Burges Salmon

COVID-19: a guide for employers
Other Burges Salmon COVID-19 guidance for employers

Employment
The Coronavirus Job Retention Scheme – an essential guide for employers
Treasury Direction on the Coronavirus Job Retention Scheme: A summary of key points
Managing holiday and extension of carry-over provisions
The Test and Trace Scheme – what does it mean for employers?
Workers to get time off to volunteer for NHS and social services

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Introduction

COVID-19 is presenting a global challenge on a scale that has not been seen in a generation. The immediate effect on business was seismic from swingeing drop-off in consumer demand through to potential supply chain collapses. There were and are numerous issues to consider and people lie at the very heart of this crisis.

In this booklet, we address the key issues for employers to consider. The situation is changing daily so expect to update your approach on a regular basis.

The Government produces guidance on a regular basis much of which will be useful for employers – a list of some of the key pieces of guidance can be found at the end of this booklet.

We have been advising many of our clients on the impact of COVID-19 on their workforces and workplace practices. If we can assist you, please do not hesitate to get in touch.

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As an employer, you are under a duty to take reasonable steps to ensure your employees’ safety. Whilst employees are still required to work from home wherever possible (see ‘Working away from the workplace’ below) the easing of the lockdown means that more employees are returning to their workplaces.

The duty to ensure your employees’ safety includes providing a safe place for your employees to work and so you need to take steps to assess and reduce the risk to your workforce of contracting COVID-19 on an on-going basis. As businesses start to re-open their premises the Government has issued Guidance (Working safely during coronavirus) to help employers ensure workplaces are as safe as possible. The guidance takes the form of a number of guides containing non-statutory guidance for employers to take into account when complying with existing health and safety obligations. The guides cover a range of different types of workplace environments and businesses that operate more than one type of workplace will need to take account of more than one guide.

The Guidance focuses on five key points:

• Employers should take all reasonable steps to help employees work from home, if possible. Those workplaces that are allowed to be open and whose employees cannot work from home should prepare for employees to return to work.

• Employers should carry out a COVID-19 risk assessment, in consultation with workers or trade unions. All businesses with over 50 employees are expected to publish the results of their risk assessments on their website.

• Employers should re-design workspaces to maintain social distancing between people wherever possible, by staggering start times, creating one way walk-throughs, opening more entrances and exits, or changing seating layouts.

• Where the social distancing guidelines cannot be followed in full, in relation to a particular activity, businesses should consider whether that activity needs to continue for the business to operate, and, if so, take all the
mitigating actions possible to reduce the risk of transmission between their staff, for example, by putting barriers in shared spaces, creating workplace shift patterns or ensuring colleagues are facing away from each other.

- Employers should provide handwashing facilities or hand sanitisers at entry and exit points and ensure workplaces are cleaned more frequently, paying particular attention to disinfect objects and surfaces touched regularly. More information can be found at (COVID-19: cleaning of non-healthcare settings).

A downloadable notice is included in the documents, which employers are required to display to show their employees, customers and other visitors to their workplace, that they have followed the guidance.

In addition, you should make sure any visitors to your building understand the precautionary measures you expect them to take and adhere to guidance on social distancing. If you are a tenant in a building, make sure you are liaising with your landlord to understand the steps they are taking to prevent the spread of COVID-19 both in terms of maintenance of the common parts and in respect of any other tenants in the same building.

The implementation and monitoring of any risk assessments will also be key for employers, in particular:

- **Do what you say** – it’s very easy to make something look good on paper but it is important to implement the steps you say you are taking.

- **Be prepared to change** – it’s a risk management cycle so monitor whether the steps are working and be prepared to change.

- **Consider the impact on other risks** – some tasks need two people to be done safely. Some tasks are safer with two people. Some tasks need to be supervised. Organisations should not, therefore, think about COVID-19 risk in isolation. Where a core pillar of any COVID-19 risk assessment is to keep two metres apart wherever possible, organisations also need to think about how this impacts other processes and existing risk assessments so as to avoid re-introducing or increasing risk in those other areas.

Can an employee refuse to return to work?

