



Coronavirus HR Issues 27 August 2020



HM Government

CORONAVIRUS
STAY ALERT
TO STAY SAFE

NHS

- ✓ Keep a safe distance from others
- ✓ Stay home as much as possible
- ✓ Keep washing your hands regularly

STAY ALERT ▶ CONTROL THE VIRUS ▶ SAVE LIVES



Today's Webinar Panel

- **Lorna Young**, Principal Consultant HR
- **Darren Newman**, Employment Lawyer

Supported by Abbey-Jane Law – Business & Corporate Services Team
Leader

Today's discussion – FAQ Topics

1. Vulnerable Groups – NJC Circular 12 August
2. Quarantine – Exemptions
3. Casual Payments
4. Over to you – open questions session

Please type your questions and we will get through as many as possible during the webinar

If you don't get chance to ask your question, we can respond by email in a follow up

Vulnerable Groups – NJC Circular 12/8



Uniquely this NJC Circular has not been signed by the TUs – they wanted all employees in the Clinically Extremely Vulnerable and Clinically Vulnerable groups to receive mandatory individual risk assessments.



This goes beyond official government guidance. Mandatory requirement could be considered unnecessary burden on employers – BUT employers must ensure they sufficiently engage with individuals in these groups to establish concerns and attempt reasonable steps to resolve issues.



Many LAs have set up a process to carry out individual risk assessments (e.g. on OH advice)

Vulnerable Groups – Recap on Strategy

- All employers must take steps to ensure covid secure workplaces
- <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>
- From 1 August there has been more discretion to return to the workplace – however working from home where possible remains a key safety measure
- Risk assessments must be carried out and Unions consulted
- The NHS have issued guidance on how to enhance generic risk assessments for those who may be more at risk
- <https://www.nhsemployers.org/covid19/health-safety-and-wellbeing/supporting-staff-health-and-safety/risk-assessments-for-staff>

Clinically Extremely Vulnerable Employees

- From 1 August these groups are no longer required to shield
- Should still maintain social distancing (2m or 1m plus precautions)
- Can return to work – employers should consider home working as first option
- Consider all measures to reduce risk – including temporary change of base, duties to enable homeworking, etc.
- Where no option but to require employee at normal place of work – stringent covid secure measures should be in place – recommendation that individual risk assessment and/or OH assessment carried out where appropriate
- NJC circular states also applies to workers living with an CEV person
- Local lockdowns and reintroduction of shielding for this group is a possibility to consider

Clinically Vulnerable

- Employees over 70, pregnant women and certain underlying health conditions are considered to be at a higher risk from complications or serious illness
- NJC circulars apply to both groups
- Follow same process for assessments
- Emphasis on individual engagement to address concerns – may include anxiety in relation to (not exhaustive) BAME background, gender, age, physical or mental health, vulnerable members of the household, use of public transport
- Research suggests up to 30% employees may suffer post traumatic stress – ensure EAPs and other support are in place and adequate
- **EMPLOYER MUST BE ABLE TO DEMONSTRATE THAT ALL MEASURES THAT ARE REASONABLY PRACTICABLE HAVE BEEN IMPLEMENTED TO MINIMISE RISK**

Refusal to work

- If all measures have been put in place and all options considered including amending duties, workplaces, start/finish times, and full covid secure measures what happens if an employee still refuses to work:
- First action for Line Manager to remind employee of their contractual obligations and consequences of refusal (in writing)
- Potential unauthorised absence – can ultimately lead to withdrawal of pay
- Consistent approach across organisation – last resort
- **Remember to consider s44 and s100 of ERA – if employee has raised H&S concerns which have not been addressed and has a reasonable belief that their health and safety is in serious and imminent danger they have a right not to suffer detriment**

Quarantine Exemptions

- Requirement to quarantine for 14 days when returning to the UK from certain countries – list of countries ever changing
- NJC Circular 5 June – Green Book para 10.9 applies where the employee travels to a country not requiring quarantine on return but status changes after outward journey has commenced
- Questions raised on government guidance on employees who are exempt from requirement to quarantine
- In particular IT staff have been mentioned.
- This guidance does not relate to LG staff who go on holiday – was intended for people who carry out roles/duties abroad. Should not be applying this exemption to our workforce
- WME have issued updated guidance on how to deal with quarantine periods

Casual Payments

- Questions raised over how/when to stop
- Draft letters developed and circulated
- What are the risks now if payments have continued?

As you are aware you are offered work as a Casual (**JOB TITLE**). You have not undertaken any work of this nature since (**DATE**). The nature of the casual arrangement means that you are not an employee and do not have continuity of service. We are not obliged to offer you work and you are not obliged to accept any offers of work.

On this basis I regret to inform you that we do not have any work to offer you at this time and you are not entitled to any payments.

I write to confirm that during the coronavirus pandemic it is not possible to continue to offer you any work as a Casual (**JOB TITLE**).

As a gesture of good will, during this time we will make a payment to you calculated on the basis of an average week's pay over the last (**REFERENCE PERIOD USED**).

*This work was only scheduled until (**DATE**) after which time no further work was due to be available and therefore payment on the above basis will be made until (**DATE**). /Payment on this basis will continue until such time that work of this nature is available again or (**LA**) makes any further decisions on the provision of this service.

Open employment questions – it's over to you.....

Next Steps

WME will:

- Last of webinars in this series and format – discussion with Heads of HR regarding support going forward
- Specific support/guidance around any changes and schools re-opening
- Continue to review FAQs in line with changing guidance (including separate school guidance and FAQs)
- Weekly virtual meetings for Heads of HR
- Canvassing views and surveying on information relevant to your decision making
- Develop templates and guidance documents
- Working groups around Education, wellbeing, L&D will continue – planning for the next phases and return to new BAU

West Midlands Employers



A reminder of how to contact us:

Please call or email us for any advice or support needs:

L.young@wmemployers.org.uk

Or

Info@wmemployers.org.uk

Use our website: www.wmemployers.org.uk/coronavirus - realtime updated FAQs



Twitter - @wmemployers OR @rebeccadavisWME