

Emerging from lockdown and returning to work



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What we will cover

- Considerations for ending furlough arrangements
- Practical considerations for returning employees
- Redundancies and consultation processes
- Workplace health and safety
- Risk assessments
- Communicating with the workforce

Ending furlough arrangements

- Provide reasonable notice
- Consider whether you want all staff to return to work at the premises or whether homeworking arrangements will continue
- Consider whether there is a business need for all of your furloughed employees to return to work
- Consider whether any changes will be made to terms and conditions

Homeworking – practical issues

- Consider employment contract provisions
- Take appropriate measures to protect confidential information and personal data
- Consider health and safety implications
- Decide whether any special equipment is necessary
- Consider management and supervision of homeworkers

Flexible working

- Homeworking
- Part-time working
- Compressed hours
- Flexi-time
- Job-sharing
- Shift-working
- Staggered hours
- Term-time working

Policies and procedures

- Sickness absence and pay
- Health and safety
- Disciplinary offences
- Homeworking
- Flexible working
- Other time off
- Annual leave

Reduced need for entire workforce

- Temporary reduction in pay
- Short-time working or temporary lay-off
- Introduction of flexible working patterns
- Consider deferring pay rises/bonuses
- Unpaid leave
- Review company benefits

Managing Redundancies: The business case

- Establish whether there is a genuine redundancy situation:
 - Is there a diminution in work? Are some work types ceasing? Are you restructuring the business?

Be ready to explain the business rationale and be challenged on this by affected employees.

- How many people are affected by the business's circumstances:
 - This may be more than just the employee(s) "at risk of redundancy".
- Collective consultation should be followed in 20+ dismissals proposed.



What steps have you already taken to avoid redundancies?

- Pay/drawing reductions for Directors
- Temporary salary reduction for staff/pay freeze/overtime freeze
- Deferring pay rises/bonuses
- A recruitment freeze
- Furloughing staff
- Short-time working or temporary lay off
- Review company benefits

Managing redundancies: Consultation

Ensure that you follow a fair and transparent consultation process.

- Employee(s) should be formally put “at risk” of redundancy in writing.
- Explain the redundancy process and redundancy payment sums, if dismissal is confirmed.
- Affected employees should be met with individually to discuss ways of avoiding redundancy and alternative job roles, if available, should be considered.
- Respond in writing to representations made by the employee and, if necessary, schedule additional meetings to discuss these.
- Allow a workplace colleague or trade union representative to attend these meetings.
- Confirm any dismissal in writing and provide an opportunity to appeal.

Managing redundancies: Employee entitlements

An employee is entitled to:

- Redundancy pay (if they have more than two years' continuous service) – this is based on age, length of service and weekly pay (capped);
- Notice pay (as per statute or their contract of employment); and
- Accrued annual leave up to the Termination Date.

Managing redundancies: The risks

- An employee who has two years' continuous employment has a right not to be unfairly dismissed.
- Failure to follow a transparent consultation process could give rise to a claim for unfair dismissal and potentially discrimination in the Employment Tribunal.
- Staff Morale –managing the wider implications of redundancy will be important:
 - Voluntary redundancy could be considered at the consultation stage to avoid compulsory redundancies.
 - Provision of a Settlement Agreement achieves a clean break and could expedite a conclusion to the process. Reducing the period of worry for affected staff.

COVID-19 Secure guidelines: 5 steps to working safely

- Carry out a COVID-19 risk assessment
- Develop cleaning, handwashing and hygiene procedures
- Help people to work from home
- Maintain two metre social distancing where possible
- Where people cannot be two metres apart, manage transmission risk

Workplace health and safety

- Statutory duty to ensure the health, safety and welfare at work of all employees under the Health and Safety at Work etc. Act 1974
- Common law duty to take reasonable care for the safety of employees
- Implied contractual term to take reasonable care of the health and safety of employee and provide a reasonably suitable working environment

HSE guidance

- Working safely during the coronavirus outbreak
- Talking with your workers about preventing coronavirus
- Health and safety at work: criminal and civil law
- Providing information and training
- Consulting workers
- Preparing health and safety policies
- Managing risk and risk assessments at work

Risk assessments

HSE minimum requirements:

- Identify what in the business could cause illness or injury (the hazard)
- Decide how likely it is that someone could be harmed and how seriously (the risk)
- Take action to eliminate the hazard, or if this isn't possible, to control the risk

Risk assessments: considerations

- Size and nature of your business
- How the business is organised
- How the business is operated
- Whether the business is regulated
- Employees, contractors, agency workers and any third parties

Risk assessments: Provision of information

- The risks to their health and safety identified by the assessment.
- The preventive and protective measures that the risk assessment has shown the employer it needs to take to comply with its legal obligations.
- The procedures to be followed in the event of serious and imminent danger to persons at work.
- The identity of the people who will implement any evacuation of the workplace.
- Where they share a workplace with one or more other employers, the risks to employee health and safety notified to them by the other employer(s).

Employee responsibilities

- Take reasonable care for their health and safety and that of anyone who may be affected by their acts or omissions while at work
- Co-operate with their employer so far as is necessary to enable compliance with any statutory duty or requirement relating to health and safety

Communicating with the workforce

- How it intends to emerge from lockdown
- Whether any measures are required in relation to their continued employment
- Changes to the workplace to enable and support a return to work
- Support that the employer has in place for employees
- Requirement for staff to remain vigilant about their health and safety



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