

UK Employment Flash

Insights into the latest employment news

October 2025

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In this edition, we provide an update on the current status of the Employment Rights Bill, marking one year since its introduction to Parliament. We also examine the government's proposals to broaden pay gap reporting under the draft Equality (Race and Disability) Bill, and discuss two recent Employment Appeal Tribunal decisions: one offering guidance on when international employees may acquire UK employment rights, the other a helpful reminder on key aspects of procedural fairness in disciplinary processes.

Employment Rights Bill – One Year On

Since Skadden's October 2024 update on the UK Employment Rights Bill, the bill has continued to progress through Parliament and is expected to become law before the end of 2025.

The government has remained committed to all the key proposals in the bill, despite pressure from certain parts of the business community and amendments suggested by the House of Lords (most notably, a proposal to add a six-month qualifying period for unfair dismissal protection, in place of the government's proposal to remove the qualifying period altogether). A late amendment to the bill in July introduced a further amendment to prohibit the use of nondisclosure agreements in cases involving discrimination and harassment, rendering such provisions null and void. More recently, there was political speculation about whether certain provisions in the bill would be removed or weakened when Angela Rayner MP and Jonathan Reynolds MP, two key ministers responsible for the formulation and progress of the bill, were removed from their roles in September 2025.

Over the summer, the government provided more guidance on the timing and process for implementation of the new measures. A small number of changes are expected to come into effect as or soon after the bill becomes law later this year. These include reforms to the UK's trade union and industrial action framework, including the repeal of the 2016 and 2023 trade union reforms that require a 50% turnout threshold for strike ballots and enabled the government to impose minimum service levels in certain sectors. Provisions that protect employees who take industrial action from dismissal will also come into effect at the same time.

After the bill becomes law, the next major set of reforms is expected in April 2026, including:

- **Statutory Sick Pay (SSP):** Removal of the lower earnings limit (now £125 a week) and waiting period, making SSP available from day one of sickness absence for all employees.
- **Statutory Paternity and Unpaid Parental Leave:** Employees will be entitled to take paternity and unpaid parental leave from the first day of employment, with no qualifying period of service.

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- **Fair Work Agency:** A new enforcement body with responsibility for employment compliance relating to agency work, minimum wage, sick pay and certain other employment rights is to be established. This should free some time in the Employment Tribunal.
- **Collective Redundancy:** Doubling of the maximum protective award for failure by an employer to comply with its collective consultation obligations to 180 days' pay.

Further measures are expected to take effect in October 2026, including the ban on “fire and rehire” in almost all circumstances, the duty on employers to take all reasonable steps to prevent sexual harassment and not to permit the harassment of their employees by third parties, and a doubling to six months of the time limit for employees to bring most claims in the Employment Tribunal.

The government has committed to further consultation on its “fire and hire” and collective redundancy reforms, among other measures. Consultation in relation to unfair dismissal protection from the first day of employment and the specifics of the proposed statutory probationary period (including its length and the “lighter touch” dismissal process that is proposed to apply during that period) is expected to begin in autumn 2025, with any resulting changes not taking effect until 2027.

Employers should take this time to prepare for fundamental shifts in a number of areas of employment law. As well as accounting for any potential increased costs, employers should ensure that they have up-to-date policies and procedures in place so that they are prepared for the practical effects of each of the new changes.

Mandatory Reporting on the Horizon: What Employers Need To Know About New Pay Gap Proposals

The UK government's consultation on implementing mandatory ethnicity and disability pay gap reporting for employers with 250 employees or more closed on 10 June 2025. The responses to the consultation will shape the draft Equality (Race and Disability) Bill, which is anticipated later this year or in early 2026.

The proposed measures for reporting on the ethnicity and disability pay gap largely mirror the existing gender pay gap regime, requiring disclosure of mean and median hourly pay and bonus differences, broken down by quartiles. The government also intends to use the same “snapshot date” of 5 April and reporting deadlines, with online publication and enforcement by the Equality and Human Rights Commission (EHRC).

