

NAEO exams article – August 2026

What the Employment Rights Act means for exams managers/officers

The **Employment Rights Act 2025** strengthens a number of employment protections that may apply to exams managers/officers depending on their employment status, length of service and individual circumstances.

Morrish Solicitors have produced [a video explaining how the Employment Rights Act changes may affect exams managers/officers](#). In this article, we summarise some of the key changes introduced by the Act and consider their potential impact on the examinations function.

For most exams managers/officers, the Act will not significantly change their day-to-day duties. However, it does strengthen their legal protections as employees by improving job security, expanding access to statutory rights and reinforcing employers' responsibilities to provide fair treatment, safe working environments and lawful employment practices.

For exams managers/officers who also manage invigilators or other casual staff, the Act requires them to understand and support the rights of the staff they supervise, working closely with their Human Resources department and senior leadership team to ensure compliance.

Overall, the Employment Rights Act 2025 is intended to create fairer, more secure and more transparent workplaces, benefiting both employers and employees, including exams managers/officers.

In this article, we consider the impact of the Employment Rights Act upon the role and responsibilities of an exams manager/officer.

The rights of an exams manager/officer

The main areas that exams managers/officers should be aware of include:

1. Greater protection from unfair dismissal

One of the most significant reforms is the reduction in the qualifying period for protection against ordinary unfair dismissal.

Previously, most employees needed **two years' continuous service** before they could bring a claim for ordinary unfair dismissal. Under the Employment Rights Act 2025, this qualifying period will reduce to **six months** (expected from January 2027), giving newly appointed exams officers legal protection much earlier in their employment.

This means employers will need to ensure there is a fair reason for dismissal and that a fair process is followed.

2. Day-one employment rights

Exams officers who become parents may benefit from new **day-one rights** to:

- Paternity leave

- Unpaid parental leave

These rights are available from the first day of employment, provided the statutory eligibility criteria are met.

3. Improved Statutory Sick Pay

If an exams manager/officer becomes ill, the reforms to Statutory Sick Pay (SSP) provide greater financial protection by:

- Removing the three waiting days before SSP is paid
- Removing the lower earnings threshold, allowing lower-paid employees to qualify
- Making SSP payable from the first qualifying day of sickness absence

4. Protection from workplace harassment

The Act strengthens employers' duties to prevent sexual harassment in the workplace.

Exams managers/officers have the right to work in an environment where reasonable steps have been taken to prevent harassment by:

- Colleagues
- Managers
- Contractors
- Visitors
- Third parties (where applicable)

Employers are expected to have appropriate policies, reporting procedures and staff training in place.

5. Stronger whistleblowing protection

If an exams manager/officer reports sexual harassment or another protected disclosure, they are protected from:

- Dismissal
- Disciplinary action
- Victimisation
- Loss of opportunities
- Other detrimental treatment because they raised the concern

This encourages staff to report genuine concerns without fear of retaliation.

6. Greater protection during contractual changes

The Act places tighter restrictions on the use of '**fire and rehire**' practices.

If an employer seeks to change an exams manager/officer's contractual terms by dismissing and re-engaging them on less favourable conditions, the dismissal is more likely to be regarded as unfair unless strict legal requirements are met.

7. Fairer workplace practices

The Employment Rights Act promotes greater fairness across all workplaces.

For exams managers/officers, this means employers should:

- Apply policies consistently
- Consult appropriately where required
- Provide fair disciplinary and grievance procedures
- Respect statutory employment rights
- Maintain transparent employment practices

8. Longer time to bring tribunal claims

For most Employment Tribunal claims, the time limit is expected to increase from **three months to six months**. This gives exams managers/officers more time to:

- Seek legal advice
- Attempt early resolution through ACAS Early Conciliation
- Decide whether to pursue a claim

9. Stronger enforcement of employment rights

The establishment of the **Fair Work Agency** is intended to improve enforcement of employment law.

While exams managers/officers are unlikely to have direct contact with the Agency, they may benefit from stronger enforcement where employers fail to comply with statutory employment rights.

