



ActifHR

Where people matter...

March 2020 Update

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

In this Edition we report on:

- Covid - 19
- Holidays
- Time off for dependants

We are running a Webinar on 20 March at 11.00 to 11.40 for employers dealing with Covid-19 and managing employees. Spaces are limited so email: caroline.robertson@actifhr.co.uk if you want to book on.

Covid - 19

Recently we have been receiving lots of emails from people asking for a view 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.

Daily updates are published by the government at 2 pm with the latest stats and advice.

ACAS has also produced guidance which specifically sets out the step's employers should be taking.

If your industry has had a downturn in work due to the coronavirus, this guidance may be useful on short time working and lay-offs

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How can we reduce the risk to our employees?

Employers should make employees aware to be extra-vigilant when washing their hands, using and disposing of tissues etc. This can be in the form of an email or guidance. If you have the space to do so, it is advised to designate an 'isolation room' where an employee can go if they feel ill, so they can sit away from the rest of the company. The employee can then privately call '111' before taking any further action.

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.

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

Employees have no legal right to sick pay in these circumstances, but it would be good practice to pay at least Statutory Sick Pay. Otherwise the employee could come into work and potentially spread the virus to other employees. An argument may arise that by choosing not to pay an employee who has self-isolated, you have therefore breached the implied term of confidence and trust and constructively dismissed them. We believe this argument is weak for a number of reasons.

Statutory Sick Pay Rules have just been changed by the government, so instead of the SSP payments taking 3 'waiting days' to kick in, they will start on day 1. These regulations have not been formally adopted but it will be accepted practice to do so.

What if employees do not want to come to work?

Some people may be unwilling to come to work due to them be worried about catching the virus. In this case you should carefully listen to any concern's employees raise, and if possible, offer alternative working arrangements such as from home.

Employees can also request time off as unpaid leave or holiday, but employers are under no obligation to agree to this.

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Lay-off or short-term working

Without a layoff clause in the contract, it is not wise to lay-off employees without agreement. Few office type contracts have such a clause. However, if an agreement was reached between you and the employee on short-term working/ layoff this may reduce the need to make redundancies. Although a business which is at risk may be able to argue that lay-offs is the only course of action even without the clause in the contract.

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

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

Regarding normal hours, where a worker's remuneration varies or the worker does not have regularly weekly hours, currently a weekly average of pay should be calculated over the span of 12 weeks to work out holiday pay.

From 6 April 2020, this will be changing, and the average period will now be 52 weeks up from 12. If the employee has been in employment for less than 52 weeks, holiday pay will be calculated over the weeks they have worked. This is in place to try to avoid anomalies where the number of hours have been low that week.

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 time off work to help someone who in an unexpected event depends on them. This only applies to the time needed to make alternative arrangements.

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

During an employee's lifetime, they will most likely be affected by progressive or terminal illness in some way.

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There are nearly 1.5 million cancer carers in the UK. One in 10 have children at home and are caring for a parent at the same time. More workers will be dealing with caring for elderly parents and/or their partners in the short-term or act as end-of-life carers as the population ages.

By offering flexible working arrangements even in the short-term, may help the employee manage caring for others whilst retaining skills.

Employers: be creative about flexible working arrangements

Contact us: we can advise on flexible working requests



Caroline has a wealth of experience supporting business clients with practical hands on HR and Employment Law advice. Caroline's pragmatic approach helps businesses of all sizes deal with complex HR situations. She qualified as a Solicitor in 1999 and now acts as a specialist Human Resource / employment Law Consultant to business.

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