

Top five takeaways for schools on the Employment Rights Bill

20 November 2024  Heather Mitchell

It won't have escaped your notice that Labour committed very early on to significant changes to employment law. The proposals herald sweeping changes for how staff are employed in this country.

Here are our key takeaways for schools and academies:

1. Day one rights for unfair dismissal mark a shift in how we manage staff

Schedule 2 to the Bill introduces what is being called a 'statutory probationary period'. At this point we don't know exactly what rights staff will have on day one, but it's likely that there will be a probationary period (the length being consulted on is nine months).

There will be a required process for any dismissals in that period, but thereafter the usual unfair dismissal rules will apply. This will be a sea change in how we manage staff in their first two years of employment.

2. Collective redundancy position will be more onerous

After much caselaw, the law had settled on the position that the requirements for collective consultation applied where it was proposed that 20 or more employees are to be made redundant 'in a single establishment'. For a multi-academy trust (MAT) that would be likely to apply to each school.

The proposal now is that the single establishment provision will be removed. This will mean that the requirements for collective consultation will be triggered much more frequently.

Consultation is also taking place on doubling the protective award for failure to comply with the rules. Where we frequently are in the unenviable position of having to make redundancies for budgetary reasons, MATs in particular will need to take particular care to ensure that they are complying with the collective consultation requirements.

3. It's going to be easier for staff to go on strike

Labour is proposing to reverse many of the changes that the Conservative government made in this area. Ballot requirements are being significantly reduced so that a simple majority of those who choose to vote will be enough to pass a ballot for industrial action.

The provision for the action to be valid for six months is also being removed which will really change the tactics around seeking to end disputes. Whilst it is possible (but not guaranteed) that pay deals will mean we have less national unrest; we're seeing increasing action at a local level and we expect unions to feel emboldened in this area.

In more positive news, the requirement for minimum service levels during industrial action will be scrapped - to the delight of many education leaders.

4. Return of the School Support Staff Negotiating Body

The School Support Staff Negotiating Body will be reintroduced with a mandate to introduce a national pay and conditions framework for support staff. The proposal is for the School Support Staff Negotiating Body to ensure that support staff are paid fairly and have access to training and career progression opportunities. Consultation on the detail will be forthcoming, but there's no question that the intention is for this to apply to academies as well as local authority schools.

The School Support Staff Negotiating Body is not expected to be in place until 2027. There are many questions about how this will work in practice:

- Will it include setting pay for senior execs within MATs?
- How are they going to mandate any changes?
- What if your existing terms and conditions are better than those they set down?

This will require extensive consultation and we know that the sector will be vocal in feeding these concerns into the consultation. In the meantime, we advise that you don't let it be a barrier to making the decisions you were going to take between now and then.

It will inevitably add an extra level of complication and as we get closer to the time and we do have the detail of the proposals we'll have to think carefully about how changes are made, but we're not in a position to factor that in in a meaningful way at this point. Three years is too long to stand still.

5. All reasonable steps are required to be taken to prevent sexual harassment

The Equality Act 2010 was amended from October this year to require that employers take reasonable steps to prevent sexual harassment. It is proposed that this will be enhanced to **all** reasonable steps requirement. This is an extremely high bar for employers.

With surveys of employees consistently reporting that around **one third** of all employees report that they have been subjected to sexual harassment within a 12-month period prompting this change in legislation, adopting a position that this isn't happening at all within your organisation is unlikely to reflect the reality.

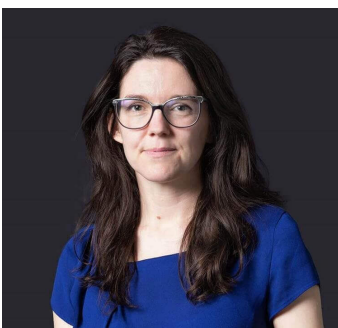
The proposals also strengthen the provisions around third-party sexual harassment, so the duty extends to you being required to take all reasonable steps to prevent parents from sexually harassing staff. This is a significant shift.

Labour have followed through with their intention to reset the employment relationship. With proposals still to come on reporting and equal pay for disability and race as well as potential for significant changes to worker status, this is just the start.

Further information and support

- [Labour's employment law reforms: Employment Rights Bill unveiled](#).
- [How schools can grapple with new employment law \(webinar\)](#).
- [Preventing sexual harassment in our schools \(webinar\)](#).
- [Preventing sexual harassment toolkit \(resources\)](#).
- [Register for #EdCon2025, our free virtual conference, where we'll be exploring the updated position in March](#).

Key contact



Heather Mitchell

Partner

heather.mitchell@brownejacobson.com

+44 (0)20 7871 8511

Related expertise

Services

Education law	Employment	HR services for schools and academies
Employers and public liability	Governance of schools and colleges	