



SUMMER 2025

DRAPER LANG QUARTERLY



Supreme Court Rules on the definition of a 'woman' What is the impact for employers?

Welcome to our new Draper Lang Quarterly Update. Here we share some employment news highlights and look at what's coming up to help your business planning.

In April 2025, the UK Supreme Court issued a landmark ruling in *For Women Scotland v The Scottish Ministers*, finding that, for the purposes of the Equality Act 2010, the terms 'man', 'woman', and 'sex' refer to a person's sex as recorded at birth. This means that holding a Gender Recognition Certificate (GRC) no longer changes an individual's legal sex under the Equality Act.

This ruling has significant legal and practical implications. While some employers may be immediately impacted, **all organisations should consider how the decision might impact their policies, workplace culture, and risk of claims.**

The judgment touches on deeply personal and often polarising issues - the strong social media response to it demonstrates the potential for workplace tensions. Employers therefore need to tread carefully in navigating the judgment's implications, particularly where views differ.

Employers have a **legal duty to protect individuals from discrimination** on the grounds of gender reassignment and also to protect their workers from discrimination based on their religious or philosophical beliefs, which might include gender-critical views. A recent Court of Appeal case found that an employer had directly discriminated against an employee for expressing such views online, underlining the legal complexities in this area.

In practical terms, employers should now take **time to review their internal policies**, particularly around inclusion, conduct, and social media use. Anti-discrimination **training should be refreshed** and should support respectful dialogue on sensitive topics. **Managers should be equipped** to handle discussions and concerns with care and consistency.

The Equality and Human Rights Commission (EHRC) has issued [interim guidance](#) in response to the ruling, particularly concerning single-sex spaces in the workplace. The guidance reminds employers of their duty to provide single-sex toilets and changing facilities, however these are now defined by reference to sex assigned at birth.

This creates potential complexity - excluding trans women from women's spaces may comply with the ruling, but could expose employers to claims of

discrimination related to gender reassignment. However, allowing trans women to continue using women's toilets, for example, would mean those facilities would no longer be 'single-sex' in line with the judgment and may lead to complaints from others on that basis.

In fact, health and safety legislation does not require single-sex facilities IF an employer can offer toilets or changing facilities that are independent rooms which can be locked from the inside. Therefore, where the building allows, **making toilets gender-neutral or mixed, rather than single-sex, may offer a practical, inclusion solution.** Alternatively, having a mix of male, female, and gender-neutral facilities may help.

Another significant implication of the judgment relates to situations in which **jobs may lawfully be restricted to one sex**, pursuant to the Equality Act. Employers relying on these exceptions, **must now base this on birth sex**, not legal gender or gender identity, which may have significant implications in certain sectors, such as health and personal care. Employers affected by these provisions should seek specialist advice.

At present, **gender pay gap reporting is unaffected.** Current regulations do not define 'man' or 'woman' and guidance advises reporting based on self-identified gender. However, this may come under further review.

It is important to emphasise that, despite the distress this judgment will cause for some, **legal protections for trans people remain in place.** The Equality Act continues to prohibit discrimination based on gender reassignment and, although this ruling introduces a narrower legal definition of sex, **it does not remove existing rights.** Trans people may still be protected from more "traditional" forms of sex-based discrimination, though there will be a little more legal complexity in formulating a claim—for example, where a trans woman suffers misogynistic comments, she may still claim sex discrimination based on how she has been perceived.

For some employers, this decision will require careful, immediate review and action. For others, the impact may seem less obvious. However, **all employers should remain alert to the risks and responsibilities arising from this ruling**, and should take steps to update training, policies, and workplace practices.

Above all, fostering a culture of kindness, dignity, and mutual respect amongst your teams will remain the strongest safeguard in navigating this evolving area of law.

Workplace Abuse: Changing Trends?

It seems not. The latest Skills and Employment Survey shows that one in seven UK employees has experienced workplace abuse—such as bullying, violence, or sexual harassment. Certain sectors are hit harder, with 32% of nurses and 28% of teachers affected. Women and night workers face especially high risks.

These survey results underline the need for employers to comply with their relatively new duty to protect staff from sexual harassment. Employers should prioritise regular training, clear reporting systems, and updated policies, all critical to embed a respectful, future-fit workplace.



Rates and limits: annual rise

The annual increase to the statutory compensation limits used in Employment Tribunal matters has been published. The new rates apply to dismissals and detriments occurring on or after 6 April 2025 and are below.

