CP Associates

HR EMPLOYMENT BULLETIN
March 2026

KEY EMPLOYMENT LAW CHANGES AND ADVICE

This is the latest of the series of HR Employment Bulletins which outlines some expected key employment law changes, some guidance on HR issues and a number of interesting Tribunal case outcomes for you to consider.

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1. Bus driver fairly sacked after hitting thief

In this case, an Employment Judge says operator acted reasonably in dismissing 'hero' who knocked out a thieving passenger.

A Metroline bus driver who chased a suspected thief off his bus, punched him unconscious and restrained him until police arrived was found to be fairly dismissed for gross misconduct.

Mr H was driving a route 206 bus in northwest London when he saw a man steal a necklace from a female passenger. He said he had "acted instinctively" in running after the man and recovered the necklace before returning to the bus. The thief followed him back and Mr H punched him, knocking him unconscious.

An investigation into the incident took place. On reviewing the CCTV footage, Metroline determined that Mr H's use of force was "intentional and unnecessary" and that he had failed to comply with company safety procedures. He was dismissed without notice. His appeal against the decision was unsuccessful and the Tribunal ultimately agreed that dismissing Mr H without notice fell within the range of reasonable responses open to an employer.

Mr H was employed as a bus driver by Metroline from 4 July 2022 until his dismissal on 15 July 2024. The Tribunal heard that he had no prior disciplinary record and had completed training on safety procedures including how to respond to serious incidents and when to seek emergency assistance.

The incident occurred on 25 June 2024 while Mr H was on duty. As the bus stopped, a man pushed past a female passenger, pulled a necklace from her neck and ran off the bus. Mr H immediately left the driver's cab and chased after him. The Tribunal noted that the recovery of the necklace took place off camera. Mr H returned towards the bus and handed the necklace back to the passenger. CCTV footage then showed the man returning shortly afterwards.

Mr H told the Tribunal the man was "a threat" and that he believed violence was imminent. He said he acted to defend himself and prevent further harm. CCTV footage showed Mr H punching the man and knocking him unconscious. He then dragged him to the pavement and restrained him there until police arrived almost 30 minutes later. Both men were arrested.

Police later decided Mr H would face no criminal action. In a case review shown to the Tribunal, officers concluded that the force he used was "proportionate and necessary in the circumstances" while defending himself and the female passenger. Mr H said this confirmed his belief that he had done the right thing and told the Tribunal that some members of the public viewed him as "a hero".

The Tribunal heard that Mr H suffered a serious hand injury during the incident, requiring hospital treatment, a sling for several weeks and physiotherapy.

Metroline suspended Hehir the following day and launched a disciplinary investigation. At the hearing, he faced three allegations of physically assaulting a passenger, bringing the company into disrepute and failing to protect safety by leaving the bus unattended.

Operations Manager, Ms G concluded that CCTV footage showed the man returning with the intention of apologising to the female passenger. She found that Mr H escalated the confrontation and that restraining the man for nearly half an hour was "excessive". All three allegations were upheld and Mr H was dismissed for gross misconduct. His appeal and a further director-level review both upheld the decision.

Dismissing Mr H's unfair dismissal claim, the Employment Judge said the Tribunal's role was not to decide what actually happened during the incident, but whether

Metroline acted reasonably in treating the conduct as grounds for dismissal. He said the disciplinary and appeal managers "held a genuine belief that the claimant was guilty of each of the three misconduct allegations he faced".

Addressing the CCTV evidence, the Judge rejected arguments that Metroline's interpretation was flawed, concluding that the findings were "a reasonable interpretation of the CCTV evidence". Although the police found Mr H's use of force to be proportionate, the Tribunal said employers are entitled to reach their own conclusions based on workplace standards.

The Judge also accepted that Managers were entitled to view Mr H's restraint of the thief as excessive and to treat leaving the bus unattended as a serious safety breach. On reputational damage, the Tribunal rejected arguments that the absence of media coverage was decisive, finding that a reasonable employer could believe the incident was capable of bringing the Company into disrepute. He concluded that "the genuine belief of the disciplinary and appeal Managers that the claimant was guilty of gross misconduct was held on reasonable grounds and was within the band of reasonable responses open to an employer in the circumstances".

The claim was dismissed in full, with the Tribunal ruling that the investigation was fair, the process reasonable and the decision to dismiss without notice justified.

If an employee commits an act that could be considered gross misconduct, such as using force or breaching workplace policies, but does so in extraordinary circumstances – such as assisting someone being robbed – the manager must carefully assess the situation before deciding on disciplinary action or dismissal.

A thorough investigation will also be necessary to establish all the facts and determine whether the employee's actions were justifiable given the circumstances. If the circumstances justify leniency, employers should consider alternative actions to dismissal, such as a verbal warning and ensure consistent treatment with similar past cases to avoid claims of unfair treatment. In Mr H's case, the Tribunal found that the employer's decision to dismiss was within the band of reasonable responses. Tribunals are not there to determine what happened, but to assess whether the employer reasonably believed the misconduct took place and whether dismissal was a reasonable response.

