

Founder Focus: FAQs for Start-Up Success

Employment Law Changes and Updates: What Start-Ups Need to Know

Whether you are employing staff for the first time or managing a growing workforce, the complex UK employment law landscape can be intimidating. Even more so due to the passing of the [Employment Rights Act](#) (“ERA”) in December 2025, described as the “*biggest upgrade to rights at work for a generation*”. A programme of changes will come into force throughout 2026 and 2027. This guide highlights the key ERA changes for start-ups to be aware of.

Unfair Dismissal

Under the ERA, employees with as little as 6 months’ service will have the right to bring a claim of unfair dismissal. This is a significant reduction on the current two year qualifying period, but is still up from the Government’s original manifesto pledge of making this a ‘day one’ right. The change is expected to take effect on 1 January 2027, meaning that employees starting work on or after 1 July 2026 benefit from the new right. In terms of practical steps, employers should make sure their contractual probationary period arrangements are fit for purpose and that performance is properly managed in the first 6 months of employment. If it is identified quickly that a new recruit is not performing at the level expected, then an exit before expiry of the first 6 months will be significantly less risky than letting things run on.

In addition, the cap on compensatory awards for successful unfair dismissal claims is being lifted (presently the lower of 52 weeks’ pay or £118,223). The change is expected to be brought in alongside the introduction of the shorter qualifying period in January 2027.

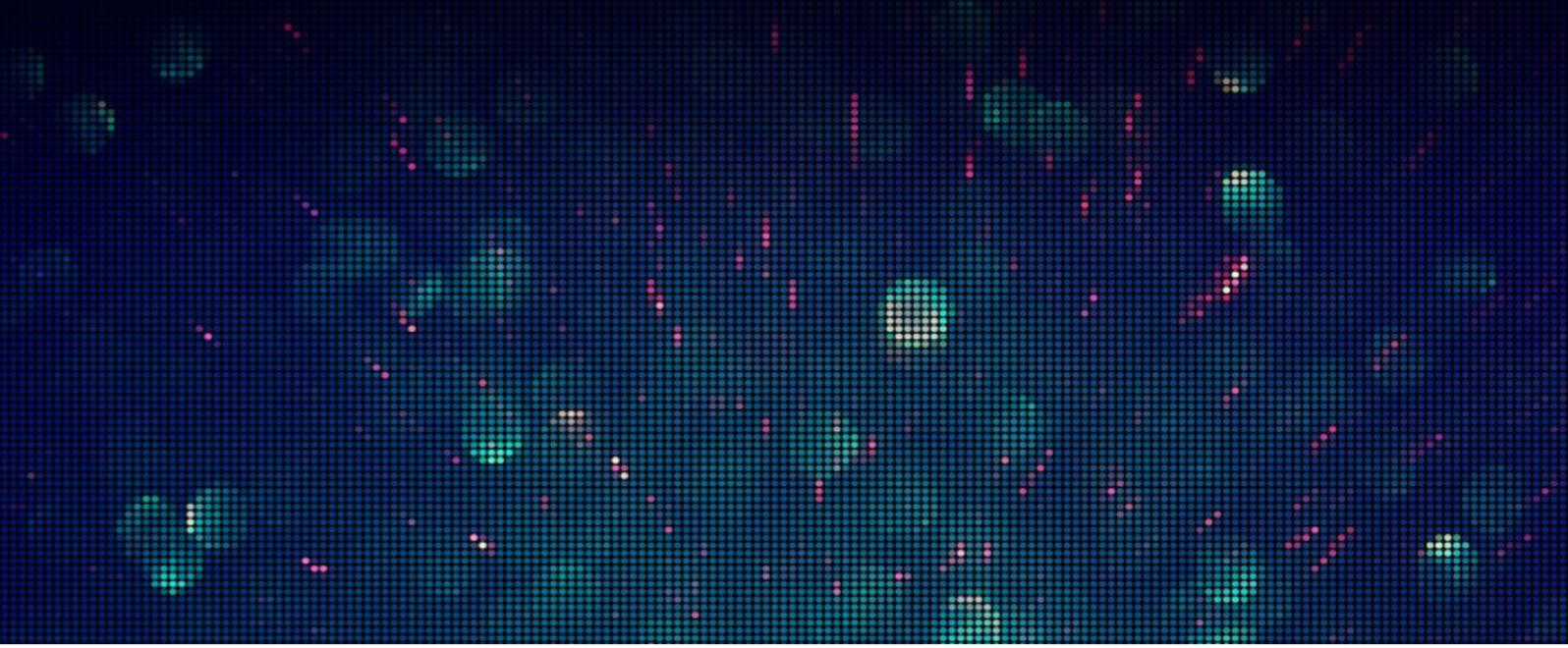
This shift will materially increase the potential cost and risk of dismissing higher earners and could reshape the dynamics of senior exits, including in relation to costs, complexity of negotiations, and the risk of litigation given that higher earners may be more likely to litigate. In this environment, getting the basics right, such as a fair process, clear rationale, and consistent documentation, will matter more than ever.

