



*Championing better
work and working lives*

Employment Rights Bill: call for evidence

Submission to the Business and Trade Committee

**Chartered Institute of Personnel and Development (CIPD)
December 2024**

About CIPD

The CIPD is the professional body for HR and people development. The not-for-profit organisation champions better work and working lives and has been setting the benchmark for excellence in people and organisation development for more than 100 years.

It has 160,000 members across all sectors and sizes of organisation and provides thought leadership through independent research on the world of work and offers professional training and accreditation for those working in HR and learning and development.

Public policy at the CIPD draws on our extensive research and thought leadership, practical advice, and guidance, along with the experience and expertise of our diverse membership, to inform and shape debate, government policy and legislation for the benefit of employees and employers. It also seeks to promote and improve best practice in people management and development and to represent the interests of our members.

As the UK's chartered body for HR and people development, we support the government's ambition to create more inclusive and better-quality work. Our members are the frontline practitioners who will be implementing these reforms, designing policies and training managers and workers to ensure they understand new rights, obligations and procedures in workplaces across the UK.

Executive Summary

1. The CIPD has previously called for an Employment Bill that can update employment law to better reflect the changing world of work. We welcome the opportunity the bill offers and the government's commitment to consultation with employer organisations.
2. We are concerned that, without meaningful consultation, the scale of the measures in the bill and the speed with which it was introduced to parliament, could mean some missed opportunities and leave open the potential for unintended consequences.
3. CIPD's [research](#) comparing employment protections and labour market outcomes in OECD economies found that, in most areas, the UK's less rigorous regulation compared with some other OECD countries is not associated with worse labour market outcomes on most indicators or with an inferior quality of work.
4. The research also found a stricter employment regulation is generally associated with a higher level of temporary employment and a higher proportion of people in temporary work who want permanent jobs.
5. Government and the committee must therefore consider the potential for negative unintended consequences of measures in the Employment Rights Bill. Particularly where that might have the effect of creating more insecure work or discouraging employers from hiring people who may need more support or development. These can be avoided through meaningful consultation with employers as key measures are confirmed and refined through written consultations and in secondary legislation.
6. To improve the labour market enforcement system, alongside a Fair Work Agency, there needs to be comprehensive labour market enforcement strategy that includes the new Fair Work Agency, the Health and Safety Executive and the Equality and Human Rights Commission. Additional funding will be required for more labour market inspectors and measures taken to improve the efficiency of the over-burdened employment tribunal system.
7. The CIPD has also called for Acas' budget to be doubled to £120m a year to support its ability to advise and support employers - particularly SMEs - to comply with new regulation and ensure the system overall can play a much stronger role in raising employment standards.

Relationship between employment protection and labour market outcomes

8. The CIPD has undertaken research published [here](#) into the impact of regulation relating to employment protections on the labour market, by drawing on evidence from the OECD and

the EU. It updates similar research undertaken around ten years ago which drew similar conclusions.

9. The research found that in most areas the UK's less rigorous regulation compared with some other major OECD countries is not associated with worse labour market outcomes on most indicators.
10. The UK sits low in the league of nations in terms of strictness of employment protection on both individual and collective dismissals, as shown in this table:

EPI score by country	All dismissals		Collective dismissals		Individual
Italy	2.9	Italy	3.2	Italy	2.7
France	2.7	France	3.3	France	2.5
Sweden	2.5	Sweden	2.7	Sweden	2.5
Spain	2.4	Germany	2.6	Spain	2.4
Poland	2.4	Spain	2.4	Poland	2.4
Germany	2.3	Poland	2.4	Germany	2.2
Japan	2.1	UK	2.3	Japan	2.1
UK	1.9	Japan	2.0	UK	1.7
Canada	1.7	Canada	1.9	Canada	1.7
US	1.3	US	1.3	US	1.3
OECD	2.3	OECD	2.4	OECD	2.2

Note: Index on scale of 0 to 6, with 6 as most strict. Source: [OECD Indicators of Employment Protection | OECD](#)

11. But despite its low level of employment protection, the UK has an above average employment rate at 75% and relatively low unemployment at 4%, by OECD standards.¹ It also has a low proportion of people in temporary employment at 5%.
12. By contrast, 17% of workers in Spain are in temporary employment, 16% in France and 12% in Germany. In addition, the UK's 26% of temporary workers who say they want a permanent job is just over half the EU average, with 49% of temporary workers in France wanting a permanent job 79% in Italy and 82% in Spain.

