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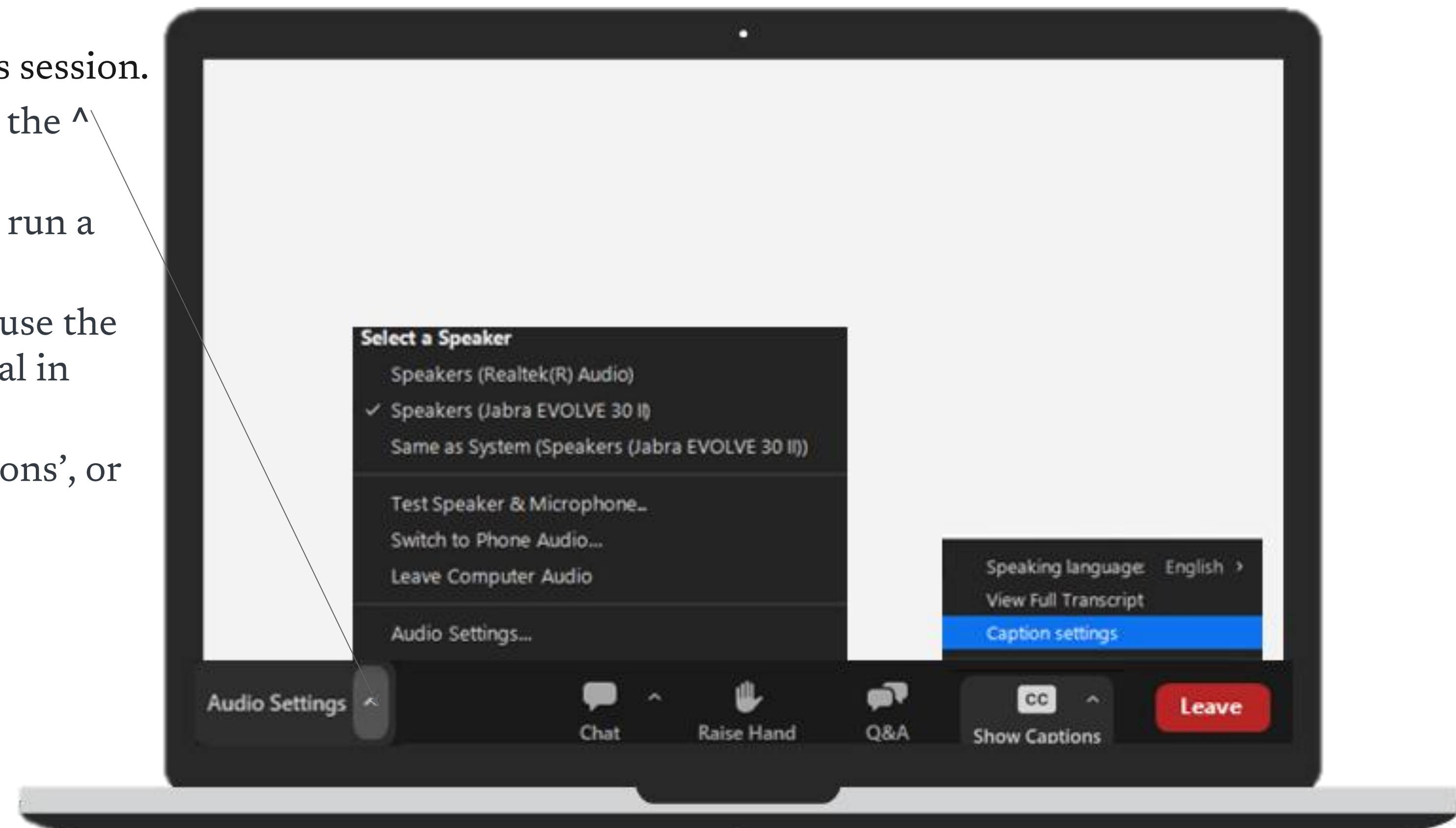
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