2. Prison officers accused of assaulting inmate were unfairly dismissed

An Employment Tribunal has ruled that an investigation into alleged inappropriate use of force by staff was 'fundamentally flawed' in this case and that three prison officers who were accused of assault by an inmate were unfairly dismissed.

The prisoner concerned alleged he had been pinned down, punched and choked by Mr Mc, Mr O and Mr M, who were employed as physical training instructors at HMP Edinburgh. The three officers were dismissed following the incident. However, the Edinburgh Tribunal found that the investigation was "fundamentally flawed", noting

the prisoner's allegations were "taken at face value" and favoured over the evidence of seven prison officers.

The Tribunal concluded that the dismissal of the officers was unfair. Mr Mc was awarded £24,061 in compensation, Mr O was awarded £20,156 and Mr M received £29,748. The Tribunal also ordered the prison to reinstate Mr Mc and Mr O to their roles.

Although all three were primarily employed by the prison as physical training instructors, they occasionally worked overtime in the hall of the prison, carrying out general prison officer duties.

On 6 September 2022, a physical altercation broke out between two prisoners on level 2 of Hermiston Hall in HMP Edinburgh during a recreation period. This area of the prison mainly houses people who are either on remand or have been sentenced for sexual offences. Officers are informed in training that prisoners convicted of sexual offences may be more manipulative than other prisoners, the Tribunal heard. An emergency alarm was activated and officers, including the claimants, attended the scene. The prisoners involved in the fight were subdued and all prisoners were ordered back to their cells.

Several prisoners who were not involved in the altercation were unhappy at being required to return to their cells during their recreation period. One prisoner, referred to in the Tribunal document as prisoner Mr B, allegedly shouted words to the effect of "just you f**k off back to the gym" at Mr M and made a racist comment about him being from South Africa. After the situation had stabilised, Mr M, Mr Mc and Mr O went to B's cell to challenge him, and his cellmate was removed while they spoke to B.

The Tribunal heard that there were no signs on the CCTV footage from the conduct of Mr B's cellmate or the officers outside of the cell that suggested an assault was taking place. After the officers left Mr B's cell, his cellmate returned inside and it was locked. Around nine minutes later, when prisoners were let out of their cells, a mark could be seen on Mr B's left temple. According to Mr M, Mr B had put his hand on him and he had responded by turning around to shake him off and he may have caught him on the head.

Later that day, Mr B told his Manager that six officers had allegedly assaulted him. The following day, Mr B had an appointment with a Trainee Clinical Psychologist and he told her that one of the officers had called him a "beast" and that Mr Mc had pinned him down while Mr M and Mr O had repeatedly punched him in the head for around five minutes. Mr B also told the psychologist that Mr M had attempted to choke him at one point and he had then been thrown on his chair, before the officers left.

The psychologist said in a statement given as part of the investigation that, when she saw Mr B, he had "some movement in his wrists, but there was visible

swelling". Another nurse who had seen Mr B that day reported that he had bruising to the bridge of his nose and scratches over the side of his head, with "substantial bruising to his ears".

On 12 September, All three officers were suspended from duty while an investigation took place into allegations of gross misconduct, including "inappropriate use of force" against Mr B.

HMP Edinburgh's policy states that any witness statements relied on in an investigation must be signed and dated by the individuals submitting them. However, none of the statements from the prisoners, including those of Mr B and his cellmate, were signed. The investigation did not seek out evidence that may have supported the officers' position, or explore whether Mr B may have had a motive to make an allegation of assault or if he had any history of making such allegations.

Mr B's cellmate later wrote a letter to say he wished to withdraw his previous statement in favour of Mr B's account. He said he had now been moved to another location in the prison, adding "Had I not been sharing a cell with him when I was asked to make the statements I would have declined to do so." No further investigations were carried out in light of this development.

Mr B was also alleged to have said "Any more of that, I'm going to get you done like I did the other ones and I can get you sacked." This remark was also not investigated.

Following the hearings, the officers were summarily dismissed for "inappropriate use of force", an allegation that the Tribunal described as "vague".

The Tribunal concluded that the prison did not have reasonable grounds for believing the officers had committed the assault, meaning the dismissals were unfair. The panel said "The investigation that was carried out was fundamentally flawed and not a reasonable investigation in the circumstances of the particular case and the respondent's policy was not adhered to in a material respect."

The Employment Judge said that the investigating officer was influenced by media coverage of the incident and "ongoing scrutiny" on the prison because of the recent death of a prisoner in custody, which was still under investigation. It appeared to the Tribunal that his approach… was to look for evidence that supported the conclusion he reached that someone would have to take the blame for the alleged assault rather than take a neutral approach.

The Panel determined that Mr B's allegation was "taken at face value", pointing out that he was never asked to explain inconsistencies in the accounts he had given. There was no investigation into whether Mr B had made other allegations or why he was in prison in the first place and there was no explanation as to why his evidence was favoured over that of seven prison officers. The allegations against the officers were also described as "vague" and "no effort was made to specify what it was they were accused of doing.

