

## New legislation: What to expect in 2024

Legal Development	Timescale	Preparation
<b>Discrimination</b>		
<p><b>Duty to prevent sexual harassment</b></p> <p><u><b>Worker Protection (Amendment of Equality Act 2010) 2023</b></u></p> <p>Introduces a new duty on employers to take "reasonable steps" to prevent sexual harassment of their employees.</p> <p>Where an employer has failed to take "reasonable steps", then a tribunal can award up to a 25% uplift of any tribunal compensation.</p>	<p>Enacted on 26 October 2023</p> <p>Expected to come into force in <b>October 2024</b></p>	<p>Consider what (more) you need to do to be able to demonstrate reasonable steps to prevent sexual harassment of employees have been taken, including:</p> <ul style="list-style-type: none"> <li>• reviewing &amp; strengthening current harassment/dignity at work policies;</li> <li>• reviewing how policies work in practice: <ul style="list-style-type: none"> <li>○ do managers manage harassment risks proactively, particularly at work social events?</li> <li>○ do new rules need to be put in place around social events?</li> <li>○ how are complaints handled?</li> <li>○ is disciplinary action taken where complaints are well founded?</li> <li>○ how are complaints (including anonymous complaints) recorded?</li> </ul> </li> <li>• considering whether to have a separate sexual harassment policy;</li> <li>• carrying out updated training for staff; and</li> <li>• raising awareness of/reinforcing expected behaviours.</li> </ul>
<p><b>Equality Act amendments</b></p> <p><u><b>Equality Act 2010 (Amendment) Regulations 2023</b></u></p> <p>Ensures that the Equality Act 2010 continues to be interpreted in line with EU jurisprudence after 31 December 2023, so employees retain their EU derived rights in respect of equal pay, discrimination by association, pregnancy and maternity amongst other points.</p> <p>See our earlier alert <a href="#">here</a>.</p>	<p>Came into force on <b>1 January 2024</b></p>	<p>As these protections are not new, but have been codified, no preparation is needed.</p>
<b>Family Friendly Rights</b>		
<p><b>Enhanced redundancy protection covering pregnancy and return from family leave</b></p> <p>Introduces an extension to the category of individuals who must be offered suitable alternative vacancies (if any) in preference to other employees at risk of redundancy.</p>	<p>From <b>6 April 2024</b></p> <p>Draft <u><b>Maternity Leave, Adoption Leave and Shared Parental Leave (Amendment) Regulations 2024</b></u> have been laid before Parliament.</p>	<p>Employers who are considering making redundancies on or after 6 April 2024 should identify those eligible for priority consideration for suitable alternative vacancies and offer them the vacancy ahead of others affected by the redundancy.</p>

