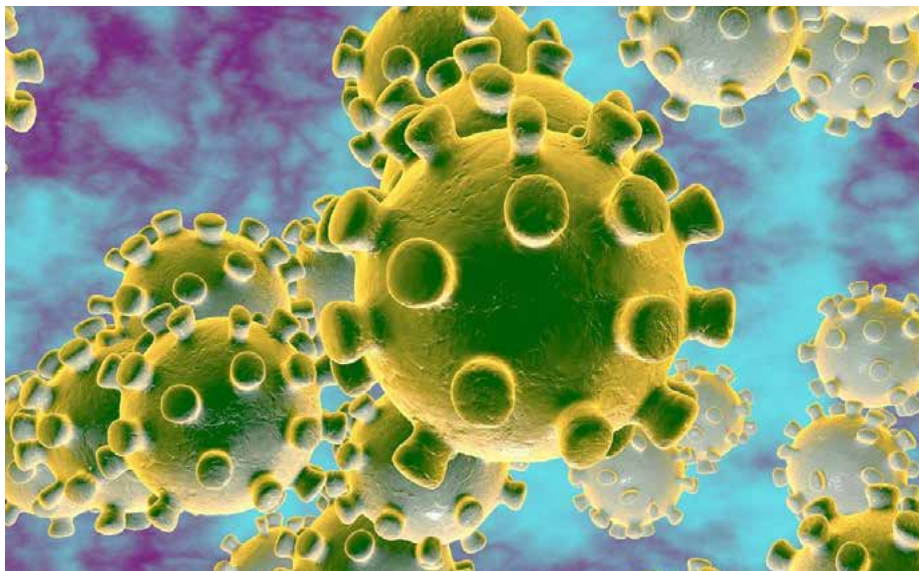


NEWS FROM THE HR TEAM



We hope you and your loved ones are all safe and well. Whilst we are operating the business as usual, we may have to conduct virtual meetings until further notice.



Coronavirus update; Employees refusing to return to work due to continued Covid related concerns

As we start to ease on restrictions from the lockdown, and some businesses may start to remove employees from furlough to resume their duties, employers may encounter resistance from employees. This may be for a number of reasons.

Anxiety about contracting the virus.








The employer should listen to the employee's concerns and ensure all relevant health and safety risk assessments are carried out and recommendations are implemented to provide employees with workplace safety reassurance. Social distancing of 2-metres should be implemented within the workplace, and if this is not possible, face masks should be worn.

Due to carer responsibilities.

Where the employee is a carer, they are entitled to time off for dependents. This does not have to be someone who lives with them, it could be an elderly neighbour or relative that depends on them, or where parents have difficulties with childcare due to school closures. There is no statutory right to pay however, employers might offer to pay depending on the contract or internal policy. Employers could continue to keep employees on furlough.

Symptoms of Coronavirus

The employee or someone in their household may start to show symptoms of the Coronavirus, the Government and NHS guidance to self-isolate will continue to apply.

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Furlough; Furlough and Apprentices

Apprentices are eligible for furlough and would be treated the same as other employees under the Coronavirus Job Retention Scheme (CJRS). The Government guidelines confirm that whilst work cannot be carried out for the employer whilst on furlough, they can continue with training, including Apprenticeship off the job training, providing this does not generate revenue for or on behalf of the employer. E-learning can be continued, but in blocks as agreed with the training provider and the additional 20% top up would be required for days spent on training.

Furlough extended until October 2020

Employees will continue to receive 80% of their monthly salary or a maximum of £2,500.00 per month but the Government will ask companies to start sharing the cost of the scheme from August. The scheme will allow more flexibility and employers will be able to bring furloughed employees back on a part-time basis if need be.



Case law; NHS employee discriminated against when her manager questioned if her pregnancy was planned

Mrs H Camara V East London NHS Foundation Trust

A London tribunal has ruled that a pregnant NHS worker was discriminated against by her manager due to comments he had made asking if her pregnancy was planned and if the cost of her maternity would come out of the team's budget. The tribunal found they were upsetting and inappropriate comments which related to her pregnancy. The comments had made the claimant consider terminating the pregnancy. The manager had been wanting to terminate the employee's employment due to performance issues and had considered the pregnancy a barrier for doing this.

Employers are reminded to be proactive where performance concerns arise with an employee and to address this with the genuine and correct process. This also highlights the need to be flexible and mindful when performance issues arise with expectant employees, as their performance issues may be indirectly related to the pregnancy.