The Officers' compensation was reduced by 20% for contributory conduct because they failed to report the prisoner's conduct.

When considering dismissal, employers need to be mindful of both the reason for the dismissal and the requirement to act reasonably in all the circumstances of the case. In cases of misconduct or gross misconduct, this involves carrying out a fair investigation and coming to a genuine and reasonable conclusion based on the evidence.

While this does not mean that the investigation must 'leave no stone unturned', employers will be expected to test the evidence, scrutinise inconsistencies and explore reasonable alternative explanations rather than defaulting to a particular narrative or accepting one party's word over another's without any proper analysis. Investigation reports should be balanced both in the way the information is presented and in their analysis of that information to allow decision makers to reach informed conclusions and avoid the perception of a predetermined outcome.

3. Government delays fire and rehire restrictions

Measures making it harder for businesses to dismiss workers and hire them on different terms pushed back to 2027

The Government has delayed the introduction of new worker protections to prevent "unscrupulous" fire and rehire practices, where staff are dismissed and rehired on new contractual terms, until next year. The revised timeline, published as part of the rollout of the Employment Rights Act, moves the implementation date from October 2026 to January 2027.

Once implemented, the legislation will make it an automatic unfair dismissal for an employer to dismiss or replace an employee to impose changes to core contractual terms, known as restricted variations. These include pay, pensions, total working hours, performance targets and holiday entitlement.

The changes are intended to prevent the use of fire and rehire to change core terms. However, the government said there will be some exemptions to allow changes to employment contracts "where necessary", provided employers act reasonably and follow a fair process.

The Government has opened consultation on which contractual changes should fall under the new protections, with employment expenses, benefits and shift patterns under consideration.

The delay reflects the complexity of the reforms. Pushing implementation back to January 2027 gives more time to consult with businesses on how the changes will work and allows employers time to prepare. Despite the delay, employers are already constrained by existing rules. The delay does not make fire and rehire lawful in a new way. It remains legally possible but the 2024 statutory code of practice

already makes clear that dismissal and re-engagement should be an absolute last resort after meaningful consultation and after exploring alternatives.

Employment Tribunals can uplift compensation by up to 25% where a business unreasonably fails to comply with the code.

Employers using 'sign or be sacked' tactics before 2027 remain exposed to unfair dismissal claims but Tribunals were likely to scrutinise business rationale, consultation processes and whether less drastic options were properly explored.

The delay could still carry significant financial consequences for employers. Pushing fire and rehire back suggests the Government is still considering further consultation or issuing a code of practice and while this may appear to be a minor amendment, it will have a far more significant impact on businesses than many realise.

The planned removal of the cap on unfair dismissal compensation from January 2027 remains which is expected to substantially increase average settlement values, particularly where pension benefits, bonuses and other benefits are taken into account. This is likely to place additional pressure on an already stretched Employment Tribunal system. Organisations are recommended to use the delay to review existing contracts and assess whether terms remain fit for purpose. If outdated terms are identified, employers could still make use of the current ability to dismiss and re-engage on new terms before the changes take effect, provided they follow the statutory code of practice before notice of dismissal is given.

Fire and rehire remains a high-risk option for employers. Employers should apply the existing code as a minimum standard, start consultation early and share meaningful information. Managers should also be trained on how communications and consultation records will be scrutinised in a tribunal years later.

4. Charity workers accused of fraud and 'unauthorised absence' awarded £96k for unfair dismissal

An Employment Tribunal Panel has concluded that a charity had been 'looking for a reason' to remove a pair of employees, viewing them as too costly

The Fife Employment Access Trust (FEAT) has been ordered to pay £96,129.41 to two employees who were suspended and later dismissed following an anonymous fraud allegation and claims of "unauthorised absence". A Dundee Tribunal heard that Ms G was reported to Crimestoppers alleging she was defrauding the NHS by working for the charity while also being paid by the health service. Her colleague, Dr C, was recorded as being on unauthorised absence for a month despite the Chief Executive, Mr M, having been in contact with her during that period. The Tribunal found no emails or phone records to support claims that managers had tried to reach her, describing the handling of the matter as "Orwellian".

The Employment Judge concluded that the charity had been "looking for a reason"

to remove the pair, who were viewed as an “expensive resource”. The charity maintained that Ms G’s fixed-term contract had come to an end and that Dr C was dismissed by reason of redundancy. However, the Judge concluded that there was no genuine redundancy situation and that they were both unfairly dismissed. The Tribunal awarded Ms G £37,727.68 and Dr C £58,401.73 in compensation.

Ms C and Dr G were employed by FEAT, a charity supporting people with long-term mental health issues, from 2020 until 31 March 2024. Both worked on the National Institute of Disability Management and Research (NIDMAR) programme, a five-year initiative funded by the Scottish Government.

Dr C, who co-founded FEAT in 1994 and resigned from its board in 2018 to avoid conflicts of interest, served as the Programme Manager for NIDMAR. Ms G provided administrative assistance and disability support to Dr C.

