



HR Business Consultants

NEWSLETTER

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The Tribunal Edition



Welcome from Jane



Employment tribunals are an increasing concern for employers, with claims often arising from everyday workplace decisions that may seem minor at the time. Understanding how tribunal risks develop — and taking practical steps to prevent them — can protect your business from costly disputes, reputational damage, and unnecessary disruption. Staying informed and proactive is essential as employment law continues to evolve.

In this edition, we focus on the practical steps employers can take to minimise tribunal risk and build confidence in their people management practices, with expert insight into some of the most common challenges organisations face.

- What employment law has changed and what's to come
- Why being a fair employer protects your business
- Everyday mistakes that end up in tribunal
- An example tribunal case
- How the ERA has changed tribunal risk
- 5 everyday practices that lead to tribunal claims

Whether you're reviewing your current HR spend or planning ahead, these articles provide practical insights to help you manage your people budget more effectively while still supporting a motivated and productive team.



What employment law has changed and what changes are still to come?

While several Employment Rights Act changes have already taken effect in April 2026, many more are scheduled throughout the rest of 2026 and into 2027.

At HR Business Consultants, we have organised the new laws into clear milestones so you can see what has changed, what is coming next and when action is required.

Here are the Employment Rights Act milestones you need to be aware of:

Milestone 1: What changed in April 2026

These changes are already in force. They should now be reflected in your documentation, processes and manager handling.

Key changes

- Extended collective redundancy protective awards up to 6 months' pay
- Day 1 Paternity Leave and Day 1 Unpaid Parental Leave
- Bereaved Partner's Paternity Leave
- Statutory Sick Pay from Day 1 with no lower earnings limit
- Strengthened whistleblowing protections, including disclosures linked to sexual harassment
- Simplified trade union recognition process
- Establishment of the Fair Work Agency
- Updated menopause and gender equality guidance

What this means for your business

You may need to review and update:

- policies and contracts
- sickness and family leave arrangements
- manager training on new entitlements and processes
- compliance practices around consultations and investigations

Many employers are still working from documentation written years ago, so this is the point where inconsistencies often begin to show.

Milestone 2: Prepare now for 6-month dismissal rights from 1 July 2026

From 1 July 2026, anyone you hire will gain unfair dismissal protection after 6 months of service. The right becomes fully effective from January 2027.

Why this matters

Shorter qualifying periods increase the commercial risk of:

- poorly managed probation periods
- underperformance not being documented

- dismissals handled informally or too quickly
- decisions made late without evidence

What this means for your business

Recruitment, onboarding and early-stage performance management now protect you more than ever. Clear documentation, timely conversations and structured probation reviews will be essential.

Milestone 3: What arrives in October 2026

This phase places greater emphasis on fairness, workplace safety and transparency.

Key changes

- New duty to prevent sexual harassment, including some forms of third-party harassment
- Obligation to inform employees of their right to join a union
- Stronger trade union access rights
- Fair Pay Agreement body for Adult Social Care
- Tighter tipping rules
- Further reforms to recognition processes

What this means for your business

You will need to strengthen:

- harassment prevention measures
- manager and team training
- onboarding content
- internal reporting routes and communication clarity

This milestone focuses on prevention, not reaction, and employers will need to be able to demonstrate reasonable steps.

Milestone 4: What changes in 2027

These reforms will have the biggest operational and financial impact on small businesses.

Key changes

- Unfair dismissal qualifying period formally reduced to 6 months
- Potential for uncapped compensatory awards
- Enhanced protection for pregnant women and new mothers
- Changes to flexible working rights
- Statutory bereavement leave, including pregnancy loss
- Ending exploitative zero hours practices, including guaranteed hours and shift compensation
- Regulation of umbrella companies
- Fire and rehire becoming automatically unfair in most cases

What this means for your business

These changes will affect:

- how you plan your workforce
- how you manage underperformance and conduct
- how you schedule and guarantee working hours
- how you approach restructures and contractual changes

By this point, informal or reactive people management will carry much higher risk.

A practical next step

To help employers to prepare sensibly, we offer a free, short impact assessment to identify:

- which changes affect your business
- what needs updating
- where financial or operational risk may increase
- what to prioritise next



Why being a fair employer protects your business

Treating employees differently is one of the fastest ways to end up in an employment tribunal.

You're busy running the business and making people decisions every day. Most of the time you're acting on what feels reasonable in the moment.

But in employment law, fairness isn't subjective or optional. It's the standard your decisions are judged against and it sits at the heart of Acas guidance.

When employees are treated inconsistently, or when managers improvise on the spot, you create legal risk even when your intentions are good. Fairness protects you. Unfairness is what tribunals punish. Here's how to get it right.

