Adviser Network Meeting

Employment COVID-19 Series

21.05.2020

This morning’s topics...

JOB RETENTION SCHEME UPDATES
RETURNING TO WORK
HEALTH & SAFETY ISSUES

Headlines

• Online portal now open and employers are receiving payment.
• Scheme has been extended until October, but likely employers will share the cost from August.
• Employees can start a new job when on furlough if contract permits.
• Employees are eligible for the scheme if they began employment before 19 March 2020 and their employer made the RTI Notification to HMRC.

Clarity on Rights

Employees on furlough still have the following rights:

– SSP;
– Maternity and other parental rights;
– Rights against Unfair Dismissal; and
– Redundancy payments.
While on furlough

• Can’t work, but can undertake training or volunteering as long as the employee is not making money or providing services for the employer.

• After the initial three weeks, can be furloughed for any amount of time (unless brought back to work and then re-furloughed).

• Training must be paid at NMW.

Holiday Leave and Furlough

• Updated guidance
• Leave accrues as normal
• Pay should be topped up to 100%
• Can be required to take leave if the correct notification is given

Inability to work and Entitlement to Furlough

Caring responsibilities

Shielding

I am shielding but my employer is refusing to furlough me because I am a key worker. Am I eligible for furlough?

If employee suspects fraud..

• Talk to employer
• Raise a grievance
• Report to HMRC

• 7.5 million workers are now covered by the scheme
• Increased numbers of fraud being reported
RETURNING TO WORK

Employer’s should...
1. Assess the risk
2. Set up a system
3. Implement the changes and communicate clearly

Considerations
- Contract variations
- Health and safety risks
- Vulnerable employees
- GDPR

Vulnerable Employees
- Extremely vulnerable vs vulnerable
- NB discrimination
- Guidelines
- Those living with vulnerable family members

Can an employer require employees to attend work when it reopens?

If an employee cannot attend a reopened workplace due to caring responsibilities, are they entitled to pay?
Duty of Care and the Law

• Employers have a legal duty to ensure, so far as is reasonably practicable, the health, safety and welfare at work of their employees and anyone else who may be affected by the employer’s business.

• This could include conducting regular risk assessments to identify COVID-19 related risk and appropriate measures to control that risk, and reviewing them on an ongoing basis.

Employees also have legal responsibilities: to take reasonable care for their own and others’ health and safety and to cooperate with their employer to help them meet their duties.


Section 68: right not to suffer detriment
Section 132: unfair dismissal
DAY ONE RIGHT

Best Practice at Work

– Encouraging working at home;
– If someone displays symptoms in work – should be sent home;
– Encouraging hand washing;
– Cleaning and disinfecting objects and surfaces that are touched regularly; and
– Supporting employees that need to stay at home, in particular vulnerable employees should be supported to stay at home and work from there if possible.

Refusal to Work

‘In circumstances of danger which the employee reasonably believed to be serious and imminent and which he could not reasonably have been expected to avert, he left (or proposed to leave) or (while the danger persisted) refused to return to his place of work or any dangerous part of his place of work or took steps to protect himself’
Other Remedies

- Reporting it to the Health & Safety Executive NI.
- Employer could consider furloughing employees with valid health and safety concerns.
- Asking employer for solutions to transport concerns i.e. cycle to work scheme etc.
- Protected disclosure/whistleblowing.

Can an employee be disciplined for failing to go back to work?

How can employers support employees who may be concerned about attending work due to health concerns related to COVID-19?

Further Support

- acas.org.uk/coronavirus
- www.nibusinessinfo.co.uk

QUESTIONS?

Advice Line: 028 9024 4401

employmentadvice@lawcentreni.org