CPA Employment Rights Bill Briefing

Summary Notes

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Where the Bill is Now

- The Employment Rights Bill was published last October (within the Government's "100 days" pledge). Initially just over 200 pages, it is now more than 300 pages and covers over 30 measures.
- Much of the detail is left to secondary legislation, meaning consultations and regulations will follow.
- The Bill is currently at its third reading in the House of Lords (expected Sept 2025) before returning to the Commons. It should become law in autumn 2025.
- Important: Becoming law does *not* automatically implement most provisions. It triggers further consultation and regulation.
- A Government roadmap (July 2025) sets expected timings. In most cases, changes are not due until 2026–2027.

Zero-Hour Contracts & Guaranteed Hours Offers (GHOs)

- Labour pledged to end "exploitative zero-hours contracts." Instead of a ban, the Bill (Clause 1) creates a duty for employers to issue a Guaranteed Hours Offer (GHO) to "qualifying workers."
- A qualifying worker = someone on a zero-hour or minimal-hours contract whose hours have become regular over a reference period.
- Details missing:
    - Length of reference period (likely 12 weeks – but still to be defined).
    - Number of hours needed to qualify.
    - Format of the offer (but it must specify days/times when work will be available).
- If the worker refuses a GHO, employers must continue making offers after future reference periods.
- GHOs also apply to agency workers to allegedly stop employers bypassing the rules. If an agency worker accepts GHO, the worker becomes employed by the hirer (raising questions over transfer fees and agency contracts – no guidance yet).

- House of Lords amendment (July 2025): shifted the duty from employers to workers (i.e. a right to *request* a GHO). This mirrors Conservative "predictable hours" proposals but is unlikely to survive in the Commons, given Labour's manifesto pledge.

Shift cancellations and compensation

- New rights for zero-hour and agency workers:
    - Reasonable notice must be given for shifts and cancellations.
    - Compensation payable if shifts are cancelled or changed at short notice.
- "Reasonable" and "short notice" are still undefined.

Timing:

- Consultation on definitions in autumn 2025.
- Implementation April/Oct 2027.

Preparation for providers:

- Audit workforce reliance on zero-hours and assess appetite for more predictable contracts.
- Map which roles are most exposed to cancellations (where compensation risk is highest).
- Don't rush into system changes yet – regulations are missing.
- Use time to prepare audits and cost modelling.

Trade Union Reforms (Part 4 of the Bill)

Labour is reversing many Conservative restrictions, aiming to increase union activity.

Key changes:

- Access to the workforce: Unions can request "access agreements" (physical or virtual) for recruitment and organising. Employers must agree unless they have "reasonable grounds" to refuse.
- Right to union information: Section 1 statements will have to include a worker's right to join a union.
- Statutory recognition thresholds lowered:
    - Support requirement reduced from 10% → 2–10% (to be set in regs).
    - Recognition ballots need only a simple majority of those voting (the current 40% participation threshold is removed).

Timing:

- Consultation in **autumn 2025**.
- Access agreements and duty to inform staff in force from **October 2026**.

Implications for providers:

- Providers should:
    - Take the “temperature” of staff attitudes to unions.
    - Review employee engagement structures (good reps, forums, feedback channels).
    - Consider proactive voluntary recognition where appropriate to maintain control.

Unfair Dismissal – Removal of Qualifying Period

- Current law: employees need 2 years’ service to claim unfair dismissal.
- The ERB removes this qualification entirely.
- Lords amendment: introduced a 6-month qualification period. But as this was a Labour manifesto pledge, the Commons will almost certainly reject the change – i.e. the qualifying period will be scrapped.
- To balance this, the ERB introduces a statutory probationary period with a lighter-touch dismissal process.Likely length = 9 months.
- It is not known what “light touch” will require (Govt suggests at least a meeting to discuss concerns).

Timing: Consultation in 2025, implementation in 2027.

Preparation for providers:

- Treat probation periods as business-critical: reviews must be meaningful, not a tick-box.
- Train managers to handle concerns promptly and document performance issues.
- Audit recruitment outcomes – are certain roles/departments generating high early attrition? Address now to minimise future risk.

Other Major Provisions

Fire and Rehire

- Dismissal for refusing “restricted variations” (pay, hours, holiday) will be automatically unfair unless the employer faces financial hardship and has consulted sufficiently.
- Applies to replacing staff with agency workers too.
- Timing: consultation autumn 2025; implementation October 2026.
- Action: Audit current T&Cs and consider any necessary changes sooner rather than later.

Statutory Sick Pay (SSP)

- From April 2026:
    - SSP payable from day one (no 3-day wait).

    - Removal of Lower Earnings Limit – low earners entitled to 80% of normal pay.
- Action: Review absence rates, costs, and reasons for absence; strengthen absence management processes and training.

Sexual Harassment & Third-Party Harassment

- Since Oct 2024: duty to take reasonable steps to prevent harassment.
- From Oct 2026: duty raised to “all reasonable steps”, covering harassment by third parties too (e.g. service users, families).
- Action: Review policies, risk assessments, care plans, and staff training. Consider how to protect staff when people you support lack capacity.

Two-Tier Code

- Returns in Oct 2026. Ensures staff on outsourced contracts are on equal terms (both transferred staff and new staff).
- Major cost implications for outsourced services – detail still awaited.

Fair Work Authority (FWA)

- Launching April 2026. Will enforce labour standards (NMW, holiday pay, working time).
- Powers to inspect and bring claims on workers’ behalf.
- Action: Audit compliance with NMW and holiday pay rules now.

Practical Steps for Providers

- Stay informed: Subscribe to updates, track consultations.
- Audit key areas: zero-hours use, probation management, sickness absence, harassment risks.
- Strengthen workforce relations: proactive employee voice channels may mitigate union activity.
- Plan for contract updates: probationary periods, union rights, fair pay agreements, harassment prevention.
- Engage in consultations: Collective responses from the sector can help shape the detail.

Summary of Questions Raised in Chat

We have pulled out key questions from the chat that we might want to explore going forwards.

Guaranteed-Hours Offers

- Can a provider offer just one guaranteed hour?
- Will the threshold be 5 or 10 hours per week?

- Will the reference period be rolling? Can guaranteed hours be reduced if working patterns change?
- Will employers be locked into guaranteed hours "in perpetuity" or can contracts be reviewed?

Agency Worker Implications

- Will agency workers be entitled to permanent contracts at agency rates?
- What impact will this have on temp-to-perm fees and agency fee structures?
- Will the 12-week reference period apply to agency workers as well?
- Could this lead to a two-tier workforce with agency-converted staff on higher pay?

Sector-Wide Concerns

- Is the government considering exemptions or adjustments for health and care sectors, particularly regarding bank and agency staff?
- How will this affect commissioning models in homecare, where shift volumes are low and unpredictable?
- Will Fair Pay Agreements extend to agency workers, potentially capping costs?