

Employment Rights Act 2025 Update

May Breakfast Briefing

Agenda



- New legal obligation to keep holiday pay records
- Trade union right of access

Employment Rights Act 2025



- Staggered implementation across 2026 and 2027
- Following the [implementation plan](#)

Working time records



- Section 35 of Employment Rights Act 2025
 - Imposes an obligation on employers to keep certain records to show compliance with annual leave and pay for annual leave
- Came into force 6 April 2026

Working time records



- Duty to keep records which are adequate to demonstrate compliance with the following provisions:
 - Holiday taken
 - Entitlement to ordinary and additional annual leave
 - Entitlement to annual leave of irregular hours and part-year workers
 - Entitlement to pay for annual leave
 - The requirement to make a payment in lieu of holiday outstanding on termination of employment, including any holiday carried forward from a previous leave year
 - The requirement to make a payment to irregular hours workers and part-year workers in lieu of holiday outstanding on termination of employment

Working time records



- These records "may be created, maintained and kept in such manner and format as the employer reasonably thinks fit"
- They must be retained for six years from the date on which they were made
- Failure to do so will constitute an offence, punishable by a fine
- Will be enforced by the Fair Work Agency

Working time records



- Digital HR/payroll system – do they facilitate the new changes?
- Audit manual records for gaps
- Ensure pay records show what elements are included

Trade union right of access



- Section 59 of the ERA25 gives trade unions right to access workplaces (both physically and by communication with workers)
 - to meet, support, represent, recruit or organise workers (regardless of whether they are members of a trade union); and
 - to facilitate collective bargaining.
- [Government consultation response now published](#)
- Access not a general right at any time – subject to access agreement
- Comes into force October 2026

Trade union right of access



- Draft Code encourages employers and TUs to use existing access agreements or agree new access arrangements on a voluntary basis outwith the statutory process
- ACAS can assist where parties are unable to come to an agreement on a voluntary basis
- Voluntary basis should be exhausted before moving with statutory request

Trade union right of access



1. Union request

TU to make a formal access request setting out access they seek (by email primarily). Employer has 15 working days to respond. Template for response is within [Draft Code](#)

2. Negotiation period

Further 25 working day negotiation window. Can be extended if negotiations going well

3. CAC involvement

If agreement not reached TU may apply to the CAC who will determine. TU has 15 working days after the end of the negotiation period to do

What's coming in October?



- TU right of access
- Right to a statement of TU rights
- Duty to take all reasonable steps to prevent sexual harassment
- Power to make regulations specifying what will amount to all reasonable steps to prevent sexual harassment
- Third-party harassment
- Protection against detriment for taking industrial action
- Extending ET time limits (no earlier than October 2026)