



# The Work Couch

Navigating today's tricky people challenges to create tomorrow's sustainable workplaces

RPC

## Season 4

### Episode 1 – The Employment Rights Act: A new era for family-friendly rights, with Joanna Holford and Megan Latham

**Ellie:** Hi, and welcome to the Work Couch podcast, your fortnightly deep dive into all things employment. Brought to you by the award-winning employment team at law firm RPC, we discuss the whole spectrum of employment law with the emphasis firmly on people. My name is Ellie Gelder. I'm a senior editor in the Employment, Engagement and Equality team here at RPC, and I'll be your host as we explore the constantly evolving and consistently challenging world of employment law and all the curveballs that it brings to businesses today. We hope by the end of the podcast that you'll feel better placed to respond to these people challenges in a practical, commercial and inclusive way.

**Ellie:** A very warm welcome back to the Work Couch. I'm delighted to kick off Season 4 today. And what could be more pressing right now for employers of every size and sector in the UK than the [Employment Rights Act](#), which received Royal Assent on the 18th December 2023, just in the nick of time before the parliamentary recess for the Christmas break. Now we know that there is an awful lot to dissect and get to grips with.

So, this week, we're going to start that process by delving in to how the Employment Rights Act is going to transform a key area of employment law. And that is family-friendly rights at work, which actually weaves its way throughout the Act's many reforms and is a key part of the government's plans to "[Make Work Pay](#)". And to help explain what you need to know and when the various reforms are going to be implemented, I'm thrilled to be joined by Joanna Holford, Senior Associate and Megan Latham, Trainee Solicitor, both of whom work in our Employment, Engagement and Equality team. Hi, Jo, thank you for joining us again and Megan, welcome to the Work Couch! Thank you for being here.

**Jo:** Thanks, Ellie, it's great to be back.

**Megan:** It's wonderful to be here. Thanks for having me, Ellie.

**Ellie:** Now, Jo, I can't believe we last spoke about family-related rights at work, way back in September 2023. It seems like a lifetime ago now when things were very different.

**Jo:** Gosh, yes, it seems such a long time ago when we last spoke about this area. We had a Conservative government, and the pandemic had also prompted a major shift in how we work. So, there was a growing demand to boost support for working parents. Fast forward to January this year and the Labour government is looking to accelerate and extend that support via the Employment Rights Act, essentially to help working parents balance their work and home lives. As a working parent myself, I know the juggle well. And there are five areas relating to family rights at work that are set to change, some of them very soon.

**Ellie:** Yeah, so lots of us can relate to that juggle. And if we take those in turn then, those five areas you've mentioned, which reforms are coming in first?

**Jo:** So, the first set of reforms which are coming into force on the 6th of April this year relate to statutory paternity leave and unpaid parental leave. These types of leave will become a "day one" right. So that means eligibility will kick in from the first day of an employee's employment. So how does that compare to the position at the moment? Well, currently employees must have completed 26 weeks, so six months of continuous service with their employer to be eligible for statutory paternity leave. And in relation to unpaid parental leave, a year of service is currently required.

These changes form part of the government's wider [review of the parental leave and pay system](#), which launched on the 1st July last year and will run for the next 18 months.