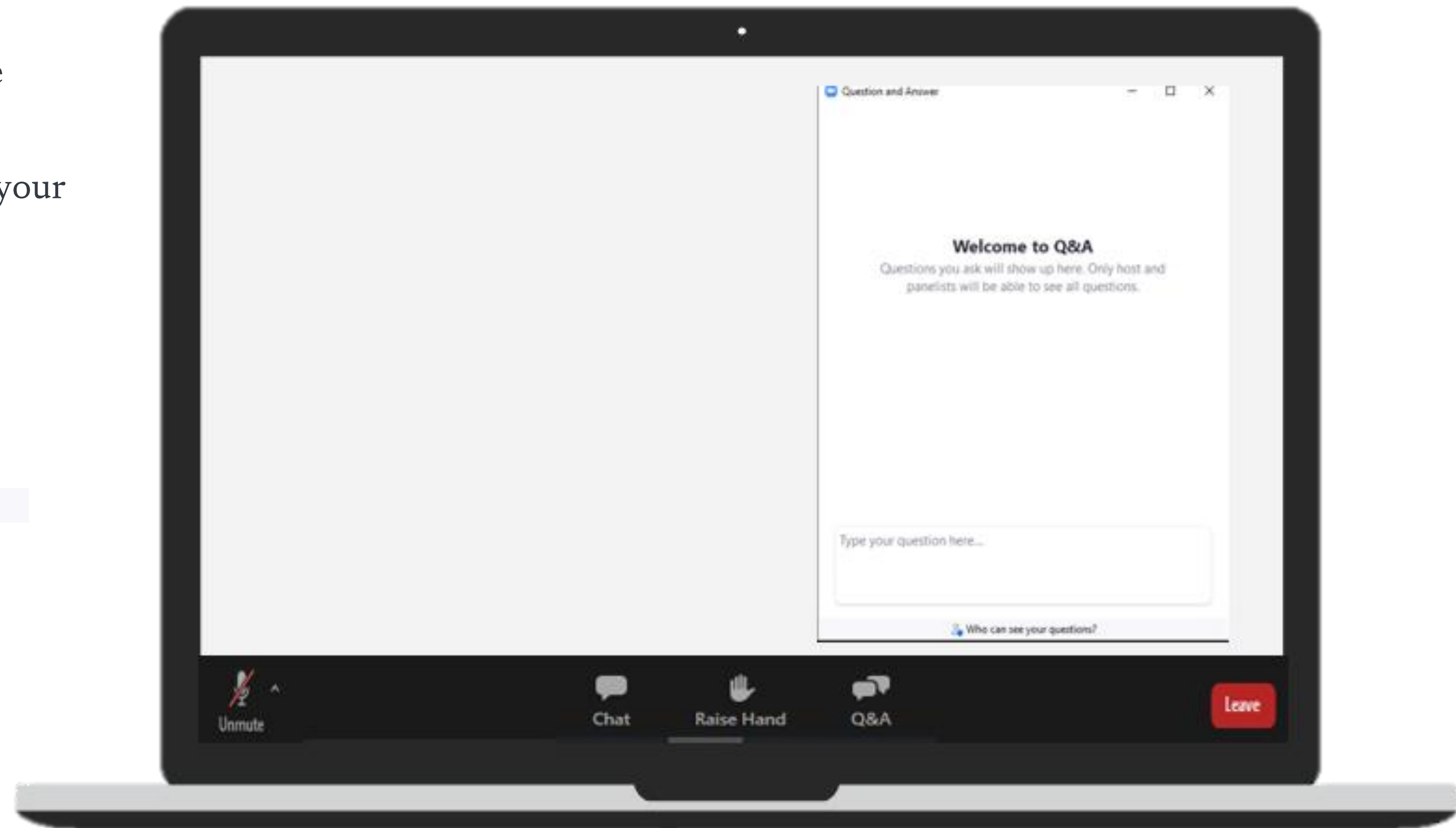
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SHOOSMITHS

