Guidance Note:

Latest Updates to the Employment Rights Bill and Amendment – April 2025

The UK government introduced the Employment Rights Bill (the "**Bill**") in October 2024, which is now undergoing significant changes as a result of responses to recent consultations on various key topics, which have also been published. As of March 2025, the Bill has passed its third reading in the House of Commons and will now progress to the House of Lords to further refine the Bill's provisions, with consultations ongoing. We do not yet have a timeline of when the reforms will come into force. Many of the changes require commencement regulations to bring them into force, and much of the detail will be set out in substantive regulations – some of which will require further consultation which is expected later this year. **In this note we have covered the key developments and anticipated changes, and what Local Pharmaceutical Committees (LPCs) need to know about the latest developments, and how they might be affected.**

Unfair dismissal protection to be a day one right

A key Labour Government proposal is to give all employees the right not to be unfairly dismissed from **day one** of their employment, rather than after two years' service as is currently the case.

As a result of this new 'day one' right, LPCs may face an increased risk of unfair dismissal claims. That said, this new day one right will be subject to an "initial period" of employment (like a probationary period), during which we anticipate a lighter touch procedure for dismissal can be followed by LPCs if a new hire turns out not to be suitable. The Government has also indicated that a different financial cap will apply to dismissals during the probationary period, not the current cap of £115,115 (which is rising to £118,223 from April 2025).

Although the Government has expressed a preference for this **initial period to be nine months**, this has not yet been confirmed in the amendments to the Bill, and a separate consultation is planned.

These changes are not expected to come into force before **Autumn 2026**.

Additional 'day one' rights

In addition to the protection against unfair dismissal from day one, the Bill and related measures also seek to introduce several significant 'day one' rights for employees to offer enhanced protections, security and support to employees from the very start of their employment. Some of the key day one rights include:

- Strengthened Statutory Sick Pay (as we will touch on below).
- Parental and Paternity Leave becoming an immediate right, removing the prior respective qualifying periods of 26 weeks and one year.
- At least one week's Bereavement Leave from day one (eligibility criteria applicable).
- The right to request flexible working from day one.

Increased Limitation Periods

The limitation period for bringing most Employment Tribunal claims, including dismissal and discriminations cases, is **currently three months, less 1 day**. There are of course some limited exceptions to this where the period to bring a claim is **six months** less 1 day, such as equal pay or statutory redundancy payment claims. Although not included in the original draft

of the Bill, the Government published an amendment paper which contained (amongst other things) a proposal to increase the period for bringing most Employment Tribunal claims to **six months**.

Practical point: bearing in mind a combination of the introduction of the significant 'day one' rights (above) in combination with the increased limitation periods for claims to be brought in an Employment Tribunal, it is likely that employers, including LPCs, will face an increase risk of Tribunal claims.

Collective redundancy consultation

Changes to when the duty to consult collectively arises (unlikely to apply to most LPCs)

As it stands, LPCs proposing to dismiss as redundant 20 or more employees "at one establishment" (or site as we'll call it) within a 90-day period must collectively consult with appropriate representatives of those employees before making any redundancies. Whilst historically this may not have impacted Community Pharmacies, given the smaller structure of the individual organisations meaning the threshold for collective consultation would rarely (if ever) be met, the Government is looking to change how they assess the threshold which would trigger collective consultations; potentially meaning that some Community Pharmacies could be captured by the amended consultation requirements.

"Redundant" for collective consultation purposes includes, as you would expect, traditional redundancies (for example, where there is a business closure or downturn in work), but also employees who face dismissal where for example an LPC is looking to dismiss and re-engage employees on new terms of employment.

Originally, the Bill proposed to change the rules so that collective consultation would be required whenever an employer proposed to make 20 or more redundancies, regardless of whether they are employed at one site or not (by removing the references to "at one establishment" in the legislation). In what seems to be a concession for employers, this proposal has been changed.

Under the new proposals, in a case where employees are being made redundant at more than one site, separate Regulations (yet to be drafted) will set out the threshold for deciding whether the obligation to collectively consult is triggered. How much of a concession this is for employers will depend on where that threshold is set.

There is an indication that the threshold may be determined by reference to whether the proposed redundancies amount to a particular percentage of the total employees – but we will have to wait and see what the regulations say.

The latest amendments also clarify that, when carrying out collective consultation, the employer does not need to consult all employee representatives together or try to reach the same agreement with all representatives. This is presumably to address concerns that the Bill would require representatives to be brought together to be consulted over separate batches of unconnected redundancies at different sites.

Practical point: Whilst we don't yet know what collective redundancy consultation might involve after Spring 2026, we do know that employers have 12 months before then to undertake any significant restructures they have planned under the current rules. It would be advisable to plan accordingly.

