



DWF Law LLP

# Employment law update 31 March 2025

# Agenda

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1. Welcome

2. Employment legislative reform in 2025 and beyond

3. Case update

4. Evaluating the workforce through a risk lens

5. What's on the horizon?

6. Questions

# Employment legislative reform in 2025 and beyond

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# The Employment Rights Bill: Unfair dismissal

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We are awaiting the consultation on how the “lighter-touch” dismissal procedure will operate.

Repeal of  
qualifying  
period

What if an  
employee  
has not yet  
started work?

Probationary  
periods

Consultation

Change  
expected in  
**Autumn**  
**2026**

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Strengthened protection for pregnant women, those who have been pregnant and those taking or returning from a period of statutory family leave.

# Key considerations for employers

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Robust recruitment processes



Review performance and disciplinary procedures to ensure they are fit for purpose



Keep probationary periods under review



Consider notice periods



Increased risk of claims

# The Employment Rights Bill: The future of fire and rehire

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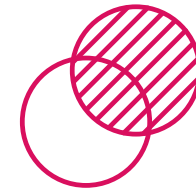
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Automatic unfair dismissal



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Permitted when necessary to remain viable, to preserve the workforce and where there is genuinely no alternative.



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Government response to consultation

Nb: Protective award can now be uplifted or reduced by up to 25% for failure to follow the Code of Practice on Dismissal and Re-engagement

# Key considerations for employers

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Changing terms and conditions will become harder.  
Employee engagement will be more important than ever.



Increased risk of claims when changing terms and conditions.

# The Employment Rights Bill: Collective redundancies

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- One establishment – what is the latest position?
- Increase to protective award
- Government consultation

## Key considerations for employers



Major change to collective consultation law

Once enacted it will be important for employers to take this into account when restructuring



# The Employment Rights Bill: Ending “exploitative” zero hours contracts

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Labour will end ‘one sided’ flexibility and ensure all jobs provide a baseline level of security and predictability, banning exploitative zero hours contracts and ensuring everyone has the right to have a contract that reflects the number of hours they regularly work, based on a twelve-week reference period.

## Labour’s Plan to Make Work Pay



The duty to offer guaranteed hours



Notice of shifts



Compensation for cancelled, moved or curtailed shifts



Agency workers



Automatic unfair dismissal



Detriment



Collective agreements and contracting out



Consultation



## Key considerations for employers

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Employment models will need to be revisited

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Implement robust procedures to ensure compliance

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Review contracts

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Train staff

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# The Employment Rights Bill: Trade unions

## Consultation response

- Improving the **process and transparency** around trade union **recognition**, including streamlining the recognition process and strengthening protections against unfair practices.
- **Extending access provisions** to cover digital access and by ensuring processes are proportionate and effective by introducing a fast-track route for achieving an access agreement.
- **Abolishing the ten-year requirement** for unions to ballot their members on the maintenance of a **political fund**.
- **Simplifying** the current information requirements on **industrial action ballots and notice to employers** and ensuring trade unions provide a ten day notice period for industrial action.
- Delivering **e-balloting** which the Government anticipate will increase participation in statutory ballots and enable the demonstration of clear mandates.
- **Extending the expiry of a trade union's mandate** for industrial action from **six to 12 months**.

### Key considerations for employers



Fostering good industrial relations will be of paramount importance

Increased role of unions going forwards

# Further changes under the Employment Rights Bill

## Key considerations for employers



Review contracts, policies and procedures

Provide training



Day one rights to family leave  
Paternity – Parental – Bereavement

Flexible working – test of  
reasonableness introduced

SSP – removal of waiting days  
and extends eligibility to those  
earning below the LEL



# Further changes under the Employment Rights Bill

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- Tribunal **time limits** – increased from three to six months for various claims
- **Tackling non-compliance in the umbrella market**
- **Fair Work Agency**
- Public sector **outsourcing**



# The Equality (Race and Disability) Bill

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- Extension of pay gap reporting to ethnicity and disability for employers with more than 250 staff and measures on equal pay
- Extension of equal pay rights
- Closing the outsourcing loophole
- Regulatory and enforcement unit

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A photograph of two women sitting at a table in a modern office setting, engaged in a conversation. One woman is wearing a light-colored shirt and the other is wearing a dark blazer. They are both smiling and looking at each other. A laptop and a white mug are on the table. The background shows a large window with a view of a city skyline.

