lindsays

30th October 2026

Employment Rights Act 2025 – Upcoming Reform

David M Hutchison

Partner
Employment Law

lindsays

Employment Rights Act 2025

- Royal Assent on 18th December 2025
- Transformative legislation
- Significant reforms introduced throughout 2026 and 2027
- Essential to understand reforms and plan effectively

lindsays

Today

- Sexual Harassment – 30/10/2026
- Management and Termination of Fixed Term Contracts – 01/01/2027



Sexual Harassment – Overview

- Most recent tribunal statistics show that 1,294 sex discrimination claims were submitted last year.
- 59% increase on the previous year
- Average award of compensation is £54,403
- Statistics don’t separate out direct, indirect and harassment claims

Sexual Harassment – Current Law

- Vicarious Liability: employer has always been liable for the actions of an employee committed at work
- Reasonable Steps defence – employer could try to sever the connection by running the “employer’s defence” and argue that they had done everything they could to prevent the harassment (“took all reasonable steps”)
- Within the scope of employment? What factors would be considered?

Sexual Harassment – Current Law

- To succeed with the reasonable steps defence:-
  - Training must be meaningful and effective.
  - Training must be kept current
  - The likely effectiveness of a step is relevant
  - Management response matters

Sexual Harassment – 2024 changes

- Worker Protection (Amendment of Equality Act 2010) Act 2023.
- Inserted a new obligation as of 26th October 2024: Employers must take "**reasonable steps"** to prevent sexual harassment in the course of employment.
- It's a positive, anticipatory duty unlike the reasonable steps defence after the incident
- Inserted section 40A into the Equality Act 2010

Sexual Harassment – enforcement of 2024 changes

- No standalone claim for failure to prevent
- There must be an act of harassment
- Enforced in 2 ways:-
  - EHRC can issue an unlawful act notice requiring an employer to prepare a remedial action plan;
  - Compensation uplift in the Tribunal of up to 25%

Sexual Harassment - Reform

- 30/10/2026
- Employers must take *all* reasonable steps to prevent sexual harassment and third-party harassment.
- New power to make regulations specifying what steps are regarded as ‘reasonable’.

Section 109 (4)

- To succeed with the reasonable steps defence:-
    - Training must be meaningful and effective.
    - Training must be kept current
    - The likely effectiveness of a step is relevant
    - Management response matters

Enhanced Duty to Prevent Sexual Harassment



- Higher threshold
- Preventative duty
- Prevention both online and in-person
- Extends to 3rd party harassment

What are *all* reasonable steps?

- No exhaustive list

- Dependent upon organisation:
  - Its size
  - The sector
  - The kind of work the workers do

  - All steps that are reasonable
  - Focusing on prevention
  - Looking at whole organisation



EHRC’s guidance

1. Development of an effective anti harassment policy
2. Engagement with staff regularly
3. Complete risk assessments
4. Provide mandatory training
5. Establish effective reporting procedures
6. Respond effectively to complaints
7. Monitor and evaluate the above

Who are third-parties?

- Customers
- Clients
- Service users
- Self-employed consultants
- People at conferences or events



What steps should you take now?

- Risk Assessment
- Review and Update Policies
- Engage Staff and Promote Open Culture
- Review Training
- Review Reporting Procedures
- Monitor and evaluate

CHANGE 2 – QUALIFYING PERIOD FOR UNFAIR DISMISSAL AND FIXED TERM CONTRACTS

- Employment Rights Act 2025
- Reduces qualifying period for an unfair dismissal claim from 2 years to 6 months
- Effective 1 January 2027
- Any employee who has 6 months or more service on that date can now bring a claim
- Roughly 20% of the workforce

What this means day to day

- Increases importance of managing probationary periods
- Recruitment
- Interaction with managers “Is Ben any good at his job”
- Record keeping
- Today looking at some detail on management of fixed term contracts

Unfair Dismissal - Reduced Qualifying Period

- Qualifying period reduced from 2 years to 6 months.
- Expiry and non-renewal of contracts considered ‘dismissal’ under law.
- 6-month, 9-month and 12-month contracts no longer offer a low-risk option.



Fixed Term Contracts summary

- Fixed term contract is one that:-
  - lasts until the occurrence of a specific event; or
  - to a defined date/for a defined term; or
  - Completion of a particular task.
- Regulations preventing less favourable treatment to fixed term employees
- If an employee is employed on a succession of fixed term contracts for 4 years they are a permanent employee



Increased Documentation

- Contracts should identify:
  - The duration of the contract
  - The expiry date
  - The reasons which non-renewal will arise
- In the event of dismissal, the reasons for dismissal and its process should be clearly documented

Termination is a dismissal

- Termination of an employee on a fixed term contract is a dismissal
- Entitled to a redundancy payment if made redundant
- Employer needs to identify the reason for dismissal – normally some other substantial reason
- Follow the correct process
- Change to 6 months increases workload on identifying reason and applying correct process



What steps should you take?

- Review existing fixed-term arrangements
- Review template contracts
- Review dismissal procedures

Anything else?

- Termination of an employee on a fixed term contract is a dismissal
- Entitled to a redundancy payment if made redundant
- Employer needs to identify the reason for dismissal – normally some other substantial reason
- Follow the correct process
- Change to 6 months increases workload on identifying reason and applying correct process

What else is coming?

- Employment status consultation – January 2027
- Currently three groups (i) employee (ii) worker and self employed
- Unfair dismissal - employee
- NMW and holiday pay – employee and worker

look to lindsays.

Lindsays Edinburgh
Caledonian Exchange
19A Canning Street
Edinburgh EH3 8HE

Lindsays Glasgow
100 Queen Street
Glasgow
G1 3DN

Lindsays Dundee
Seabraes House
18 Greenmarket
Dundee
DD1 4QB

Lindsays Perth
24 Whitefriars Street
Perth
PH1 1PP

Lindsays Crieff
21 Comrie Street
Crieff
PH7 4AX

lindsays.co.uk



Our turnover has increased by **58%** in the last five years

We are a Top **200** UK Law Firm

Our headcount has increased by **26%** over the last three years

56 partners

Over **350** people

45 of our lawyers are listed as recommended lawyers in the Legal500 2026

lindsays



lindsays

David M Hutchison
Partner – Employment

davidhutchison@lindsays.co.uk
0141 333 6755





Discussion and Questions