



ActifHR

Where people matter...

March 2021 Update

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

In this Edition we report on:

- Workplace COVID-19 testing scheme extended to smaller businesses
 - Can staff be forced to have a Covid vaccination?
 - Do employees have 'the right to log off' while working from home?
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Workplace Covid – 19 testing scheme extended to smaller businesses

Employers are keen to get people back to work safely as quickly as possible. For some companies it has not been possible for employees to work from home. So, whilst the debate over mandatory vaccinations carries on it's good to know there is now another option.

Rapid testing of employees can make a big difference to productivity and of course profitability. So it was good news when the Government extended the workplace testing scheme to businesses with more than 50 employees in February 2021. Before that it was only open to employers with more than 250 employees.

What does this mean?

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For businesses with more than 50 employees they are able to offer a 30-minute lateral flow test to individuals without symptoms who can't work from home. This will allow those who test negative to return to work, whilst those who test positive will need to isolate immediately. This quick indicator will help businesses plan with more certainty and identify cases quickly before team members are affected.

Are they accurate?

To date, lateral flow tests have been very successful in finding positive cases that would not have been detected and their use will help to protect business and their employees going forwards.

With one in three people asymptomatic, their use will help to ensure cases are spotted and dealt with effectively. Also, they will provide vital information to help inform the government and other medical organisations about the spread of the virus.

What else do I need to do?

Of course, rapid tests are not the perfect solution. They may need to be followed up with "confirmatory testing", otherwise positive cases could be missed.

Employers still need to ensure their workplaces continued to provide personal protection equipment for staff, improved ventilation, deep cleaning and hygiene operations as well as regularly review and update their risk assessment policies and procedures.

Employers: To access this scheme, employers need to sign up using the link below:
<https://www.gov.uk/get-workplace-coronavirus-tests>

Contact us: For specialist HR advice and guidance, including access to relevant risk assessment documentation

Can staff be forced to have a Covid Vaccination?

As more organisations across almost 500 sites have joined the government's testing programme, this has allowed workplaces to plan with more certainty and spot cases before they take out a team.

Asymptomatic individuals who may be spreading the virus unknowingly are a major concern for those industries who can't work from home, such as construction, manufacturing and care industries.

The news of the launch of the government's testing programme comes amid fierce debate about whether vaccinations can be made mandatory by employers. There is no clear guidance that employers would be protected by current health and safety laws if they insisted employees have the vaccine before coming to work.

The question is whether an employer can make it mandatory for employees to have the job or if they can make insist that particular activities are contingent upon having the job. We strongly advise employers against adopting such a stance. It is wise to encourage employees about the benefit of the vaccination and the importance of protecting yourself and your colleagues.

If an employee is resistant to have the job then it is wise to spend time to find out why and deal with each situation on a case by case basis.

If you feel it's important for staff to be vaccinated, consult staff with them on what steps to take. Decisions should be put in writing, for example using a workplace policy, taking into account those employees who can't have the job due to safety reasons.

Employers: It is unwise to try and force an employee to have the job as there are plenty of routes to ensure the workplace is safe and Covid secure.

Contact us: We can help your business make sure your Covid risk assessment is up to date

Do employees have 'the right to log off' while working from home?

With homeworking many employees feel obliged to be contactable outside their normal hours.

The pandemic has turned all of our homes into offices, classrooms, gyms and relaxation spaces, all rolled into one. It is easy for the lines between work and home to become blurred as the months have dragged on.

Many employees feel obliged to be contactable outside of their normal working hours, as remote working technology means that it is easy to reach each other. Employees have also not taken all their annual leave, as they are unable to travel anywhere, so often feel they may as

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well carry on working. As businesses struggle during the pandemic, pressures at work may be increased as well.

However, as these pressures increase, many employees may simply burn out, particularly as some have reported working longer hours. Tired and stressed employees are more likely to make mistakes and be less productive, with negative impacts on both physical and mental health.

This ultimately has an impact on the business, particularly if employees makes mistakes and then may also need time off to recover.

The right to log off is not currently set out in UK law, although this may only be a matter of time as cases are coming out in Ireland and France. The EU is calling for this right to become EU law. Although the UK is no longer legally bound by this, if it is passed, it would have a persuasive element.

Be aware of Working Time Regulations

In any case, the Working Time Regulations are in place to protect employees from working excessive hours, as well as employers' obligations under health and safety laws.

There is a 48-hour maximum working week in the regulations (unless an opt out is agreed) as well as an employee's rights to daily and weekly breaks. A study recently found that those who work from home are twice as likely to work more than 48 hours per week, as they feel the need to answer emails and messages outside of working hours.

Mental wellbeing plays a major part here, given that stress is a major cause of work-related illness in the UK. Employers who put pressure on employees to be contactable out of working hours may find themselves failing in their duty of care.

Employers: Check in with your employees on a regular basis to understand their working hours and discuss their wellbeing

Contact us: We can provide a Remote Working Policy for £60 for the month of March

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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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