What Acas means by fairness

Under Acas guidance, you're expected to:

- act reasonably rather than reactively
- follow clear and transparent processes
- treat similar situations consistently
- give employees the chance to explain and respond
- base decisions on facts, not assumptions

This is the lens tribunals use when they look at your decisions. It's about whether your actions were measured, consistent and grounded in evidence.

Why fairness matters

Fairness isn't just a good practice principle. It has real financial impact.

Tribunals regularly refer to the Acas Codes of Practice. If you ignore the guidance or act in a way that's considered unfair, compensation can be increased by up to 25%.

Claims are also more likely to succeed when processes are inconsistent or poorly handled.

Fair treatment helps you to avoid expensive disputes and gives you a defensible position if something is challenged.

How to ensure fairness across your business

Set clear standards

Start with clarity.

- clear policies and procedures
- defined expectations for behaviour and performance
- managers who know when to deal with something informally and when to go formal

People can only follow standards they understand and managers can only act fairly when they know the boundaries.

Apply rules consistently

Fairness collapses when similar situations are handled differently.

- similar cases should follow similar steps
- decisions shouldn't depend on who the employee is
- managers shouldn't improvise outcomes

Consistency is key. It's one of the first things a tribunal will look for.

Train managers properly

Managers often want to do the right thing. They just don't always know what "reasonable" looks like in legal terms. Make sure that managers:

- understand your policies
- know how to apply them
- feel confident handling difficult conversations

Good training prevents well-intentioned mistakes.

Give employees the right to be heard

A fair process means that employees can explain their side before decisions are made.

- meetings must be meaningful, not a tick box
- decisions can't be pre-made
- employees should have space to respond

Being heard reduces conflict and strengthens your position.

Base decisions on evidence

Fair decisions rely on facts, not assumptions or emotion.

- keep notes and records
- check patterns, not isolated reactions
- rely on what you can demonstrate

This is what makes your decisions defensible if you're challenged.

Document decisions and reasoning

Write down:

- why action was taken
- what alternatives were considered
- what support was offered

Clear documentation shows that your decision was measured, not reactive.

Review decisions across teams

Look for drift.

- are managers applying the same standards
- are risky habits creeping in
- are similar cases being handled differently

Spotting inconsistencies early helps you to correct course before they become a problem.

Where an HR consultant can support you

An experienced HR consultant can review fairness across your business, identify risk areas and handle the heavy lifting.

You get consistent, defensible processes that align with Acas guidance and protect the business from avoidable claims.

Get in touch for a confidential chat and we'll talk you through how we can help.

Everyday mistakes that end up in tribunals

Most tribunal claims do not start with bad intentions...

They start with a conversation that was not documented, a process that was skipped or a decision that felt right at the time but was not handled properly.

Here are some common practices we see that often lead to an employment tribunal:

A quiet word:

A quiet word about someone's performance that is never written down. Months later, the business decides to dismiss. The employee claims they were never told there was a problem and there is nothing on file to say otherwise.

Unfair treatment:

Different treatment for different people. Even when the reasons seem reasonable at the time, it can quickly look like unfairness or discrimination when viewed from the outside.

Strict policies:

Sickness policies applied rigidly without checking whether there is an underlying health condition. What starts as absence management can escalate into a disability discrimination claim.

Dismissal of rights:

Flexible working requests turned down without a valid business reason. A "no" that feels reasonable to you may not hold up if it is challenged.

Or a short-service dismissal that looks low risk on the surface but overlooks the fact that the employee has a protected characteristic.

These are not unusual situations.

They happen in businesses of every size, every week.

If you do not have someone to sense check your decisions with, now is a good time to think about that.

A short conversation before you act is almost always cheaper than dealing with the fallout afterwards.



LATEST NEWS

A flawed investigation cost one employer over £12,000 at tribunal

A recent tribunal case is a useful reminder that how you investigate matters just as much as what you investigate.

An employee with over 20 years' service was dismissed for gross misconduct. But the tribunal found that the investigation process was flawed. The employer failed to consider whether the issue was actually about capability rather than conduct and did not offer support at the investigation stage, despite being aware of the employee's health condition. No advance warning of the investigation interview was given either.

The result was an unfair dismissal finding and a compensation award of over £12,000, with further compensation still to be agreed. The lesson for business owners is straightforward. Before you move to dismiss someone, make sure that you have properly investigated the situation, considered all possible explanations and given the employee a fair chance to respond. Rushing to a conclusion, even when you believe the facts are clear, can leave your business exposed.



How the ERA has changed tribunal risk

As a small business, you may feel like you're at less risk of being taken to an employment tribunal. In our experience, that's not the case.

1: Small businesses are actually at a higher risk of a tribunal claim because you often manage employee issues informally. That leaves you far more exposed compared to larger companies with stricter processes and policies.

2: The new Employment Rights Act has introduced significantly more red tape and made employing people far riskier, regardless of your size.