There are likely to be many employees who are understandably nervous or anxious about the easing of the lockdown and the return to the workplace. Those employees who are ‘clinically extremely vulnerable’ must not be required to come to the workplace. They should be allowed (and encouraged) to shield, in line with government guidance. From 1 August, government guidance is due to change
so that those who are clinically extremely vulnerable will be advised to adopt strict social distancing rather than full shielding measures and they will be able to go to work, if they cannot work from home, as long as the business is COVID-safe.

Even those employees who don’t fall within this category may refuse to attend their workplace if they reasonably believe there is a serious and imminent danger posed by coronavirus. Section 44 of the Employment Rights Act 1996 provides that an employee has the right not to be subjected to a detriment by any act, or any deliberate failure to act, by an employer on the ground that, in circumstances of danger which the employee reasonably believed to be serious and imminent, the employee refused to return to their place of work or any dangerous part of their place of work. Section 100 of the Employment Rights Act 1996 provides that a dismissal on these grounds will be automatically unfair and there is no qualifying period or cap on compensation for such a claim. Whether the employee’s belief that there is a serious and imminent danger is a reasonable belief will depend on a number of factors, including the extent to which the employer has assessed risks and followed Guidance and whether any further safeguards, such as PPE, can be provided or other measures can be taken.

Employers will need to consider the varied circumstances of different employees and the danger of coronavirus must be considered within the context of any vulnerabilities; the measures that may be sufficient to reduce the danger for other employees, may not be adequate for clinically vulnerable or disabled employees. The Guidance also suggests that particular attention should be paid to people who live with clinically extremely vulnerable individuals.

A complaint that the workplace is unsafe could also amount to a protected disclosure and so the employee would be protected against detriment and dismissal on grounds of that disclosure as a whistleblower. If the employee is disabled there is also an obligation to consider reasonable adjustments.

Therefore employers will need to handle the situation carefully and engage with the employees to:

• understand their concerns;
• reassure them as to the steps taken on site and the measures put in place;
• respond to any particular concerns they have raised and consider any suggested measures that they put forward;
• inform them (where relevant) of the trade union’s involvement in considering and supporting the business’ social distancing and other safety measures.

A continuing refusal would need to be handled sensitively:

• continue to engage with the employee to understand and alleviate their concerns;
• where relevant, seek to engage with the trade union to see if they can help allay concerns;

• if the employee’s concerns are linked to a particular health concern, consider an occupational health referral to understand the impact of the pandemic on the employee;

• if the employee’s concerns are related to travelling to and from the workplace on public transport, consider what measures could be put in place to alleviate the concerns (e.g. providing a car parking space or changing working hours to avoid the rush hour);

• respond to the concerns, explain the safety measures that have been put in place and if they still refuse to attend the workplace consider alternative roles, the possibility of working from home and explore with the employee what other types of leave they could take to cover the period (e.g. unpaid leave, annual leave).

Dismissal or disciplinary action should be approached with caution and only in consultation with HR as the employee may have:

• protection against disciplinary action/dismissal where the employee reasonably believes there is a risk of serious and imminent danger by coming into the workplace; and/or

• disability discrimination protections which may apply, depending on the employee’s circumstances (for example, they may be clinically extremely vulnerable or clinically vulnerable or they may have a disability and/or potentially be subject to a greater chance of suffering more serious effects from the virus than others).

The employee relations, legal and reputational risks associated with disciplinary action could be significant.

The Test and Trace Scheme

The Government has recently issued guidance encouraging employers to support them in their test and trace scheme – a scheme which is aimed to reduce the spread of COVID-19 by asking those who have tested positive to identify those with whom they have been in close contact so that those people can then been traced and asked to self-isolate. To read more about what this scheme means for employers please see our briefing note The Test and Trace Scheme: what does it mean for employers?
Temperature checks

Any organisation considering the introduction of workplace temperature checks, should be aware of the Information Commissioner’s Office (‘ICO’)’s Q&A on workplace testing. This sets out the key data protection issues organisations will need to address before they put such tests into practice. The ICO suggests organisations should be cautious before deciding to carry out on-site temperature checks due to the intrusive nature of the measure. Employers planning to perform these checks may want to consider seeking legal advice to assess whether the measure is justified and whether staff and visitors’ privacy can be respected. For example, one factor to consider is whether temperature checks could be performed in a semi-private area, out of sight and earshot of colleagues. To read more about the issues related to workplace testing please see our briefing note COVID-19: ICO issues guidance on workplace testing for employers.
COVID-19 means people will be absent from work for a number of reasons. Some will be ill themselves, others will need to look after dependants who are ill, some will be shielding and some will be unable to work because of the school and nursery closures. This means employers will need to carefully consider the question of pay – not least because of the ongoing high levels of absence.