Thank you for joining us

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Employment Law Update

15 September 2026

What we will cover

1

What has changed since April 2026?

2

What is changing from October 2026?

3

What is changing in January 2027 and the impact for higher earners

4

What else is coming next year?



What has changed since April
2026?



Consultations and call for evidence

- Call for evidence on TUPE – closed 1 July 2026
- Consultation on proposals to prevent misuse of NDAs in workplace harassment and discrimination – closed 8 July 2026
- Consultation on regulations to protect zero-hour and low-hours workers – closed 25 August 2026
- Consultation on employment rights of unpaid carers and parents of seriously ill children – closed 1 September 2026
- Consultation on time off for public duties – closed 4 September 2026
- Fair and transparent distribution of tips: government response to consultation and consultation on draft updated Code of Practice - closes 29 September 2026

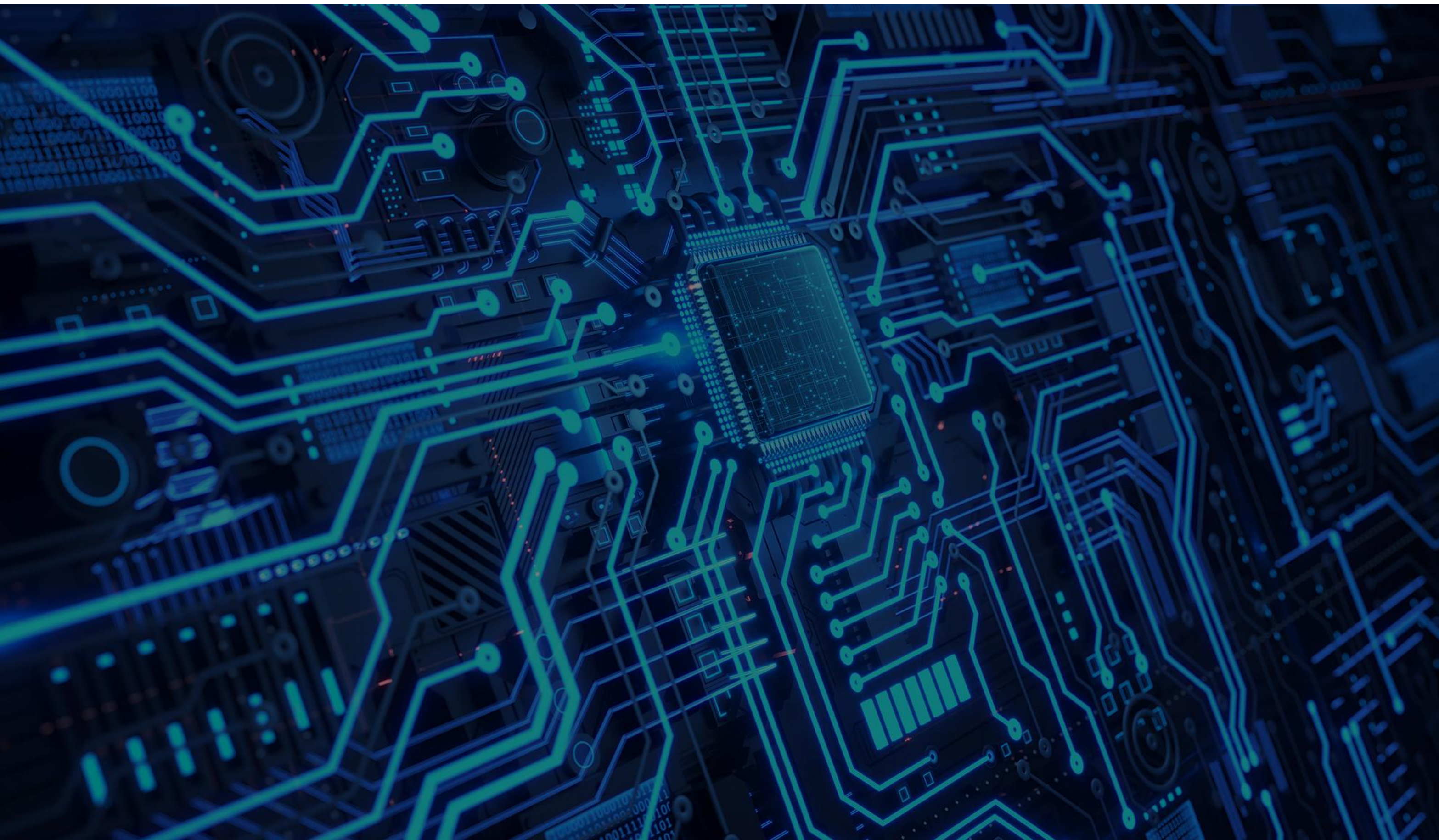


Consultations and call for evidence

- Consultation on statutory holiday pay compliance and enforcement by FWA – closes 22 September 2026
- Consultation on workplace monitoring technologies – closes 30 September 2026
- Response to consultation on mandatory ethnicity & disability pay gap reporting
- Consultation on equal pay and pay discrimination – closes 27 October 2026
- Acas published an updated draft Code of Practice on Disciplinary and Grievance Procedures alongside a consultation on the draft Code



