 1 January 2027.

Open ERA 25 consultations

- **Zero-hours contracts and guaranteed hours:** The government has launched a consultation on proposed reforms to zero-hours contracts and plans to give workers the right to guaranteed hours, reasonable notice of shift changes, and payment for cancelled shifts. The provisions in the ERA 25 are complicated, and this consultation provides an opportunity for interested parties to shape the detail of how the rules will work in practice. It is open for comment until 25 August 2026.
- **Holiday pay:** Enforcement of holiday pay entitlements will be the responsibility of the Fair Work Agency (FWA), established in April 2026, from 2027. The government has now launched a consultation seeking views on how the FWA should approach that enforcement, including how far back the FWA can enforce claims, whether there should be any restrictions around the level of the civil penalty, and how to focus on enforcement for lower-paid or vulnerable workers. The consultation also seeks to understand how rolled-up holiday pay is currently used in practice. It is open for comment until 22 September 2026.

Other legislative developments

Whistleblowing: the list of "prescribed persons" to whom protected disclosures can be made was extended with effect from 2 June 2026 to now include the Law Society and Solicitors Regulation Authority; the Building Safety Regulator; the Creative Industries Independent Standards Authority; the Independent Football Regulator; the Secretary of State for Science, Innovation and Technology; and the Security Industry Authority. The Keeper of the Registers of Scotland was removed as a prescribed person.

Data protection: The Data (Use and Access) Act 2025 came into force on 19 June 2026, placing positive obligations on organisations in relation to handling data protection complaints. The new law creates a statutory right for individuals to raise data protection complaints internally rather than having to go straight to the Information Commissioner's Office (ICO). Where complaints are made internally, they must be acknowledged within 30 days and investigated and responded to without undue delay, keeping the complainant informed. The ICO has issued guidance to accompany the new requirements.

Corporate crime: The Crime and Policing Act 2026 came into force on 29 June 2026, creating a new test for corporate criminal liability where a senior manager of a corporate or partnership commits a criminal offence under the laws of England, Wales, Scotland, or Northern Ireland while acting within the actual or apparent scope of their authority.

Other news

ET statistics: The Ministry of Justice has published its annual statistics for 2025/26 showing that single open cases have increased by 55% and multiple claims by 5%, with average case lengths also increasing. With the number of new claims increasing more quickly than claims are being concluded, pressure and delays are expected to continue to increase.

Workplace harassment: The Equality and Human Rights Commission has published its research into workplace harassment, exploring causes and effective interventions to tackle issues.

Consultations and calls for evidence

Employment Tribunals – costs: The Tribunal Procedural Committee has launched a consultation on proposed changes to the rules on costs awards in various tribunals, including the ET. Proposals include introducing express powers to order a payment on account of costs before a costs assessment, and to award costs even where a party has received pro bono representation. The consultation is open until **29 July 2026**.

Carer's rights: The government has launched a consultation on strengthening the employment rights of carers. It is exploring options to extend unpaid carer's leave (beyond the current five-day entitlement), introduce paid carer's leave (seeking views on duration and rates of pay), and introduce protections (similar to maternity leave) on a return from carer's leave. The consultation also explores proposed leave and pay for parents and caregivers where a child receives a diagnosis of serious illness, seeking views on eligibility, duration, pay, and evidence. The consultation also seeks views on whether additional guidance would be helpful for employees and employers. The consultation is open until **1 September 2026**.

Time off for public duties: The government is seeking views on how the right to time off for public duties operates in practice currently, and on the list of public duties eligible for time off. The consultation is open until 4 September 2026.

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