The Tribunal accepted that Dr C had phonological dyslexia, which causes visual distortion of text, fatigue and sensory overload. It also found that Ms G qualified as disabled under the law, as her ADHD, autism, stress and depression significantly affected her daily life.

On 11 November 2020, Mr M met with Dr C and Ms G. During the meeting, they formally agreed that Ms G could work flexible hours – including evenings and weekends – so she could also work a second job with the NHS. Ms G was issued a fixed-term contract running until 31 March 2022.

In early 2023, FEAT commissioned an external review of the NIDMAR project. The claimants were not informed of discussions about the future of the project. Following the review, their salaries were reportedly described as “too high” during a Board meeting. Some Board members believed the charity could take greater control of project funding and potentially assume control of the NIDMAR licence, the Tribunal heard.

On 12 January 2023, Mr M informed Ms G that the charity intended to be more “hands on” with the NIDMAR project. The following day, an anonymous call was made to Crimestoppers, alleging Ms G was defrauding the NHS. Despite Ms G’s agreement that she could work flexibly, the charity’s Compliance Officer, Mr P, told fraud investigators that she worked fixed daytime hours.

In July, FEAT transitioned to a managed IT service that restricted software on employee laptops, effectively blocking the specialised dyslexia support tools Dr C required. Although FEAT insisted she use provided equipment, they failed to set it up with the necessary accessibility features, leaving her unable to work effectively. The Tribunal heard that when she attempted to use her own accessible devices, she was threatened with disciplinary action.

On 18 August, Ms G submitted a formal grievance regarding these practices and the “maladministration” of her data, which the Tribunal found constituted a protected

disclosure.

On 15 September, Mr B, the Chief Operating Officer, accused Dr C of “unauthorised absence” for a month, despite the fact that Mr M had been in email contact with her during that period. Mr B did not provide the Tribunal with any evidence that he had tried to contact Dr C over this period.

On 19 October, FEAT and its HR consultants decided to suspend both women. Dr C’s suspension was related to alleged “unauthorised absence” and data breaches, while Ms G's was related to the fraud allegations.

By suspending both simultaneously, the charity effectively removed Dr C’s primary reasonable adjustment, the in-person disability support provided by Ms G, at the exact moment she needed it to navigate the disciplinary process. The Tribunal found that FEAT made no effort to provide an alternative support worker during this time.

While suspended, Dr C attempted to submit a data subject access request. FEAT refused to process the request, claiming that her attempt to contact the office to submit the legal request was a breach of her suspension and caused “distress” and “disruption” to staff. The Tribunal said these unsubstantiated claims showed the charity’s approach to Dr C had been “orwellian and unreasonable”.

Both Dr C and Ms G were dismissed by letter in March 2024, with the charity citing “end of fixed-term contract” and redundancy as the reasons.

The Tribunal concluded that FEAT had been “looking for a reason” to dismiss Dr C and Ms G since October 2023 and that the dismissals were because the respondent did not wish to employ them “any longer”. It found no genuine redundancy situation. It was determined that procedure had not been followed and that the dismissal was unfair and that FEAT clearly wanted them “out of its organisation” because they were seen as an “expensive resource”.

The process of dealing with Ms G’s grievance and the disciplinary allegations was described as “deliberately opaque” and the testimony of FEAT’s leadership as “unsatisfactory”, specifically noting that Mr B’s evidence was “in large parts incredible” and “evasive”.

A spokesperson for FEAT said “This Tribunal related to events dating back to 2023-24 and, while we have had to accept the judgment from the Tribunal, measures have been in place for over two years now to ensure we are fully compliant with all HR-related matters. The charity has learned lessons from this experience and goes from strength to strength now in pursuit of successful outcomes for our service users – those with severe mental health conditions seeking to secure employment.

5. Developer with chronic hip condition wins £36k after dismissal for poor performance

A Tribunal recommends formal diversity training on disability for HealthRota's senior leadership team following a finding of unfavourable treatment. A software developer with chronic hip pain and severe sleep disruption has been awarded more than £36,000 after a Tribunal ruled her dismissal amounted to disability discrimination.

An East London Tribunal heard that workplace management software start-up HealthRota had raised concerns about Ms S's performance several months before her dismissal. However, Ms S told her Manager, Mr W, that her difficulty completing some tasks was partly linked to pain and sleep disruption caused by her medical condition, "bilateral femoroacetabular impingement" – a structural abnormality affecting the hip joints. She was dismissed in September 2023 with notice, but without any prior performance improvement process or occupational health assessment. The Tribunal found that her dismissal amounted to unfavourable treatment arising from a disability.

At a remedy hearing, Ms S was awarded £36,459, including £16,999 for past financial losses and £15,000 for injury to feelings, plus interest. The Tribunal also recommended that HealthRota's senior management team undertake formal diversity training on disability, decision making and reasonable adjustments within six months of this decision.

Ms S worked for HealthRota as a mid-level software developer from 27 June 2022 until the termination of her employment on 14 October 2023. As a small start-up with fewer than 10 employees, HealthRota had no HR specialists.