Data (Use and Access) Act 2025



Complaints

- 19 June 2026
- Organisations must have a procedure for dealing with individual's complaints about handling of their personal data
- Repositions organisations as primary point of resolution for complaints
- Individuals can still complain to the ICO
- Receipt of complaints must be acknowledged within 30 days from date of receipt
- Complaints must be investigated and responded to without undue delay
- Complaints rights must be included in privacy notices and DSAR responses
- Appropriate records of complaints handled must be maintained

New regulations and codes of practice

EHRC Code of Practice

- Updated Services Code of Practice brought into force on 5 August 2026

Electronic and workplace balloting

- Code of practice on electronic and workplace balloting brought into force on 25 August 2026
- Applies to statutory trade union ballots

Trade union workplace access

- Government response to consultation and final draft Code of Practice and regulations published

Prohibition of all detriments for taking protected industrial action

- Government response to consultation and draft regulations laid before Parliament



What is changing from October
2026?



1 October 2026

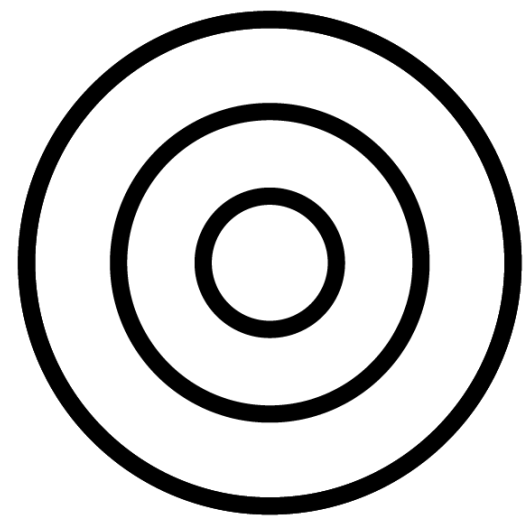
ET time limits

- Increase to time limit for bringing a claim in the Employment Tribunal
- From 3 months to 6 months

NB: For breach of employment contract claims in Scotland, change takes effect from 9 November 2026

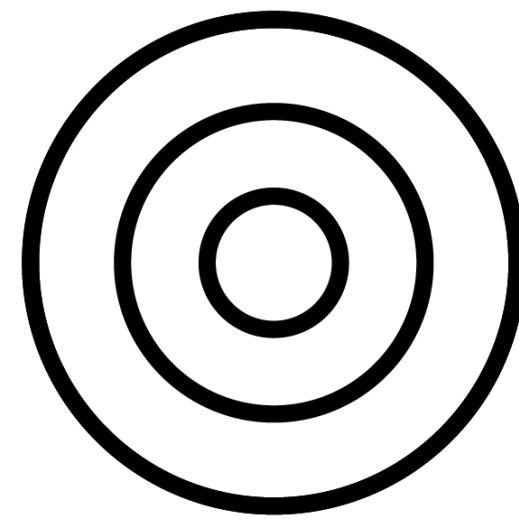


Changes planned for 30 October 2026



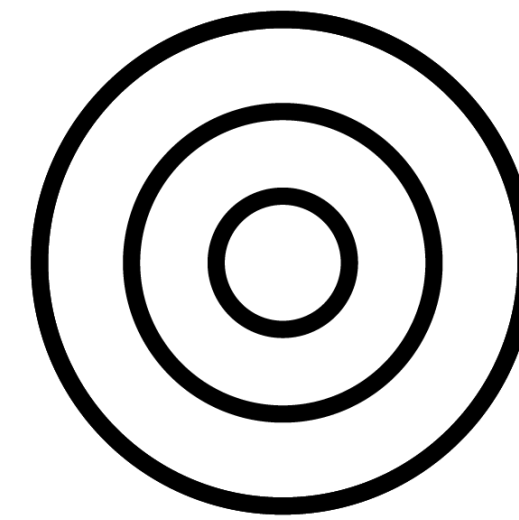
Sexual harassment & third party harassment

- Duty extended so employers have to take all reasonable steps to prevent sexual harassment of employees
- New duty on employers to take all reasonable steps to prevent third-party harassment of employees