A record £4.7 million has been awarded to a bullied disabled bank worker

AB v Royal Banks of Scotland Plc

The female employee, known as AB, suffered a car accident on her first day of work which left her with nerve damage and a limp. She had worked for the group from October 2008 until May 2014 as a customer services advisor at a Croydon branch.

A tribunal found that she had been made to feel worthless and unsupported by the treatment of her colleagues. The employee was found to be of 'no help' to customers and was given demotions as well as being shouted at and called 'stupid'.

The employee suffered depression and mental health issues as a result of her disability, and had periods of absence relating to the same, plus pain symptoms. She also required around the clock care.

The tribunal found she had been constructively dismissed and further, that she had been unlawfully discriminated against on the grounds of her disability.

RBS is in the process of appealing the ruling.





Morrisons not found vicariously liable for malicious data breach by a disgruntled employee

Employee Andrew Skelton, who has since been jailed for 8 years, leaked the payroll data of 100,000 Morrisons employees via the internet and to newspapers. The employee was aggrieved, and the Supreme Court has overturned the previous judgments and ruled

that Morrisons is not vicariously liable for those actions.

The Judge stated that employers could only be held liable for actions of employees if they were 'closely connected' with their duties at work. He

ruled that the employee was not furthering the business interests of Morrisons when carrying out this act of wrongdoing.

Skelton, a Senior Internal Auditor, leaked the data which included employee names, addresses and bank details, as well as their salary.

Morrisons, and other businesses, will be relieved as this ruling closes the gates to employees claiming for data breaches where the employee wrongfully breaches data protection rules not connected to their job role.



Holland and Barrett employee found to have been constructively dismissed after the retailer failed to make reasonable adjustments

Miss R Harkness v Holland and Barrett Retail Ltd.

An East London tribunal has found that the retailer failed to make reasonable adjustments by not increasing staff hours to ensure the employee was not left working on her own. The claimant's medical condition would cause urgent need for use of the toilet facilities, without notice, and the tribunal found that the retailer had failed to provide her with adequate support relating to her health needs.



Other updates

- Workers beginning their employment from 6th April 2020 must be given their main terms of employment either before or on the day of starting their employment.
 - When calculating an employee's average weekly earnings for those who have irregular earnings, and for their statutory weekly holiday pay, the reference used should be the average weekly earnings over the previous 52-week period, not the previous 12-week period.
 - Parental bereavement leave enables employees to take one or two weeks leave following the death of a child under 18 years of age or stillbirth after 24 weeks of pregnancy. Parental bereavement pay may also be applicable.
 - IR35 reforms have been placed on hold
- New rates applicable from 6th April 2020;**
- Lower earning limit has increased from £118.00 to £120.00 per week.
 - Weekly earnings cap for redundancy pay increases to £538.00, the maximum payment being £16,140.00
 - Unfair dismissal basic award will be based on the new weekly earning cap of £538.00, the maximum compensatory award limit rises from £86,444.00 to £88,519.00, or 52 weeks actual gross pay, whichever is lower.
 - SSP weekly statutory rates rises from £94.25 to £95.85.

Type of payment or recovery	2020 to 2021 rate
SMP – weekly rate for first 6 weeks	90% of the employee's average weekly earnings
SMP – weekly rate for remaining weeks	£151.20 or 90% of the employee's average weekly earnings, whichever is lower
Statutory Paternity Pay (SPP) – weekly rate	£151.20 or 90% of the employee's average weekly earnings, whichever is lower
Statutory Adoption Pay (SAP) – weekly rate for first 6 weeks	90% of employee's average weekly earnings
SAP – weekly rate for remaining weeks	£151.20 or 90% of the employee's average weekly earnings, whichever is lower
Statutory Shared Parental Pay (ShPP) – weekly rate	£151.20 or 90% of the employee's average weekly earnings, whichever is lower
Statutory Parental Bereavement Pay (SPBP) – weekly rate (applies from 6 April 2020)	£151.20 or 90% of the employee's average weekly earnings, whichever is lower
SMP, SPP, ShPP, SAP or SPBP – proportion of your payments you can recover from HMRC	92% if your total Class 1 National Insurance (both employee and employer contributions) is above £45,000 for the previous tax year 103% if your total Class 1 National Insurance for the previous tax year is £45,000 or lower

National Minimum Wage rates - These rates apply from 1 April 2020.

Category of worker	Hourly rate
Aged 25 and above (national living wage rate)	£8.72
Aged 21 to 24 inclusive	£8.20
Aged 18 to 20 inclusive	£6.45
Aged under 18 (but above compulsory school leaving age)	£4.55
Apprentices aged under 19	£4.15
Apprentices aged 19 and over, but in the first year of their apprenticeship	£4.15