**Ellie:** So how is this going to work in practice, Jo? So for example, notice requirements.

- Jo:** Well, the notice periods remain unchanged for both types of leave. So just as a reminder, for employees wishing to take statutory paternity leave, they must give their employer 15 weeks' notice before the expected week of childbirth or as soon as reasonably practicable. And for employees wishing to take unpaid parental leave, they must give their employer 21 days' notice or as soon as reasonably practicable. But it's really important to note that from the 18th of February, [Regulations](#) provide both the right to take statutory paternity leave and the right to take unpaid parental leave will come into force to enable employees to give the requisite notice and evidence from the 18th of February ahead of April. So, they will become entitled to the right on or after the 6th of April. Essentially what this means is that newly eligible parents will be able to give notice of their intention to take leave from the 18th of February. So, this allows those that will qualify for the right to take it as soon as possible from when it comes into force. Given the 6th of April date falls within the Easter holidays for some, this might be particularly helpful for covering the time off from school.
- Ellie:** Absolutely, very timely for some parents. Can you explain how these changes will interact with other types of family-related leave? And also, will statutory paternity pay be a "day one" right as well?
- Jo:** Well, to take your first question, Ellie the ERA will also allow parents to take their statutory paternity leave and pay after their shared parental leave. So currently, paternity leave and pay has to be taken before shared parental leave begins. So that's going to introduce greater flexibility for employees to benefit from the different types of leave available to them to care for their child. This might also have financial advantages for some employees, depending on the pay available to them for the various types of leave, such as maternity, paternity and shared parental and turning to the question of whether statutory paternity pay will become a day one right, the answer is no. The ERA changes don't affect statutory paternity pay. To be eligible for that, the qualifying service of 26 weeks remains the same.
- Ellie:** OK, thanks for clarifying those points, Jo. So, Megan, what's next on our list of reforms?
- Megan:** So, the next reform introduced by the Act is also another Day 1 right and applies to bereavement leave, which the government has said will come into force in 2027, although the exact date is to be announced. So currently, employees are entitled to statutory parental bereavement leave only where they are a parent of a child who dies under the age of 18 or whether you've experienced or their partner has experienced a stillbirth after 24 weeks of pregnancy. So, in these cases, the employee is entitled to two weeks leave, which may be paid if they meet the eligibility requirements for statutory parental bereavement leave pay. The Employment Rights Act will introduce a new day one right to bereavement leave for all employees to take time off to grieve the loss of a loved one and this will apply from the first day of their employment. Importantly, bereavement leave will also extend to parents who experience pregnancy loss before 24 weeks, including unsuccessful IVF transfers, and that follows years of tireless campaigning by miscarriage charities. And I know, Ellie, you have spoken to the Miscarriage Association on another [Work Couch](#) episode a few years back about the gap in legal protection. So that's positive progress. And the reform will create an entitlement to protected time off for bereaved employees of at least one week. In terms of when employees can take their leave, the Act envisages that employees will have a minimum of 56 days after their loved one's death in which to take bereavement leave.
- Ellie:** And what about payment during bereavement leave and other practicalities?
- Megan:** Well, in cases where the bereaved employee has lost a child, they may be eligible for paid leave. However, for all other cases, there is no requirement for the leave to be paid and this will be at the employer's discretion. In terms of how the new right will work in practice, the government has launched a [consultation](#) which closed on the 15th of January, 2026 and sought views on the eligibility criteria, the types of pregnancy loss that should be in scope, when and how bereavement leave can be taken, and the appropriate notice and evidence requirements. So, following the consultation, full details of the new bereavement leave entitlement will be set out in secondary legislation in the form of substantive regulations which we're waiting for. And when they're available, we'll be looking at these really closely because that is going to set out much needed detail for employers.
- Ellie:** So that's a really big reform then given that bereavement is unfortunately something we all experience at some stage in our lives. And I guess it's worth saying that many employers already offer support to bereaved employees, for example, compassionate leave. But you mentioned that the leave is unpaid except for the situation where the bereaved employee has lost a child. So, I guess you could say the reform is limited. Do you think in practice, Megan, that the employee may be more likely to call in sick?
- Megan:** I think that's a potential risk, yes, especially as employees will be able to claim statutory sick pay on the first day of their absence rather than having to wait for three days of incapacity for work. And obviously the reality is that many employees

will need any leave to be paid. As you say, a lot of employers offer compassionate leave which may be paid for a certain amount of time depending on the type of relationship the employee had with their loved one.

Obviously a really sensitive topic so line managers and HR will have to tread carefully and also ensure that their policies are clearly worded and communicated at the outset and applied consistently across the workforce.

**Ellie:** And just to add to this, Megan, because it's relevant to the topic of bereavement, there are also changes that are coming in soon via separate legislation for those employees who find themselves in the extremely difficult situation of losing their partner and needing to care for their newly born or adopted child.

**Megan:** That's right, Ellie. So as you say, this is coming in via a different piece of legislation called the [Paternity Leave Bereavement Act 2024](#). And essentially, it will introduce a new right for bereaved fathers and partners to up to 52 weeks paternity leave in the very tragic situation where a child's primary carer dies within 52 weeks of their birth or adoption.