Employment protection and restrictions on temporary work

Temporary hires stats	EPI temporary hires (2019)		Temporary (% of employees) 2023		Involuntary (% of temp) 2020
US	0.3	US	4	Germany	12 (2019)
Canada	0.4	UK	5	UK	26
UK	0.4	Germany	12	Poland	45
Japan	1.3	Canada	12	France	49
Germany	1.7	Sweden	15	Sweden	54
Poland	1.8	Japan	15	Italy	79
Sweden	1.5	Poland	15	Spain	82
Spain	2.5	France	16	EU average	51
France	2.6	Italy	16		
Italy	2.8	Spain	17		
OECD	1.8	OECD	11		

¹ Employment rate is share of population 15 to 64 in employment. UK national statistics are for 16 to 64 and differ slightly. Sources: [Employment rate |](#)

13. The CIPD's research shows that stricter employment regulation is generally associated with a higher level of temporary employment and a higher proportion of people in temporary work who want permanent jobs.
14. The most likely explanation for this correlation in most is that high levels of protection for permanent workers means employers use temporary labour more to regain flexibility. In contrast, most temp work in lightly regulated countries such as the UK is for short term cover for sickness and holidays and highly seasonal work. Moreover, when temporary work is boosted by excessive restrictions it is associated with high levels of involuntary temporary work (defined as all those who said they took a temporary job because they could not find a permanent job).
15. If one of the UK Government's objectives is to prevent the creation of more insecure work, policy-makers need to consider whether any of the proposed changes to strengthen employment rights could undermine this ambition. Unwanted unintended consequences can be avoided through meaningful consultation with employers on key measures as more details emerge in consultations and in secondary legislation and through further refinement of policy in some areas.

Achieving the ambitions of the Employment Rights Bill

Overview

16. The CIPD has previously called for an Employment Bill that can update employment law to better reflect the changing world of work. Whilst the previous government made progress in a number of areas, including on flexible working and maternity rights, we welcome the opportunity this bill offers and the government's commitment to consultation with employer organisations on some of its key measures.
17. However, we remain concerned that the scale of the measures in the bill and the speed with which it was introduced to parliament could mean some missed opportunities and leave open the potential for unintended consequences in some areas. For example, the potential for wider reform of statutory sick pay linked to a broader health and work strategy, or the impact of the changes to the unfair dismissal regime.
18. The scale of the changes proposed in this Employment Rights Bill mark the biggest shift in employment rights in a generation. As a result, there will be an increased compliance and administrative burden on employers in a number of areas and a real need for clear communication of the new laws, enhanced support for employers to support compliance and better resourced enforcement.
19. The potential costs of the reforms outlined in the government impact assessment help illustrate some of the challenges employers may face in implementing them. That cost should also be seen in the wider context of increased costs to businesses from the significant inflationary pressures in recent years and more recently in the increase in employer national insurance contributions in the Autumn Budget. However, our early consultation survey which ran in September 2024 showed broad support from members for many of the proposed measures in the bill with some notable exceptions (See Appendix A), which includes strong opposition to the scrapping of the unfair dismissal qualifying period.

Which of the proposed 28 measures could be most impactful for employers and employees?

Scrapping the unfair dismissal qualifying period and the creation of a new statutory probation period.

20. There is a need to ensure that the proposed changes to the rules on unfair dismissal don't have the effect of increasing the cost and risk to employers of hiring permanent staff.
21. The consequence of this could be to prompt employers to move away from being more inclusive in recruitment and from hiring employees who are perceived as higher risk. Our analysis of comparable countries suggests it could also boost the creation of more temporary and insecure work. Our member focus groups have also revealed a potential for increased use of settlement agreements.
22. Scrapping the unfair dismissal qualifying period has raised the most concerns with our members and the introduction of new statutory probation rules will be uncharted territory for British employers. This will also mean a level of divergence with Northern Ireland, which is retaining a one-year unfair dismissal qualifying period with their equivalent employment legislation.
23. From an employer perspective there has been a consistent view that reducing the qualifying period would be the best compromise in providing more security for new employees, whilst also working within a framework that is well understood by employers. We continue to believe that it would lead to better outcomes for both business and workers if the qualifying period were reduced rather than removed and for government to consult on a wide range of options.
24. Under the government's plans it will be important that the new statutory probation period is made as simple and easy to apply as possible. If it is overly complex it is likely that employers will start to make decisions about dismissing new staff that are taking longer to get up to speed or need more support, well before the end of the proposed nine-month period to ensure dismissals are completed by the deadline.
25. Lessons need to be learnt from the statutory three step discipline and grievance process, which was abolished largely because it resulted in further complexity and legal disputes over whether the precise procedure had been appropriately followed by employers or employees. The situation is likely to be further complicated for employers as it is likely that employment tribunal case law will emerge as a result of the impact of these changes.

