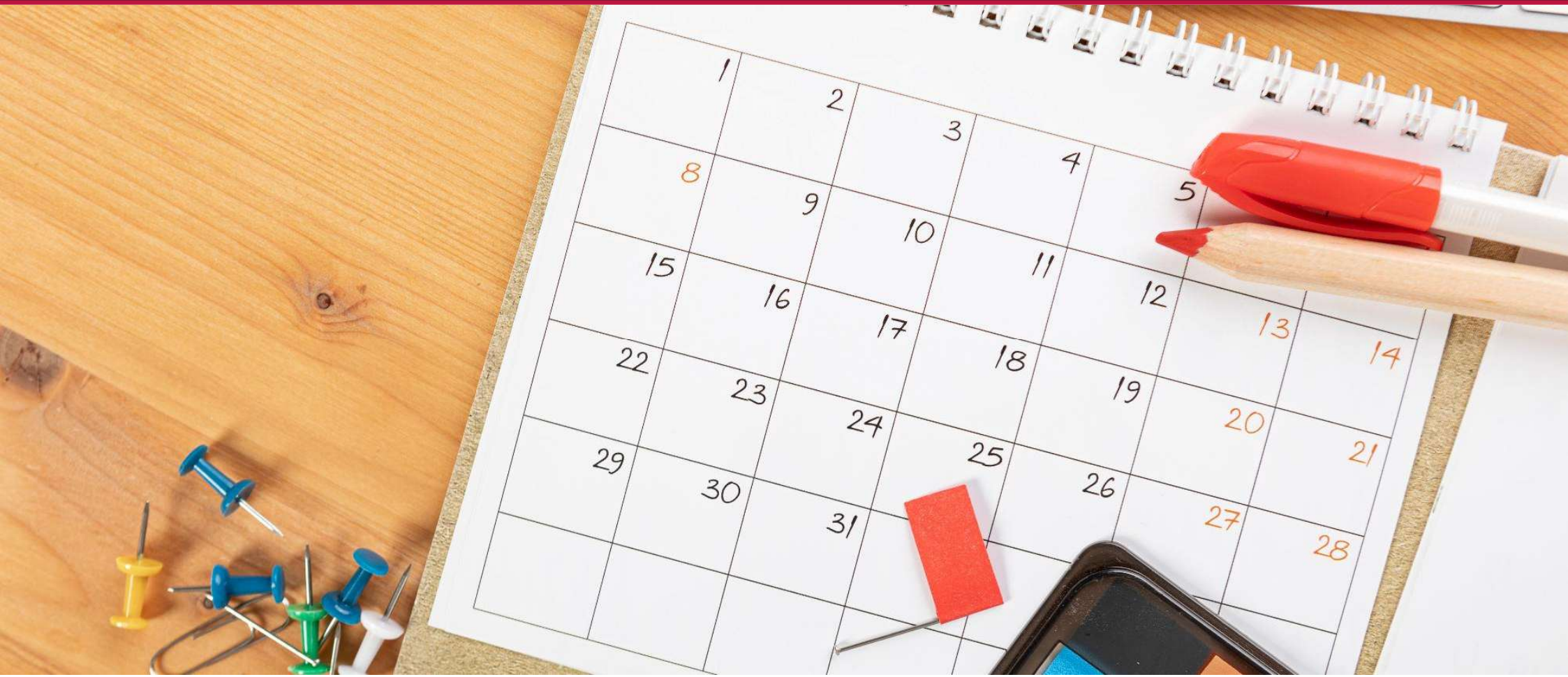
Employment Rights Act 2025: Where are we now?

Winckworth Sherwood

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The Current Timeline

Winckworth Sherwood

October 2026

- Employment tribunal time limits
- Sexual harassment: "all reasonable steps" prevention duty
- Duty not to permit third-party harassment
- Union access rights
- New union rep rights and protections
- Industrial action: wider detriment protection

1 January 2027

- Unfair dismissal reform
- Duty to inform workers of their right to join a union

MOVED FROM
30 October 2026

March 2027

- Reform of fire and rehire

POSTPONED FROM
January 2027

- Gender equality and menopause action plans: mandatory for public authorities

April 2027

- Gender equality and menopause action plans: mandatory for private and voluntary sectors
- Organisation-wide threshold for collective redundancy obligations
- Statutory bereavement leave, including pregnancy loss

CONTINUED

September 2027

- Reform to NDAs

October 2027

- Enhanced dismissal protection: pregnancy, new mothers and certain family leave
- Flexible working changes

December 2027

- Regulation of umbrella companies

Timing TBC

- Zero-hours contract reforms

TIMING UNCONFIRMED
Previously expected in 2027

Today's session:

