

Client Newsletter: Employment Rights Bill - 4 key Consultations

The Government continues to push forward on the Employment Rights Bill ('ERB') which, if fully implemented, promises to be a very significant expansion of workers' rights. Four consultation documents have now been published dealing with enhanced protection for pregnant women and new mothers, bereavement leave, and two dealing with Trade Union membership rights and access.

Trade Union Membership

The ERB proposes an express duty on employers to inform employees of their right to join a trade union and also to allow trade unions to access workplaces in order to meet, support, represent or facilitate collective bargaining. Regarding the right to join a trade union, the consultation points towards a written statement via email, intranet or noticeboard setting out a brief overview of what trade union membership means and listing trade unions. For access to the workplace, the starting point is for trade unions to request access and for the employer to respond. Failure to reach agreement on access will be referred to arbitration. The consultation suggests there may be exemption for small employers.

Consultation closes in December and further consultation is planned for Spring 2026. Legislation will come on October 2026.

Bereavement Leave

Currently the law only covers parental bereavement leave, the ERB will introduce a separate day-one right for employees who experience the loss of a loved one, including pregnancy loss before 24 weeks. The consultation covers eligibility, how and when it can be taken, notice and evidence requirements. It is likely that

bereavement leave will be a minimum of one week but details such as splitting the week or taking a continuous block and the window in which leave can be taken forms part of the consultation.

The consultation closes on 15th January 2025 and leave provisions are expected to be implemented in 2027. However Altogether HR's clients are already compassionate and flexible in supporting bereavement leave generously therefore we anticipate the impact will be minimal.

Enhanced dismissal protection for pregnant women and new mothers

The Government intends to "introduce legislation that will make it unlawful to dismiss pregnant women, mothers on Maternity Leave, and mothers for at least six months after they return to work - except in specific circumstances".

The consultation is wide-ranging, but a key focus is on considering what these "specific circumstances" should be.

The consultation recognises that, in enhancing protection for pregnant women and new mothers, it is "...important to preserve the ability to dismiss in cases where continuing employment would have serious consequences for the employer or other staff - striking a fair balance between employee protections and operational needs." It goes on to recognise the possibility of unintended and unwanted consequences of increasing protection too far, such as a possible reluctance on the part of employers to hire women of child-bearing age.

Key questions for the consultation process are:

- A new general test of fairness (conduct, capability, redundancy etc.) with stricter standards.
- Removal or limiting some of the existing potentially fair reasons for dismissal.
- Should the new protections apply from day one?
- The period during which the protection starts and ends, for example from when the employee advises the employer of the pregnancy and 18 months after the birth.

The consultation closes on 15th January 2026 with the new measures implemented in 2027.

Final Note

We will continue to keep our clients updated as the bill progresses through consultation and parliament. Whilst no immediate actions are required, contracts, handbooks and policies will need updating in due course.