Entitlement to sick pay

At the outset, there was a lot of uncertainty around entitlement to statutory sick pay (“SSP”) in relation to self-isolation but the Government clarified many of the areas of concern.

Statutory sick pay: summary

An employee who is absent from work because they are ill is entitled to statutory sick pay of £95.85 per week from 6 April 2020 (previously £94.25). This is generally paid by the employer. Key temporary changes to SSP have been made by the Government in response to COVID-19 as follows:

- SSP is payable from day 1 where an employee has or may have COVID-19;
- an employee will be entitled to SSP if they are shielding or if they are self-isolating to prevent infection or contamination with COVID-19 in accordance with Schedule 1 of the Statutory Sick Pay (General) Regulations 1982 (“Schedule 1”) and by reason of that isolation is unable to work. In summary Schedule 1 states that a person is incapable of work where:
  (a) the employee has symptoms of coronavirus, however mild, and is staying at home for 7 days, beginning with the day the symptoms started (“day 1”);
  (b) the employee lives with someone who is self-isolating under paragraph (a) above, and the employee is staying at home for 14 days, beginning with day 1; or
  (c) the employee is staying at home under paragraph (b) above and develops the symptoms of coronavirus, however mild, and is staying at home for 7 days, beginning with the day the symptoms started;
  (d) the employee has been classed as ‘clinically extremely vulnerable’ in public health guidance and has been advised, by notification, to shield;
Absence from the workplace and entitlement to pay

(e) the employee has been advised by a ‘relevant notification’ (from Public Health England or similar) that they have had contact with a person who at the time of the contact was infected with coronavirus and they are staying at home for 14 days beginning with the date on which that contact occurred or (if sooner) the date in the notification.

- those employees who have been advised to shield will stop being eligible for SSP when their shielding period ends. The end date for each individuals’ shielding period was set out in their shielding notification but under the amendments to the Statutory Sick Pay (General) Regulations 1982 (SI 1982/894) (SSP Regulations), which were introduced on 6 July 2020, this end date can now be overridden by a further notification letter containing a new end date. The government has announced that shielding will end on 1 August. However, because of the amendments to the SSP Regulations, further notifications to shield may be issued after 1 August in the event that the UK experiences a second wave of infections and the government deems it necessary for some people to shield again. Those who are issued with further shielding notifications will be entitled to SSP again while they are shielding;

- the SSP Regulations also address SSP provisions for those households that are now forming ‘bubbles’ with each other. If an employee is in a ‘linked’ or ‘extended’ household, and is self-isolating due to someone in that ‘linked’ or ‘extended’ household having COVID-19 symptoms, and the employee cannot work from home, SSP will be payable to that employee while they self-isolate. If the individual who has COVID-19 symptoms receives a negative COVID-19 test result, SSP will stop being payable;

Point to note: currently people required to quarantine on return to the UK from abroad are not entitled to SSP for that 14 day period.

- where an absence is due to COVID-19, small employers with fewer than 250 employees (as at 28 February 2020) will be refunded for up to 14 days’ SSP per employee affected;

- refunds to employers of SSP will only be payable within the “eligible period”, which commenced on 13 March 2020. Payments of SSP made by employers to self-isolators before this date may not be refundable;

- medical evidence supporting the absence is not required for the first 7 days. After 7 days it is for the employer to determine what evidence it requires. If evidence is required to cover self-isolation or household isolation beyond the first 7 days of absence then employees can get an isolation note from NHS 111 online or from the NHS website. However government guidance strongly suggests that employers use their discretion around the need for evidence where an employee is absent because they are ill with COVID-19 or is self-isolating/shielding in accordance with Schedule 1. GPs will not
be issuing Fit notes for COVID-19 related absences;

• keep records of staff absence in the usual way.

Point to note: Government Guidance on the Coronavirus Job Retention Scheme would indicate that an employee absent on sick leave can be furloughed – please refer to our briefing The Coronavirus Job Retention Scheme: an essential guide for employers.

