NOT GOVERNMENT POLICY – SUBJECT TO CONSULTATION

UK Government

Make Work Pay: Protection from detriments for taking industrial action

Start Date: 26 February 2026

Closing Date: 23 April 2026

Foreword

This government was elected on a pledge to rebuild our economy so that it delivers for working people.

That's why we have passed the Employment Rights Act 2025 in line with the government's plan to Make Work Pay to build a Britain for all, on the firm foundations of security, respect and opportunity.

The Act fosters a new partnership of cooperation between trade unions, employers and the government. This partnership will work successfully when employers are respected by trade unions and when trade unions are given space and support to effectively represent workers' collective voice.

Industrial action is one way in which workers are able to express their collective voice. While it should always be treated as a last resort, if and when workers do choose to take industrial action, it is important that they are treated fairly and respectfully. Properly managed industrial action supports effective industrial relations and creates the most effective pathway to a resolution that works for everyone.

The Employment Rights Act is enhancing protections for workers taking industrial action by prohibiting detriments that employers might enact to penalise, prevent or deter them from taking industrial action. This supports the government's aim of ensuring that industrial relations are conducted with integrity, fairness and mutual respect. We now seek your views on the scope of the prohibition to ensure a fair balance for unions, workers and employers.

The Rt Hon Peter Kyle MP

Secretary of State for Business and Trade and President of the Board of Trade

The Rt Hon Kate Dearden MP

Minister for Employment Rights and Consumer Protection

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Introduction

The Plan to Make Work Pay

The Plan to Make Work Pay sets out an ambitious agenda to deliver our Plan for Change by ensuring employment rights are fit for a modern economy, empowering working people and contributing to economic growth. Once implemented, the Plan to Make Work Pay will modernise our employment rights legislation extending the employment protections already given by the best British companies to millions more workers across the country.

The Employment Rights Act 2025 strengthens the underlying framework, making work more secure and predictable, putting more money into working people's pockets and giving dignity to those going through the toughest personal circumstances. This will boost workforce wellbeing and job satisfaction whilst also improving retention, productivity, and promote fair competition and economic growth.

Our phased approach to implementation provides clarity and time to prepare, while raising standards across the board creating a level playing field, improving staff retention, leading to a happier, more secure and productive workforce.

The government will continue to undertake comprehensive engagement on the implementation of Make Work Pay and the Employment Rights Act, to ensure that these changes work for businesses of all sizes.

The government wants to continue to hear the perspectives of employers, workers, trade unions and other stakeholders on how these changes will affect existing systems and processes, and the steps that will need to take place to adapt to these reforms.

Your insights are vital. As the Implementation Roadmap makes clear, we're committed to working in partnership with employers to ensure these reforms are not just ambitious, but achievable.

As we move into the implementation phase, this consultation will play a critical role in shaping how the Make Work Pay reforms are delivered, ensuring they are practical, inclusive, and responsive to the needs of employers and workers alike.

Detriments for Taking Industrial Action

This consultation forms part of the government's commitment in the Plan to Make Work Pay to strengthen the rights of working people, by updating legislation on protections for workers in relation to their participation in official industrial action.

The government believes that strong trade unions are essential for tackling insecurity, inequality, discrimination, enforcement and low pay. Improved worker representation and industrial relations can increase cooperation between employers and workers, leading to

beneficial outcomes for the economy. This government wants unions, employers and the government to work together in the spirit of partnership.

Industrial action should always be a last resort, but it is vital that workers have proper protections if and when they choose to take industrial action.

The Employment Rights Act 2025 provides new protection for workers against detriments that they are subjected to by their employer to penalise, prevent or deter them from taking official industrial action.

The Act enables the government to set out the detriments which are to be prohibited in regulations.

This consultation seeks your views on what those prohibited detriments should be.

We understand that all interested parties will want clarity on the law in this area as soon as possible. The government will consider all consultation responses with a view to bringing forward the resulting secondary legislation by October 2026.

Consultation Details

Issued: 26 February 2026

Respond by: 23 April 2026

Enquiries and Responses to:

tradeunionpolicy@businessandtrade.gov.uk

Write to:

Trade Union Policy, Employment Rights Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

Consultation reference:

Make Work Pay: Protections from Detriments for Taking Industrial Action

Audiences:

- businesses
- employers
- workers
- trade unions
- business groups or representatives
- non-governmental organisations
- all other interested parties

Territorial extent

The right of access will apply in England and Wales, and Scotland. It will not apply in Northern Ireland, where employment law is devolved.