Increasing the penalty for failing to collectively consult

The Government has also confirmed it plans to double the penalty (known as the 'protective award') that can be awarded by Tribunals where employers fail to meet their obligations to collectively consult - from 90 days to 180 days' gross pay per employee.

The award is designed to be punitive rather than compensatory and can already be a significant liability for employers who do not meet their consultation obligations. The potential cost of these claims will increase significantly with the doubling of protective awards.

Proposals to remove the cap on protective awards altogether have been abandoned, but the Government is consulting about other ways to strengthen the regime.

The Government has also said it will issue further guidance for employers on collective consultation processes. If you have any concerns about how this proposal will impact the LPCs, our designated support team are here to help.

Fire and rehire

Fire and rehire as a means of changing employee's terms and conditions has been under a significant degree of scrutiny for the past few years. There has been a growing concern that employers have carte blanche to vary key contractual rights and obligations by terminating existing contracts of employment and offering re-engagement on new, typically less favourable terms. The Bill seeks to restrict the fire-and-rehire tactics and introduces a new category of automatically unfair dismissal where an employee is dismissed because they did not agree to a variation of their contract of employment or to enable the employer to hire a new employee or to re-hire the existing employee under a varied contract.

There is likely to be an exception to the new rules where, in very limited circumstances, an employer is in severe financial distress, but this is likely to be narrowly interpreted so as not to undermine the intention of the change.

In those (narrow) situations, and to avoid potential claims, an LPC would need to exercise caution and ensure they comply with the Code of Practice on dismissal and re-engagement that came into effect on 18 July 2024 and which the Government has promised to update.

Statutory Sick Pay

Currently, Statutory Sick Pay ("**SSP**") is payable from day four of a sickness absence, and employees need to earn at least £123 a week to qualify for it. The Government plans to scrap the waiting period for SSP and proposes to make SSP payable from the first day of absence and also proposed to remove the lower earnings limit to make sick pay accessible for lower earners. This will increase employer costs, particularly in sectors with high sickness rates.

Under the new plans, lower earners will be eligible to receive 80% of their average weekly earnings where this is lower than the flat weekly rate of SSP, currently £116.75 and rising to £118.75 in April 2025.

This means that all employees will be entitled to the lower of the SSP weekly flat rate or 80% of average earnings as soon as they are off sick from work.

This measure seeks to achieve a balance whereby lower earners are not completely excluded from the scheme but equally are not better off on SSP than they are while at work.

The Government reports that this measure will widen SSP eligibility to up to 1.3 million employees who are currently excluded from the scheme.

This proposal has been met with mixed reactions. Some fear a spike in short-term attendance issues as the promise of sick pay may act as an incentive to take time off or a deterrent to return to work, whilst others believe the reform does not go far enough and the weekly rate of SSP remains too low.

Requirement to keep records of holiday entitlement and pay

As an outcome of the consultations on the Bill, LPCs will be required to keep records to show they have complied with their obligations under Working Time Regulations relating to annual leave, including in relation to the amount of leave, holiday pay and pay in lieu when a worker leaves employment.

These records will need to be retained for six years from the date they were made.

It will be up to the LPC to decide the exact format of these records. Failure to comply will be a criminal offence punishable with a fine.

Dismissals during and after pregnancy

The Government has given further insight into its plans to crack down on dismissals of employees who are pregnant or on maternity leave or within six months of returning to work.

An amendment to the Bill provides for regulations to set out specific notices and "other procedures" that will need to be followed. The explanatory notes indicate that the intention is to ban such dismissals except in specific circumstances.

We will need to wait for the regulations to be published to see exactly what will be required in practice and when these changes will come into effect.

Zero hours contracts and agency workers

One of the major reforms proposed by the Labour Government was the ban on "exploitative" zero hours contracts. When published, the Bill revealed that zero hours contracts would not be banned altogether but that a series of protections would be introduced for those on zero or low hours contracts.

This would include introducing a duty to offer guaranteed hours contracts after a certain period, providing reasonable notice of shifts and compensating workers for short notice of cancellation, postponement or shortening of shifts. LPCs, where reliant on flexible staffing, may need to adjust workforce models, which could potentially increase staffing costs and administrative duties.

However, the Government was concerned that there was a potential loophole whereby employers could maintain flexibility in their workforce by deploying the services of agency workers instead of recruiting zero or low hours worker themselves.

The response to the consultation addresses that risk by confirming that the same protections will apply to agency workers: they too will have a right to be offered guaranteed hours contracts, as well as having a right to reasonable notice of shifts and any changes to their shifts.

