



**ActifHR**

Where people matter...

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## August 2020 Update

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

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In this Edition we report on:

- Is your business Covid-19 compliant?
  - Can an employer stop an employee from going on holiday to a restricted country?
  - Furloughed employees to receive full redundancy payments
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### Is your business Covid-19 compliant?

The Government's new guidance on 1st August is that employers are in a stronger position to expect employees to return to the workplace.

However, the new guidance, as currently drafted and while it is clearly not the intention is confusing, it is likely to make it more, rather than less difficult for employers to get reluctant employees back into the office.

This is because of the new emphasis placed on individual specific circumstances, such as use of public transport, even though health and safety legislation does not normally require an employer to protect its employees' safety during their travel to work.

The new requirement to "ensure workers feel safe returning to work" also appears onerous, not least because whether someone feels safe is a subjective matter.

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So extra consideration should be given to those employees with higher risk factors. This makes the workplace review, Covid-19 risk assessment and actions taken to manage the risks of transmission in line with this guidance even more important to reduce employee concerns. It is vital employers are involved with workers to ensure they feel safe returning to work and have taken all reasonable steps to provide a safe place of work.

These policies and risk assessment should aid an employer's response to an employee diagnosed with, or experiencing symptoms of COVID-19, and should include enhanced sanitation, social distancing, cleaning measures and require the use of personal protective equipment if applicable.

**Employers:** We can guide your business through the risk assessment and documentation.

**Contact us:** Please see our most recent webinar with Silverstone Technology Cluster  
<https://www.youtube.com/watch?v=B76pvp6LIQ&feature=youtu.be>

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## **Can an employer restrict an employee from going on holiday to a restricted country?**

Many employees have decided to book holidays abroad with the opening of 'air bridges' to a number of countries, meaning that there is no obligation to self-isolate on return from holiday if the destination is covered by these agreements.

However, since the opening of these 'air bridges' we have seen Spain and Belgium being taken off the list of these exempted countries and holidays being cancelled as a result, with others possibly to follow.

There is also the worry that if employees attend work after visiting high risk countries that they may jeopardise the safety of the workplace and the employees.

How can an employer maintain a safe workplace if an employee travels to a country which is no longer part of an 'air bridge' or when employees may be returning from personal travel to an area affected by COVID-19?

Can an employer restrict or prohibit an employee's personal travel?

If the employee who needs to quarantine can work from home, then they should be able to if the company agrees. If this is agreed, then they should be paid as normal. However, if they cannot work from home, then what happens?

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Government guidelines state a Company does not have to pay an employee who is needed in the office when it is not agreed that they can work from home.

An employer can ask them to take holiday to cover or unpaid leave.

Employers are also able to refuse to grant holiday requests for employees who intend to go to a restricted country.

It is wise to issue guidance about this to employees and to be very clear that if they insist on going it would be unpaid leave or possible could be disciplinary action if it leaves the company in a position where it does not have adequate staff resources.

**Employers:** Employers should issue temporary holiday and quarantine guidance to employees

**Contact us:** We can draft guidance for your business.

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## **Furloughed employees to receive full redundancy payments**

The Department for Energy, Business & Industrial Strategy brought in a new law, as of the 31st July, to ensure all furloughed employees receive redundancy payments at 100% of their normal pay, rather than a reduced furlough rate.

This will mean for those with normal working hours, any reduction in the amount payable as a result of the employee being furloughed must be disregarded.

For those who do not have normal working hours, a week's pay is calculated according to their 'reference salary' for claiming furlough pay under the Coronavirus Job Retention Scheme, but without the cap as used by the Scheme.

The legislation also covers other statutory employment rights that depend upon calculating a 'week's pay', namely:

- Notice pay (Ss.88 and 89 Employment Rights Act 'ERA')
- Remuneration for time off to look for employment or arrange training (Ss.53, 54 ('ERA'))
- Compensation for failure to comply with an order for reinstatement (S.117 ERA)
- Compensation for failure to provide a written reasons for dismissal (S.93 ERA)
- Compensation for unfair dismissal

This is a very welcome change for those employees that are going through redundancy.

**Employers:** We can assist with redundancy advice and support

**Contact us:** If your business is needing to make changes to staffing

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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.

**Caroline Robertson, Director**

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