How to Respond

Online: via Qualtrics – If you have any queries, please contact surveys@businessandtrade.gov.uk team

or

Email: tradeunionpolicy@businessandtrade.gov.uk

or

Write to:

Trade Union Policy, Employment Rights Directorate
Department for Business and Trade
Old Admiralty Building
Admiralty Place
London
SW1A 2DY

We strongly encourage that responses are made via the online platform. Using the online survey will assist our analysis of the responses, enabling more efficient and effective consideration of the issues raised.

If you are responding in writing, please make it clear which question each comment relates to.

Your response will be most useful if it is framed in direct response to the questions posed, though further comments and evidence are also welcome.

When responding, please state whether you are responding as an individual or representing the views of an organisation.

Confidentiality and data protection

Information you provide in response to this consultation, including personal information, may be disclosed in accordance with UK legislation (the Freedom of Information Act 2000, the Data Protection Act 2018 and the Environmental Information Regulations 2004).

If you want the information that you provide to be treated as confidential, please tell us, but be aware that we cannot guarantee confidentiality in all circumstances. An automatic confidentiality disclaimer generated by your IT system will not be regarded by us as a confidentiality request.

We are trialling Artificial Intelligence (AI) solutions to support the delivery of our functions. Unless made expressly clear to you, we will not solely use AI to either make or inform

decisions about you. We will apply effective data minimisation techniques to all such uses of your data.

Your responses, including any personal data, may be shared with a third-party provider, or other government department or organisation acting on behalf of the Department for Business and Trade under contract or an equivalent agreement, for the purpose of analysis and summarising responses for us and they may use technology, such as artificial intelligence. Further detail on how AI is used, including its scope and safeguards and third-party sharing is available in our Privacy Notice.

An anonymised version of responses in a list or summary of responses received, and in any subsequent review reports, may be published. We may also share your personal data where required to by law. You can leave out personal information from your response entirely if you would prefer to do so.

Wherever possible avoid including any additional personal data in free-text responses beyond that which has been requested or which you consider it necessary for the Department of Business and Trade to be aware of.

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We will publish a government response on GOV.UK.

Quality assurance

This consultation has been carried out in accordance with the government's consultation principles. If you have any complaints about the way this consultation has been conducted, please email: enquiries@businessandtrade.gov.uk

About You

Please provide the following information to help us understand the context of your response:

Question 1: Please indicate whether you are responding as:

- [ ] An individual
- [ ] An academic, or on behalf of an academic or research organisation
- [ ] An employer
- [ ] A legal representative
- [ ] A business representative organisation (please specify)
- [ ] A trade union or staff association (please specify)
- [ ] A charity or interest group
- [ ] Other – please specify

Question 2: If responding as an employer, business, business owner or business representative, approximately what is the size of your business? If responding as an individual or worker, what size workplace are you employed in?

- [ ] Micro (fewer than 10 workers)
- [ ] Small (11 to 50 workers)
- [ ] Medium (51 to 250 workers)
- [ ] Large (250+ workers)
- [ ] Don’t know
- [ ] Not Applicable

Question 3: Which region are you located in?

- [ ] North-East
- [ ] North-West
- [ ] Yorkshire and The Humber
- [ ] East Midlands
- [ ] West Midlands
- [ ] East of England
- [ ] London

- [ ] South-East
- [ ] South-West
- [ ] Wales
- [ ] Scotland
- [ ] Northern Ireland
- [ ] Outside of UK

Question 4: What sector are you based in?

