UK Employment Law Update

ReedSmith

UK Employment Law Update – September 2026

Our September 2026 edition provides a round-up of interesting case updates, including a Supreme Court decision that broadens protection for part-time workers against less favourable treatment. We also provide a summary of open consultations and where we are with the rollout of the Employment Rights Act 2025 reforms.

In this issue

Publications

- Singapore Court upholds six-month notice period and clarifies employers' right to recover salary in lieu
- Singapore Tribunal Clarifies That Employers Must Prove Just Cause If Terminating Employees For Failing Probation
- Singapore Court Rules Negligent Employees Can Be Personally Liable for Employers' Financial Losses and Finds Fabricating Documents to Conceal a Breach Constitutes Fraud

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Case law update

Part-time discrimination: UK law protects part-time workers from being treated less favourably than a comparable full-time worker. For the protection to apply, the worker must show that their treatment was "on the ground that" they are a part-time worker. Allowing an appeal and overturning earlier precedent on this issue, the Supreme Court has ruled that when assessing whether a part-time worker has been treated less favourably than a comparable full-time worker, there is no need for their part-time status to be the sole reason for the differential treatment. In this case, a part-time private hire driver was charged the same fixed cost "circuit fee" as his full-time equivalents to access his employer's booking dispatch system, but his claim for less favourable treatment failed in the lower courts, which were bound by precedent applying a "sole ground" test. Clarifying that the correct test is that part-time status be an effective cause of the differential treatment, the Supreme Court's decision increases exposure for employers with a part-time workforce. (*Augustine v. Data Cars Ltd*)

Philosophical belief discrimination: The Employment Appeal Tribunal (EAT) has upheld a decision that an academic's beliefs opposing political Zionism are a protected belief under the Equality Act 2010 and that he was directly discriminated against and unfairly and wrongfully dismissed because of comments made expressing those beliefs. However, while his employer's appeal against a 50% reduction in compensation for contributory fault failed, the EAT allowed its appeal against the original employment tribunal (ET)'s finding that there was only a 30%

chance that it would have fairly dismissed the claimant at a later date as a result of later social media posts he had made. Although the EAT recognised there was an element of conjuncture at what would have happened, it was critical of the ET's lack of analysis for concluding there was a 30% chance of a fair dismissal in due course. This matter has been referred back to the original ET for redetermination. (*University of Bristol v. Miller*)

ET claims – vexatious litigants: In a long-running case, and following two appeals to the EAT, an ET has overturned its original decision on liability and ruled that the claimant (a notorious serial litigant) was not a genuine job applicant and therefore that his claim of disability discrimination could not succeed. The ET originally found in favour of the claimant but reversed its decision following a successful appeal by the employer to the EAT. In reversing its decision, the ET had regard to the fact that, since making its original decision, the Attorney General granted a permanent Restriction of Proceedings Order against the claimant on the basis he is a vexatious litigant who was "habitually and persistently, and without reasonable grounds, initiating litigation in the employment tribunal". (*Dr Christian Mallon v. AECOM*)

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, 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 the enforcement of holiday pay and tipping reforms.
- The government has published an updated timeline, which we have reflected in our ERA 25 timeline and next steps. It is currently unclear if the recent change in Prime Minister will have any impact on the implementation timeline.

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 9 November 2026.
  - 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.
- **Trade unions and industrial action**
  - Workplace, electronic, and hybrid voting for statutory industrial action ballots, including a new code of practice, came into force on 25 August 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.

  - Also following a consultation, an updated Acas Code of Practice on time off for trade union duties and activities has been laid before Parliament and is expected to be in force during October 2026.
  - The government has made regulations that provide trade unions with the right of access to workplaces. These are currently in draft form but are expected to be in force on 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, obligations to tell workers of their right to join a trade union, new rights of access to workplaces and to facilities for trade unions, and tightened tip laws.
- **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

- 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 on 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.
- Tipping: After an earlier draft code of practice on the tipping reforms was withdrawn following pushback from the trade unions, an updated draft has now been published alongside a new consultation on its content, which is open until 29 September 2026. The tipping reforms and the code of practice are expected to take effect before the end of the year.

Other legislative developments

Right to work checks: The right to work scheme is expanding and, from 1 October 2026, organisations will be required to conduct right to work checks not only when employing someone under a contract of employment, but also when engaging workers, individual subcontractors via a third-party online matching service, and for some self-employed contractors (although genuinely self-employed independent businesses are out of scope). The extension of checks to the gig economy and flexible labour models reflects a commitment to cracking down on illegal working, with penalties for non-compliance including a fine of up to £45,000 per illegal worker (rising to £60,000 for a repeated breach), director disqualifications, and prison sentences of up to five years where a criminal offence has occurred. The new rules are accompanied by a Code of Practice, currently in draft form pending approval from Parliament, and guidance.

Other news

Financial services: From **1 September 2026**, non-financial misconduct falls within the conduct rules for non-banks as well as banks, with new regulatory guidance available and in force.

New guidance

Employment checks: The government's disclosure and barring service (DBS) has updated its "Update Service" guidance for employers, which sets out details of how employers can check the status of an existing standard or enhanced DBS check.

Consultations and calls for evidence

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

Discipline and grievance: Acas has launched a consultation on a draft of its rewritten code of practice on discipline and grievance procedures. The proposed changes are substantial, including a significant focus on early informal resolution of concerns, meaning that a failure to do so could result in a 25% uplift to compensation. The consultation seeks views on the content and whether the code needs to go further on topics such as AI, the right to be accompanied, suspensions, and reasonable adjustments. It is open for comment until **23 September 2026.**

Workplace monitoring technologies: The government has launched a consultation on proposals to support a fair, transparent, and responsible use of workplace monitoring technology. It is open for comment until **30 September 2026**.

Equal pay and pay transparency: The Office for Equality and Opportunity has launched a consultation seeking views on reforming the equal pay framework. Through the consultation, the government is exploring ways to increase transparency of pay practices, improve enforcement of pay discrimination claims, ensure pay equality is upheld in outsourcing arrangements, and level up pay protection based on sex, race, and disability. Proposals for reform include a statutory requirement to publish details of pay in job advertisements, tribunal powers to require an equal pay audit, the introduction of a new enforcement unit, changes to equal pay comparators, and a positive duty on parties to an outsourcing agreement to take reasonable steps to uphold pay equality. It is open for comment until **27 October 2026**.

Upcoming events

(Register using the links below)

Back to business: Post-summer compliance priorities, Thursday, 17 September 2026, 8am PT | 10am CT | 11am ET | 4pm BST | 5pm CEST

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For further information, please contact:

Robin Jeffcott

Partner
London

David Ashmore

Partner
London

Carl De Cicco

Partner
London

Alison Heaton

Knowledge Management Lawyer
Global Solutions – Leeds