Enforcement and the Fair Work Agency

26. The CIPD has long called for a new single enforcement body, and we welcome the establishment of a Fair Work Agency. However, to realise the ambition of the new agency, the government must take further steps to improve labour market enforcement and support employer compliance.
27. Improving enforcement will require a comprehensive labour market enforcement strategy that includes the new Fair Work Agency, the work of the Health and Safety Executive and the Equality and Human Rights Commission. Additional funding will be required for more labour market inspectors and measures to improve the efficiency of the over-burdened employment tribunal system.
28. The CIPD has also called for Acas' budget to be doubled to £120m a year to support its ability to advise and support employers - particularly SMEs - to comply with new regulation and ensure the system overall can play a much stronger role in raising employment standards.

Industrial relations and new trade union rights

29. The CIPD believes that the new emphasis on social partnership and meaningful employee engagement can play a key role in helping organisations innovate and adapt to the multiple challenges facing them, for example as they seek to adopt new technology and manage competing demands on resources. Our 2024 [joint CIPD and Prospect policy paper](#) on strong partnerships, good jobs, and productive partnerships, makes the case for resetting employment relations in the UK.
30. However, for many organisations and HR professionals, employment relations as a discipline has declined over recent decades. Whilst the public sector and some key industries have maintained recognised unions and are used to dealing with collective employee voice through a range of channels, a large number of private sector employers have not dealt with trade unions at all and may have limited channels for engaging employees collectively.
31. The changes proposed in the bill, if successful in their aim, will see an increase in statutory trade union recognition. This means there is an urgent need to address employment relations and industrial relations skills in many workplaces.
32. There are also more detailed concerns to address in the implementation of the measures and how employers are able to respond or not. The current consultation draws out some of those issues but not some of the substantive ones such as lowering the thresholds for statutory recognition and for industrial action ballots. We are keen for the government to consult across the breadth of changes in this area and key areas to consider include:
33. **Principles-Based Framework:** the CIPD supports a framework based on the government's proposed principles of collaboration, proportionality, accountability, and balancing interests between workers, employers, and the public. However, these will need practical implementation through a code of practice and adequate resources for oversight bodies like Acas and the Employment Tribunal Service.
34. **Enforcement and Access:** the CIPD supports CAC enforcement for workplace access agreements but we urge some caution. This relationship with trade unions will be new to many employers and upskilling employers and unions for better collaboration is essential. It's also essential that the CAC has the resources to assume responsibility for oversight of access agreements.
35. **Industrial Action and Ballots:** we support retaining detailed information requirements for ballots to help employers plan for disruptions and believe there are potential democratic concerns around extending union mandates for industrial action from 6 to 12 months.
36. **Preventing Unfair Practices:** the CIPD supports stronger safeguards against unfair practices during union recognition processes and we believe there needs to be legislative and procedural clarity to prevent disputes.
37. **Sector-Based Partnerships:** we recommend enhancing sector bodies to drive collective employer action on workplace practices, job quality, and technology adoption.
38. Overall, we believe a balanced approach combining these reforms with investment in education, guidance, and resources to strengthen workplace relations will help to ensure a productive transition for employers, employees and trade unions.

Considerations for other key components of the Bill

39. The Employment Rights Bill is wide-ranging and our members will be the ones implementing these changes in organisations up and down the country. In that context there are some key issues to raise on some of the detail of how these will be implemented:

Zero hours contracts

40. It is important that the reference period that frames the new right for zero hours and low hours workers to a contract that reflects the hours they normally work, is long enough to take account of seasonal and other fluctuating changes in demand faced by business.
41. In the CIPD's view this should be set at a minimum of 26 weeks to accommodate the challenges for workforce flexibility faced by employers across a range of sectors.
42. The reference period is so important to the impact and workability of the new rights for zero hours workers, so it is essential that it is consulted on before a decision is made to confirm it as 12 weeks. Employers are likely to rely more on more temporary forms of employment if the perceived cost and risk of using zero hours contracts arrangements is perceived as excessive.
43. We would also like agency workers exempted from this new right as it is very difficult to see how either the agency or the end hirer could in practice take responsibility for offering guaranteed hours. The agency is not in control of the hours worked as that will be driven by the end hirer (or end hirers) and the end hirer would only be able to guarantee the hours of an agency worker if they employ them directly as a permanent employee. If it were the responsibility of the employer, they would be forced to employ the agency worker directly, which could result in over-staffing that may not be sustainable and lead to redundancies - particularly if a 12-week reference period applies.
44. Applying this right to agency workers would also be very disruptive and potentially damaging to the recruitment industry which plays a key role in ensuring employers can access a wide range of both permanent and contingency workers.