- [ ] Accommodation & food service activities
- [ ] Activities of households as employers; undifferentiated goods and services-producing activities of households for own use
- [ ] Administrative & support service activities
- [ ] Arts, entertainment and recreation
- [ ] Agriculture, forestry and fishing
- [ ] Construction
- [ ] Education
- [ ] Electricity, gas, steam and air conditioning supply
- [ ] Financial & insurance activities
- [ ] Human Health and social work activities
- [ ] Information & communication
- [ ] Manufacturing
- [ ] Mining and quarrying
- [ ] Production
- [ ] Professional, scientific and technical activities
- [ ] Public administration & defence; compulsory social security
- [ ] Real estate activities
- [ ] Services Sector
- [ ] Transportation & storage
- [ ] Water supply; sewerage, waste management and remediation activities
- [ ] Wholesale and retail trade; repair of motor vehicles and motorcycles
- [ ] Other service activities

Consultation

Section 1 - Legislative Basis of the Protection

The law provides various protections in relation to trade union membership and activities, to ensure workers are able to properly exercise their collective rights. This includes a prohibition on employers from imposing detriments on workers to penalise, prevent or deter them from being a trade union member or taking part in trade union activities. However, a recent Supreme Court hearing highlighted that the prohibition does not extend to workers taking industrial action. As this is an essential part of workers expressing their collective voice, the government is introducing new legislation to ensure workers have sufficient protection.

Legislative Background

Section 146 of the Trade Union Labour Relations Consolidation Act 1992 (TULRCA) states that a worker has the right not to be subjected to any detriment by their employer for the purpose of penalising, preventing or deterring them from being a trade union member, taking part in trade union activities at an appropriate time, making use of trade union services or compelling them to be a trade union member.

In 2024, the Supreme Court found in *Mercer*[1] that the protection afforded to a worker by Section 146 of TULRCA did not extend to detriments for taking industrial action.

In this case, the court considered whether a worker, who had been suspended as a penalty for taking part in a lawful strike, was protected under section 146 of TULRCA. The court placed particular focus on the definition of "at an appropriate time" - defined under s.146(2) to be at a time outside the worker's working hours or at a time within their working hours where there had been some arrangement or consent from the employer for them to partake in trade union activities. Given that the worker had abandoned their shift in order to participate in strike action, it was found that this was not "at an appropriate time" and therefore section 146 did not provide protection from detriment.

This judgment therefore highlighted a lack of protection within existing legislation for workers to be able to take industrial action without being subjected to detriment by their employer. As a result, the *Mercer* judgment declared that British legislation was incompatible with Article 11 of the European Convention on Human Rights (ECHR), the right to free assembly and association, insofar that it failed to provide any protection against detriments for participating in lawful industrial action.

Employment Rights Act

Section 76 of the Employment Rights Act 2025 is designed to address this incompatibility. The Act inserts new section 236A into TULRCA, which states that:

> *"A worker has the right not to be subject as an individual to detriment of a prescribed description by an act, or any deliberate failure to act, by the worker's*

[1] *Secretary of State for Business and Trade* v *Mercer* (2024) ICR 814

employer, if the act or failure takes place for the sole or main purpose of preventing or deterring the worker from taking protected industrial action, or penalising the worker for doing so".

The Act gives the government the power to set out in regulations what constitutes detriments "of a prescribed description" and therefore provides the option in secondary legislation to either prohibit all detriments or create a list of prohibited detriments.

The *Mercer* judgment was clear that while some protection from detriment is necessary for compatibility with Article 11, the court rejected the argument that universal protection from all detriments is inevitably required by Article 11.

The government therefore has some discretion in determining whether to prohibit all or only some detriments for taking industrial action and to consider the interests of workers and employers in doing so. This consultation forms part of this process.

What is a detriment?

Case law has defined 'detriment' broadly, to mean no more than 'disadvantage'. Legislation makes clear that detriments can be both as a result of an employer's action or their deliberate failure to act. Protection for workers against wider forms of detriment outside of a trade union/industrial action context (by ways of example – for whistleblowing or taking advantage of family leave rights) has also been interpreted widely as 'being put at a disadvantage'.

Although not specific to industrial action, the Equality and Human Rights Commission's Employment Code includes examples of detriments such as being rejected for promotion, the withholding of training opportunities, and the ability to represent the organisation at external events. These are presumably also relevant in the context of a worker taking industrial action. Further examples could also include disciplinary processes or bullying and harassment.

Workers who are classed as employees already have separate protection from dismissal for taking industrial action under sections 237-239 of TULRCA. For other workers ("limb (b)" workers under s.230 Employment Rights Act 1996), dismissal for taking industrial action would quality as a detriment.

It is well established that if a worker goes on strike, they will not be paid for any time spent participating in that strike[2]*Miles v Wakefield*. In *Mercer,* the Supreme Court stated that such deductions from pay are not detriments. The government's proposals within this consultation do not intend to change this position, and do not intend for deductions from pay following industrial action, including deductions for partial performance as currently permitted by the law where action short of strike action is undertaken, to be treated as detriments for the purposes of section 236A of TULRCA.