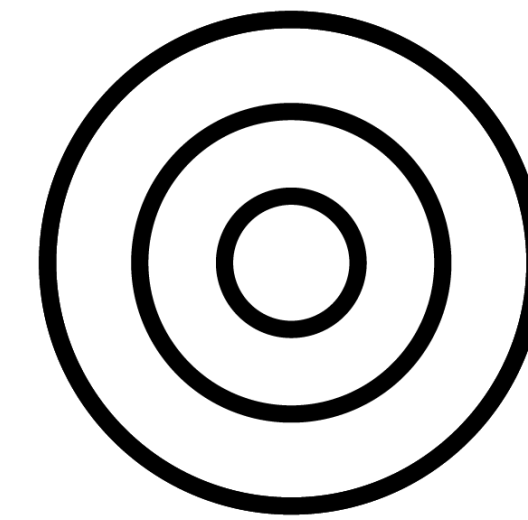
Right of access

- Trade unions to be given a right of access to workplaces both physically and digitally



Right to join a TU

- Employers to provide a written statement confirming an employee's right to join a trade union at the start of employment and then at regular intervals



TU representatives

- New protections for trade union representatives and members including provision of facilities, reasonable paid time off and new role of equality representative
- Protection for employees against detriment to deter them from, or penalise them for, taking protected industrial action

Other measures this year

Procurement

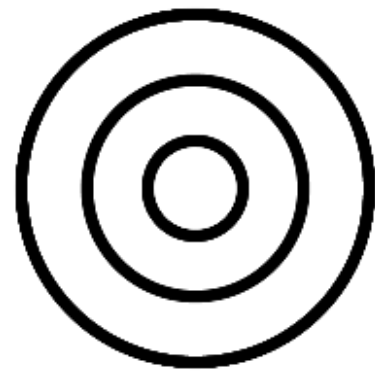
- Reintroducing rules to prevent two tier workforces where public sector services are outsourced
- Plan to introduce in October 2026

Tipping

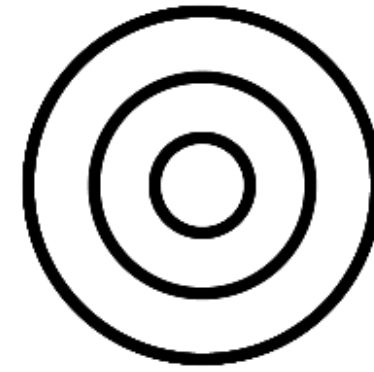
- New consultation requirement before introducing a tips policy and then every three years
- Provision of anonymized summary of the consultation to all workers
- Plan to introduce before the end of 2026



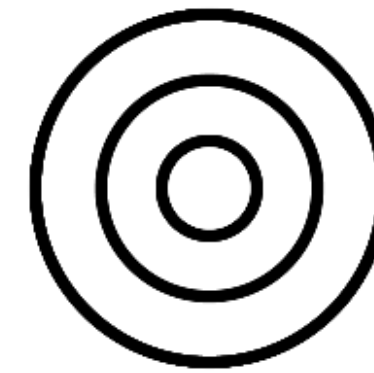
Key actions for employers



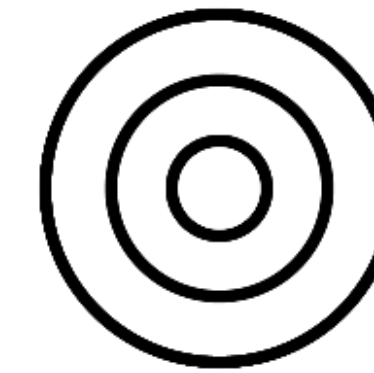
- Audit your workforce to assess the impact of the changes



- Update harassment policies and procedures
- Prepare written statement of right to join a trade union and issue to existing workforce
- Communicate updates to workforce



- Train HR teams, payroll and managers



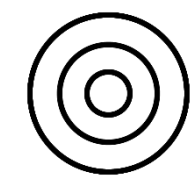
- Review levels of interest in union recognition
- Review your current union recognition agreement
- Consider establishing a standing body of elected representatives for consultation purposes

What is changing in January
2027 and the impact for higher
earners

3

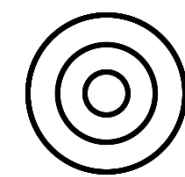


Employment Rights Act 2025



Unfair dismissal

- Reduction in the qualifying period for unfair dismissal claims to 6 months
- Removal of the cap on the compensatory award
- 1 January 2027