As with statutory bereavement leave, which I've just outlined, there's no minimum qualifying period of employment. However, the employee must have the requisite relationship to the primary carer, for example, where they are the father or where they are the spouse, civil partner or partner of the primary carer. And crucially, they must also have the main responsibility for the child's upbringing.

The [draft Bereaved Partner's Paternity Leave Regulations 2026](#), which implement the Act, were laid before Parliament on the 13th of January and, subject to approval by both the Commons and the House of Lords, they will come into force on the 6th of April 2026. The new entitlement will apply only to bereavements occurring on or after the 6th of April 2026.

And this has come about after a lot of campaigning by individuals such as Aaron Horsey, who argued that the previous system, where bereaved partners had to rely on the compassion of an employer in order to be granted time off to grieve and care for their child, was unfair. And so, I think many people will welcome this change.

**Ellie:** Absolutely. Jo, let's look at how the ERA is going to boost protection for pregnant workers because there's quite a few big changes coming in here, aren't there?

**Jo:** Yes, that's right. And this follows a [report from the Equality and Human Rights Commission](#), which is quite old now, 10 years ago in 2016, but which the government specifically referred to in its [factsheet on enhanced dismissal protections for pregnant women and new mothers](#). So, this report had found that one in nine, that's 11 % of recent mothers interviewed felt forced to leave their job. Up to 54,000 mothers may leave their jobs each year. 9 % cited poor treatment as the reason and 1 % were made compulsorily redundant when others in their workplace were not, and a further 1 % experienced another type of dismissal. I think some people listening may be thinking, "Hang on, I thought there were already protections in place". Well, currently, yes, pregnant employees and new mothers do have enhanced protection from dismissal in a redundancy situation during their pregnancy, maternity leave, and a return-to-work period. But government analysis shows that mothers, despite these protections, face discrimination and less favourable treatment, which impacts their jobs.

**Ellie:** So how will the Act extend those existing protections then?

**Jo:** The ERA will look to strengthen the existing protections by prohibiting employers from dismissing for all reasons or making redundant workers who are either pregnant, on maternity leave or those who are in the six-month period of their return from maternity leave, save in specific circumstances which are yet to be detailed in regulations. The protection will also extend to employees who are on or returning from adoption leave, shared parental leave, extended paternity leave for bereaved parents or neonatal care leave.

The government launched a [consultation](#) which closed on the 15th of January and sought views on the scope and operation of the enhanced protections including the limited circumstances in which dismissal should be lawful, when the protection should start and end, and whether they should extend to other new parents, for example, adoptive parents or those on parental leave. The consultation also aims to address how policy awareness can be improved, how employers can be supported through the change, and how unintended consequences can be mitigated.

**Ellie:** And when can we expect these changes to be implemented?

**Jo:** The government has said these changes will come into force in 2027, although the exact date is to be announced. We are awaiting secondary legislation in the form of regulations which will prescribe the notices that should be given, evidence to be produced and other procedures to be followed by employees and employers, and the consequences of failing to comply with these procedures.

**Ellie:** OK, so we'll watch this space there. Megan, one of the most headline grabbing reforms which the Act will introduce relates to flexible working. So can you just explain what's changing here?

**Megan:** Sure, so it's useful to give a very brief overview of what the law says at the moment. Currently, the right to request flexible working was introduced over two decades ago in 2002. And by flexible working, that essentially means a change to hours of work, times of work and place of work. There have been updates to flexible working laws since including in April 2024 when the right was expanded so that employees could make such a request from day one of their employment. The employer can refuse a request where it considers that one or more of the existing eight statutory business reasons applies and is required to consult with the employee before doing so. So, what's changing? Well, essentially the Act will make flexible working the default from day one of employment for all employees with employees required to accommodate this as far as is reasonable.

**Ellie:** So that's quite a change then and it sounds like it's going to be harder for employers to turn down requests for flexible working.