Section 236A of TULRCA states that a worker has a right not to be subject "as an individual" to a detriment. Case law has interpreted this to mean that a detriment must be targeted against a worker rather than, for example, a trade union that may be representing them. This means that actions or inactions that might be detrimental to a

[2] *Miles v Wakefield* MDC, 1987 (1 AC 539)

union, for example de-recognition, refusing to negotiate with a union or criticising their decisions, but are not directly detrimental to a worker, are not prohibited by s.236A.

‘Sole or main purpose’ test

Section 236A of TULRCA states workers cannot be subjected to detriments for the ‘sole or main purpose' of penalising, preventing or deterring a worker from taking industrial action. The same ‘sole or main purpose’ test exists in s.146 of TULRCA in relation to protection against detriments for trade union membership, activity, use of services and compulsion to join.

This means that actions or inaction of an employer that may be classed as a detriment but are not for the ‘sole or main purpose’ of penalising, preventing or deterring a worker from taking industrial action would not be prohibited under s.236A.

A useful demonstration would be an employer sanctioning an individual, not for the purpose of penalising, preventing or deterring them from taking industrial action, but to discipline behaviour by an employee that occurred during industrial action which amounted to misconduct. Examples of such behaviour could include bringing the company into disrepute, failing to comply with confidentiality obligations, or violating codes of conduct. Similarly, sanctions imposed for criminal behaviour during industrial action, for example harassment or criminal damage, would also not be prohibited under s.236A.

Should a detriment claim be made against an employer under section 236A, the burden is on the employer to show what their sole or main purpose was in imposing the apparent detriment. It is then for Employment Tribunals to decide the case on the facts.

Section 2 – Options for Secondary Legislation

Section 236A of TULRCA, inserted by the Employment Rights Act 2025, allows for the government to either prohibit all detriments for taking industrial action or create a list of detriments which are prohibited. This consultation seeks your views on the merits of these two options.

Option A – Prohibit all detriments for taking industrial action (Government's Lead Option)

One option available to the government is to prohibit all detriments that a worker can be subjected to for the sole or main purpose of penalising, preventing or deterring them from taking industrial action.

Perceived advantages

Better protection for workers

This option would provide the fullest protection for workers taking industrial action and would guard them against any form of perceived 'unfair treatment' when exercising their legitimate right to strike. The government notes that workers may be concerned about the possibility of employer retaliation in response to their participation in industrial action, and that this could influence their decision as to whether to take any industrial action.

Alignment with existing detriments legislation

Prohibiting all detriments for the sole or main purpose of penalising, preventing or deterring a worker from taking industrial action would be consistent with the existing protection against detriments for trade union membership or activity in s.146 of TULRCA. Section 146 does not limit the protection so that it applies to only a subset of detriments.

Guarding against bad behaviour

Creating a list of prohibited detriments (rather than prohibiting them all) would have the effect that those outside of that prohibited list are permissible to impose. While employers that value good industrial relations would endeavour to make sure any use of these were targeted at managing disputes and upholding worker's rights, employers acting in bad faith and trying to unfairly suppress workers' collective voice might seek to overuse and potentially abuse these un-prohibited detriments. Prohibiting all detriments would remove the ability for employers acting in bad faith to undermine the rest in this manner.

In addition, while the government's intention when creating a list would be to prohibit all detriments deemed unacceptable (see Option B below), employers acting in bad faith may still seek to 'get around' these prohibitions by devising novel detriments not included in that list. This may lead to the same mistreatment of workers that the legislation had set out to avoid. Prohibiting all detriments would provide greater clarity.

Consistency in treatment of private and public sector workers

Prohibiting all detriments would foster similar treatment of striking workers by private and public sector employers. As part of the state, public sector employers must comply with Section 6 of the Human Rights Act (1998) to not act in a way that is incompatible with the ECHR. Case law in the European Court of Human Rights has given limited leeway to public sector employers when they have attempted to impose detriment on striking

workers. This means that it's likely that public sector employers generally have less scope to impose detriments than their private sector counterparts. This distinction would continue to apply if new legislation stemming from the outcome of this consultation only prohibited certain detriments. The clearest way to afford workers the same protection in practice regardless of whether they're publicly or privately employed, would be to prohibit all detriments for taking industrial action.