The Tribunal heard that Ms's hip condition, later identified as "bilateral femoroacetabular impingement", began affecting her from September 2022, causing pain and sleep disturbance. She was not formally diagnosed with the condition until 25 September 2023. In March 2023, performance concerns were raised with Ms S, because of the time she was taking to complete tasks. Ms S accepted she had been "struggling" and told Mr W that pain and lack of sleep were contributing factors.

In April, she began talking therapy for pre-existing PTSD linked to trauma experienced between 2003 and 2006. It later emerged that Ms S had provided the court-appointed expert with redacted medical records, omitting details of her prior trauma and the treatment she had received. Ms S was dismissed during a meeting on 14 September 2023 and received confirmation by email. Her employment ended on 14 October 2023 after her notice period. However, the Tribunal heard that at the time of her dismissal Ms S was unaware of the specific performance concerns HealthRota relied upon.

In evidence, Mr W accepted that HealthRota should have provided Ms S with a performance improvement plan and an occupational health review. The Tribunal accepted that her medical condition met the definition of disability under the Equality Act 2010.

The Employment Judge, and other panel members, found that the condition caused

significant pain and sleep disruption, which partly contributed to difficulties with work performance. The Tribunal noted that the dismissal caused "immediate and significant" distress, severely affecting Ms S's confidence. It also accepted that Ms S was upset by the manner of the dismissal because she was unable to say goodbye to colleagues.

However, the Tribunal "was not satisfied" that the dismissal was the "material cause" of Ms S's current psychological condition. It said the expert evidence could not safely be relied on because the medical records provided to the joint expert had been redacted and did not fully disclose Ms S's history of PTSD and low mood. The Judge also concluded that, even if HealthRota had acted lawfully by implementing a performance improvement plan and obtaining an occupational health review, Ms S's employment would likely still have ended.

The tribunal highlighted the importance of offering reasonable adjustments for any employee whose disability affects their performance which might include allowing an employee more time to complete tasks or offering additional support. Where an employee references health issues that may be impacting their conduct or performance, then it is sensible to explore this further and possibly obtain occupational health input.

Investigations into performance and conduct issues are also important because they provide the employee with an opportunity to explain why they have struggled to meet the requirements of their role. Employers take risks when they skip due process, regardless of length of service.

6. Disabled Sainsbury's manager wins £32k after refusing to work overtime

An Employment Tribunal has found that the requirement to work beyond contracted hours put claimant at 'substantial disadvantage' because of arthritis. A disabled Supermarket Manager who failed his probation because he refused to work unpaid overtime has been awarded £32,321 at Tribunal.

Mr T was promoted to the role of customer and trading manager at a St Albans Sainsbury's branch in August 2022. On taking the role, he was informed that managers were expected to regularly work beyond their contracted hours to deal with handovers. However, Mr T struggled to manage these expectations because of his ankylosing spondylitis, a form of arthritis that can cause fatigue and pain and stiffness in the spine.

After 12 weeks in the role, Mr T was told he had not passed his probation period because he had not worked enough additional hours. The Employment Judge concluded that this requirement placed Mr T at a "substantial disadvantage" compared with non-disabled colleagues because it exposed him to greater fatigue and pain. The Tribunal ruled he was constructively unfairly dismissed because of his disability and he was awarded £32,321.

Mr T was employed by Sainsbury's in St Albans on 20 September 2020 as a Trading Assistant. He had previously been out of work for several years because of his condition but changes to his treatment allowed him to return to employment.

Mr T took several periods of sickness absence during his first few months at the Company and was absent again from January to May 2022 following a skiing accident.

After returning, Managers encouraged him to apply for a supervisory role and he was formally promoted to Customer and Trading Manager on 21 August.

The Tribunal heard that night shift managers were expected to remain on duty until tasks were completed and to hand over to the morning team, which often meant working past his scheduled 7am finish time. Mr T raised concerns about this expectation. In a WhatsApp message on 7 September, he said he would not stay later than 7am in future, regardless of outstanding work.

During a review on 20 September, his Manager, Mr P, reiterated that Managers were expected to work beyond "colleague hours" without extra pay or time off in lieu. On the same day Mr T wrote in a text message: "My time ain't free and as we can't take time off in lieu then I do expect to be paid for anything over my contracted hours."

Between 11 and 14 September Mr T was off sick because of his arthritis, taking his absence to 27.5% and beyond the Company sick pay entitlement. Despite his extended periods of absence, no formal disciplinary action was taken. Mr T was absent again from 16 to 26 October with an infected tooth.

On 6 November, Mr T was told he had not passed his 12-week probation review. The Tribunal accepted that Mr T's reluctance to work beyond his contractual hours was a significant factor in the decision. During a disciplinary attendance meeting, Ms M, Lead Food Manager at the St Albans store, asked whether being a Manager was "for him" given his sickness absence and inability to commit to additional hours. However, the Tribunal found this comment did not amount to unfavourable treatment.