**Megan:** Yes, it is going to be harder for employees for a number of reasons. So, first of all, employees will only be able to refuse a request where the employer considers that it should be refused on one or more of the existing statutory grounds and that it is reasonable for the employer to refuse the application on that ground or grounds. And secondly, where the employer is refusing an application for flexible working, then when they notify the employee of their decision, they must state the ground or grounds for refusal and also explain why the employer considers that it's reasonable to refuse the application on that ground or grounds. In terms of implementation, the government has stated that it anticipates these changes to come into force at some point in 2027, but no date is confirmed as of yet. We're also expecting the government to launch a consultation on the reforms, so we'll keep an eye out for this too.

**Ellie:** And Jo, we've talked about working parents, but are there any changes on the horizon in relation to employees who have caring responsibilities for loved ones who are older or disabled or seriously ill?

**Jo:** Yes, so looking outside the ERA for a moment, but staying with the topic of family-related rights, there may be developments in this area. And I know, Ellie, you've previously talked on the Work Couch to Carers UK about the importance of creating [carer-friendly workplaces](#). Currently, carers leave, which came into force on the 6th of April, 2024, is unpaid, although a growing number of employers, including RPC, are offering enhanced time off for their employees with caring responsibilities. And on the 19th of November last year, the government published its [terms of reference for its review into carers' leave](#). This was initially promised in the government's [Next Steps to Make Work Pay plan](#) when the government committed to review the implementation of carers' leave and examine all the benefits of introducing paid carers' leave while being mindful of the impact of the changes on employers, particularly small employers. So, it'll be interesting to see how this plays out given that there are an estimated five million unpaid carers in England and Wales according to 2021 census data. It's worth bearing in mind the particularly stark statistics [reported by Carers UK](#) that one in seven people in the workplace are juggling work and care. And on average, 600 people a day leave work to care.

**Ellie:** Yeah, absolutely. Those stats really make you stop and think, don't they? And we'll watch that review that you mentioned closely. Can we finish now then by rounding up some of your top practical tips for employers who are navigating this new era of family-friendly rights? Megan, if I can start with you.

**Megan:** Sure, so a first tip would be to focus on training staff on the changes in advance of implementation to ensure everyone is aware of the correct legal position. This will be particularly important in the context of some of the changes from the Act that we anticipate will increase tribunal claims. A second would be to review and update employment contracts where applicable to ensure that they reflect the changes.

A few more are the general review and amendment of policies and procedures so they're up to date so including maternity, paternity and shared parental leave policies as well as updating related documents such as notification forms and finally to review, consider and update flexible working documents including internal guidance for managers dealing with requests, internal processes for dealing with requests and the company's flexible working policy itself.

**Ellie:** And Jo, what would you add to that?

**Jo:** Yes, I agree that flexible working policy and procedure is going to be key. In particular, there is one further amendment proposed by the ERA that could potentially result in procedural changes when dealing with a flexible working request. So currently an employer must consult with an employee before refusing a request and that's normally in the form of a meeting. The ERA provides that these consultation requirements will include, among others, any steps specified in regulations made by the Secretary of State.

This potentially means the introduction of further procedural steps when dealing with a flexible working request. Also taking a step back for a moment in relation to flexible working. While the intention is to make flexible working the default, in reality the employee will still need to make a request to work flexibly. Regulations are required to detail exactly how the strengthened flexible working arrangements will work in practice. So, watch this space.

**Ellie:** Thanks so much, Jo and Megan. You've both provided a really helpful rundown of what's coming in and when and thank you for those excellent practical takeaways.

**Jo:** Thanks, Ellie.

**Megan:** Thank you, Ellie.

**Ellie:** As ever, we will be bringing you more updates on the Employment Rights Act as they develop, but in the meantime, to help you keep on top of all the 25 plus employment law reforms introduced by the Act, as well as key watch-outs, do take a look at our [ERA tracker](#), which you can sign up to using the link in the show notes. Well, that brings us to the end of this episode.

If you would like to revisit anything we discussed today, you can access transcripts of every episode of The Work Couch podcast by going to our website: [www.rpclegal.com/theworkcouch](http://www.rpclegal.com/theworkcouch). Or, if you have questions for me or any of our speakers, or perhaps suggestions of topics you would like us to cover on a future episode of The Work Couch, please get in touch by emailing us at [theworkcouch@rpclegal.com](mailto:theworkcouch@rpclegal.com) – we would love to hear from you.

Thank you all for listening and we hope you'll join us again in two weeks.



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