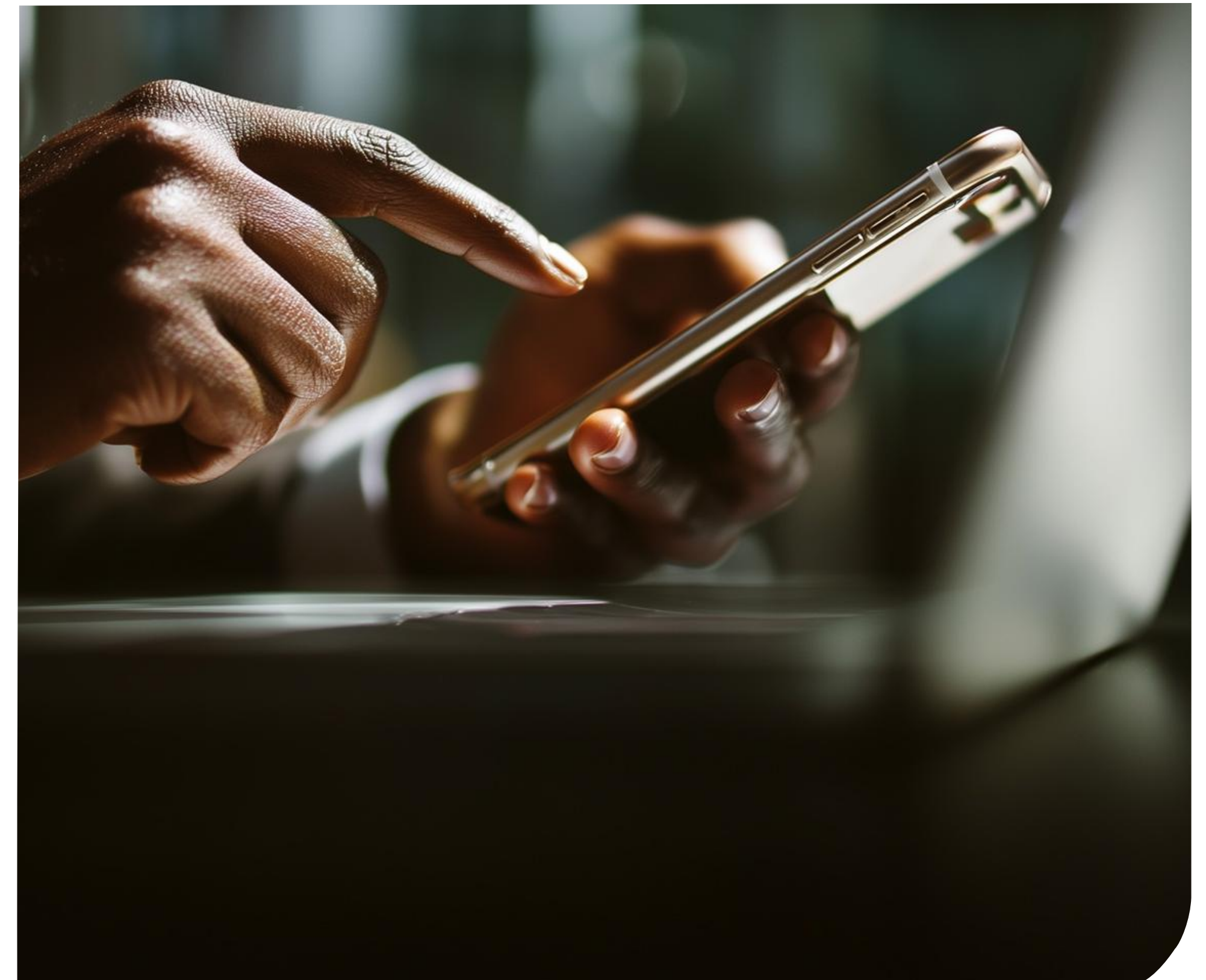
Fire and re-hire

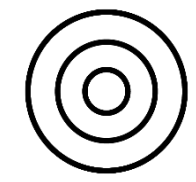
- Restrictions on an employer's ability to make a restricted variation to an employee's contract of employment where the employee does not consent to the variation
- January 2027