Company sick pay
Many employers operate enhanced sick pay schemes. The fact that an employee is entitled to receive SSP does not mean they are necessarily entitled to receive enhanced sick pay under your scheme and often the terms of the scheme will allow the employer the discretion to decide whether to pay the enhanced sums.

Whilst decisions should be taken in line with scheme rules, given the scale of absence, it will be necessary to consider how you will exercise any discretion. For example:

• should you reduce levels of payments – if so should this be a blanket reduction or just for those who are unwell or absent due to COVID-19;

• a person who is well but is self-isolating or shielding under Schedule 1 is entitled to go onto sick leave and to receive SSP. However, they do not have to do this. Consider whether you want to ask employees in this position who can work from home to do so (in which case they will not be on sick leave and will continue to receive their normal pay);

• an employee who needs to self-isolate or shield under Schedule 1 but cannot

Clinically vulnerable and clinically extremely vulnerable people
The Government has issued guidance advising those who are at increased risk of severe illness from COVID-19 to be particularly stringent. Those who have been designated as ‘clinically extremely vulnerable’ are being advised to follow shielding methods to minimise interaction with other people – this includes staying at home most of the time and avoiding face-to-face contact with people. Those in the same household should also reduce their contact outside the home. (Guidance on shielding for the clinically extremely vulnerable).

Those who are less at risk but still clinically vulnerable are subject to less stringent advice. A full list of those who are viewed as clinically vulnerable can be found at Staying alert and safe (social distancing).

Clinically vulnerable employees should be allowed to work from home wherever possible and, as an employer, you should support this.
work from home will need to take sick leave (unless they have been furloughed). Employers with discretionary sick pay schemes will face some difficult decisions in these circumstances. If the employee would normally receive full pay for a period of sick leave and the employer chooses not to pay at this level, then you face the risk of an employee who should be self-isolating coming into work thus presenting a health and safety risk.

These decisions are not easy and will depend on how your scheme is drafted and your organisation’s specific circumstances.

Impact on revenue and levels of absence will vary dramatically from business to business and sector to sector. This means it will be sensible to review your approach on a rolling basis rather than taking blanket decisions at the outset.

**Point to note:** If your sick pay scheme is contractual, it will be difficult to reduce any payments provided for under the scheme. You may want to seek legal advice to understand your options.

**Holidays**

Employees who are working continue to be entitled to take holidays and should be encouraged to do so. Employees taking holiday should receive pay in the usual way. (See Managing holiday and extension to ‘carry-over’ provisions below.)

Employers will need to consider how they approach the quarantine periods which attach where an employee returns from abroad. The quarantine period should not affect an employee who can work from home but employees who need to attend the workplace will be in a more difficult position as the quarantine requirements mean that they will not be able to return to work for 14 days following their return to the United Kingdom.

If an employee falls ill (with COVID-19 or otherwise) whilst they are on holiday, then they are entitled to move to sick leave and to be ‘reimbursed’ for the balance of any unused holiday.

If the employee’s workplace closes whilst they are on holiday they can still be treated as being on holiday until their return at which point they should be treated in line with other employees.

Particular rules apply to those who take holiday whilst on furlough. Please see our briefing The Coronavirus Job Retention Scheme: an essential guide for employers for further detail.

Those who are pregnant are also categorised as clinically vulnerable. A pregnant employee who cannot work from home may be entitled to be suspended from work on medical grounds (and to be paid full pay) unless the employer can alleviate the risks to which the employee is exposed in the workplace as a result of COVID-19. You may want to seek legal advice in this situation.
**AT A GLANCE: Absence and entitlement to leave and pay**

<table>
<thead>
<tr>
<th>Reason for absence</th>
<th>Entitlement to leave and pay</th>
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<tbody>
<tr>
<td>Employee is unwell with COVID-19</td>
<td>Entitled to:</td>
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<td></td>
<td>• take sick leave;</td>
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<td></td>
<td>• to receive SSP* from day 1 of absence;</td>
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<td></td>
<td>• may be entitled to additional pay under any company sick pay scheme.</td>
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<td></td>
<td><strong>NB</strong> an employee who falls ill whilst on holiday will be entitled to switch to sick leave (and SSP/ sick pay) and have the balance of any holiday returned to them.</td>
</tr>
</tbody>
</table>

Employee is well but is required, in accordance with Schedule 1, to self-isolate/shield due to COVID-19.

