

Fair Work Agency: What Do You Need To Know?

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Introduction

The Fair Work Agency 'FWA' is an Executive Agency of the Department for Business and Trade which under the terms of the Employment Rights Act 2025³ will be established from April 2026. It has been put in to place so as to consolidate the work of existing state enforcement bodies with a goal of ensuring compliance with the national minimum wage, the regulation of employment agencies, licensing standards for gangmasters and enforcing unpaid employment tribunal awards. It also has powers to enforce any failures to pay statutory holiday and statutory sick pay. The FWA's powers, in relation to a wide range of employment rights, come in over the next year, on a phased basis, so for instance from 2027, the FWA will oversee the regulation of umbrella companies. It will be able to deal with failings to pay the required amount/ rate of statutory sick pay, holiday pay and national minimum wage by issuing notices of underpayment. A notice of underpayment will require that the required payment be made within 28 days, with there also being an additional 200% penalty on top of the base sum. It will be possible to address any underpayments by going back up to 6 years from the date of the notice of underpayment.

One Stop Shop For Workforce Rights.

Underneath the umbrella of the FWA it brings together what was formally the work of the Employment Agency Standards Inspectorate, HMRC's National Minimum Wage Enforcement Team and the Gangmasters and Labour Abuse Authority to create one body that deals with the enforcement of workforce rights. Common sense and experience in other arms of government suggest that this will be a more efficient and effective approach to

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³ [Employment Rights Act 2025](#) (accessed February 20, 2026)

employment enforcement. As has been set out already the FWA is structured as an executive agency of the Department for Business and Trade. As a result of this organisational approach the FWA's work will rely on work carried out by enforcement officers and staff appointed by the Department of Business and Trade. The FWA will have an expert advisory board of representatives from business and trade unions and independent experts. It will also, as might be expected, produce an annual report and every three years will set an enforcement strategy.

Powers.

The FWA's power allow it to inspect workplaces and to require the production, by employers, of relevant documents and evidence demonstrating employment law compliance. An employer knowingly or recklessly producing false documents and information, or intentionally obstructing enforcement action (or failing to comply with enforcement requirements without reasonable excuse) will commit a criminal offence. Enforcement officers will be allowed under a civil enforcement regime, to issue notices of underpayment (as has already been set out going back up to six years) to employers of any non-payment or incorrect payment of any statutory payment (e.g. SSP, holiday pay or NMW), requiring that within 28 days they pay the amount due. It has already been outlined that Notices of underpayment will include a penalty of 200%. It is helpful to note that such a penalty is a minimum of £100 but up to a maximum of £20,000. These sums may be discounted by 50% if they are paid within 14 days of the notice. Where a worker has a right to bring an Employment Tribunal claim the FWA will be able to bring such proceedings by stepping in to the worker's shoes, as well as giving legal advice and/or providing representation in employment, trade union or labour relations cases. State enforcement costs from employers not complying with the law can be recovered by the FWA. It should be expected, as a result of these steps, that greater compliance will be seen, by employers, in terms of meeting their duties re statutory payments.

Conclusion

Similarly to bodies such as Ofcom the FWA is not be independent of the Government but is an administrative executive agency of the Department for Business and Trade, overseen by the Secretary of State in charge of the Department, the DWA will support the government's overall strategy on employment rights. Enforcement officers, and other staff will work within the Department. These staff appointed, and working within the Department, will be supported by an expert advisory board with representatives from business, trade unions, as well as independent experts. As an advisory and enforcement agency, the FWA will cover areas which mainly are already covered by existing agencies. However, it will cover the new enforcement area will be holiday pay and leave and there is also the potential for the FWA to expand its remit further over time.⁴ It is obviously not possible to predict how the FWA will be in and what challenges may emerge after it commences operation in a couple of months but at this stage it can be seen as a positive measure. The warehousing of the employment enforcement functions as described above under one roof should be advantageous for both employers and employees. There should be a fairer more level playing field than has prevailed when these enforcement functions were more widely spread.

Members of 4-5 Gray's Inn Square's Employment group are ready to take instructions, providing advocacy and advisory support in all employment related disputes. Members of the group can advise on an urgent basis and to an agreed timeline. There are 30 members of the Group, including 1 silk, allowing for wide coverage of clients' needs.. Queries as to the professional availability of members of the group can be directed email to clerks@4-5.co.uk.

⁴ The 4-5 Gray's Inn Information Hub will provide further comment on the Fair Work Agency as and when it is necessary.