Impact for higher earners - calculating compensation

Compensatory award

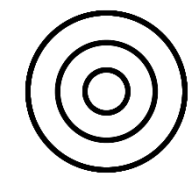
- Objective is to compensate fully
- No prescribed formula – such amount as the tribunal considers just and equitable
- Intended to put the employee in the position they would have been financially had they not been unfairly dismissed
- Loss of wages – based on the amount the employee would have earned if they had remained employed
- Will include sums the employee reasonably expected to receive had they remained in employment e.g. bonuses, commission payments
- Will include loss of any benefit that the employee might reasonably be expected to receive but for their dismissal e.g. value of share options which the employee will lose out on because of termination





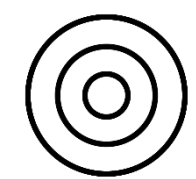
Higher stakes

- Removal of compensation cap means financial awards can be much greater
- Remedy hearings likely to be necessary, increasing complexity, cost and delay



Harder to settle

- More difficult to quantify loss
- Longer periods of loss taken into account
- With greater potential to recover losses, employees may be more reluctant to settle on a commercial basis



Process more important

- To give employers a better bargaining position, a fair process will be key BUT this is often difficult to achieve with senior employees where the business disruption is greater
- Will need strong probation and performance management, proactive response to concerns, careful planning and clear paper trail with supporting evidence
- Review contracts and reward structures

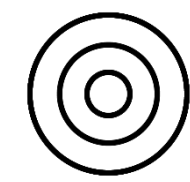


What else is coming next year?



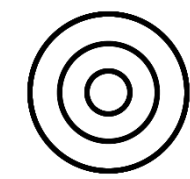


Employment Rights Act 2025



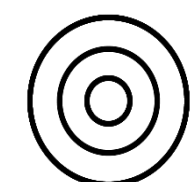
Changes to zero hour and low hour contracts

- Right to guaranteed hours offer
- Right to reasonable notice of shifts and changes to shifts
- Payments for cancelled, moved or curtailed shifts
- Contracting out by way of collective agreement



Collective consultation

- New trigger for collective consultation obligations based on redundancies across an entire organisation

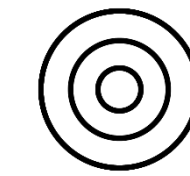


Flexible working

- Requirement for any refusal of a request to work flexibly to be reasonable
- Employer to provide written explanation of basis for refusal and why it is reasonable in the circumstances

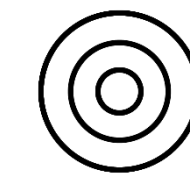


Employment Rights Act 2025



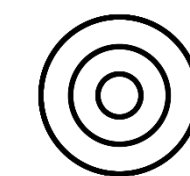
Equality action plans

- Mandatory requirement on large employers to publish equality action plan setting out steps adopted to address matters related to gender equality in the workforce together with prescribed information relating to the plan
- Includes addressing the gender pay gap and supporting employees going through the menopause



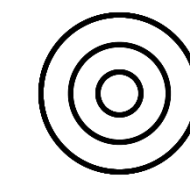
Dismissal protections

- Enhanced protection against dismissal or redundancy during pregnancy and during or after family leave



Bereavement leave

- Entitlement to unpaid bereavement leave of at least one week
- Will sit alongside existing provision for parental bereavement leave



Non-disclosure agreements

- New restrictions on use of non-disclosure clauses to prevent a worker from making allegations or disclosures about harassment or discrimination



Other proposals

⊙ Employment rights for unpaid carers

- Government has published terms of reference for a review of employment rights for unpaid carers
- Review to be concluded by end of 2026

⊙ Reform of employment non-competes

- Government has published a working paper on options for review of non-compete clauses in employment contracts
- Currently no timescale for implementation of changes

⊙ Mandatory disability and ethnicity pay gap reporting

- Consultation on options for introducing mandatory disability and ethnicity pay gap reporting issued last year
- Draft Equality (Race and Disability) Bill expected this year

Contact us



CHARLOTTE STAPLES
LEGAL DIRECTOR

- +44 (0)3700 865077
- +44 (0)7803 630012
- Charlotte.staples@shoosmiths.com



CHARIS BROWN
SENIOR ASSOCIATE

- +44 (0)3700 865018
- +44 (0)7716 096352
- Charis.brown@shoosmiths.com





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