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Dear Liam,

Implementing the Employment Rights Act

Thank you for your letter requesting an update on plans for consultation on, and implementation of, the Employment Rights Act 2025 (the Act). I am pleased to share that today we released updated information on timelines for implementing this legislation here – [Implementing the Plan to Make Work Pay and Employment Rights Act - GOV.UK](#).

Last summer's roadmap set out our approach to delivering reform quickly while still giving businesses enough time to prepare. We are prioritising consulting and engaging on the policy detail to ensure that it works for both employers and workers. This means that some of the timelines have shifted slightly to provide sufficient time for stakeholders to engage. We have adjusted our implementation timelines for the following measures:

1. Electronic and workplace balloting for statutory trade union ballots will be introduced no earlier than August 2026, not Spring.
2. Measures to simplify the trade union recognition process will be introduced in April as planned, but measures relating to unfair practices in the trade union recognition process will now be introduced in October.
3. Measures relating to fire and rehire will now be introduced on 1 January 2027, instead of October 2026.

We are still committed to delivering these changes quickly whilst giving businesses and workers time to get ready. In February key trade union measures will commence, repealing the majority of the Trade Union Act 2016. And in April, further measures will take effect, including day one rights to statutory sick pay and paternity leave, and the launch of the Fair Work Agency.

We will be providing support and guidance to help businesses prepare for these changes, and today we have launched a new online resource offering practical guidance and support for what the changes mean and how to prepare - www.business.gov.uk/employment-changes.

The Plan to Make Work Pay committed to comprehensive consultation on the implementation of these reforms. In 2024 my predecessor wrote to this Committee with regards to an initial package of four consultations launched by the Department for Business

and Trade and the Department for Work and Pensions to inform Government amendments made during the Act's passage.

As set out in our *Implementing the Employment Rights Bill* publication, we are taking a phased approach to engagement and consultation on the Act's implementation. This will ensure all stakeholders have the time and space to work through the detail of each measure and to help us implement each in the interests of all. This began last summer with the Department for Education launching its consultation on setting up the School Support Staff Negotiating Body (SSSNB), and the Department of Health and Social Care consulting on fair pay agreement process in adult social care. Both consultations are now closed, with respective departments considering responses.

As set out in my letter to the Committee on 23 October, the Department for Business and Trade launched a package of consultations on the implementation of the Act last year covering the following measures: leave for bereavement including pregnancy loss; enhanced dismissal protections for pregnant women and new mothers; trade union right of access; employer duty to inform workers of right to join a union. This package of consultations has also closed, and my department is considering responses.

In our latest communication I laid out the details of the consultation on the draft code of practice on electronic and workplace balloting for statutory union ballots. This measure will be introduced via secondary legislation and therefore was not a part of the Act, however, this was committed to by the Government in the *Implementing the Employment Rights Bill* publication.

Acas have also launched a consultation on updates to its Code of Practice on time off for trade union duties and activities which was trailed in the *Implementing the Employment Rights Bill* publication. The purpose of the new draft Code is to set out guidance on good practice that will aid and improve the effectiveness of relationships between employers and trade unions. This guidance will be taken into account by employment tribunals in relevant cases. The consultation on the draft Code closes on 17 March 2026.

Upcoming consultations

This week I am launching a further package of consultations covering the following five measures. Alongside a programme of direct stakeholder engagement, these will support us in determining how best to put our plans into practice.

Consultation 1: Fire and Rehire

The Employment Rights Act introduces important new protections to end unscrupulous fire and rehire practices. If an employer uses fire and rehire to change an employee's contract in relation to core terms such as pay, hours, leave or specified changes to shift patterns, it will be an automatic unfair dismissal unless they are in, and can evidence severe financial difficulties which threaten the viability of the business. These are referred to as restricted variations.

Dismissals related to changes in non-core terms - such as location or job role - will not be automatically unfair but will be subject to enhanced protections. This means that for non-

core terms certain factors must be taken into account, including whether any consultation has taken place with the employee or a recognised trade union, and whether the employer offered anything in return for the variation.

The Act provides delegated powers for the Secretary of State to set out in regulations which changes to shift patterns will be restricted variations, as well as to limit the scope of the restricted term on pay to exclude specified expenses and benefits in kind. The forthcoming consultation will seek views on these details and inform the regulations so that they strike an appropriate balance between protecting employees from being unilaterally forced into accepting disadvantageous terms and preserving employer flexibility to make reasonable and operational changes.

This consultation will run for 8 weeks and will close on 1 April 2026.

Consultation 2: Code of Practice on trade union recognition and unfair practices in electronic balloting

The Employment Rights Act makes several changes to the statutory trade union recognition process to ensure that workers have a meaningful right to organise through trade unions. This includes removing the requirement for a union to demonstrate at the application stage that it is likely there will be a majority for union recognition, and the requirement for a union to have at least 40% of the workforce in the appropriate bargaining unit supporting union recognition.

We have revised the Code to ensure that all parties, including employers, workers and unions understand how these changes affect them.

The Code is not mandatory but seeks to advise employers and unions on how they can comply with legal requirements in relation to access and unfair practices during a recognition or derecognition process. The Code is admissible in employment tribunal proceedings and therefore can have some legal effect.