Managing your invigilators

If an exams manager/officer has responsibilities for the recruitment, deployment and management of invigilators or other casual examinations staff, they will need to be aware of the Act's implications.

In practice, this means working closely with your HR department and senior leadership team to ensure that employment practices relating to invigilators are fair, transparent and legally compliant. Maintaining accurate records, providing reasonable notice of work schedules, understanding the rights of casual workers and treating all staff consistently will help centres meet their legal obligations while supporting the effective delivery of examinations.

Below are some of the implications of the Act in relation to invigilators.

1. Recruitment of invigilators

Exams managers/officers are often involved in recruiting, interviewing and appointing invigilators. Recruitment processes should be:

- Fair and transparent
- Based on objective selection criteria
- Free from discrimination
- Carried out in line with the centre's recruitment and safeguarding policies

Although employment contracts are usually issued by HR, exams managers/officers should ensure that recruitment practices support compliance with employment legislation.

2. Zero-hours and low-hours contracts

Many invigilators are employed on casual, zero-hours or low-hours contracts because examination work is seasonal and demand varies throughout the academic year.

Under the Employment Rights Act, qualifying workers who regularly work more hours than those guaranteed by their contract may have the right to be offered a contract that better reflects their normal working pattern. Exams managers/officers should therefore:

- Maintain accurate records of hours worked
- Work with HR where invigilators regularly exceed their contracted hours
- Understand that changes to contracts are managed by the employer, not the exams office

3. Scheduling invigilators

Exams managers/officers are responsible for organising invigilation rotas, allocating staff and communicating timetable changes.

The Act introduces new rights relating to:

- Reasonable notice of work schedules
- Reasonable notice of changes to shifts
- Compensation where shifts are cancelled, moved or significantly reduced at short notice

While examinations can occasionally change due to exceptional circumstances, exams managers/officers should:

- Provide invigilation schedules as early as possible
- Notify staff promptly of any changes
- Minimise last-minute cancellations where reasonably practicable
- Keep records explaining why changes were necessary

4. Record keeping

Accurate record keeping has always been an important part of the exams manager/officer role. Employment law places additional emphasis on maintaining records relating to casual staff, including:

- Hours worked
- Shifts offered and accepted
- Cancelled shifts
- Training completed
- Attendance records
- Communications with invigilators

These records may support the centre if employment issues arise.

5. Statutory leave and sick pay

The Employment Rights Act expands certain employment rights, including day-one rights to paternity leave and unpaid parental leave, and reforms to Statutory Sick Pay.

If an invigilator is unavailable due to illness or statutory leave, exams managers/officers should:

- Notify HR or payroll promptly
- Arrange suitable replacement invigilators
- Avoid making employment decisions without HR advice

6. Fair treatment of staff

Exams managers/officers frequently supervise teams of invigilators and temporary examinations staff.

The Act reinforces the importance of:

- Treating staff consistently and fairly
- Avoiding discrimination
- Supporting equality, diversity and inclusion
- Responding appropriately to grievances
- Maintaining professional standards in the workplace

Where employment concerns arise, these should normally be referred to HR or the senior leadership team.

7. Whistleblowing and harassment

The Act strengthens protections for workers who report sexual harassment and increases employers' responsibilities to prevent harassment in the workplace.

Exams officers should:

- Encourage invigilators to report concerns through the centre's procedures

- Report allegations promptly to the appropriate manager or HR
- Maintain confidentiality where appropriate
- Never treat an invigilator unfavourably because they have raised a genuine concern

8. Working with your Human Resources department

Most legal responsibilities created by the Employment Rights Act rest with the employer rather than the exams manager/officer personally.

However, exams managers/officers should work closely with their HR department to ensure that:

- Employment contracts are appropriate
- Statutory rights are respected
- Employment records are accurate
- Managers understand their responsibilities
- Any employment issues affecting invigilators are managed consistently

9. Fair Work Agency

The creation of the **Fair Work Agency** will strengthen the enforcement of employment rights.

Although the Agency is unlikely to interact directly with the exams office within a centre, the head of centre may need to demonstrate compliance with employment law. Accurate records maintained by the exams manager/officer may assist the centre if information is requested during an investigation.