Additional proposals for consultation include reporting on workforce composition by ethnicity and disability, the percentage of employees who choose not to disclose this data, and whether employers should be required to produce an action plan, if a pay gap is identified.

It is proposed that employees would self-identify using the 18 UK census ethnicity categories, with a “prefer not to say” option. To protect privacy, a minimum threshold of 10 employees per category would apply, with the option for employers to combine groups to meet this threshold. For disability pay gap reporting, a binary comparison between disabled and nondisabled employees is proposed, again with a minimum of 10 employees per group.

Separately, in April 2025, the government also issued a call for evidence on whether the right to equal pay should be extended to ethnic minority and disabled employees, which would also be covered by the Race and Disability Bill. This new regime would be implemented either by way of extending the existing equal pay regime or by creating a new equal pay regime specifically to cover race and disability, and the government consultation sought views on this question.

While UK employees can already bring discrimination claims if a discrepancy in their pay is because of their race or disability (or another protected characteristic), a new equal pay regime would have far-reaching implications for employers. Determining whether work is of “equal value” is often a highly complex question of fact, and equal pay litigation can be lengthy and costly, with potential liability for significant backpay to large groups of employees.

While consistency with the existing gender pay gap framework is, in principle, a sensible approach — since many employers are already familiar with the methodology — simply transplanting this model is fraught with challenges.

Ethnicity is not evenly distributed across the UK and can vary significantly by region and sector. In workplaces with small numbers of employees in certain ethnic groups, the pay gap figures could fluctuate dramatically from year to year if just one or two employees join or leave. The proposed minimum threshold of 10 employees per ethnic category is controversial. The average pay of such a small group is unlikely to provide reliable or informative data and may be subject to significant annual variation. If employers are required to aggregate the 18 census categories into a broad “white” versus “ethnic minority” comparison to meet the threshold, the resulting data may be of limited value and fail to capture the nuances of pay disparities between different ethnic groups. Raising both the minimum group size and the overall reporting threshold would help ensure the data is both meaningful and protective of individual privacy.

Disability presents a different set of complexities. Disability can manifest in a wide range of forms, with varying degrees of permanence and impact on day-to-day life and work. Reporting on a binary basis by comparing disabled and non-disabled employees risks being both inaccurate and reductionist, and overlooks the fact that different impairments can affect individuals in different ways. Furthermore, the government must also consider the effect of reasonable adjustments, such as reduced hours or tailored roles, which are designed to support employees with disabilities but may inadvertently widen the reported pay gap.

Careful consideration must be given to the design of the reporting requirements to ensure that the data produced is meaningful, reliable and genuinely useful in driving progress on workplace equality.

While it remains to be seen what final form the new equal pay and reporting regimes will take, employers can take proactive steps to prepare for the anticipated changes, which will require significant groundwork. This includes familiarising themselves with the proposed changes, collecting ethnicity and disability data (bearing in mind their data privacy obligations) and proactively reviewing pay structures and practices to identify and address any disparities.

EAT Ruling Highlights Challenges for Employers With Internationally Mobile Staff

In Cable News International Inc v Bhatti [2025] EAT 63, the Employment Appeal Tribunal (EAT) has provided guidance on when employees working outside the UK on foreign employment contracts may still be protected by UK employment law.

In *Cable News International Inc v Bhatti [2025] EAT 63*, the EAT held that an internationally mobile journalist had UK employment rights, even though she was employed by a US company on a US employment contract and worked mainly throughout Asia.

The journalist, a British citizen, asked to relocate to her employer's London office while recovering from a foot injury. The request was not granted. However, from March 2017, the journalist gave up her apartment in Bangkok (where she had been based previously) and came to the UK for medical treatment. She was assigned one day of work by the London office before the US employer stopped further assignments without its approval. When her relocation request was ultimately declined and her contract not renewed, the journalist brought claims in the English Employment Tribunal, including a claim for unfair dismissal.

