



**Preparing for the Fair
Work Agency: why now
is the time to get ahead**

What Is the Fair Work Agency and why does it matter?

As part of the forthcoming Employment Rights Bill, the UK government has proposed the creation of a new, far-reaching enforcement body: the Fair Work Agency. While not expected to take effect before 2026, this planned change has already stirred considerable concern among employers. And rightly so.

The Fair Work Agency will merge several existing bodies, including:

- The Gangmasters and Labour Abuse Authority
- The National Minimum Wage Unit
- The Employment Agency Standards Inspectorate

Its remit will cover enforcement of key workplace rights, including:

- National Minimum Wage compliance
- Statutory sick pay
- Holiday pay
- Employment agency regulations
- Unpaid tribunal awards
- Licensing in regulated sectors
- Relevant parts of the Modern Slavery Act 2015

What sets the Fair Work Agency apart is its enhanced authority. Most notably, it will be able to:

- Investigate employers without employee initiation
- Bring tribunal claims on a worker's behalf
- Issue civil penalties and notices of underpayment
- Conduct workplace inspections and gather evidence
- Launch criminal prosecutions in serious cases



Why employers can't afford to ignore this

Traditionally, employment tribunal claims begin with the employee. Under this new regime, claims could be initiated without the employer even being aware of a grievance. This not only increases the risk of legal action but could mean:

- Greater reputational risk from public proceedings
- Higher financial exposure through penalties
- Complex legal defences if record-keeping is inconsistent or incomplete
- Increased inspections and oversight, particularly in high-risk sectors

For small and medium-sized businesses, this change could be especially challenging. A single complaint, even if unfounded, could lead to formal investigation.

This guide offers an overview of what employers can expect, why it matters, and the steps you should be taking now to prepare.

What Needs to Change in HR Practice

Preparation begins with HR. The following areas will be essential to review and strengthen:

1. Payroll and statutory pay compliance. Ensure your systems correctly calculate and record:

- Holiday entitlement and pay
- Statutory Sick Pay (SSP)
- National Minimum and Living Wage compliance

Errors in these areas, even accidental ones, could result in a formal notice and financial penalty.

2. Dispute and grievance handling. Tribunal claims often stem from poorly handled complaints. Review:

- Your grievance procedure
- Documentation and response timelines
- Training for line managers

3. Outsourced workers. If you use agency staff or subcontractors, you may still be liable for breaches. You should:

- Conduct due diligence on labour suppliers
- Check licences and payment practices
- Include clear compliance clauses in contracts

4. Whistleblowing and reporting channels. Ensure your whistleblowing procedures are up to date and trusted by staff. That means:

- Accessible reporting mechanisms
- Non-retaliation assurances
- Clear processes for investigation

5. Record-keeping and audit Trails. Good records are your best defence. You should:

- Maintain clear evidence of pay, contracts, hours worked
- Document grievance and disciplinary procedures
- Store and review inspection reports, if any

6. Staff training and awareness. Make sure your team is informed about:

- Employee rights and employer responsibilities
- How to escalate concerns safely
- Recognising and reporting wrongdoing

What "Reasonable Compliance" Might Look Like

The Fair Work Agency is expected to operate on a standard of "reasonable procedures" to prevent breaches. But what does that mean in practice?

Government guidance will likely mirror similar compliance frameworks (like those under the Bribery Act 2010). This may involve:

- Risk assessments across business functions
- Clear and enforced internal policies
- Training tailored to roles and risk levels
- Regular reviews and updates
- Active oversight by senior management

However, what is reasonable for a 30-person logistics company won't be the same as for a 300-person manufacturer. There is no universal template. While some steps might seem straightforward, developing a comprehensive, legally defensible framework requires:

- Knowledge of complex, overlapping employment laws
- Insight into HR systems and culture
- Experience identifying hidden risks

What you need is a customised, practical approach that reflects your business, your people, and your risk profile, covering the following:

- An audit of your current policies and procedures
- Identification of risk areas and compliance gaps
- Development of a tailored fraud and compliance framework
- Delivery of appropriate training
- Creation of a culture of openness and accountability

With enforcement powers expanding and tribunal claims potentially initiated without employee consent, the margin for error is shrinking. That's why you need to get ahead of the change.



We can offer support in managing your HR needs now as well as preparing for the changes ahead.

To discuss our packages in more detail, please get in touch for a confidential chat.

Simply contact our team on



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