



March 2020 Update

Welcome to this month's update - where we discuss the latest legislation and guidance.

In this month's edition, we report on:

- Covid - 19
- Holidays
- Time off for Dependents

We are running a Webinar on 20 March at 11.00 to 11.40. Spaces are limited so email: caroline@employmentlawsupport.co.uk if you want to book on.

Covid - 19

We've been receiving loads of emails from people asking for views on how employers should deal with COVID-19 (coronavirus).

So, here's a short summary. An important disclaimer: this is not legal or medical advice.

- The government publishes daily updates at 2pm with the latest stats and advice.
- ACAS has also produced workplace specific guidance which sets out the steps employers should be taking.

If your industry has been affected by coronavirus and you have a downturn in work, you may also find this guidance on short time working and lay-offs useful.

How can we reduce the risk to our employees?

Employers should send round an email/guidance encouraging employees to be extra-vigilant with washing their hands, using and disposing of tissues etc.

If you have the capacity to do so, it may be worth designating an 'isolation room' where an employee who feels ill can go and sit away from the rest of the company and privately call '111' before taking any further necessary action.

Employees must be reminded to wash their hands / use hand sanitizer frequently.

To re-cap, the symptoms to look out for are:

- Cough
- Difficulty in breathing
- Fever (a temperature of 38 degrees C or higher)

What to do if you have symptoms

Stay at home for 7 days if you have either:

- a high temperature
- a new continuous cough

This will help to protect others in your community while you are infectious.

Do not go to a GP surgery, pharmacy or hospital.

You do not need to contact NHS 111 to tell them you're staying at home.

While you wait for further advice:

- Avoid contact with others
- Stay at home and let us know what is happening.
- Don't travel while sick
- Cover your mouth and nose with a tissue or your sleeve (not your hands) when coughing or sneezing, throwing tissues in the bin
- Wash your hands often with soap and water for at least 20 seconds (or an alcohol-based sanitiser if soap and water aren't available)
- stay at least 2 metres (about 3 steps) away from other people in your home whenever possible
- sleep alone, if possible
- stay away from vulnerable individuals, such as the elderly, those who are pregnant and those with underlying health conditions, as much as possible

If an employee is not sick but is in quarantine or self-isolation, do we have to pay them sick pay?

There is no legal right to sick pay in these circumstances, but it would be good practice.

Otherwise you run the risk of them coming into work and potentially spreading the virus to the rest of the workforce.

There is also a risk of an argument that - by choosing not to pay someone who has self-isolated - you have breached the implied term of trust and confidence and hence constructively dismissed them.

But we think such an argument is weak, for all sorts of reasons.

What if employees do not want to come to work?

Some people may be worried about catching coronavirus and therefore unwilling to come into work.

If this is the case you should listen carefully to the concerns of employees and if possible, offer flexible working arrangements such as homeworking.

Employees can also request time off as holiday or unpaid leave but there is no obligation on employers to agree to this.

Lay-off or short-term working

It is not wise to lay-off employees without a layoff clause, which few contracts have particularly office-based employment.

However, it maybe that you can reach agreement on layoff / short-term working if this would reduce the need to make redundancies.

Although a business at risk may be able to successfully argue that lay-offs even without the clause in the contract is the only course of action.

The Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2020 have been made and came into force on 13 March 2020.

They provide that SSP will be available to anyone isolating themselves from other people in such a manner as to prevent infection or contamination with coronavirus, in accordance with guidance published by Public Health England, NHS Scotland or Public Health Wales.

As far as I am aware, the anticipated Regulations providing that SSP will be payable from day 1 (not day 4) and allowing employers to reclaim the cost from the government, have not yet been published but is awaited any day – so it is good practice to do so.

Employers: we can assist with guidance on managing your workforce at this time

Contact us: if you need more details advice or guidance for employees

Holidays

Under the Working Time Regulations all employers are required to provide a minimum of 5.6 weeks holiday per annum, which for a full time 5 day a week worker translates into 28 days.

Where a worker's remuneration regarding normal hours varies or the worker does not have normal hours then for working out holiday pay a weekly average of pay should currently be calculated on the basis of the 12 previous weeks.

However, from the 6 April 2020, the position will be changing and the position will be that the averaging period will no longer be 12 weeks but 52 weeks, or the number of weeks worked if the worker has been in employment less than 52 weeks.

This is to try to avoid anomalies due to weeks where the number of hours has been very low.

Employers: Employers who rely upon averaging for calculating holiday pay will need to review and or adjust their method of calculation.

Contact us: we can help with holiday pay questions

Time off for dependants

Employees have the right to take a reasonable amount of time off work to help someone who depends on them in an unexpected event, however this only applies to the time needed to make alternative arrangements.

What about longer-term care or end-of-life carers?

Many employees will be affected by progressive or terminal illness in some way during their working lives.

There are nearly 1.5 million cancer carers in the UK. One in 10 are caring for a parent with cancer and have children living at home at the same time.

As our population ages more workers will be dealing with caring for elderly parents and/or their partners either in the short-term or act as end-of-life carers.

Offering flexible working arrangements even in the short of long-term may assist the employee to manage such care as well as being able to retain skills.

Employers: be creative about flexible working arrangements

Contact us: we can advise on flexible working requests

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



Silverstone
Business Forum

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Employment Law Support Principal: Caroline Robertson
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