3. Barriers to employment rights

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Stephen Taylor and Astra Emir

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UK employment law does not give equal protection to everyone considered to be working for an employer. In fact, a substantial minority of people who work for private firms, companies and public sector organisations do not enjoy the protection of employment law in some significant respects. There are four types of situation that often deny people the opportunity to bring their claims to court: when a claimant is not considered to be an employee; when a claimant is not considered to be a worker; when a claimant (who is an employee) has not completed sufficient continuous service with their employer; and when a claimant is found not to be working legally in the UK. In addition, employment tribunals operate strict limits on how soon after someone is dismissed or suffers from an instance of unlawful discrimination they make a claim if they want it to be heard. For most tribunal jurisdictions this time limit is set at three months, meaning that after this period has passed a claim cannot be considered because it is ‘out of time’. In practice this rule can
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also act as a fifth type of barrier preventing people from accessing their employment rights. This chapter focuses on these five types of situations.

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