You may be able to place employees who are shielding in line with Public Health England (or equivalent) guidance (and those who need to stay at home with someone who is shielding) on furlough if they cannot work from home (see The Coronavirus Job Retention Scheme below for details).

<table>
<thead>
<tr>
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<tbody>
<tr>
<td>Employee is well but is required, in accordance with Schedule 1, to self-isolate/shield due to COVID-19.</td>
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<tr>
<td></td>
<td>But consider with employee if working from home is an option (see ‘Working away from the workplace’ below for detail).</td>
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<tr>
<td></td>
<td>Note: Those employees who have been advised to shield will stop being eligible for SSP when their shielding period ends. The government has announced that shielding will end on 1 August. However, further shielding notifications may be issued after 1 August, and those who receive further notifications will be entitled to SSP again while they are shielding.</td>
</tr>
</tbody>
</table>
Reason for absence | Entitlement to leave and pay
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**Employee who cannot work from home is well but is not attending work due to concerns about COVID-19 (and not because they are required to self-isolate/shield under Schedule 1)** | No entitlement to SSP. Check entitlement under any company sick pay scheme. Employers should make every effort to find a way for the employee to work from home in accordance with Government guidance. If this is not possible and an employee is refusing to attend work, first understand the employee’s reasons for refusing and assess the risk. Consider whether a change to hours, transport or job duties may assist in achieving a return to work. Clinically vulnerable employees may, in some circumstances, be justified in not attending work. Whilst they may not qualify for SSP, you may be able to require the employee to take holiday or you could offer a period of unpaid leave to cover their absence. Furlough may, in some circumstances, also be an option. Disciplinary action may ultimately be justified but, given the current circumstances, should only be considered as a last resort. See ‘Can an employee refuse to return to work?’ above.

**Employee is unwell but not related to COVID-19** | Entitled to:  
- take sick leave;  
- receive SSP* but only from day 4 of absence and SSP will not be refunded;  
- may be entitled to additional pay under any company sick pay scheme.

*Subject to fulfilling usual SSP eligibility criteria*
### Absence from the workplace and entitlement to pay

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<tr>
<td><strong>Employee who cannot work from home is well but is required to self-isolate due to someone in their ‘linked’ or ‘extended’ household experiencing COVID-19 symptoms</strong></td>
<td>Entitled to:</td>
</tr>
<tr>
<td></td>
<td>• take sick leave;</td>
</tr>
<tr>
<td></td>
<td>• receive SSP*;</td>
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<td></td>
<td>• may be entitled to additional pay under any company sick pay scheme.</td>
</tr>
<tr>
<td><strong>Employee is well but self-isolating on the employer’s instruction (and not because they are required to do so under Schedule 1)</strong></td>
<td>Entitled to receive their normal pay unless company sick pay scheme covers this situation.</td>
</tr>
<tr>
<td><strong>Employee is well but absent from work due to school or nursery closure</strong></td>
<td>Consider if holiday/ parental leave/ unpaid leave or furlough is appropriate if employee cannot work from home – see below for details.</td>
</tr>
<tr>
<td><strong>Employee is well but absent from work due to workplace closure as a result of COVID-19</strong></td>
<td>Entitled to receive normal pay even if they cannot work from home (see ‘Working away from the workplace’ below for detail). <strong>NB</strong> consider whether employees can be furloughed – you may want to take legal advice. Employees who are unwell during a workplace closure should be treated as being on sick leave.</td>
</tr>
<tr>
<td><strong>Employee is well but is required to quarantine on return to the UK from a trip abroad</strong></td>
<td>No entitlement to SSP currently. If employee can work from home then entitled to receive their normal pay. If the employer required the employee to travel abroad then the employee should be paid at their normal rate of pay during the quarantine period. If employee went abroad through their own choice and cannot work from home then consider unpaid leave and/or additional holiday to cover quarantine period. Disciplinary action may be possible if employee was instructed by employer that the 14 day quarantine period would not be sanctioned as leave.</td>
</tr>
</tbody>
</table>

*Subject to fulfilling usual SSP eligibility criteria*
The closure of schools and nurseries in March to all children except for those of key workers, has meant many parents have found it difficult to work. Whilst schools are beginning to reopen in England, only a limited number of children are eligible to return and the hours are very sporadic. Employers should, therefore, assess on an ongoing basis how employees with children are managing as a result of the closures.