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# Family leave

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Neonatal Care (Leave and Pay) Act  
2023

Provides the right to statutory neonatal care leave  
(capped at 12 weeks) and pay (statutory).

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**Bereaved partners'  
paternity leave**

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# Case update

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# Discrimination

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Was a Christian school worker's dismissal following Facebook posts unlawful discrimination?

***Kristie Higgs v Farmor's School – Court of Appeal***



The Court of Appeal judgment is the latest in a long line of cases on gender-critical beliefs and same-sex marriages

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Staff training and clear policies and procedures are key – including on social media use

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Employers often need to balance competing protected characteristics

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# Discrimination

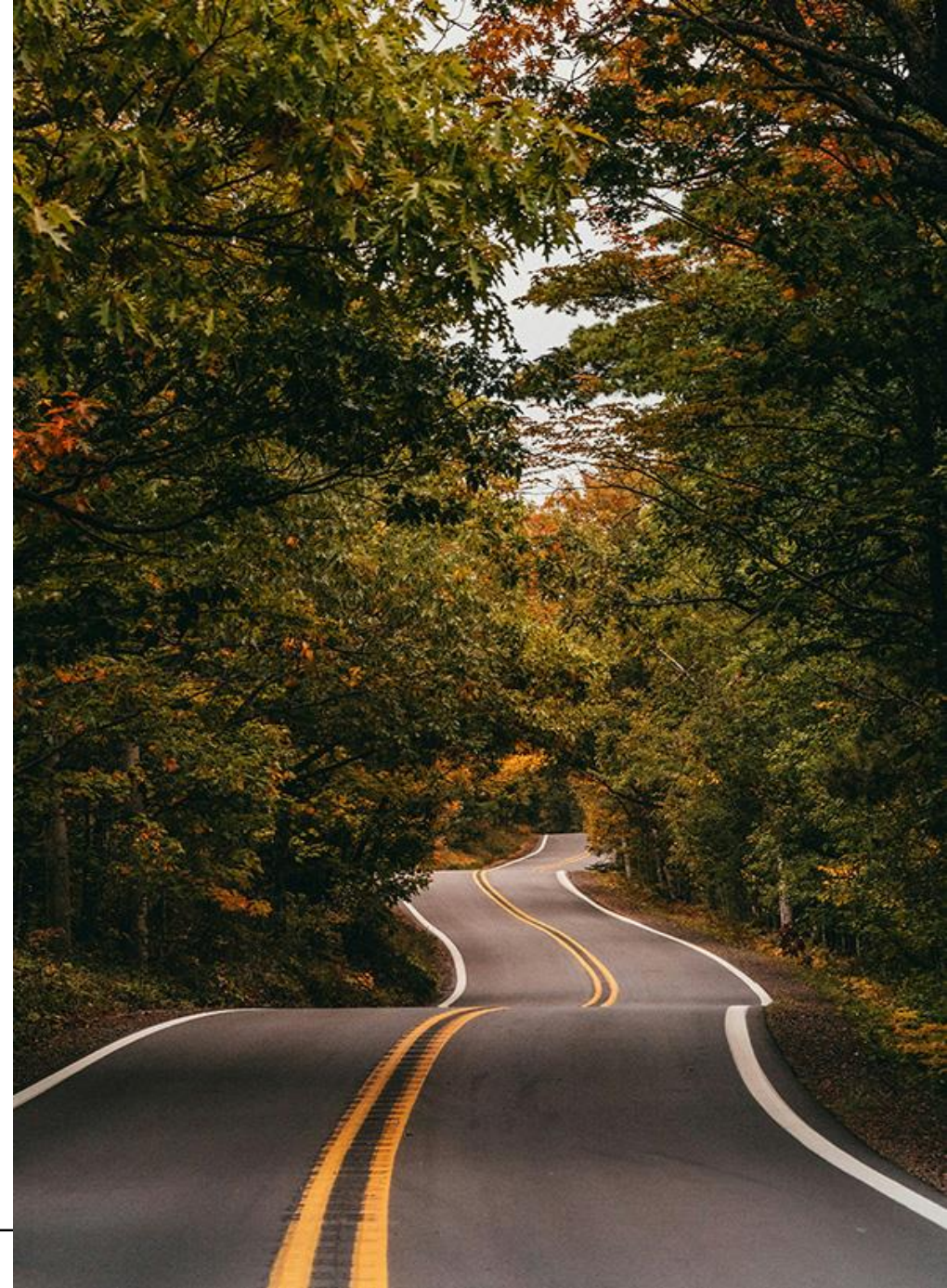
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Does a requirement to travel put women at a disadvantage?