Statutory Sick Pay

45. We have found broad support from employers for reform of statutory sick pay in our surveys, including scrapping of the lower earnings limit and ending the waiting period.
46. For those employers who have raised concerns through our member forums, ending the three-day waiting period is the most financially impactful and some further concerns have been raised about this since the rise in employer national insurance from the Autumn Budget.
47. We believe there is a further opportunity to look at greater flexibility for SSP to support phased returns to work, as well as to consider the rate at which SSP is paid.

Collective redundancy and fire and rehire

48. Earlier this year, [we published an employer guide that emphasises that 'fire and rehire'](#) creates a high risk of reputational damage and an adverse effect on employee relations. It should only be undertaken after extensive consultation and consideration of all other alternatives.
49. Our evidence suggests that the practice of dismissal and re-engagement is uncommon, despite some high-profile cases.
50. However, we believe Clause 22 of the Employment Rights Bill is overly restrictive and could lead to business closures and increased redundancies. Employers could also use contract flexibility clauses to circumvent the laws, undermining proper consultation.
51. We believe that strengthening the current statutory Code of Practice that makes it clear the practice is to be used as a last resort with stronger remedies against abuse, would be the best approach.

Flexible Working

52. There is support from CIPD members for making flexible working the default and strengthening the right to request flexible working from day one.

53. However, certain sectors especially those with non-office and front-line staff, will find this more challenging.
54. That's why we would like to see a challenge fund set up to support SME's and sectors that find enabling flexible working more challenging to trial and learn from different approaches. That's why we would like to see a challenge fund set up to support SMEs and sectors that find enabling flexible working more challenging to trial and learn from different approaches.
55. Considering the right to request flexible working legislation was only amended in April 2024 to a day one right, we would also like to see a full evaluation of the impact this change has had on the availability and uptake of flexible working and the perspectives of both employees and employers.

Strengthening pregnancy and maternity protections

56. There is support from CIPD Members for strengthened pregnancy and maternity protections.
57. Given the very high levels of pregnancy and maternity discrimination, it is the right thing to do and an important signal to employers that this type of behaviour will not be tolerated.
58. It would also be helpful to provide guidance to employers on good practice on family friendly employment practices.

Day one parental leave

59. Overall, we support the introduction of a day one right to parental leave. However, some of our members voiced concerns about challenges around resourcing gaps and length of notice given for those taking unpaid parental leave, in particular. We recommend government should consult with employers on this.
60. As above, government guidance to employers on good practice on family friendly employment practices would be helpful here.

Equality action plans

61. We support a focus on actions and the practical steps employers can take to support greater equality at work.
62. We also welcome the focus on incorporating menopause actions within equality action plans, given a fifth of women say they have left or have considered leaving work due to their menopause symptoms.
63. We would also like to see consideration of menstrual health support included in equality action plans.
64. It will be important to consult with employers on the simplest and most effective way of reporting on equality action plans and providing supportive guidance aimed at creating holistic cultures based on equality.

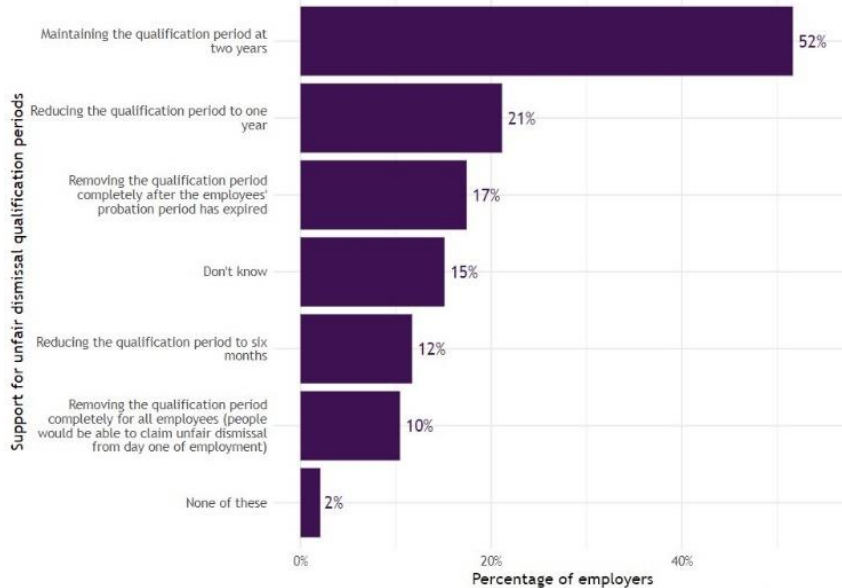
Appendix A - What do Employers think? Results of our YouGov Survey

Our latest survey of the people profession looked across all the key measures in the Bill looking for high level support or opposition. Notably, the fieldwork was done in advance of any further detail from published government consultations.