The obligation to offer a guaranteed hours contract will rest with the end hirer, i.e. the individual LPC. This is on the basis that they are best placed to predict the amount of work in the pipeline. The regulations will, however, maintain the flexibility, in certain scenarios, to place obligations on agencies/other entities instead.

The hirer and the agency will share responsibility for providing reasonable notice of shifts. How this will operate in practice remains to be seen as further regulations will specify the form and way in which workers should receive notice of shifts and any shift cancellations, curtailments or movements.

Finally, it has been decided that agency workers will be eligible for compensation for shifts cancelled or changed at short notice and that responsibility for making these payments will fall to the agency. This may be an unwelcome move for agencies as typically it will have been the end user's decision to cancel or curtail a shift; the agency would have no power to influence the situation, yet they are left footing the bill.

To overcome this issue, the Government has confirmed agencies will have the ability to recoup such payments in certain circumstances.

Another key change is a new provision which will allow a collective agreement to contract out of the rights to guaranteed hours and reasonable notice of shifts, for both workers and agency workers. This will enable an employer and an independent trade union to reach an agreement that excludes the new rights and agree something else, as long as these new terms are incorporated into the contract. In the case of agency workers, the collective agreement can be with the person who has the contract with the agency worker.

Enforcement of employment rights and protections

The Bill creates a new state enforcement agency, to be called the "Fair Work Agency".

Initially, it will cover specific areas which are already covered by existing enforcement agencies, with the addition of holiday pay enforcement. The Bill also gives the Government a wide power to extend the Agency's remit to cover other types of employment rights.

Amendments to the Bill significantly increase its remit. The new enforcement powers include the ability to:

- Enforce a failure to keep adequate records of holiday pay. We have covered this requirement above.
- Enforce failure to pay some types of statutory payments to workers – including holiday pay and statutory sick pay – by issuing a notice of underpayment to employers.

  This notice will require the employer to pay the required sum to the worker within 28 days. Penalties of 200% of the sum due up to a maximum of £20,000 and a minimum of £100 to be paid to the Government's Consolidated Fund will also apply.

  If the employer pays the underpayment in full and 50% of the penalty within 14 days of the notice being given, the penalty will be treated as having been paid. This could have significant implications for employers who get holiday pay wrong.
- Bring Employment Tribunal proceedings on behalf of a worker, if the worker has the right to bring a claim but it appears they are not going to. Any award by the tribunal may still be made in the worker's favour.
- Provide legal assistance for employment-related proceedings.
- Recover enforcement costs incurred by the Secretary of State from employers who are not complying with the law.

The Fair Work Agency is unlikely to be up and running before late 2026 at the earliest.

When will these changes come into effect?

The Bill is still working its way through Parliament and further amendments are likely to be proposed and revisions made as it does, so this is not necessarily the final position. Most of the provisions of the Bill will not come into effect immediately when it is passed. Many of the changes require commencement regulations to bring them into force, and much of the detail is still to be set out in substantive regulations – some of which will require further consultation. As it stands, the Bill should receive Royal Assent before Parliament breaks for summer recess in July 2025.

Whilst the majority of the reforms are anticipated to take effect from late 2026, some changes will happen sooner. For example, it is anticipated that the following elements of the Bill will come into force in October 2025:

- An increase to the time limits to bring an employment tribunal claim from 3 to 6 months.
- The abolition of the "fire and rehire" protocol.
- Removal of the waiting days for SSP.

That said, the more nuanced parts of the Bill which are still subject to the ongoing consultations and refinement, such as the day one rights around unfair dismissal and the changes to zero and low hour contracts, are expected to come into force around October 2026.

How can Community Pharmacy England and LPCs prepare for the changes ahead?

Despite some key issues and details still to be worked out as the Bill continues its progress through Parliament, many employers are turning their minds to how to prepare.

Many will view the introduction of day 1 unfair dismissal rights as being the most significant impact of the Bill for employers. We are still waiting for the detail on how this will work in practice and the Government has committed to consult on this.

For now, LPCs should tighten up their recruitment and capability/performance management processes, particularly during and towards the end of probationary periods. LPCs should also review their contracts to ensure they have clear and flexible probationary periods in line with the new rules (when further details become available) and train managers on effective performance management during probationary periods.

To support LPCs with the above, during the first half of the 2025/26 financial year Community Pharmacy England, with the support of our legal advisors, will be reviewing and updating the template contracts, policies, procedures and the staff handbook that are provided to all LPCs via Community Pharmacy England. Should any LPC require general guidance or support in respect of navigating the changes being introduced by the Bill, this can be obtained from our designated legal support team in the usual way.

LPCs will also need to deal with the significant impact of changes to NICs and the National Minimum Wage coming into force from April 2025.

For more information on the Bill and how it may impact LPCs, please do not hesitate to get in touch with your designated support team at Clyde & Co.