***Marston (Holdings) Limited v Perkins – Employment Appeal Tribunal***



We are likely to see more challenges in this area as many employers are seeking a full return to the workplace



# Discrimination

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Consider workplace culture



Staff training and robust policies and procedures are key

Could comments about an accent be “related to” race for the purpose of a harassment claim?

***Carozzi v University of Hertfordshire and anor – Employment Appeal Tribunal***

# TUPE

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What happens when an employee objects to a transfer involving a substantial change in working conditions to their material detriment?

***London United Busways Ltd v De Marchi and another***

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Useful clarity provided by  
the EAT

# Redundancy

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Does absence of “general workforce consultation” over small-scale redundancies make a dismissal unfair?

***De Bank Haycocks v ADP RPO UK Limited –  
Court of Appeal***

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Important to remember that each case will turn on its own facts.

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“It is good practice for employees to be given, in the course of individual consultation, the opportunity to express their views on any issue that may affect the risk of their dismissal or its consequences, whether it is peculiar to them as an individual or common to the affected workforce as a whole.”

**Court of Appeal**

# Case tracker: Key cases to watch

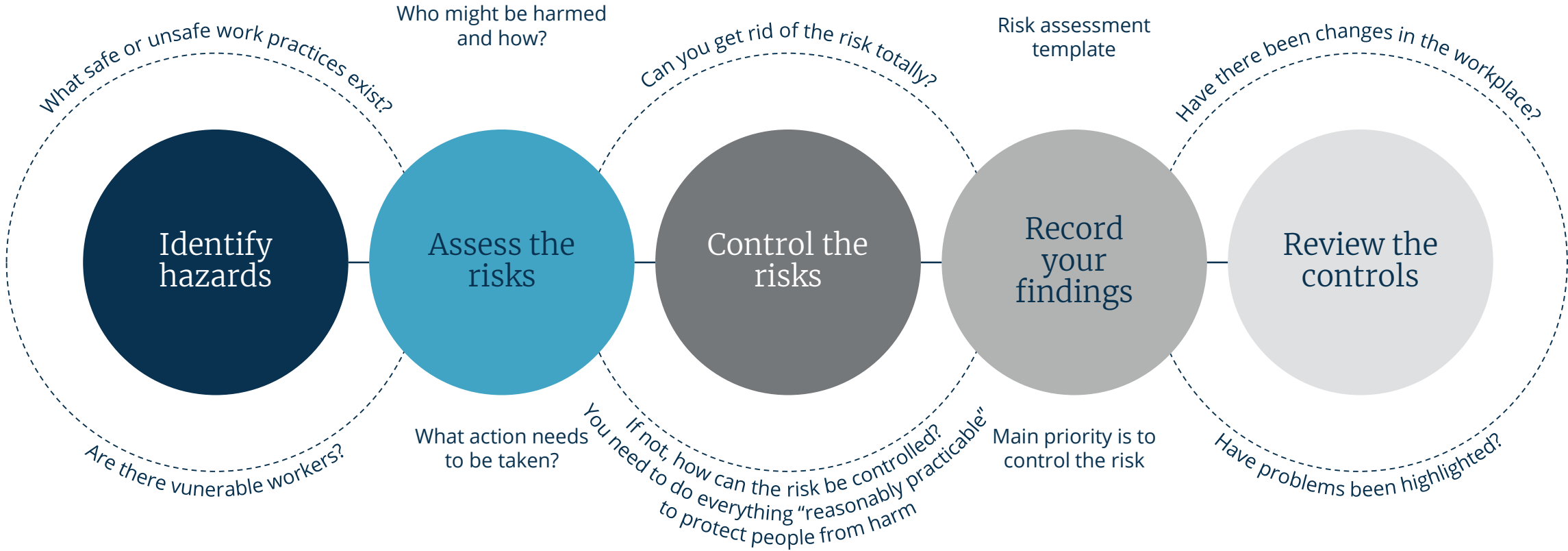
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Case	Detail	Key dates
<b>Employment status</b> <i>Lutz v Ryanair DAC</i>	Is a pilot supplied by an agency via a service company an agency worker or self-employed?	Due to float in the Court of Appeal on 1 or 2 April 2025
<b>Whistleblowing</b> <i>Sullivan v Isle of Wight Council</i>	Should an external job applicant be allowed to bring a whistleblowing claim?	Heard by the Court of Appeal on 19 February 2025 – awaiting judgment
<b>Flexible working and the childcare disparity</b> <i>Dobson v Cumbria NHS Foundation – Employment Tribunal</i>	Does the childcare disparity prevent an employer’s dismissal of a female nurse for refusal to work weekends from being proportionate?	Heard by the Employment Appeal Tribunal on 16 December 2024 – awaiting judgment