The consultation document explains that the draft Code follows the settled policy in the Act and asks questions in relation to the detail as to how changes in the Act regarding access and unfair practices should be implemented in practice.

In the Plan to Make Work Pay, the government committed to allow unions to use modern and secure electronic and workplace balloting for statutory ballots, bringing union participation in line with modern voting practices that political parties and listed companies already use. There is already a live consultation on the Code of Practice for electronic and workplace ballots that addresses hybrid, and pure electronic ballot methods.

However, before pure electronic balloting is permitted for recognition and derecognition ballots, the government wants to ensure that the necessary safeguards are in place to prevent any interference in these ballots. Therefore, the consultation on the Code of practice on access and unfair practices during the recognition and derecognition process seeks

views on government proposals to legislate for new unfair practices to prevent interference in electronic recognition and derecognition ballots.

This consultation will run for 8 weeks and close on the 1 April 2026.

Consultation 3: Tipping

The Government is consulting on its commitment to strengthen the law on tipping. The new requirements will build on the Employment (Allocation of Tips) Act 2023, which introduced the legal requirement for all tips, gratuities and service charges to be passed on to the workers who have earned them.

The Employment Rights Act 2025 goes further, by protecting and enhancing the voices of those workers. The Act sets out that, prior to developing a written policy, employers will be required to consult with the representatives of recognised trade unions or worker representatives, or, where there are no such representatives in place, workers likely to be affected by the policy. The Act also sets out a requirement for the written policy to be reviewed at least once every three years. When reviews take place, employers must follow the same process of consultation with workers. Employers will also be required to make available a written, anonymised summary of the views expressed in the consultation to all workers at the place of business.

This consultation will allow the Government to consider the views of all interested parties and groups about how we can most effectively implement the new requirements. It will also provide an opportunity to review how the existing legislation and statutory Code of Practice operate in practice, to identify where improvements could be made.

This consultation will launch shortly and run for 8 weeks.

Consultation 4: Improving Access to Flexible Working

We are changing legislation through the Employment Rights Act 2025 to make it more likely that flexible working requests are accepted, prompting employers and employees to think creatively about the types of flexible working that might be feasible and suitable in their circumstances.

These changes will require employers to accept flexible working requests where they are reasonably feasible. It will remain the case that employers can reject requests that cannot be accommodated given their specific ways of working.

If employers are considering rejecting a request, they will be required to follow a new process to first consult the employee, creating an opportunity to consider ways to overcome obstacles with the initial request, or explore potential alternatives.

This consultation will:

- gather feedback on a proposed new process for employers consulting with employees if they are minded to reject a flexible working request. By providing enough detail for employers to aid in compliance, without being overly rigid, we aim to help businesses more effectively navigate the handling of flexible working requests.
- understand what training, resources and support can help businesses navigate flexible working requests, to help us shape future guidance and resources. It will also gather high level insights on where respondents might like to see further policy development on flexible working.

This consultation will launch shortly and will run for 12 weeks.

Consultation 5: Modernising the Agency Work Regulatory Framework

The regulatory framework for the temporary recruitment sector in Great Britain consists principally of the Conduct of Employment Agencies and Employment Businesses Regulations 2003 ('the Conduct Regulations') and the Agency Workers Regulations 2010. The sector has evolved significantly in recent years, due to digitisation, new business models, and changes in ways in which people work and hire. The emergence and rapid growth of umbrella companies – a type of payment intermediary – has created new opportunities but also challenges due to increasing non-compliance with employment law.

The Employment Rights Act 2025 amends the definition of an 'employment business' in the Employment Agencies Act 1973 to bring umbrella companies into scope for regulation through the Conduct Regulations. This consultation contributes to the key objectives in our Plan to Make Work Pay around ensuring fair treatment for workers, as well as the wider government commitment to reduce administrative burdens for businesses by 25%. The consultation therefore seeks views on updating the regulatory framework for the temporary recruitment sector to allow for the effective regulation of all involved in the modern-day recruitment sector, including umbrella companies. It focuses on ensuring security, transparency and choice for workers, whilst reducing administrative burdens for businesses. Depending on the responses to this consultation, we may consult further on specific proposals to reduce administrative burdens.

Alongside this consultation, we are publishing a post-implementation review of the requirement for employment businesses to provide work-seekers with a Key Information Document before agreement to terms of employment. This review outlines the need to reform the requirements around information provision for workers to improve transparency, and the consultation is designed to aid the development of policy options to facilitate this.

This consultation will launch shortly and run for 12 weeks.

Next Steps for consultation

My department plans to launch consultations on the following areas in the coming months: non-disclosure agreements, ending the exploitative use of zero hours contracts, collective redundancy, protection against detriments for taking industrial action and trade union blacklisting. Following consultations on the content of regulations, we also plan to consult on revisions to the existing Code of Practice on dismissal and re-engagement, as well as on new Codes on the right of trade unions to access workplaces and collective redundancy to help clarify new requirements and support user compliance.

The Secretary of State and DBT's Permanent Secretary gave evidence to the Committee on the work of the department, including the Plan to Make Work Pay, last November. I would also be happy to engage with the Committee further on this important agenda.

Yours sincerely,



Kate Dearden MP

Parliamentary Under-Secretary of State for Employment Rights and Consumer Protection
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