<p><b><u>A) Pregnant Employees who take maternity leave</u></b> Entitlement begins when they inform their employer of their pregnancy and ends 18 months from the child's date of birth (or 18 months from expected week of childbirth if DOB not notified).</p> <p><b><u>B) Employees on adoption leave</u></b> Entitlement begins at the start of adoption leave and ends 18 months from date of placement/entry into UK for overseas adoption.</p> <p><b><u>C) Employees on shared parental leave (SPL)</u></b> This applies where the employee taking SPL is the "secondary parent" i.e. not the person who has taken maternity or adoption leave. If the employee has taken maternity or adoption leave A and B above apply. Entitlement begins when the employee starts SPL.</p> <p>The protected period end date depends on how much SPL is taken:</p> <ul style="list-style-type: none"> <li>• If less than 6 weeks, the end of the priority period is when SPL ends.</li> <li>• If more than 6 weeks continuous SPL is taken, the end of the priority period is 18 months from child's date of birth or placement.</li> </ul> <p><b><u>D) Employees who miscarry</u></b> Entitlement begins when the employer has been notified of pregnancy and ends:</p> <ul style="list-style-type: none"> <li>• For pregnancies ending before 24 weeks - two weeks after the end of pregnancy; and</li> <li>• For pregnancies ending after 24 weeks, the employee is in same position as those taking maternity leave.</li> </ul>	<p>Applies to maternity or adoption leave ending on or after 6 April 2024, or shared parental leave starting on or after 6 April 2024, provided the parent takes at least six weeks shared parental leave.</p>	<p>This is the case even where the person with priority consideration is not the best candidate.</p> <p>This extension will result in more people having the right to be considered for a suitable vacancy as a priority.</p> <p>Where more than one person has the right to be considered as a priority a competitive interview can be carried out between those people for the role ahead of it being offered to one of them.</p> <p>Generally employers needs to ensure mechanisms are in place for:</p> <ul style="list-style-type: none"> <li>• calculating and recording when protection periods begin;</li> <li>• identifying suitable alternative vacancies;</li> <li>• resolving any disputes about protection periods and treatment; and</li> <li>• training managers on the extension and increased risk.</li> </ul> <p>Failure to offer a suitable alternative vacancy to this extended category of individuals could result in automatic unfair dismissal claims with the attendant uncapped compensation.</p>
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<p><b>Paternity Leave</b></p> <p>The amending Regulations will make the following changes:</p> <ul style="list-style-type: none"> <li>allow fathers and partners to take their leave as two one-week, non-consecutive blocks (instead of the current position where the leave can only be taken in one block of one or two weeks);</li> <li>allow fathers and partners to take their leave at any point in the first year after the birth or adoption of their child (rather than only within the first eight weeks after birth or adoption);</li> <li>shorten, in most cases, the notice period required for each period of leave to four weeks (for domestic adoption cases, the notice period for leave will remain within seven days of the adopter having received notice of being matched with a child);</li> <li>a father or partner who has given an initial notice may vary any dates given if they give 28 days' notice of the variation.</li> </ul>	<p>Draft <b><u>Paternity Leave (Amendment) Regulations 2024</u></b> have been laid before Parliament.</p> <p>The Regulations are proposed to come into force on 8 March 2024 and the amendments will apply to babies whose expected week of birth begins after 6 April 2024, and to children whose expected date of placement for adoption, or expected date of entry into Great Britain for adoption, is on or after 6 April 2024.</p>	<p>Employers will need to amend their Paternity Leave policies to incorporate these changes. This will need to be in place sometime before April so that employees are aware of their leave entitlements.</p>
<p><b>Carer's leave</b></p> <p><b><u>The Carer's Leave Regulations 2024</u></b></p> <p>Introduces a new statutory day 1 right for employees to take a week's unpaid leave in any rolling 12 month period to care for a dependent with long-term care needs.</p> <p>One week is the maximum leave under statute regardless of how many dependants a carer has.</p>	<p>From <b>6 April 2024</b></p>	<p>Update any Carer's leave policy already in place to ensure it affords at least minimum statutory protection for those providing "long term care" to a "dependant".</p> <p>Any new policy should note:</p> <ul style="list-style-type: none"> <li>there is no requirement to provide evidence for purpose of leave;</li> <li>leave does not need to be taken in a block but can be half days or days; and</li> <li>employees are protected from detriment and dismissal.</li> </ul> <p>Employers should update their GDPR privacy notice if needed.</p> <p>Ensure that personal data relating to caring responsibilities and any associated health data provided is processed in line with your organisation's data privacy notice.</p>

<p><b>Neo-natal leave</b></p> <p><b><u>Neonatal Care (Leave and Pay) Act 2023</u></b></p> <p>Introduces a new type of statutory paid leave for employees who are parents of babies whose child is receiving or has received at least seven days continuous, specialist neonatal care.</p> <p>Qualifying parents with at least 26 weeks service with their current employer and will be entitled to up to 12 weeks' statutory paid leave, in addition to other types of family leave.</p> <p>The leave will start the day after the day in which neonatal care begins.</p> <p>The child must be admitted to care within 28 days of the day after the date of birth.</p> <p>Leave must be taken before the end of 68 weeks starting from the date of the child's birth.</p>	<p>Enacted, expected to come into force in <b>April 2025</b></p>	<p>Consider whether you wish to offer this right now before it comes into force: some employers do.</p> <p>Policy aim is to give fathers and partners another choice so they don't have to rely on unpaid parental leave or compassionate leave to take more than two week paid leave.</p> <p>Consider whether you will enhance statutory pay for neo-natal leave in line with any enhancements for maternity or other family leave.</p> <p>Policy should be in place and managers made aware of change before April 2025.</p>
<p><b>Pay</b></p>		
<p><b>Holiday pay</b></p> <p>An accrual method to calculate entitlement is introduced at 12.07% of hours worked in a pay period for irregular hour workers and part-year workers in the first year of employment and beyond.</p> <p>Rolled up holiday pay is also introduced for irregular hours workers and part-year workers, including some agency workers.</p> <p>Only applies in respect to leave years beginning on or after 1 April 2024.</p> <p>See previous alert <a href="#">here</a>.</p>	<p>From <b>1 April 2024</b></p>	<p>If you have workers who could be classed as irregular hours or part-year workers you should review your current practice against the new accrual system.</p> <p>Additionally, employers who heavily rely on flexible contracts may require tailored advice to determine which workers fall into the new definitions of irregular hours workers and part-year workers.</p> <p>Employers who do not currently use rolled up holiday pay may consider using the accrual method for some of their workers.</p>