01 Employment tribunal time limit changes

1 October 2026

02 Prevention of sexual harassment

30 October 2026

03 Third-party harassment liability

30 October 2026

04 Trade Unions: rights of access

30 October 2026

05 Trade Unions: duty to inform

1 January 2027

Previously October 2026

06 Fire and rehire reform

March 2027

Previously January 2027

07 New bereavement leave rights

April 2027

08 Enhanced pregnancy and maternity protections

October 2027

Employment Tribunal Time Limits and the ACAS EC period

THE CHANGES

- Claims now benefit from a six-month limitation period
- Since 1 December 2025, ACAS Early Conciliation period has doubled from 6 weeks to 12 weeks

KEY TAKEAWAY

- ❖ Employees have a significantly longer window in which to bring a claim

PRACTICAL TIPS

- ❖ Plan for an increase in claim volumes
- ❖ Ensure any data retention policies are updated
- ❖ Preserve evidence and liaise with witnesses at an early stage

Prevention of Sexual Harassment

THE CHANGES

- Employers have an enhanced preventative duty to take all reasonable steps to prevent sexual harassment
- EHRC has revised its online technical guidance, providing useful insight
- The revised guidance sets out a clear approach:
  1) Assess risks of sexual harassment
  2) Consider measures that could reduce those risks
  3) Implement all measures which are reasonable
  4) Keep measures under review

KEY TAKEAWAY

❖ Employers will be judged much more on the preventative measure they are taking to prevent harassment

PRACTICAL TIP

❖ Review paras 3.31-3.46 of EHRC technical guidance on sexual harassment and harassment at work

❖ Ensure risk assessment and prevention measures in place, and retain documentary evidence flagging identified risks, measures considered, and action taken

Liability for Third Party Harassment

THE CHANGES

- Employers will be liable for third party harassment where:
  (1) An employee is harassed by a third party in the course of employment
  (2) The employer failed to take all reasonable steps to prevent this
- Updated EHRC guidance discusses third party harassment in detail
- Employers do not have to plan for extremely unlikely situations
- Employers should consider the extent to which any restriction on third party rights is proportionate

KEY TAKEAWAY

❖ Third party interactions are now a more significant source of legal risk in an employment law context

PRACTICAL TIP

❖ Review paras 3.89-3.110 of EHRC technical guidance on sexual harassment and harassment at work

❖ Review harassment training, reporting processes and customer-facing working environments to find out where new safeguards are necessary

Trade Unions: Rights of Access

THE CHANGES

- Trade unions can now seek statutory access to workplaces under a new framework
- Code of Practice (July 2026) contains template access forms for use by trade union and template response for employer
- Central Arbitration Committee to play key role in the event of dispute or gridlock

KEY TAKEAWAY

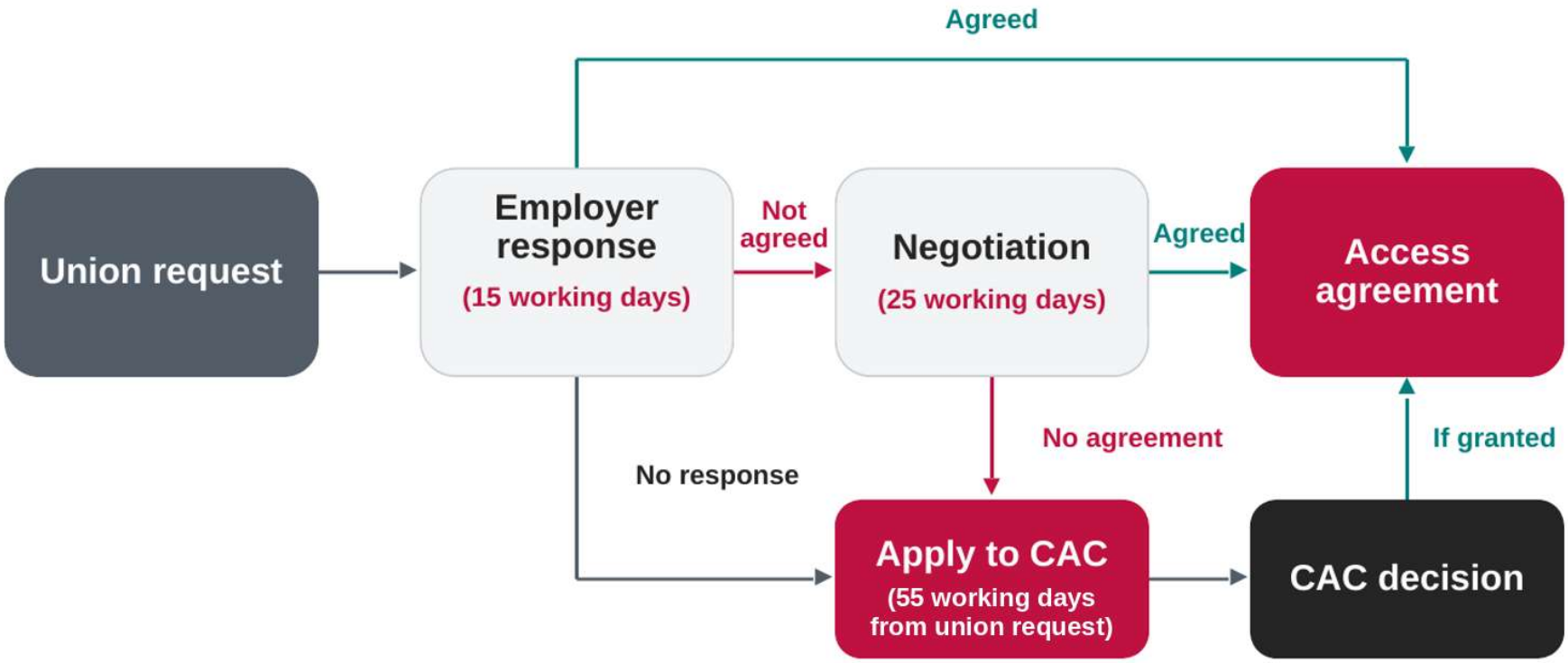
❖ Organisations without a history of union engagement should not assume they will be unaffected