If an employee can work from home, discuss potential arrangements with them – can you flex their hours – many parents are sharing the childcare operating on ‘shift systems’ so one works whilst the other looks after the children or can the employee use holiday to cover some of their hours?

If the employee cannot work whilst their child’s school is closed and cannot make alternative arrangements for their care, then consider what alternative options might be available. Many employers have chosen to furlough employees in this position (see The Coronavirus Job Retention Scheme below for more details). However, it is no longer possible to furlough employees for the first time (save for those returning from maternity or other family leave) so furloughing may not be available. Eligible employees may also be able to take unpaid parental leave. Employees with over 1 year’s continuous employment are entitled to 18 weeks’ parental leave per child. The leave is generally limited to four weeks per year but an employer can agree otherwise so could choose to extend the amount of time available. Again, whilst leave is generally taken in periods of a week, the employer can agree for parental leave to be taken as single days. Therefore a combination of parental leave and some work when childcare is available may be a possible solution.

If an employee has no entitlement to parental leave or has used their entitlement and has no holiday entitlement left then consider offering unpaid leave. Disciplining or dismissing an employee who cannot work for childcare reasons is unlikely to be reasonable in the circumstances so, unless you suspect the employee is taking advantage of the situation, it would be sensible to agree to unpaid leave as a last resort.
Current government guidance on social distancing (Staying alert and safe (social distancing)) remains that, wherever possible, employees who can work from home should do so, and employers should make every possible effort to enable working from home as a first option. Generally a request to work from home would be regarded as a lawful instruction on the part of the employer (especially given the current crisis) and should not give rise to any problems, even if there is no specific provision in an employee’s contract of employment to allow for this. However, as this requirement to stay away from the workplace continues, if an employee does raise concerns about working from home then you will need to listen to what they say and seek to address their concerns. If their concerns are justified, then consider what alternative arrangements might be feasible. The easing of the lockdown in England does give employers more flexibility to bring people back into the workplace so if an employee is struggling to work from home, perhaps because of childcare issues or because of mental ill-health, it may be possible to bring them back into the workplace if it is safe to do so.

In a bid to de-risk the situation, where employees cannot work from home and also as a result of the easing of the lockdown, some employers are splitting teams so they work at different locations. If you require employees to work from an alternative site, you will need to consider the personal impact this might have, particularly if your contracts of employment are silent on this. As any change in location is likely to be on a temporary basis, then this will make a request that employees work elsewhere more reasonable. However, if the new location means the employee is having to travel a significant distance or if they will struggle to manage childcare because of the new work location, you may need to be flexible with start and end times, for example.

Where employees are working from home or from a different location then, even in these difficult times, you are still under various obligations as their employer. For example, you are still responsible
for an employee’s health and safety and need to carry out a risk assessment. If an employee uses specific equipment, for example, a particular office chair or an adapted keyboard, then you may need to arrange for the equipment to be transported to the employee’s home/new location.

It is also important for employers to consider their employees’ mental wellbeing.Whilst many employees may relish working from home, others, particularly those who are living alone may be finding this difficult. Make sure you keep in touch with employees – virtual coffee breaks, team WhatsApp and buddy-up schemes may each have a place.

Also consider the following:

• remember that as an employer you will still be under health and safety obligations towards your employee (see above);

• GDPR obligations do not disappear because of COVID-19. Keep under review steps/restrictions in place to protect personal data which is being taken off-site;

• if employees are using their own devices, such as PCs and tablets, how does this affect confidentiality requirements?

• does your insurance cover homeworking?

• how do you supervise work?

• review touch points with employees – are you staying in touch with employees on a frequent enough basis?

• do you need to provide employees with stationery, paper and printer ink for example? How will you reimburse people for expenses eg telephone bills, postage etc?

