



16.04.2020

### **KEY ANNOUNCEMENTS**

**Foreign Secretary Dominic Raab led today's government announcements which focused on the government's review of the lockdown measures and confirmed that these will remain in place for at least the next three weeks.**

Mr Raab appeared alongside the Chief Medical Officer Professor Chris Whitty and the Chief Scientific Adviser Sir Patrick Vallance.

#### **The main announcements this evening were:**

- Scientific Advisory Group for Emergencies (SAGE) data indicates that the measures in place have slowed the spread of the virus, but the infection rate is still not down far enough. The government has therefore decided the **current measures must remain in place** for at least 3 more weeks.
- The government will need to have confidence in five principles before it will consider it safe to adjust the current measures:
  - The NHS must be able to cope with any adjustment. It must be able to continue to provide sufficient care across the whole of the UK.
  - Sustained and consistent falls in the daily death rates must be seen so the government can be confident we are beyond 'the peak'.
  - Reliable data from SAGE must show that the rate of infection is decreasing to manageable levels across the board.
  - Operational challenges, including testing and PPE, must all be in hand with supply able to meet demand.
  - Any adjustments to the current measures must not risk a second peak of infections that overwhelms the NHS.
- Adjustments to the measures could involve the relaxation of some and the strengthening of others, though will be guided by scientific evidence.

- Age, the prevalence of comorbidities and gender are three clear risk factors for the disease. Ethnicity is currently less clear as a risk factor, although is being looked at in more detail.
- Vaccines and therapeutic treatments are critically important to the 'way out'. Until these are identified or developed, some social distancing measures may be needed to keep transmission in the community low, although these measures may be different to the ones in place now.
- There needs to be a very 'deep dive' or after-event review after the crisis. Hard questions will have to be asked as to how the outbreak came about and what can be learned.
- Mental health has been recognised as a key area of concern both within the current crisis and looking beyond it, and many in the UK and abroad are looking at how to improve mental health services following COVID-19.

### **Elsewhere in COVID-19 news....**

Changes have been made to the Coronavirus Job Retention Scheme to bring more employees within the scheme's reach.

## **LEGAL IMPLICATIONS**

### **BUSINESS**

#### **1. The Coronavirus Job Retention Scheme has been extended to benefit more employees.**

Initially, in order to claim for an employee under the Coronavirus Job Retention Scheme ("CJRS"), he/she had to have been on the business' payroll on or before 28 February 2020.

However, the government announced yesterday that the new cut-off date would be **19 March 2020** (the day before the CJRS was announced). This means that employers should consider whether they could furlough new employees under this scheme rather than laying them off.

Crucially, employees *must* have been put on the payroll on or before 19 March and the employer needs to have told HMRC by this date that an employee was on the payroll using the Real Time Information ("RTI") system. This means that many employees who were only paid for the first time by their employer at the end of March may not be eligible for the scheme. Nonetheless, employers should check carefully to see whether

their employees could benefit from the scheme. Employers should be keen to keep on new starters who could prove very useful once the lockdown ends and companies do their best to drum up custom.

It should also be borne in mind by employers that in addition to employees, the following can be furloughed under the scheme as long as they are paid via PAYE:

- office holders (including company directors);
- salaried members of LLPs;
- agency workers; and
- limb (b) workers.

Applications for the scheme will open from Monday 20 April and HMRC have pledged to start paying employers who have successfully applied for the scheme by the end of April.

The government's guidance on who is eligible and how to apply can be found [here](#).

## **2. As the lockdown has been extended, employers need to continue to bear in mind their COVID-related obligations to employees.**

Given lockdown and social distancing measures are to remain in place for at least a further three weeks, employers must continue to consider how the government's guidelines affect their operations and their staff.

As we have reported previously:

- A business that is open and still requiring employees to attend work where it is unnecessary for them to do so and it is reasonably practicable for their employees to work from home [could be held liable for their employees travelling](#).
  - Regulation 6(1)(f) of The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020 states that a person can only leave their home *"to travel for the purposes of work or to provide voluntary or charitable services, where it is not reasonably practicable for that person to work, or to provide those services, from the place where they are living."*
- If an employer forces an employee to travel to their workplace contrary to government guidance then the employer may also find itself liable for any fines or sanctions that an employee receives.

- Employers must be extremely conscious of the need to ensure that [employees can work at least 2 metres apart](#) from others—although it is expected that allowances will be made where employees are provided with effective personal protective equipment that makes closer working conditions safe.
- [If an employee is made to work in an unsafe environment](#), there is a possibility they could resign and bring a constructive dismissal claim. Employers must also be mindful that dismissing or treating unfavourably an employee who refuses to come to work owing to their own vulnerability or because of that of someone they live with opens the gateway to a potential unfair dismissal claim and/or discrimination claim.

## **DISCLAIMER**

*The above is not intended to be legal advice. Specialist advice should be sought for individual cases where necessary.*

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