International approaches
This approach is consistent with other European countries, which have taken a broad approach to protection for workers taking industrial action. Recent research into legal protection from detriments for industrial action across eight European countries (Belgium, Croatia, France, Germany, Italy, Portugal, Spain and Sweden) found that all countries offer "a very broad protection base … with no detriment excluded from the outset, except for proportionate wage deductions." [3]

Infrequency of use of detriments
The Department for Business and Trade's engagement with both employer and union stakeholders to date has suggested that the imposition of detriments on workers for taking industrial action is not commonplace.

This may, at least partially, be explained by employers seeing imposing detriments as likely to further sour employee relations at a time when industrial action is taking place, has recently taken place, or may be likely to take place. As such, in certain circumstances they may deem the imposition of detriments to be contrary to business interest.

Therefore, should the government choose to prohibit all detriments, instead of creating a prohibited list, we would expect there to be limited change in how employers have been behaving so far and a minimal economic impact. See the options assessment for further detail.

Perceived disadvantages

Ability to manage industrial action
The government acknowledges that this option may affect the ability of employers to manage industrial action.

Employers may feel that they should be able to maintain a level of discretion to enact measures to help manage disputes and any resulting industrial action. The impact, including financial, of industrial action can be considerable and employers may feel that certain measures, that could be classed as a 'detriment', may be legitimate and necessary for the purpose of business continuity following industrial action. Given that the right to strike is not completely unfettered, some employers may therefore consider that a ban on all detriments is overly restrictive.

[3] Katsaroumpas I. et al. (2025) Tackling hidden retaliation for strike participation. Examples of legal protection from detriments short of dismissal, Policy Brief 2025.07, ETUI.

However, while employers may try to limit it, it must also be appreciated that causing some level of impact to the employer is a trade union's intended consequence of industrial action and an integral lever of theirs during disputes.

Moreover, prohibiting all detriments would not eliminate all options available to employers to manage industrial action, for example, proactive negotiation prior to industrial action commencing, contingency planning to mitigate impacts and workforce management. Employers would also be able to impose detriments, so long as they were not for the sole or main purpose of penalising, preventing or deterring workers from taking industrial action. It would be for Employment Tribunals to determine on the facts whether a detriment that may seemingly be imposed for a reason *related to* industrial action was for the *sole or main purpose* of penalising, preventing or deterring a worker from taking industrial action.

Government's Lead Option

Having considered the strengths of the advantages set out above and the ability of employers to mitigate against the disadvantages, this is the government's current lead option.

This consultation seeks your input on this option and welcome views on the above-mentioned perceived advantages and disadvantages.

Option B – Create a list of prohibited detriments

The alternative approach is to create a list of detriments in secondary legislation that employers are prohibited from imposing for the sole or main purpose of penalising, preventing or deterring a worker from taking industrial action. The list could prescribe specific detriments or types of detriments.

Perceived advantages

Employer discretion in managing industrial action

This approach allows government to prohibit the most egregious detriments, while not preventing those that may have less impact on a worker. This would enable employers greater flexibility and discretion to manage disputes and industrial action. Employers may consider that some actions/inactions that could be classed as a 'detriment' should be permissible in the wider context of managing disputes and industrial action, including any financial impact.

Defending claims against unrelated actions

Employers may be concerned that any worker that was aggrieved by usual business processes (for example, changing overtime allowances, or promoting some staff over others), unrelated to but at or around the time of industrial action, might try to claim that they were suffering a detriment for the sole or main purpose of penalising, preventing or deterring them from taking industrial action.

Employers may be concerned that having to defend against such claims and having the burden of proving that their actions were unrelated to industrial action, may be resource intensive, time consuming and financially burdensome. Should only a list of detriments be prohibited, this would narrow the possible claims an employer would need to defend in this instance.

Perceived disadvantages

Future-proofing legislation

Creating a list of prohibited detriments will involve clarity in secondary legislation as to exactly what those prohibited detriments are. The government is aware that workplace environments evolve and it may not be possible to conceive of every possible form of egregious detriment when devising the list. This could result in unintended consequences if some egregious detriments were not included in the list, leaving workers with inadequate protection. Moreover, as already noted above, some employers acting in bad faith might seek to overuse and potentially abuse these un-prohibited detriments and/or seek to 'get around' the prohibitions by devising novel detriments not included in that list. This would create a disparity between those looking to honour the spirit of the law and those who may devise new detriments to penalise, prevent or deter workers from taking industrial action.