Statutory Sick Pay (“SSP”)

From 6 April 2026, SSP will be available from day one of any absence, and the lower earnings limit eligibility requirement (currently £125 per week) will be removed. Employers should factor this into workforce budgeting and also consider tightening absence management processes.

Family Rights

The ERA enhances family friendly rights by making statutory paternity and unpaid parental leave available from the first day of employment, from April 6 2026 onwards. The previous 26 week qualifying period for paternity leave and the one year qualifying period for parental leave will be eliminated. Additionally, employees will be allowed to take paternity leave after a period of shared parental leave.



The ERA also broadens the right to statutory bereavement leave, giving employees a day-one right to time off following the loss of a loved one. It enables the Government to make regulations strengthening protections for pregnant employees, including extending redundancy protections to cover non-redundancy dismissals during pregnancy, maternity leave and on return from family leave. These measures are expected to take effect in 2027 and are currently subject to consultation. For further information on the consultation, see our previous [article](#).

Zero-Hour Contracts

Many headlines have talked about elimination of one sided flexibility in zero-hours and low-hours contracts. The ERA does not go this far but instead grants eligible workers on zero-hours, other low-hours contracts and agency workers the right to be offered a contract that reflects the hours they routinely work. It also introduces new entitlements for certain variable-hours workers to receive reasonable advance notice of shifts and to be compensated when shifts are cancelled, rescheduled or reduced at short notice. Much of the detail is yet to be developed in consultation and regulation, with the final rules expected to come into force in 2027. In preparation, employers should audit how they use low hours and zero hours contracts and review their shift/ rota system to identify if it is fit for purpose.

Flexible Working

Since April 2024, employees have had a day-one right to request flexible working. This can include requests to work fewer hours per week, vary hours of work, work from home, job share, and work different hours to other employees. The penalty for breaching the statutory flexible working regime is eight weeks' pay, currently capped at £719 per week. The ERA does not change much in this space, except requiring the employer's refusal of a request to be reasonable on one or more of the current eight statutory grounds (being additional costs, work reorganisation, staff recruitment, quality, performance, customer demand, insufficient work or structural changes). These changes are expected to come into effect in 2027.

Fire and Rehire

"Fire and rehire" practices are not typically associated with the start-up sphere. However, the ERA means that if employees refuse to agree to certain "restricted variations" of their employment contracts, it will be automatically unfair for employers to dismiss them as a result, even if they offer to re-engage them on the new terms (subject to a limited exception where the employer can demonstrate that the variation was necessary due to financial difficulties). This is likely to significantly restrict an employer's ability to change these types of terms, particularly in a way that will negatively impact the employee. A restricted variation includes changing the employee's place of work, pay or pensions. These changes will take effect from January 2027.

These changes are expected to take effect from October 2026.

Harassment

The duty to prevent sexual harassment in the workplace, which came into force in October 2024, will be strengthened, with employers required to take "all reasonable steps" rather than just reasonable steps. This will be effective from October 2026. The ERA also paves the way for the introduction of regulations (expected in 2027) specifying what "reasonable steps" involve.

In addition, again from October 2026, the ERA imposes employer liability for third party harassment meaning an employer will be liable if a third party harasses an employee in the course of their employment and they failed to take all reasonable steps to prevent it.

It is important that employers have risked assessed working arrangements to identify levels of risk, have robust policies in place and employees are clear on reporting lines in the event that they experience harassment at work.

Trade Unions – written statements and rights of access

Start-ups have not traditionally been a target for unions. However, it is important to be aware that from October 2026, all employers will be required to inform all employees of their right to join a trade union. We await confirmation from the Government of what format such notification should take and exactly what information should be included. However, employers should be prepared to build this into their onboarding process from October 2026 and have a system for re-issuing to the workforce on a regular basis. Union rights of access to the workplace – both physical and digital – will come in at the same time

Summary

With some ERA changes taking effect from April 2026, start-ups should review their policies and procedures now, particularly for family leave and SSP. In many cases, slightly adjustments to template employment contracts will be needed.

Although unfair dismissal reforms will take effect from January 2027, employers should make sure their probationary and performance management processes are fit for purpose now, as the legislation will have a six-month retrospective effect. Action will be needed over the summer to get ready for the duty to inform employees of their right to join a trade union.

With regards to bereavement leave, zero hour contracts and the duty to prevent sexual harassment, employers should watch this space and keep up to date with consultations and regulations as they progress.

For tailored advice and to stay informed on further developments, contact our CMS Employment team and [sign up](#) for our Employment Law Now alerts. You can also visit our [ERA webpage](#) for further information.

Any questions? Get in touch with the legal team



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