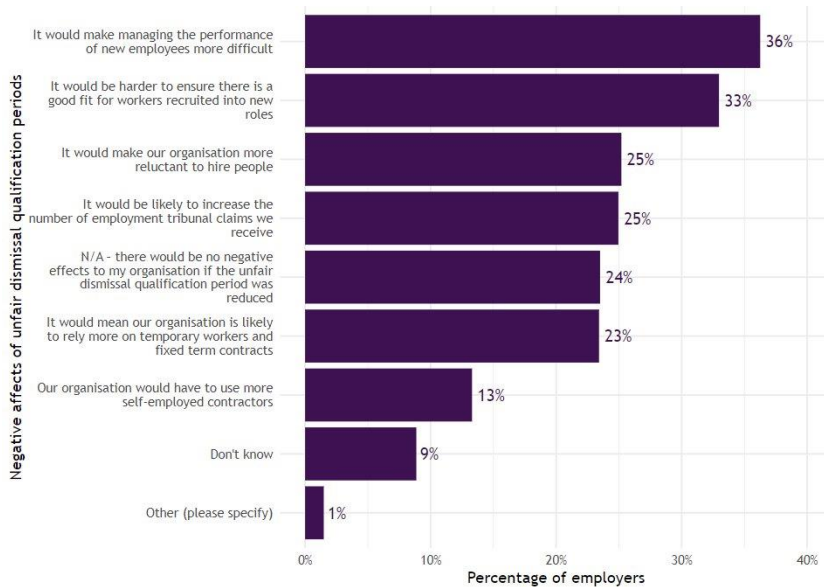
The total sample size was 1176 respondents in senior HR/management roles with responsibility for HR decision making. Fieldwork was undertaken between 2nd - 27th September 2024. The survey

was carried out online using the YouGov panel along with a survey link distributed by the CIPD. The figures have been weighted and are representative of all employers by business size and sector.

- **Support for Statutory Sick Pay reform:**
 - 45% of employers supported the removal of the lower earnings limit for SSP, 12% opposed this.
 - 49% of employers supported paying SSP from the first day of sickness absence, 27% opposed this.
- **Strong opposition to scrapping the unfair dismissal qualifying period:**

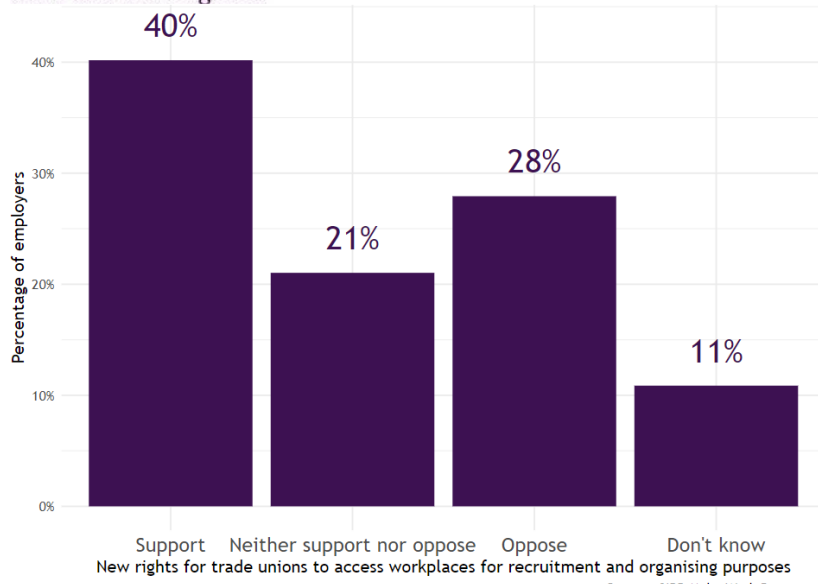


Source: CIPD Make Work Pay survey
Base: all employers (total: n=1,176)



Source: CIPD Make Work Pay survey
Base: all employers (total: n=1,176)

- **40% supported trade unions accessing workplaces:**



New rights for trade unions to access workplaces for recruitment and organising purposes

Source: CIPD Make Work Pay survey
Base: all employers (total: n=1,176)