Mr T was also told he would receive a first written warning for his sickness absence levels during the meeting. Mr T said that many of his absences were linked to his disability, as his arthritis medication made him more susceptible to infection. He went off sick on 21 March 2023 and remained absent until he resigned in July 2023.

The Tribunal also found Sainsbury's had failed to pay Mr T contractual Company sick pay during part of his sickness absence in 2023, amounting to an unlawful deduction from wages. The Tribunal also found that the requirement to work overtime placed Mr T in a significantly more difficult position than non-disabled colleagues, as it increased his risk of fatigue and pain. They ruled that Sainsbury's had failed to make reasonable adjustments and that Mr T had been treated unfavourably because of his disability.

The Tribunal said a reasonable adjustment could have been to change Mr T's shift to 9.30pm to 7.30am, allowing him to complete handovers without exceeding his contractual hours. It also found that the failure to pay contractual sick pay breached Mr T's contract of employment and the implied term of mutual trust and confidence.

This is a salient reminder that where absences are related to a disability it is extremely likely that some form of adjustment will need to be made to normal absence and disciplinary processes. The case highlighted the need for employers to fully explore possible options for adjustments and only reject them where there are sound business reasons.

Systems requiring staff to regularly work beyond contracted hours without pay are "extremely risky and unlikely to be justifiable regardless of whether the employee in question has a disability or not.

7. New Statutory benefit and pension rates

The Department for Work and Pensions (DWP) has released the 2026/27 benefit and pension rates. The changes in rates in the upcoming tax year are as follows.

Please note, Statutory Sick Pay (SSP) will no longer have the LEL as an entitlement trigger, due to the changes being bought into force from 6 April to SSP by the Employment Rights Bill.

Payment	Rate 2025/26	Rate 2026/27
Lower Earning Limit	£125.00	£129.00
Statutory Sick Pay	£118.75	£123.25
Statutory Adoption Pay	£187.18	£194.32
Statutory Maternity Pay	£187.18	£194.32
Statutory Neonatal Care Pay	£187.18	£194.32
Statutory Paternity Pay	£187.18	£194.32
Statutory Shared Parental Pay	£187.18	£194.32
Statutory Parental Bereavement Pay	£187.18	£194.32

8. Employers to be given £3,000 for hiring young workers

The Government has announced that offers will be made to businesses of cash incentives to tackle rising youth unemployment. Businesses will be offered £3,000 to recruit unemployed young people as part of a £1bn expansion of the youth guarantee scheme. The Youth Jobs Grant will be used to incentivise businesses to hire 18 to 24 year olds who have been unemployed for at least six months. The Government estimates that the initiative will help 60,000 young people into employment over three years and create an additional 35,000 subsidised jobs by raising the upper age limit from 21 to 24. An additional apprenticeship incentive of £2,000 will also be available to small employers for each new apprentice aged 16 to 24 they take on.

The Prime Minister has said that “these reforms underpin our ambition to create an economy that works for everyone, closing the skills gap and supporting more young people into meaningful employment.”

The number of people aged 16 to 24 who are out of education, employment or training reached 957,000 in the three months from October to December, according to Office for National Statistics figures. This was up from 946,000 in the previous quarter. The Government claims to be focusing funding where it is needed most and giving employers the flexibility and support they have asked for. The reforms will give young people a vital first step on the career ladder and help business leaders recruit the talent that will grow their companies.

Employer incentive schemes have delivered mixed results in the past so it is important that meaningful jobs are created that also support skills development and that the process for claiming the incentives is simple and clearly communicated. Well-designed wage subsidies could have a positive impact on youth unemployment but to make the most of this investment, it is essential that incentives are supported by clear and consistent messaging, strong employer engagement and the right wraparound support for young people, especially those facing the greatest barriers.

Tackling youth unemployment also requires stronger collaboration between education providers and employers and when these partnerships work well, they can create clear routes from education to high-quality careers. Small businesses are likely to benefit most from the additional financial incentives but may require additional support. SMEs play a vital role in employing young people but often face greater financial and capacity constraints when creating new roles. Strengthening people management capability in smaller firms will be key to ensuring these opportunities help young people build essential skills, gain meaningful experience and progress in work.

9. Masseuse sacked for not being ‘reliable’ while off sick with wrist injury wins at Tribunal

A Tribunal Judge has ruled that a Massage Therapist, who experienced endometriosis, was discriminated against. The Masseuse with endometriosis and tendonitis has won £26,809 at Tribunal after being dismissed on sick leave for not being ‘reliable’. Ms B, a soft tissue therapist at Nurture Chiropractic Clinic in Essex, requested 10-minute breaks because of her condition but was refused and later dismissed after taking sick leave. The Employment Judge found that Ms B’s sickness absence was a “significant factor” contributing to her dismissal and ruled she had been subjected to discrimination arising from disability.

The East London Tribunal noted that another staff member with a similar record of absence had been allowed a phased return to work. The Judge said giving Ms B the opportunity to return to work with permission to take the 10-minute breaks she requested would have been “more consistent” with how the other staff member was treated.