The EAT held that, from the point she relocated to London, the journalist had a strong enough connection to the UK to bring claims under English law for events occurring after her relocation. This may be surprising given the employee was primarily based in Asia for the previous four years, had carried out only one day of work after her move and the employer's refusal to employ her from the UK. These factors were outweighed by the fact that she regularly returned to the UK for holidays, offered her availability to work when she was in London and was involved in pitching stories in London, albeit not on paid time. She also had a security pass to the London office and was on UK personnel distribution lists. The EAT placed significant weight on the fact that the journalist moved from her apartment in Bangkok to London, displacing the "territorial pull" of Bangkok as her base.

This case highlights the challenges for employers with internationally mobile staff, whose "base" can shift over time. These cases are heavily fact-dependent. It is the actual working arrangements, rather than just the terms of the employment contract, that determine which country's laws will apply to the individual's employment. Employers should be aware that international employees who return to the UK or choose to work from the UK may, due to their personal circumstances, fall within the scope of UK employment law.

EAT Investigation Insights on Disclosure of Investigation Materials and Scripts for Decision-Makers

The recent EAT decision in Alom v The Financial Conduct Authority [2015] EAT 138 provides a helpful reminder on key aspects of procedural fairness in disciplinary processes, particularly regarding the disclosure of investigation materials and the use of HR-prepared scripts.

Alom v The Financial Conduct Authority [2015] EAT 138 involved an employee of the FCA who was dismissed for sending two emails — one anonymous and hostile towards a colleague, the other in breach of his confidentiality obligations. The employee challenged his dismissal as unfair for various reasons, including because he was not given interview transcripts from the investigation into his conduct that was carried out by his employer. The employee also claimed that the script that was prepared by the employer's HR team for the disciplinary meeting indicated that the decision to dismiss him had been predetermined.

The EAT confirmed that employers are not automatically required to provide employees with interview transcripts from investigations as part of a subsequent disciplinary process. The key requirement in the ACAS Code is that employees receive "sufficient" information about the alleged conduct to understand

and respond to the case against them. This “may” include witness statements. In this case, the employee had the relevant emails and an investigation report summarising the evidence, including the complainant’s account, which was held by the EAT to be sufficient. It was significant to the EAT’s determination that neither of the decision-makers in relation to both the disciplinary process and the subsequent appeal had seen or relied on the interview transcripts.

The claimant argued that certain language in the script for the disciplinary hearing that had been prepared by the employer’s HR team indicated prejudgment and went beyond being appropriate guidance in relation to matters of procedure. The EAT recognised that there was some force to the claimant’s argument that the script suggested what view the decision-maker should put forward. However, the EAT noted that the script invited the employee’s input and overall did not presume the disciplinary outcome. There was also evidence that the manager who determined the disciplinary had formed his own conclusions.

The claimant made a further argument that a search of his work computer to identify the author of the anonymous email had breached his right to privacy. The EAT held that, even if the

search was disproportionate, it did not affect the fairness of the dismissal because the employer did not rely on any evidence obtained from the search in reaching its decision.

The case provides some practical takeaways for conducting disciplinary investigations:

- Ensure that the employee has access to all key evidence relied upon by the decision-maker. If any underlying documents are withheld, the employer must be satisfied that the employee still has enough information to fully understand and respond to the disciplinary allegations.
- Decision-makers should not rely on material that the employee has not had the opportunity to address.
- HR-prepared scripts are generally disclosable in litigation and should be drafted with care to avoid any appearance of bias or predetermination.
- Scripts for disciplinary hearings should be neutral, avoid language that suggests a predetermined outcome, and always allow for the employee’s input. Decision-makers must reach their own conclusions based on the evidence presented and take ownership of the decision.

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