In this article, we talk you through the different changes you need to be aware of and how you can protect your business from future claims.

What has actually changed

The Employment Rights Act expands employee protection in several areas that directly affect how you manage people day to day.

Some of the changes include:

- stronger statutory rights from earlier in employment
- lower thresholds for certain types of claim
- broader enforcement powers, including through the new Fair Work Agency
- increased scrutiny on fairness and process in how decisions are made

On their own, each change is manageable. Together, they reduce the margin for informal management and increase the expectation that you can evidence how and why decisions were made.

Why this increases your exposure

More rights for employees means more routes to challenge a decision. That is not a criticism of the law. It is just a practical reality you need to plan for.

Where previously a short-service employee may have had limited options to bring a claim, the thresholds have shifted. Employees now have earlier access to certain protections and the Fair Work Agency has the power to take enforcement action on their behalf, including taking businesses to tribunal directly.

There are also fewer situations where a dismissal can be treated as low risk. Even in the early stages of employment, how you handle performance, conduct and expectations matters more than it used to.

Add to that a general increase in employee awareness. People are more informed about their rights and more willing to push back on decisions they believe were unfair.

Why small businesses feel this more sharply

This is something we see a lot. Most small businesses rely on informal conversations to manage people. A quiet word here, a verbal warning there, a probation that was never properly reviewed.

That approach worked when the risk was lower. It becomes a problem when:

- employees have stronger protections earlier
- enforcement bodies are actively looking for gaps
- you are expected to show that your process was fair and documented

Without an in-house HR function, there is often no one checking whether the way things are being handled would actually stand up to scrutiny. Managers make decisions based on instinct rather than process and those decisions are harder to defend when they are questioned.

What to do now

The good news is that you do not need to overhaul everything overnight. But there are practical steps you can take to reduce your exposure.

- Tighten your performance processes
- If you are managing underperformance through informal chats, start putting things in writing. Set clear expectations, record conversations and follow up. A paper trail does not need to be complicated but it does need to exist.
- Review how you handle probation and dismissal
- Make sure that your probation process includes structured reviews and documented outcomes. If you need to end someone's employment, make sure that you are following a fair process, even where you are not legally required to. The cost of getting this wrong has gone up.
- Train your managers
- Many issues start with a well-intentioned decision made by someone who did not realise that the rules had changed. Make sure that anyone managing people understands the basics of the updated obligations and knows when to ask for help.
- Document decisions properly
- If you cannot show why a decision was made, you are exposed. Keep records of meetings, conversations, warnings and outcomes. It does not need to be a huge admin task, just somewhere accessible and consistent.
- Focus on prevention over defence
- Most serious disputes start as unmanaged issues. Someone was not told clearly enough what was expected. A conversation was avoided. A concern was brushed aside.

Small improvements in how you handle things at an early stage dramatically reduce the chance of a formal claim later. That is always going to be easier and cheaper than dealing with one after the fact.

Where an HR consultant can support you

An experienced HR consultant can review your current processes against the expanded rights under the Employment Rights Act and help you to close the gaps before they become problems.

Five every day practices that lead to Tribunal claims

Think employment tribunals are only a problem for big companies? Actually, in our experience, it's the opposite. Small businesses are often more exposed because you're relying on informal processes and fewer safeguards. Below, we've highlighted 5 common practices that catch small businesses out and what you can do about it.

1. Pulling an employee aside for a "quick chat"

Quick chats about performance feel easier than formal meetings. But if there's no record of what was said, it's your word against theirs at a tribunal. If it matters enough to raise, it matters enough to document.

4. Treating employees differently

Even with good intentions, inconsistency is a risk. One person gets flexibility, another doesn't. One gets a warning; another gets a conversation. This is what can cause claims for discrimination and unfairness.

2. Leaving small problems to sort themselves out

A late pattern here, a bad attitude there. Minor stuff, until it isn't. By the time you act, the employee may already feel targeted because nothing was flagged sooner.

5. Managers who haven't had the right training

Most managers in small businesses are promoted because they're good at their job, not because they know employment law. Without basic training, they're making decisions that could land you in front of a tribunal.

3. Running without proper policies

Grievance processes, sickness policies, flexible working procedures... Without these, you've got no framework to fall back on when someone challenges a decision.

You don't need a big HR team to fix this. An HR consultant can train your managers, put the right policies in place and help you to deal with issues before they escalate.

Get in touch for a confidential chat.

Need a confidential chat?

If you have a problem brewing in your business, you're worried about something or you simply need some expert HR support then please get in touch with us for a confidential chat.

A quick conversation could save you from a very costly mistake and we could give you the clarity you need to decide your next steps with confidence.

Whether you're a new or existing client, we offer a free 30 min chat (without any obligation to buy from us in the future).

Get in touch to arrange.