Ms B worked part time as a Soft Tissue Therapist at Nurture Chiropractic Clinic, part of Turner Health Group in Romford, Essex, from November 2020. She was employed for 14 hours a week and the Company considered her to be good at her job.

Ms B had been diagnosed with endometriosis in 2018, which caused her to experience stomach cramps, bleeding, back pain and exhaustion. She also had anxiety and depression but the Tribunal heard she was able to manage these conditions with work. Ms B hoped to increase her hours to full time but felt discussions about this kept being delayed so began to interview for other roles. She started working an additional role at LSM Clinic on 5 June 2022, working three shifts per week of five to seven hours.

Shortly after this, she began to experience pain in her wrist, which she had injured picking up a bag of soil. She sent a message to Ms W, Practice Manager at Nurture Chiropractic Clinic, explaining that she had an MRI and had been advised by a doctor to stop working. The Tribunal heard Ms B had disclosed to Nurture Chiropractic Clinic that she was working for LSM and had massaged during her sickness period, but that she had taken on fewer clients there.

Her first day of sickness absence at Nurture Chiropractic Clinic was 6 June. An ill-health review meeting took place on 24 June, where Ms B provided a doctor's note saying she was unfit for work until 13 July because of her wrist tendonitis. She requested 10-minute breaks between massage clients, which the Company said was not usual practice as shifts were four or five hours maximum but they would try to accommodate them. On 30 June the Company sent Ms B a letter explaining that while it was not "operationally practical" to offer breaks within the shift, they could reduce her weekly shifts to two.

On 4 August, Ms B raised a grievance against the management team for not allowing the breaks she requested. She asked for acknowledgement of the emotional impact and distress she had gone through because of this being denied. On 8 August she had an ill-health review stating that if she could not return to work on the week of 31 August the Company would consider termination. Ms B's fit note from 25 August found she may be fit for work with adjustments and regular breaks.

On 26 August Ms W replied to the fit note explaining that the adjustments would not be possible, as the business was "dependent upon us being able to deliver a reliable, efficient service to clients at times convenient to them. If we are not able to provide that level of service, our business will be put at risk." On 29 September Ms B submitted another fit note that said she may be fit for work with regular breaks.

An ill-health review took place on 3 October, where Ms B said she could come back for two weekly afternoon shifts where breaks would be possible. However, she was told those afternoons had always been part of her working week and she was not able to return after they reduced her working week to two shifts.

Ms B was dismissed following the meeting, with the letter stating "We simply have

no confidence that, even though you have been able to carry out massage work for another employer during your period of absence from Nurture, you would be able to attend work here, regularly and reliably, in the foreseeable future."

In response, Ms B said her absence had been caused by her tendonitis but the stress had exacerbated her other conditions of anxiety, depression and endometriosis. She said "Nurture's inability to accommodate regular breaks does not make me unfit. That was the only reason I was not able to return to work from 31 August." A grievance meeting was held on 13 October and the grievance was not upheld. Ms B appealed the outcome, which was also not upheld.

The Employment Judge and the Panel decided Ms B was dismissed because of her sick leave and uncertainty over her return. Nurture Chiropractic Clinic did not have a sickness policy and the Tribunal said it would have been fairer and less discriminatory to have one in place for all staff. The Judge felt that the only other staff member with a similar level of absence to the claimant had not been dismissed and was said to have had a phased return, not returning to her full contractual hours until a year later. Moreover, giving the claimant the opportunity to attempt to return with these breaks as requested, and advised by her doctor, appears to be a more consistent approach to that applied to the other member of staff with a similar level of absence. The Tribunal upheld the complaint of disability discrimination.

This judgment was a "timely reminder" for employers of the risks associated with dismissing an employee on long-term sickness absence. Dismissal for absence caused by the symptoms of a long-term health condition can amount to discrimination arising from a disability, but it is not automatically unlawful. Managers need to carefully consider how any dismissal can be objectively justified. This is likely to involve considering the impact of the individual's absence on the business, its operation and its other employees, and the legitimate objective that the employer is seeking to achieve through any potentially unfavourable treatment.

Employers should be mindful of their duty to make reasonable adjustments and take a proactive approach to proposing and implementing them. They should maintain clear records of any decisions taken in respect of employees with long-term health conditions including the rationale behind why that particular decision was necessary.

10. April 2026 employment law updates

From minimum wage rises to statutory sick pay changes, the following unpacks this month's key legislative changes as multiple employment law changes are set to come into force in April. In addition to the usual uprate in the minimum wage, employers will also have to comply with new measures introduced under the Employment Rights Act.

These changes include updates to statutory sick pay entitlements, new whistleblowing protections and further reforms to trade union recognition. A new

enforcement body, the Fair Work Agency, will also be established to ensure employers comply with minimum wage, sick and holiday pay rules.

- **Minimum wage changes**

The UK's minimum wage rises from 1 April by 4.1%, taking the national living wage for those aged 21 and over to £12.71 an hour. Those aged 18 to 20 will see an 8.5% rise to £10.85, while 16- to 17-year-olds and apprentices will receive a 6% increase to £8 an hour.