• keep arrangements under regular review.
The FCO has updated its advice against all but essential international travel to include a list of exempt countries, which no longer pose an unacceptable high risk. The FCO continues to advise against non-essential travel (except to the exempt countries listed). Further, from 10 July, if you travel to a country, which is on the travel corridor exemption list, you will not have to isolate for 14 days when you return to England, providing you have not stopped in a country that is not on the travel corridors exemption list. Given this guidance and taking into account that any country or area may restrict travel without notice, an employee will almost certainly be entitled to refuse to travel abroad for business to any countries not listed on the FCO’s exempt list at the current time.

Businesses should continue to assess their approach to international travel in line with FCO guidance. In deciding what approach to take in relation to travel, your start point should be the FCO guidance on travel.

Government guidance means that employees should work from home wherever possible and public transport should only be used where it is essential to do so (Staying alert and safe (social distancing)). It will be difficult currently for an employer to require an employee to travel where this is not an integral part of their role. If an employee can travel within the UK in line with the guidance, they should be encouraged to adhere to the guidance on social distancing. If an employee refuses to travel within the UK or to a country on the FCO’s exempt list, and your request that they do so is in line with Government guidance, listen to their reasons for refusing and see if you can address these concerns in the first instance.
Overview of the scheme
On Friday 20 March the Chancellor of the Exchequer announced the introduction of the Coronavirus Job Retention Scheme in an effort to help employers avoid the need to make mass redundancies as a result of the impact of COVID-19.

The scheme which is open to all UK businesses, regardless of size, is designed to support employers whose operations have been severely affected by COVID-19. The scheme currently allows employers to claim for 80% of the usual monthly wage costs of any furloughed employees up to £2,500 per employee per month plus employer NICs and minimum auto-enrolment pension contributions but this is changing from August when employers will need to start to contribute to these costs.

The scheme will last until the end of October and reimbursements are to be backdated to 1st March. The HMRC claims portal is open so employers who have furloughed employees can submit claims. The scheme is not without its complexities and the supporting guidance changes on a regular basis. We have written a briefing for employers explaining more about how the scheme works which is updated on a regular basis. You can read our briefing here: The Coronavirus Job Retention Scheme: an essential guide for employers
The Government is introducing a temporary right which will allow employees and workers (including agency workers) to take unpaid emergency leave from their jobs in order to volunteer in health and social care services.

Please see our briefing giving information about how the new right will operate [here](#).
In an effort to relieve a potential operational challenge for employers, the Government has introduced a temporary change to the Working Time Regulations 1998 which will allow workers to carry over up to four weeks of holiday for up to two years if issues relating to COVID-19 have prevented the worker from taking their leave in the current holiday year.

You can find out more about this change in our briefing on managing holiday and extension of carry-over provisions.

This briefing also contains more general information on managing holidays including:

- whether employers can require employees to take holiday; and
- requests by employees to cancel leave.
• Adhere to Government guidance on COVID-19 as a base line. As we start to ease lockdown these changes continue apace – always check the latest Government guidance before taking decisions. COVID-19: UK Government response.

• Remember that lockdown is easing at different rates across the United Kingdom.

• Ensure your COVID-19 core team communicates regularly and issues regular employee communications.

• Make sure all staff contact details are accessible and up to date and put in place a mechanism so you know where employees are.

• Seek to act consistently across the business at any given time (bearing in mind that approaches may need to be adapted depending on how the situation develops over time). Make sure managers understand what is required of them.

• Whilst consistency is important, there will be occasions when you will need to consider an employee’s particular circumstances, so avoid introducing blanket policies which offer no flex.

• Many employers will want to be generous in relation to paying employees who are absent from work. Whilst contractual terms will need to be adhered to, be careful to make it clear if a payment is discretionary so that if the situation escalates as larger numbers of employees are affected you can review your approach.

This guide gives general information only and is not intended to be an exhaustive statement of the law. Although we have taken care over the information provided, you should not rely on it as legal advice. We do not accept any liability to anyone who does rely on its content.
Useful websites

COVID-19: UK Government response

COVID secure guidelines on working safely

Short guide on working safely during coronavirus

FCO travel advice on COVID-19

ACAS advice for employers and employees on COVID-19

Public Health England guidance on self-isolation

COVID-19: cleaning of non-healthcare settings

Guidance on staying alert and safe (social distancing)

Guidance on shielding for the clinically extremely vulnerable

ABI Coronavirus Hub relating to insurance policies

Number of COVID-19 cases and risk in the UK