<p><b>National Minimum Wage</b></p> <p>NMW will rise by 9.8% and will be expanded to cover 21 and 22 year olds.</p> <p>NMW will also increase for younger workers as 18 to 20 year olds will see a £1.11 pay rise per hour.</p> <p>See previous alert <a href="#">here</a>.</p>	<p>From <b>1 April 2024</b></p>	<p>Employers' payroll departments need to implement these changes.</p>
<p><b>EU Reform Bill</b></p>		
<p><b>TUPE</b></p> <p>Enables employers to carry out TUPE information and consultation exercises directly with their employees in circumstances where:</p> <ul style="list-style-type: none"> <li>• there are no existing representatives in place, and</li> <li>• the employer has fewer than 50 employees, or</li> <li>• fewer than 10 are affected by the TUPE transfer (regardless of the size of the employer).</li> </ul>	<p>Enacted <b>1 January 2024</b></p> <p>Applies to TUPE transfers which take place on or after <b>1 July 2024</b></p>	
<p><b>Strikes</b></p>		
<p><b><u>Strikes (Minimum Service Levels) Act 2023</u></b></p> <p>In certain services, the Secretary of State can set a minimum service level (MSLs) for strikes. These include: health, fire and rescue, education, transport, nuclear and border security.</p> <p>Consultation in relation to essential and time-critical hospital-based services, which could include nurses and doctors, recently closed on 14 November 2023, so we are currently awaiting the government response. Further consultations are expected on MSLs for other NHS staff and the education sector.</p> <p>Applicable to England only.</p> <p>See previous alerts <a href="#">here</a> and</p>	<p>Enacted, Regulations in force:</p> <p><b>8 December 2023</b> – railway and ambulance</p> <p><b>12 December 2023</b> – border force</p>	<p>Employers operating in such services may want to familiarise themselves with the Code.</p> <p>The Code imposes no legal obligations and failure to observe it does not by itself make any person/union liable to legal proceedings. However, provisions of the Code are admissible in evidence and can be taken into account in proceedings before any court or employment tribunal.</p>

<a href="#">here</a> .		
<b>Working Patterns</b>		
<p><b>Flexible working</b></p> <p><b><u>Flexible Working (Amendment) Regulations 2023</u></b></p> <p>Introduce a day one right for employees to make a flexible working request removing the current qualifying period of 26 weeks.</p> <p>No date yet for changes to flexible working regime (contained in <b><u>Employment Relations (Flexible Working) Act 2023</u></b>) to come into force giving:</p> <ul style="list-style-type: none"> <li>employees the right to make two requests in any 12-month period;</li> <li>employers two months to respond; and</li> <li>employees the right to be consulted with before their employer reaches a decision.</li> </ul>	<p><b>6 April 2024</b></p> <p>Acas will produce a new statutory Code of Practice on handling requests for flexible working to support employers.</p>	<p>Employers should consider taking the following steps:</p> <ul style="list-style-type: none"> <li>update any flexible working policy to remove 26 week qualifying period by 5 April 2024.</li> <li>make associated changes to any flexible working policy and suite of documents to cater for other changes to the right to request regime.</li> <li>ensure managers know what they need to do to "consult" with employees before turning down a flexible working request once the new regime is in force.</li> </ul>
<p><b>Right to request more predictable working pattern</b></p> <p><b><u>Workers (Predictable Terms and Conditions) Act 2023</u></b></p> <p>Workers with at least 26 weeks' service will gain a new statutory right to request a more predictable working pattern.</p> <p>Agency workers are also included.</p> <p>Acas consultation closing on 17 January 2024, no further developments currently.</p> <p>See earlier alert <a href="#">here</a>.</p>	<p>Enacted, expected to come into force in <b>September 2024</b></p>	<p>Organisations will wish to consider preparing a suite of documents in place to cover off both applying for and responding to this new right.</p> <p>The Acas draft code of practice should be considered.</p>
<b>Consultations</b>		
<p><b>Non competes</b></p> <p>Proposals to limit the length of non-compete clauses to a three month maximum period.</p>	<p>Uncertain</p>	<p>The government has not made any new announcements or proposals therefore the law remains unchanged.</p>

<p><b>Occupational Health ("OH")</b></p> <p>The government concluded their consultation and produced their findings in November 2023 (see <a href="#">here</a>).</p> <p>The government has said they will develop a voluntary framework for employers but there will be no mandatory duty placed on employers to take OH advice if they have a sick employee.</p>	November 2023	Employers who don't use an OH service should consider whether to appoint one on a voluntary basis.