- **Statutory sick pay changes**

Statutory sick pay (SSP) is set to become payable from the first day of illness from 6 April under Employment Rights Act changes. This replaces the current three-day waiting period before staff become eligible. In addition, the lower earnings limit of £125 per week is removed, meaning workers will not need to earn a minimum amount to qualify for sick pay entitlement. Under the new system, SSP will be paid at either 80% of the employee's average weekly earnings or at the standard rate of £123.25 per week, whichever is lowest.

- **Day-one paternity and parental leave**

Employees will be entitled to paternity and parental leave from day one of employment from 1 April 2026. Under the reforms, employees will no longer need to meet minimum service requirements to qualify for paternity or unpaid parental leave. Currently, parents need to have worked for their employer for at least 26 weeks to be eligible for paternity leave, or a year to access unpaid parental leave. Bereaved partner's paternity leave will also be introduced and will allow parents who lose their partner before their child's first birthday to take up to 52 weeks' leave.

- **Trade union recognition**

From 6 April, unions applying to the Central Arbitration Committee (CAC) will face a reduced threshold for recognition. Under the changes, only 10% of workers in the proposed bargaining unit will be required to be members. Existing requirements for unions to have the support of at least 40% of the workforce in a recognition ballot will also be removed. A simple majority of those voting will now be sufficient, making union recognition considerably easier to achieve.

Further changes will give unions enhanced rights to access workplaces, enforceable by the CAC, while employers will also be required to inform workers of their legal right to join a trade union through written statements. The notice period for industrial action will also be reduced from 14 days to 10 days, and industrial action ballots will remain valid for 12 months rather than six months.

- **Sexual harassment added to whistleblowing protections**

Employees who report sexual harassment at work will gain stronger legal protections from 6 April 2026. Currently, workers are protected under the Equality Act 2010, but sexual harassment is not explicitly covered under whistleblowing rules, so employees often have to link complaints to wider legal or health and safety issues to gain protection. The new law removes that barrier by classifying sexual harassment as a protected disclosure, giving workers stronger protections, including safeguards from retaliation and day-one unfair dismissal rights. The changes come alongside wider reforms, including a stronger requirement for employers to take "all reasonable steps" to prevent harassment and new liability for third-party incidents.

- **Holiday pay recording**

Employers will be required to keep detailed records of annual leave and holiday pay from 6 April 2026 under legislation added to the Employment Rights Act. The duty, introduced through commencement regulations published last week, requires organisations to maintain "adequate" records of statutory holiday entitlement and pay for at least six years.

The requirement, brought in via Section 35 of the Act, amends the Working Time Regulations 1998 to formally mandate record-keeping. Employers must record ordinary and additional annual leave, any leave carried forward and details of holiday pay calculations – including which elements are included or excluded. Payments made in lieu of leave, including carried-over entitlement, must also be documented. While there is no prescribed format for records, they must be clear, accurate and accessible.

- **Collective redundancy changes**

From 6 April 2026, the penalty employers have to pay if they do not comply with redundancy consultation rules is increased from 90 to 180 days' pay for each affected employee. The collective redundancy protective award applies to employers that are proposing to make 20 or more redundancies at the same establishment, within a 90-day period. The changes double the maximum penalty employers have to pay if they do not comply with redundancy consultation rules.

Unlike other areas of employment law, there is no cap on the daily amount of pay and employees do not need to have two years of service to be entitled to a protective award. The new law will not apply to dismissals taking effect before 6 April.

- **Fair Work Agency**

Employers' actions will soon be under greater scrutiny, with a new state enforcement agency set to be established from 7 April 2026. The Fair Work Agency (FWA) will combine the roles of the HMRC's national minimum wage enforcement

team, the Gangmasters and Labour Abuse Authority and the Employment Agency Standards Protectorate.

The new Agency will enforce national minimum wage, agency protections and gangmaster licensing and take action against employers who commit modern slavery offences. The FWA will take on the enforcement of additional rights, including statutory sick pay and holiday pay.

- **Voluntary menopause and gender pay gap reporting**

From April, employers will be encouraged to publish equality action plans outlining how they will tackle gender pay gaps and support staff experiencing menopause. The plans will apply to organisations with 250 or more employees and aim to move employers on from simply reporting pay gaps towards taking concrete action to reduce them. Although the plans will initially be voluntary, the Government intends to make them mandatory by spring 2027, subject to secondary legislation under the Employment Rights Act. Employers have been expected to publish gender pay gap data since 2017, but these new plans will require them to also outline how they are addressing disparities and improving gender equality.

11. Further help and/or advice

If any of the above is not clear or you wish to discuss it or just would like further advice on any of the issues in this Bulletin or indeed support on any other issue or particular employment situation, please do contact me on clivep@cpassociates.co.uk or call me on 01582 755172 or 07970 381592. I always look forward to hearing from you on anything with which I may be able to help.

Clive

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31st March 2026

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