This option may involve the frequent updating of secondary legislation when new forms of detriment come to light, with associated familiarisation costs for employers, unions and workers.

Legal consistency
Creating a list of prohibited detriments would be inconsistent with the existing protection against detriments for trade union membership or activity in s.146 of TULRCA and the approach to detriment protections in wider employment legislation, which do not limit protections to a subset of detriments. It could create a confusing landscape of protections for employers, unions and workers to navigate.

Disparity in position of public and private sector workers
A list of prohibited detriments may also create disparity in the protections available to private and public sector workers. As explained above, in order to be compatible with Article 11 of the ECHR, public sector employers likely cannot impose any detriment intended to penalise, prevent or deter a worker from taking industrial action, and therefore would be unlikely to impose detriments whether included on a prohibited list or not, due to the risk of exposure to legal claims. The position is not the same for private sector employers, where the Article 11 obligation does not apply to them in the same way. In practice this means that a worker subjected to the same detriment would have differing protections purely based on whether they were a private or public sector worker.

The government believes that workers should be afforded the same protection against detriment for taking industrial action regardless of whether they work in the private sector or for a public employer.

Compatibility with Article 11 ECHR
An additional concern when creating a list would be that any list would need to be compatible with Article 11 of the ECHR. While the *Mercer* judgment was clear that some protection from detriment is necessary for compatibility with Article 11, both it and wider case law have not provided clear indication as to where a line can be drawn that would ensure compatibility without prohibiting each and every detriment. In combination with the risk mentioned above of not capturing all intended possible detriments in a prohibited list, there is a risk that the secondary legislation could be challenged on the basis of incompatibility with Article 11 rights. Prohibiting all detriments would remove any risk of incompatibility with Article 11 rights.

This consultation seeks your views on this option and the above-mentioned perceived advantages and disadvantages.

Section 3 – Awards for failing to comply with Acas Code of Practice

Section 207A of TULRCA provides that for certain claims, an employment tribunal can increase any award it makes to an employee by up to 25% where the employer has failed to comply with the Acas Code of Practice on Disciplinary and Grievance Procedures and that failure was unreasonable. Conversely, if a tribunal determines an employee has unreasonably failed to follow the Code, they can reduce any award by up to 25%. The potential for an adjustment in awards is designed to provide an incentive to follow recommended practice.

The specific claims for which this applies are listed in Schedule A2 of TULRCA, and include s.146 (the protection against detriment for trade union membership, activity, use of services and compulsion to join).

There is an option for the government to add claims made under Section 236A, protection against detriments for taking industrial action, to the list in Schedule A2.

This would mean that if a claim was brought by an individual claiming that they had experienced a detriment for taking industrial action, if the employer had unreasonably failed to follow the Acas Code of Practice on Disciplinary and Grievance Procedures where it applied, the amount the employer would have to pay in awards for a successful claim could be increased by up to 25%. If the employee had unreasonably failed to follow the Code, the award could be reduced by up to 25%.

In-keeping with the remedies in place for s.146 of TULRCA, the government's lead option is to add claims made under section 236A of TULRCA to the list in Schedule A2.

This consultation seeks your views on this intended approach.

Consultation questions

Section 2 – Options for Secondary Legislation

Option A - Prohibit all detriments for taking industrial action (Government's lead option)

Q1. Do you support prohibiting all detriments for taking industrial action? [Yes/no/don't know]

We welcome your thoughts on both potential benefits and challenges:

Q2. What benefits might come from prohibiting all detriments for taking industrial action?

Q3. What concerns or challenges do you see from prohibiting all detriments for taking industrial action?

Q4. How might prohibiting all detriments for taking industrial action influence employers' ability to manage workplace disputes and industrial action? [Positive impact/Negative impact/Both positive and negative impacts/No impact/Not sure – Please Explain]

Q5. Would this option have an impact on industrial relations? [Positive impact/Negative impact/Both positive and negative impacts/No impact/Not sure – Please Explain]

Option B - Create a list of prohibited detriments

Q6. Do you support creating a specific list of detriments that employers would be prohibited from imposing on workers for taking industrial action? [Yes/No/Don't Know]

We welcome your thoughts on both potential benefits and challenges:

Q7. What benefits might come from creating a specific list of detriments that employers would be prohibited from imposing on workers for taking industrial action?

