



Disputes Outlook 2026 Employment

For what comes next
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Spot the risks. Plan ahead. Resolve with confidence.

Disputes aren't always avoidable, but being prepared can make all the difference. By identifying potential risks early on, you can take control and shape an effective resolution strategy. Our team is here for what comes next.

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Live issues

Volume of Employment Tribunal claims

Employment Tribunal claims in England & Wales and Scotland are on the rise and we expect this upward trend to continue through 2026.

Multiple factors are contributing to this increase, including the Government's proposed reforms and heightened public awareness of employee rights (see Emerging Trends).

Now that the Employment Rights Bill has received Royal Assent, we anticipate a steady rather than dramatic increase in claim volumes. The nature of claims is unlikely to change until the Government completes its consultations, publishes the associated Regulations, and fully implements its key reforms.

In response to the anticipated increase in claims, there are ongoing efforts to recruit additional employment judges. However, as pressures mount, we expect strain on both the Employment Tribunal and ACAS.

From 1 December 2025, the early conciliation period doubled from six weeks to 12 weeks under The Employment Tribunals (Early Conciliation: Exemptions and Rules of Procedure) (Amendment) Regulations 2025. This extended period aims to facilitate more meaningful settlement discussions, though resource pressures on ACAS may undermine that objective. It remains unclear whether the extended timeframe will improve settlement rates or simply delay claims progressing to formal proceedings.

Key takeaway

- Prepare for an increase in claims. Strengthen internal grievance procedures, train managers on effective complaint handling and engage proactively in early settlement discussions. Budget for increased legal costs and settlement reserves in 2026.

Employment Tribunal delays

Proceedings in England & Wales face significant delays. Final hearings are being listed many months or even years after a claim is issued.

The reforms under the Employment Rights Act 2025 (**ERA 2025**) to extend limitation periods may compound this issue, allowing claims to be brought later and adding further pressure to an already strained system. The extension of the ACAS early conciliation period from six to 12 weeks (effective from 1 December 2025) will add further time to the pre-tribunal process, meaning claims may take even longer to reach a final hearing once issued.

As volume and delays intensify, we expect a continued shift towards mediation and commercial settlement as parties seek to avoid protracted tribunal proceedings.

The position is less pronounced in Scotland and Northern Ireland, where most cases are moving to a final hearing within 12-18 months.

Key takeaways

- With final hearings scheduled so far in advance, front-load your preparation to preserve evidence and avoid difficulties when memories fade and if witnesses move on to other employment.
- Consider mediation or commercial settlement early to mitigate delays and maintain control over timing and outcomes.

Emerging trends

AI assisted claims

Claimants are increasingly using artificial intelligence (AI) tools to assist with tribunal proceedings. Free and low-cost AI platforms enable unrepresented claimants to produce documentation that appears sophisticated and professional, with minimal cost or legal knowledge.

AI is also being used to generate multiple, lengthy applications throughout proceedings, significantly increasing legal costs for employers.

AI-generated claims often contain tell-tale signs of their origin. These include incorrect case citations, factual inaccuracies, fabricated evidence and misapplied legal arguments. While these submissions may appear polished on the surface, they frequently lack substantive merit.

Key takeaway

- Scrutinise all claimant evidence carefully, verify factual claims and legal citations, and challenge AI-generated inaccuracies

early. Where claimants submit excessive or meritless applications, consider seeking tribunal orders to limit further submissions or applying for costs.

Anonymity orders

Employment tribunals are increasingly granting anonymity orders, both on application and on their own initiative - a significant shift from previous practice.

While anonymity orders were previously rare and largely confined to cases involving sexual misconduct or disability discrimination, Rule 49 of The Employment Tribunal Procedure Rules 2024 gives employment tribunals wide discretion as to the type of privacy orders they make.

Employment tribunals are now granting orders in a broader range of circumstances, including cases involving mental health concerns, reputational damage and sensitive personal information.

Critically, tribunals can impose these orders without a hearing and before parties have had the opportunity to make representations.

Key takeaway

- Employers should be aware of anonymity orders, particularly in cases involving sensitive allegations, mental health issues or personal information.

A more litigious workforce

Employees are increasingly aware of their legal rights. This heightened awareness is translating into a more litigious workforce.

Widespread media coverage of the ERA 2025, combined with accessible AI tools and online legal resources, is empowering employees to challenge workplace decisions and pursue tribunal claims with greater confidence.

ESG considerations are also influencing behaviour, with employees more willing to raise concerns about workplace culture, diversity & inclusion and ethical business practices, knowing that stakeholders are scrutinising how organisations treat their workforce.

We are also seeing more grievances within the workplace, which may be contributing to the increase in tribunal claims.

Key takeaway

- Strengthen internal dispute resolution to address grievances before they escalate and clearly communicate workplace decisions to reduce misunderstandings that could lead to litigation.

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