# Evaluating the workforce through a risk lens

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# Managing risk and risk assessments at work



# A risk based approach to harassment

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An employer is unlikely to be able to comply with the preventative duty unless they carry out a risk assessment.

## EHRC Technical Guidance



Duty to prevent sexual harassment in the workplace



Employment Rights Bill amendment extending the duty to require employers to take “all reasonable steps” to prevent sexual harassment



Further regulations may specify steps that are to be regarded as "reasonable" for the purpose of determining whether the employer has taken or failed to take all reasonable steps to prevent sexual harassment.



Employer liability for third-party harassment



# Other areas of risk to consider

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HR is often seen as the epicentre of any organisation due to its pivotal role in all aspects of the workforce. Taking a risk based approach can help provide a methodical strategy to handling key issues.



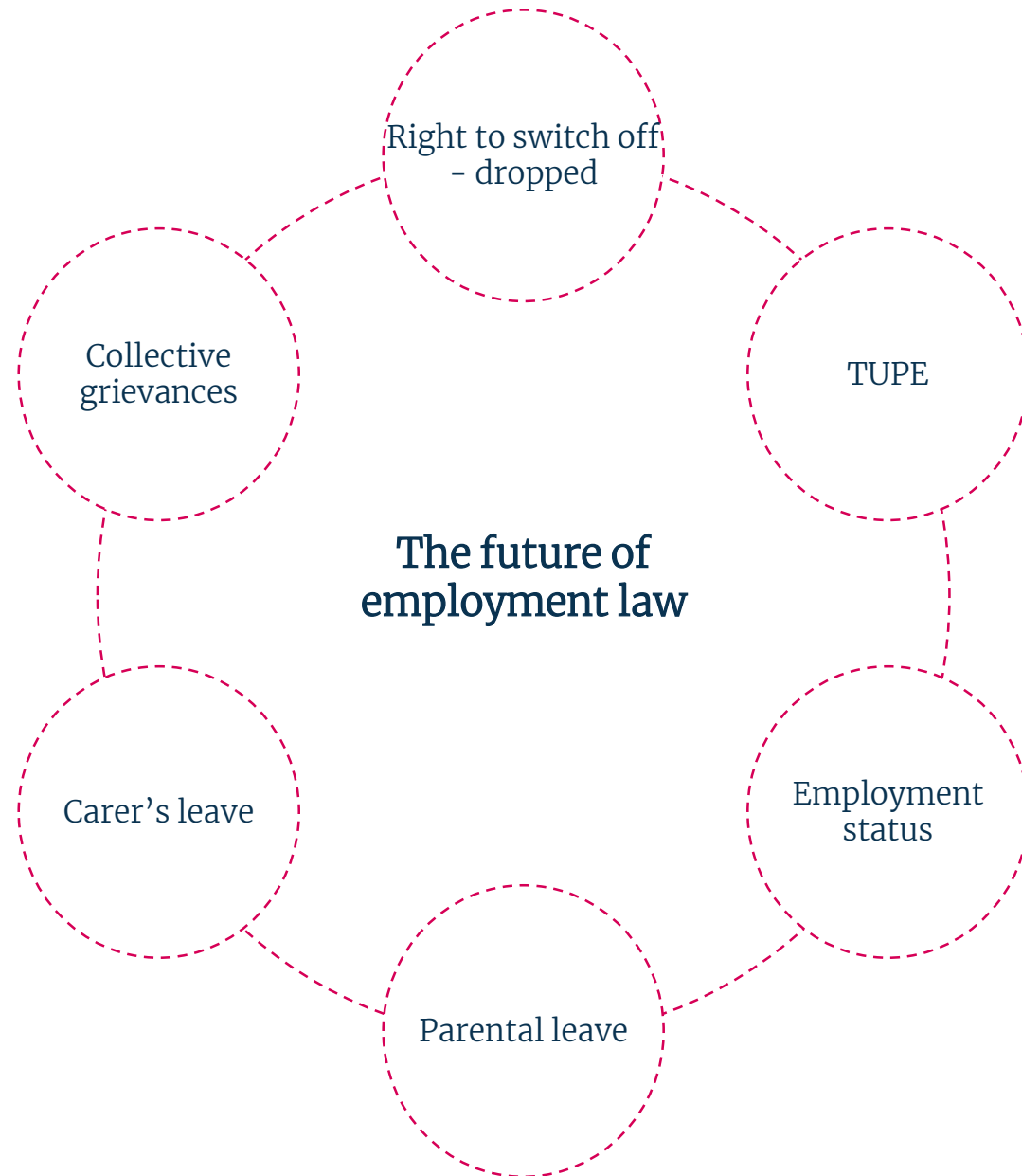
What's on the horizon?

