FACTSHEET 9

TRADE UNION AND WORKER VOICE REFORMS – FROM UNION ACCESS TO STRIKES AND CONSULTATION RIGHTS

WHAT'S CHANGING?

ERA 2025 contains significant reforms to trade union law and, broadly, how worker voice is heard. Even if you're in a non-unionised environment, these changes can indirectly affect you or may require some adaptation. Key points:

- **Right of Trade Union Access to the Workplace:** Unions will have a new right to access workplaces (physical and digital access) to **recruit and organise workers**. Currently, as an employer, you can bar non-employee union officials from coming on site unless you want to allow it (except in special cases like a statutory recognition ballot where CAC can order access). ERA 2025 flips that – union officials will be able to *request* access, and you'll either need to negotiate an "access agreement" with them, or potentially have one imposed by the CAC if you can't agree. The access can be reasonable and not unduly disrupt business e.g. they might ask to speak to staff in a break room during lunch, or to hold a virtual meeting with staff via Zoom. Employers can propose reasonable limits, but the presumption is access should be allowed. If you refuse or fail to comply, the CAC (Central Arbitration Committee) can step in, order access, and even impose financial penalties. This is huge for previously union-free workplaces – you may soon have union organisers legally coming to speak to your employees. It's aimed to level the playing field for union recruitment. This change is due to take effect from October 2026.

- **Easier Union Recognition:** The thresholds and process for statutory union recognition are being eased in favour of union. ERA

2025 removes the requirement that 40% of the *entire bargaining unit* vote yes in a ballot (now just majority of those voting will suffice). It also removes the initial hurdle of proving likely majority support – so unions can get to a ballot stage more easily. And notably, the government can by secondary legislation lower the membership threshold (currently 10%) to as low as 2% – meaning a union with just a handful of members in your workplace could trigger the statutory recognition process. They haven't done that yet, but the power is there. Also, amendments will block employers from artificially inflating bargaining unit numbers to dilute union density after a request comes in (no more quickly hiring temps or moving people in to skew the numbers – the number will freeze 10 days after the request). Plus, protections against employer unfair practices (like anti-union campaigning tactics) are being strengthened to apply earlier in the process. All this means is that it will be easier for unions to get a foothold and win recognition in workplaces that are currently non-union. These changes are due to take effect from 18th February 2026 (although the lowering of the membership threshold will require separate regulations so remains at 10% for now).

- **Notice for Industrial Action & Strike Laws Repeal:** On the industrial action front, ERA 2025 rolls back some restrictive laws:
    - Repealing the Strikes (Minimum Service Levels) Act 2023 entirely – meaning no government-imposed minimum staffing during strikes in e.g. rail, fire, health, etc. This change happened immediately on ERA 2025 gaining Royal Assent (18th December 2025).
    - Repealing most of the Trade Union Act 2016 provision – so strike ballot turnout thresholds for important public services might go away, notice periods for strikes shorten from 14 to *10 days*, and the 6-month expiry of a strike mandate goes to *12 months*. These changes take effect from 18th February 2026 (2 months from Royal Assent). Electronic balloting for unions will be allowed (no more postal-only ballots)from April 2026.
    - New protections for workers in industrial action: making it unlawful to discipline or refuse work to someone for striking (closing the gap identified by the recent Mercer case) - from October 2026 and enhancing protection from dismissal for strikers – from 18th February 2026. Also making it a specific offence to blacklist union members (extended to more scenarios). This change will take effect from 18yh February 2026.
    - Introduction of Union Equality Reps who will have statutory rights to time off etc. to promote equality at work.
- **Information to Workers about Unions:** Employers will have to inform new workers that they **have a right to join a union*. This will be added to the required contents of the Day 1 written statement of particulars. Small addition, but culturally significant – it's meant to nudge awareness. Due to take effect from October 2026
- **Social Care Fair Pay Agreements & Others:** In social care, a new collective bargaining body will set sector-wide terms (likely including pay minima) across all providers if ratified by the Secretary of State. This is sector-specific but notable as a model (think construction or other sectors could follow). If you're in care, be ready for national negotiations affecting your pay structures by law.

Given all this, even companies without unions need to be prepared for more union activity. And those with unions will see them empowered with easier strike ballots and more say.

HR IMPACT – WHAT TO DO NOW:

- **If you are non-unionised:** Don't assume it will stay that way. With access rights and lowered recognition thresholds, unions might target your industry or specific hotspots of discontent.
    - **Employee relations:** The best way to remain union-free is to address employee concerns proactively so they don't feel the need for a union. Use engagement surveys, open-door policies, listening sessions. If pay or conditions have lagged, see what can be done – unions often find foothold where there's a gap between management and workforce. Not to say you can or should block a union (legally you cannot take anti-union actions), but you can certainly strive to be an employer where people are satisfied enough not to seek outside representation.
    - **Know the process:** Educate your HR and management on how union recognition works now. If you get a letter from a union claiming members and seeking recognition, you'll have to respond according to statutory timelines. With thresholds lower, a small group could trigger it. Be ready to engage or legally respond (maybe negotiating a voluntary recognition if appropriate or understanding the CAC process if contesting). It's complex, so maybe arrange training or a briefing from your legal advisors about "What if a union comes knocking?"
    - **Access agreements:** If a union requests access, think about setting some ground rules proactively (like, "okay, you can come on site outside of work hours or in a designated area, and with certain notice"). ERA 2025 says a default can be imposed by CAC if no agreement, so better to amicably agree terms of engagement. HR might become the liaison with union officials visiting. Prepare management not to see it as hostile – handle it professionally, as you would a safety inspector visiting. Resist any temptation to victimize employees involved – that would be automatically unfair and now even more scrutinized.
    - **Communication:** If union officials are coming, you might want to communicate with staff as well – not to dissuade (be careful – any anti-union messaging can backfire or even be unlawful if it veers into intimidation), but to ensure employees have facts. Possibly something like, "We're aware Unite the Union will be visiting site on X date to talk with employees. This is part of new legal rights for unions to access workplaces. It's your personal choice whether to engage with them or join. We'll cooperate as required and continue to ensure this is a respectful workplace for everyone." Neutral and factual.
    - **Resist knee-jerk anti-union measures:** Some companies panic and think of doing things like sending letters urging people not to join, or offering sudden pay raises to undermine the union. Be cautious: any suggestion of incentive to not unionise can be seen as unlawful inducement (breach of TULRCA s.145B). Era 2025 doesn't change that law, but the climate will be more union-friendly, so such moves could draw challenges. Instead, focus on positive employee engagement broadly.
- **If you already have union(s):** You'll need to adjust to these changes:
    - **Update strike protocols:** When the law changes, strikes might happen with 10

