

COVID 19 Update

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The Covid-19 employment law landscape continues to evolve. This update covers some of the most recent developments.

- The Chancellor announced on 8 July a new job retention bonus for employers who bring back furloughed staff. We have yet to see full details but understand employers will be paid £1,000 per person brought back from furlough. This is subject to the conditions that employers must continuously employ the employee until the end of January 2021 and pay them a minimum of £520 per month, on average in each month from the beginning of November 2020 to the end of January 2021. Payments will be made from February 2021. Further detail about the scheme will be announced by the end of July.
- In our recent alert on the new furlough Treasury Direction in our recent alert on the [new furlough Treasury Direction](#) we explained that one point on which urgent clarification was being sought was whether the Coronavirus Job Retention Scheme (CJRS) can be used to pay notice pay or any costs associated with termination of employment. This concern arose because the new Direction says that the purpose of the CJRS is to “continue the employment of employees”. This new wording appears to contradict the Employee Guidance on the CJRS which still states “your employer can still make you redundant while you are on furlough”.

Since our [29 June alert](#) there has been confirmation from HM Treasury (in Parliamentary Written Answers) that the new wording is not intended to prevent employers claiming through the CJRS for employees working their notice (although a claim could not be made in relation to a payment in lieu of notice). This should provide some reassurance for employers who are presently exiting people or are planning to.

- Guidance has been published for employers on how to pay all or some of the grant back if they have overclaimed through the Coronavirus Job Retention Scheme.
- The Government’s Guidance for clinically extremely vulnerable individuals will change for from 1 August and will have implications for the ability of these individuals to return to work. The [Shielding guidance](#) provides that from 1 August 2020 the clinically extremely vulnerable in England can go to work, as long as the workplace is COVID-secure, however, they should continue to work from home if they can (individuals in Wales have been told not to go to their workplace until 16 August). The Guidance also states that if it is not possible to work from home it may be appropriate for individuals to take up an alternative role or adjust working patterns temporarily. Despite the change in the Guidance, the risk of infection and resurgence of Covid-19 obviously remains, as does the employer’s overriding obligation to ensure they take reasonable steps to provide employees with a safe place of work. This will mean undertaking appropriate risk assessments and implementing controls to mitigate identified risks.

From 1 August, individuals will also no longer be eligible for Statutory Sick Pay (SSP) on the basis of being clinically extremely vulnerable. However, if they have previously been furloughed for a full 3-week period prior to 30 June they could be furloughed for any period of time until the Coronavirus Job Retention Scheme ends on 31 October.

Employees in this category may feel uncertain about returning to work. If clinically extremely vulnerable employees do return to the workplace employers should ensure that measures are put in place to support them.

- The Government has also updated its guidance for employers on [Working safely during coronavirus](#), to reflect the easing of lockdown. Guidance has also recently been added on local lockdowns, discouraging shouting, keeping records of staff shift patterns, and what to do in the event of a COVID-19 outbreak in the workplace. The Guidance is continually evolving so it is a good idea to use this link to keep an eye on the current wording and adapt practices accordingly. It is also advisable to keep a record of the version of the Guidance used to make a particular decision.
- On Monday (6 July 2020) new SSP Regulations came into force dealing with some new scenarios relating to self-isolation. The new Regulations make provision for SSP to be payable where someone self-isolates because they are in a linked household / extended household (i.e. a bubble) with someone who has symptoms. Previously it only applied where the employee was in the same household as the person with symptoms.

The SSP Regulations also cover entitlement to SSP for someone who needs to self-isolate because they have been notified that they have been in contact with an infected person under the Test and Trace system.

Another scenario where individuals may need to self-isolate is when returning from certain countries. The SSP Regulations currently do not cover someone returning from a country which is not on the travel exemption list and is therefore required

to quarantine for 14 days. If the employee does need to quarantine, they are not entitled to sick pay or SSP but should be encouraged to either take unpaid leave or holiday if they are unable to work from home.

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