Q8. What concerns or challenges do you see from creating a specific list of detriments that employers would be prohibited from imposing on workers for taking industrial action?

Q9. Which types of detriments do you believe should be included in the prohibited list? Please explain why.

Q10. Which types of detriments do you believe should not be included in the prohibited list? Please explain why.

Q11. Would this option have an impact on workers' willingness to participate in industrial action? [Positive impact/Negative impact/Both positive and negative impacts/No impact/Not sure – Please Explain]

Q12. Would this option impact employers' ability to manage disputes and industrial action? [Positive impact/Negative impact/Both positive and negative impacts/No impact/Not sure – Please Explain]

Section 3 – Awards for failing to comply With Acas Code of Practice

Q13. Should claims made under Section 236A of TULRCA be added to Schedule A2, meaning that an employment tribunal can adjust an award by up to 25% where the employer or employee unreasonably failed to follow the Acas Code of Practice on Disciplinary and Grievance Procedures? [Yes/No/Don't Know – Please Explain]

Q14. Is there anything else on this subject that the government should consider?

Next Steps

This consultation will close on 23 April 2026. Following the closure of this consultation, we will analyse the responses before publishing a government response.

Responses to this consultation will inform the secondary legislation on the new protections against detriments for taking industrial action.

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- another government department, or
- an organisation acting on behalf of the Department for Business and Trade under contract or an equivalent agreement that safeguards your personal information in line with DBT requirements.

These parties may use technology, including artificial intelligence, for the purpose of analysing and summarising responses, but only in accordance with DBT's agreed terms and applicable data protection law.

We will not:

- sell or rent your data to third parties
- share your data with third parties for marketing purposes

We may publish a list or summary of responses in an anonymised form, including in any subsequent review reports. "Anonymised" means that all information which could identify you has been removed, so that individuals cannot be identified from the published data. We may also share your personal data where required to by law.

You can leave out personal information from your response entirely if you would prefer to do so.

Wherever possible please avoid including any additional personal data in free-text responses beyond that which has been requested or which you consider necessary for DBT to be aware of.

We will only retain your personal data for as long as:

- it is needed for the purposes of the consultation;
- it is needed to archive in the public interest, or scientific, historical, or statistical research, in accordance with Article 89 UK GDPR and the Data Protection Act 2018 (DPA);

- the law requires us to.

This generally means that we will hold your personal data for at least one year.

Your Rights Under Data Protection Law

Under the UK General Data Protection Regulation (UK GDPR) and the Data Protection Act 2018 (DPA), when your personal data is processed on the basis that it is necessary for the performance of a task carried out in the public interest or in the exercise of official authority (Article 6(1)(e)), and, where relevant, for reasons of substantial public interest (Article 9(2)(g)), you are entitled to exercise the following rights:

- **Right of Access:** You can request copies of the personal data we hold about you.
- **Right to Rectification:** You can ask us to correct any personal data you believe is inaccurate or incomplete.
- **Right to Restriction:** You can request that we restrict the processing of your personal data in certain circumstances (for example, if you contest its accuracy or object to its processing).
- **Right to Object:** You can object to the processing of your personal data where it is processed on the basis of public task, in certain circumstances.
- **Right to Data Portability:** In some cases, you may request that your personal data is provided to you or another organisation in a structured, commonly used and machine-readable format.
- **Right to Erasure:** You can request that we erase your personal data in certain circumstances (for example, if it is no longer necessary for the purposes for which it was collected).
- **Right not to be subject to automated decision-making:** You have the right not to be subject to a decision based solely on automated processing, including profiling, which produces legal or similarly significant effects.

Please note that these rights are subject to certain conditions and exemptions under data protection law. If you wish to exercise any of these rights, or would like more information, please contact the Data Protection Officer at data.protection@businessandtrade.gov.uk.

You can also submit a complaint to the Information Commissioner's Office (ICO) at:

Information Commissioner's Office Wycliffe House:
Water Lane, Wilmslow, Cheshire, SK9 5AF
W: https://ico.org.uk/ Tel: 0303 123 111