days' notice, not 1. That means less prep time for you. Also, strike mandates last 12 months, meaning you could have sporadic strikes over a whole year after one ballot. Plan business continuity for longer dispute scenarios. You also cannot rely on challenging minor balloting technicalities as much, since info requirements might be simplified. So, approach dispute resolution more earnestly – best not to let it escalate to strike if possible, because you have fewer tools to stop it legally.

- **No minimum service levels (in relevant sectors):** If you're in an essential service, know that soon you won't have statutory backing to force some people to work during strikes. You'll have to negotiate emergency cover with unions or face full stoppages. Prepare execs for that reality. And no more using agency staff to cover strikers either (that was separately outlawed again in 2023).
- **Inform reps of new rights:** Your union reps will get more rights – e.g., equality reps with paid time off. Ensure to accommodate that. Also, the duty to provide reasonable facilities to union reps is beefed us – e.g.you might need to provide meeting space, maybe certain IT access. Check your current arrangements; improve them if needed to comply.
- **Re-do the Contracts onboarding:** Insert the required statement that "you have a right to join a trade union" into offer letters or Day 1 statements. This is a quick win to implement.
- **Educate line managers:** If they hear more union talk or if union officials come on site, they should react lawfully. No anti-union remarks or actions. Also, if a union is in the middle of a recognition campaign or ballot, any whiff of management trying to influence or adding new workers to vote the union down could be seen as an unfair practice – and ERA 2025 makes it easier for unions to claim unfair practice now. So managers must maintain neutrality publicly and avoid threats/persuasion about union matters. I'd advise some internal comms: "Under new laws, staff have more freedom to engage with unions. It's company policy to comply fully and not interfere with those rights."

- **Sector considerations:** If you're in Adult Social Care in England, pay attention: ERA 2025's Fair Pay Agreements could effectively set minimum pay or terms across the sector, overriding your local decision. That body will include unions and employer reps negotiating. HR in care should follow that development, maybe participate via employer associations. Could be a sea change (like national bargaining in what's traditionally a very fragmented sector).
  - If in Education (school support staff), note there's mention of a negotiating body too (ERA 2025 includes a School Support Staff Negotiating Body to set pay for support staff in state schools) – again centralised pay setting coming back in some areas.
  - In general, this government approach is more collective bargaining-friendly, so sectors with low pay may see new wage-setting institutions. Keep an ear out; it might hit reward strategies.
- **Future stuff:** ERA 2025 doesn't directly mandate collective grievance processes yet, but since it's signalled, consider if you have a system for that. Perhaps strengthening group issue resolution via HR before it ever needs external attention.

ANTICIPATED QUESTIONS:

- *"Do we have to let any union in even if none of our staff are in it?"* – If a union seeks access, presumably they think they have potential members there. You can ask for credentials that they are a legitimate independent union and who they represent. But yes, legally if they follow the statutory process, you likely must allow some access. The law will detail reasonableness, but it's not optional.

- *"What if the union rep misbehaves on site or disrupts work?"* – You can impose reasonable conditions and if they truly cause disruption beyond agreed terms, you could ask CAC to restrict access. But don't overreact – minor inconvenience (like a 30-min meeting) is not disruption. Build a respectful relationship to avoid issues.

- *"This will increase strikes – how do we cope?"* – It might, though the hope is that better dialogue reduces need for strikes. However, plan operations for a potential rise in action, especially in public sector or larger workplaces. Use ACAS more, train managers in dispute resolution.

- *"We've never dealt with a union. Should we start training an in-house team?"* – Possibly yes. If you suspect union interest, get someone (or yourself) trained on labour relations. It's a specialized area. Many younger HR folks haven't had to handle collective bargaining; that might change. You could also designate an external lawyer or consultant to call if something arises suddenly.

- *"Will we have to negotiate pay with unions now?"* – Not unless they get recognition. If they do, yes, you'll collectively bargain on pay/terms for that bargaining unit. The threshold changes make recognition easier, so it's a greater possibility. Thus, think in advance: if a union came, who would represent the company in talks? What's our stance? It's better to have a plan than be caught off-guard.

Finally, note this part of ERA 2025 underscores a shift: empowering worker voice and unions. Even if you remain non-union, consider establishing alternative channels like employee forums, because the government might also encourage or mandate more consultation (like on AI surveillance, as hinted, or other issues). Engaged employees who feel heard are less likely to need third-party representation.

All told, HR should embrace the spirit of these changes: more transparency, more dialogue, and respecting employees' right to organise. If you do, adapting to the letter of the law will be much easier.