

This Employment Law Update focuses on how to return your key staff to the workplace safely.

Book a free 15 minute telephone consultation:
01285 649727
info@sml-law.co.uk



Return to work success

The Chancellor has confirmed that the Coronavirus Job Retention Scheme (CJRS), will be extended to the end of October 2020, with business critical workers now being invited back to work (if they cannot work from home), flexible furloughing being introduced from July and a tapering of the Government grant from August. With these changes, employers will need to examine their workforce to ensure they can be brought back to work “Covid-Safe”.

Now that the Government have said that certain workers can (and should) return to work – and with one eye to the future scaling back of furloughing - it is a legal requirement for you as an employer to think about how you can achieve return to work safely. At present, only those who **cannot** work from home should return to the workplace, but in the coming months flexible furloughing will generate a wider, if still limited, return to work.

Formal Risk Assessment

The legal requirement to undergo a formal Risk Assessment process means you have to really think about:

- **who** you need to come back (IDENTIFY);
- **why** they cannot work from home and therefore must return to the workplace (ASSESS);
- **what** are the risks of returning to the work place (ASSESS); and
- **how** you will deal with those risks (MITIGATE).

Although the Risk Assessment does not have to be in written form if there are less than 5 employees, or you are self-employed, we recommend a written Risk Assessment in every case to assist in safe working practices. You have a duty to consult your workers in conducting the Risk Assessment, so early and meaningful engagement with them is very important. If you have over 50 employees, you are expected to publish your Risk Assessment on your website.

Step 1 – Identify

You will need to identify those workers who you believe are critical to your business output. If the person identified can work from home, they must do so. Only those who cannot work from home should return. In identifying workers for return, you need to consider their individual circumstances:

- are they in a shielded category?
- are they “clinically vulnerable” or “clinically extremely vulnerable”?

Step 2 - Assess

You will need to assess what risks will be faced by individuals upon their return to work, together with risks to any visitors, customers and contractors that may need to come to the workplace. Where will the risks arise? Some examples would be:

- entering and exiting work;
- meetings;
- individual work space or workstations;
- ensuring the 2 metre rule can be complied with;
- how do people make their way around the building – do they need to?
- potential contamination touch points – door handles, toilets and kitchens;
- are there any specific risks pertinent to certain individuals, such as disabled persons or new/expectant mothers?

It is important to think about these risks not just in a general firm-wide sense, but also specifically in relation to the individuals you have identified to return to work and their actual work-space.

Step 3 – Mitigate

Once you have identified the risks associated with the return to work, you will need to **take action** to mitigate those risks so that they become “as low as reasonably practicable” (ALARP). **If you cannot reduce the risks to ALARP, you must stop the activity.** You will only be able to complete the Risk Assessment if you are able to mitigate each risk you have identified in the process. You cannot leave a risk “hanging” with no effective mitigation or action.

Management Responsibilities

Running alongside this 3 stage Risk Assessment process will be the usual day-to-day management of your workforce; you will still need policies and practices in place to manage your workforce as you would normally:

- what is your sickness policy?
- what happens if the individual refuses to return to the workplace?
- what if the individual has caring responsibilities for a child or shielded person?
- what happens if an individual needs to go into self-isolation?
- can I force an employee to take holiday during furlough?

These are difficult times for everyone. Some employees may be raring to get back to work, whilst some may be scared and worried. Do not let this Risk Assessment become a piece of shelf-ware; it is a living document which should be kept under constant review as risks change.

Business as usual?

Moving forward, we hope to see areas of commercial activity slowly re-emerging from lockdown. Having your workers back in situ will enable you to concentrate on what you do best – your business. There may still be bumps in the road, and many questions remain unanswered, but the commercial world is adapting every day into “a new normal”.

We are here to help

We can help you with your Risk Assessment and back to work policies and procedures. **Please call us on 01285 649727 to book a free 15 minute telephone appointment.**



advice for
employers



Please Contact
Mrs Rachel Wooddisse
on
t: 01285 649727
e: rsw@sml-law.co.uk



Please Contact
Mrs Nicki Severs
on
t: 01285 649727
e: njs@sml-law.co.uk