The **cap on a week's pay** (used in calculating redundancy payments and the basic award for unfair dismissal) has increased to **£719 per week** (up from £700). With the new weekly pay cap, the **maximum basic award** in ordinary unfair dismissal cases is **£21,570** (20 years × £719)

The **maximum compensatory award** in ordinary unfair dismissal cases is now **£118,223** or 52 weeks' gross pay, whichever is lower.

In discrimination claims, tribunals may award compensation for injury to feelings, guided by the **Vento bands**. The updated bands are:

- Lower Band (less serious or one off incidents): **£1,200 to £12,100**
- Middle Band (for cases that do not warrant the upper award): **£12,100 to £36,400**
- Upper Band (for more serious cases): **£36,400 to £60,700**
- Exceptional Cases: Awards may exceed **£60,700** in rare/extreme circumstances.

With the cost of living increasing and new jobs hard to find in certain sectors, employees may be more willing to make Tribunal claims. Given the high cost of compensation, it is even more important that employers take legal advice at an early stage to minimise risk, or at least to be aware of the risks they might be taking.

Named and shamed: NMW breaches

HMRC has published its latest list of employers failing to meet National Minimum Wage obligations, featuring both large **household names** and small businesses. Notable names this year include Pizza Express (£760,701.61 owed), Lidl (£286,437.18 owed), British Airways (£231,276 owed), and Halfords (£140,829 owed).

The list highlights that even well-resourced employers can fall foul of the complex rules—often due to technical breaches like uniform deductions or payroll errors, so it is easy to see how smaller employers might make innocent mistakes. Please do [contact our team](#) if you have any compliance queries.

Draper Lang News

On 17th, June a team of Draper Lang lawyers completed the London Legal Walk, **raising funds for the London Legal Support Fund** which supports legal advice agencies, to enable free representation to those who need it. It was a gorgeous 10k walk in the beautiful sunshine, and we enjoyed walking with thousands of other lawyers around London's landmarks for this brilliant cause.

We are proud to have reached our fundraising target. It's not too late to donate if you would like to though - all sums making a huge difference in helping people get access to justice. A massive thank you to all who donated, and well done team!! Please see our donation page [here](#).





Other news

- The Home Office have proposed to **extend right to work checks** to employers in the gig economy and those hiring on zero-hours contracts. This means businesses will have to verify that all workers have **the legal right to work in the UK before starting work**. Sectors like construction, food delivery, beauty, and courier services, which the government have identified often engage people on this basis, will face the same legal obligations as those using a traditional employment model. This is part of the government's crackdown on illegal workers and the reforms are now under parliamentary review. Once changes to the law come in force, non-compliance could result in fines up to £45,000 for first offences and £60,000 per illegal worker for repeat breaches, along with potential business closures and criminal penalties.
- The Age UK report, [The Rights of Older People](#), highlights **how ageism in the workplace continues to limit opportunities for older individuals**, often reinforced by discriminatory hiring practices and outdated stereotypes. The report stresses the importance of strengthening the law to better protect older workers from age-related discrimination and ensure fair treatment across all stages of employment. Shockingly, **around half (46%) of people aged over 50 report experiencing ageism in the last year**.
- In case you missed it, [ACAS launched a campaign to help employers support neurodivergent staff](#), with practical guidance on inclusive recruitment, reasonable adjustments, and workplace awareness. HR professionals should review existing policies to ensure they accommodate different cognitive styles and prepare for more detailed guidance and accountability expectations.

COMING UP

5 June 2025 – The **Employment Rights Bill (ERB)** enters its Committee Stage in Parliament. This key stage will shape the final details of the legislation, however we expect no major updates before the autumn.

Updated government factsheets for the Employment Rights Bill are available [here](#).

30 June 2025 – Deadline for submissions to the [Equality Law Call for evidence](#) on existing equality legislation, which seeks input on how well current laws are working in practice.

30 November 2025 – The House of Lords Committee on [Home-Based Working](#) is expected to publish its findings on the effects of remote and hybrid working, following its wide-ranging enquiry.

November 2025 – The Court of Appeal is expected to deliver its decision in **Groom v Maritime and Coastguard Agency**, a significant case concerning employment status that could impact future interpretations of worker classification, particularly related to volunteers.

We love to hear from you, so please [get in touch](#) if you would like to know more about anything featured in this update, or to give us any feedback.