PRACTICAL TIP

❖ Ensure managers understand that union access requests require proactive engagement. Ignoring or sitting on a request could lead to unnecessary disputes and/or CAC involvement

Request for Access – Process

Trade union access: process and deadlines



Duty to Inform Workers of Right to join a Union

THE CHANGES

- Employers will also be required to provide workers with statement regarding their right to join a union
- Government to provide standardised statement for use
- Must be provided to new joiners at the same time as statement of employment particulars and annually to existing employees

KEY TAKEAWAY

❖ New recurring compliance requirement to communicate trade union rights to workers at recruitment and annually thereafter

PRACTICAL TIP

❖ Consider delivery method for current employees and await government standardised statement

Fire and Rehire

THE CHANGES

- Dismissal connected with an employee refusing certain contractual changes will become automatically unfair
- Recent government response to consultation sheds light on what will be a restricted variation
- This will be day one right from the commencement of employment
- Employers will only be able to rely on a narrow financial difficulties exception

KEY TAKEAWAY

❖ Employers will have less leverage when seeking to implement key contractual variations and changes

PRACTICAL TIP

❖ Build greater contractual flexibility into terms that will be captured by the restricted variation regime

WS

Restricted variations

- Pay
- Total contractual hours
- Annual leave entitlement
- Pension entitlement
- Travel expenses (including mileage)
- Accommodation expenses
- Long-term accommodation provided as a benefit in kind
- Moving an employee from day working to night working, or vice versa
- Moving an employee from weekday working to weekend working, or vice versa

Not restricted variations

- Share schemes
- Changes to benefits in kind and expenses, generally (save for listed restricted variations)
- Changes made using an existing contractual flexibility clause
- Availability windows
- Shift changes that do not involve a move between day and night working
- Shift changes that do not involve a move between weekday and weekend working
- Location changes

New Bereavement Leave Rights

THE CHANGES

- Employees to receive a day one right for up to two weeks' unpaid bereavement leave following death of family member or pregnancy loss before 24 weeks
- Leave may be taken as individual days over a 56-week period
- Employees will not be required to provide evidence of the bereavement

KEY TAKEAWAY

- ❖ Bereavement leave rights will become significantly broader and more flexible

PRACTICAL TIP

- ❖ Employers should prepare for a wider range of bereavement-related absences and ensure requests can be handled consistently and sensitively
- ❖ Consider level of enhanced pay (if any)

Increased Pregnancy and Maternity Protections

THE CHANGES

- Government intends to introduce a stricter fairness test for the dismissal of pregnant employees or new mothers until they have been back at work for six months
- Employers will need to show that the fair reason for dismissal is a *"proportionate means of achieving a legitimate aim"* rather than the usual test for unfair dismissal that the dismissal is within the range of reasonable responses
- Enhanced rights will also apply to other types of family leave

KEY TAKEAWAY

❖ Dismissals involving pregnant employees and maternity returners will become considerably more difficult

PRACTICAL TIP

❖ Ensure that managers are prepared for the enhanced protections and and there is very careful HR oversight of proposed dismissals for employees who are protected

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