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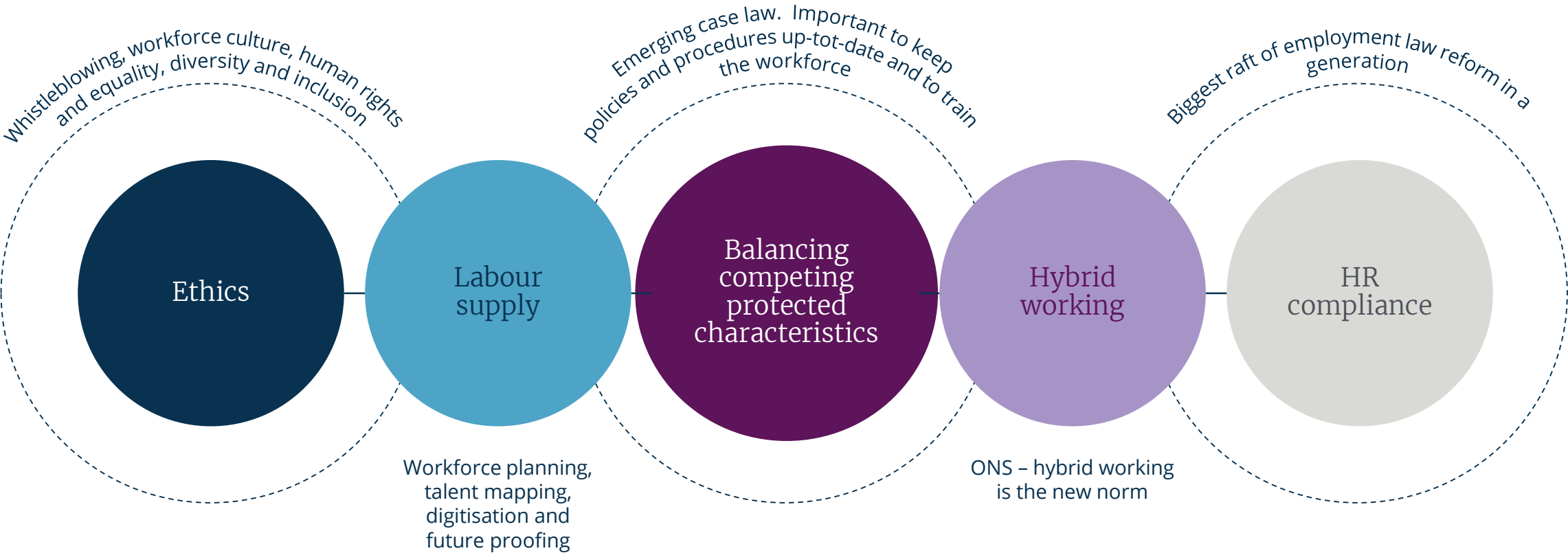
# What is still on the agenda?

This government is committed to delivering all our manifesto commitments with a Plan to Make Work Pay. While the Employment Rights Bill will play a vital role in delivering many of these, others will be delivered through alternative routes. Again, the government will continue to work with trade unions and business, consulting fully on how to best implement plans.

## Next steps to Make Work Pay



# A look ahead: Key issues for employers



# Questions

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