



WORKMATTERS
The natural choice for human resources

NEWSMATTERS

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WELCOME TO THE FINAL NEWSLETTER FOR 2020

In This Issue

Our newsletter is written quarterly to ensure that you are kept up to date with employment issues, back copies are available on the website so you never miss out on the ever changing aspects of employment law. We offer helpful hints on how to handle situations within the workplace, but feel free to give us a call for both guidance and support.

This Quarter the focus is on changes in the law which will affect your business immediately as well as a look at the following:

- 1) Job Support Scheme starting 1st November 2020
- 2) Working from home
- 3) Forthcoming Legislation in 2021
- 4) Preparing for Brexit

Our main topic this quarter is about preparing your business for our departure from the EU and helping to give you some specific websites to look at rather than trawling through pages of internet searches.

We think you'll find the articles very interesting. Please call us on **01442 870742** to discuss any of these articles and see how we can help you and your business more effectively in the field of Human Resources. Alternatively have a look at our website **www.workmattershr.co.uk** and email us from there or on **carolinebrode@gmail.com**

If you would prefer not to receive any future newsletters from Work Matters (HR) Ltd, please reply to this email with 'unsubscribe' in the title and we will remove you from our list – thank you.

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JOB SUPPORT SCHEME STARTING 1ST NOVEMBER 2020

The Chancellor Rishi Sunak is to replace the job retention scheme that comes to an end at the end of October 2020.

Under the initiative, which are also known as a short-time working arrangements, firms will be able to reduce their employees' working time to as little as a third of their regular hours, and will continue to pay them as normal for hours worked. The employee will then have their wages topped up to cover two-thirds of the pay lost by the reduction in hours, with the government and the employer paying a third of the remaining wages each. The government's contribution will be capped at £697.92 a month, and the scheme will be open for six months starting in November. (Closing 30th April 2021)

Under the rules of the scheme, workers will receive at least 77 percent of their normal pay.

A breakdown of what you could get is as follows:

- **If you work a third of your normal hours, your employer will pay 56 percent of your salary and the Government will pay 22 percent meaning you receive 78 percent of your normal salary overall.**
- **If you work half of your normal hours, your employer will pay 67 percent of your salary and the Government will pay 17 percent meaning you receive 83 percent of your normal salary overall.**
- **If you work 70 percent of your normal hours, your employer will pay 80 percent of your salary and the Government will pay 10 percent meaning you receive 90 percent of your normal salary overall.**

Who is eligible for the scheme, and do businesses need to prove their eligibility?

While small and medium-sized businesses will be able to access the scheme, large employers can only use the scheme if they pass a financial assessment test that shows their turnover is lower now as a result of the pandemic, there is as of yet no definition of 'small and medium sized' either for the purposes of the scheme. It is likely the government will adopt the same criteria used for the existing coronavirus business interruption loan scheme – so any business with an annual turnover of up to £45m.

Additionally the government's factsheet says it does not expect employers will be in a position

to top up their employees' wages beyond the requirements of the scheme at their own expense, but it isn't clear if this is an eligibility criterion.

What is a 'viable' job and do businesses have to prove this?

A viable job is one where there is work available but at reduced levels over the winter months. The scheme states that to be viable, the employee must work at least 33 per cent of their usual hours and not be under notice of redundancy. The minimum threshold will be reviewed at the end of January 2021 to see if it should be increased.

HMRC may audit the employer at some point to confirm what the employee's normal contractual hours were against the reduced hours they are working under the scheme.

How flexible can businesses be with the hours employees on the scheme work week to week?

Employees will be able to come off and on the scheme as long as each short-time working arrangement lasts for a minimum of seven days, the government's factsheet states. 'Claims can be submitted in respect of a given pay period,' This is likely to mean that if employees are paid on a monthly basis, employers would need to show that the employee worked for a third of the month.

If the employee is paid weekly, however, the employer would need to show that a minimum of a day and a half – or thereabouts – was worked during that week.

How are tax, pension and NI contributions calculated for short-time workers on the scheme, and who pays?

Class 1 employer national insurance and pension contributions will remain payable by the employer, as the job support scheme grant will not cover these costs.

Although not explicitly stated in the factsheet, it implies employer national insurance and pension contributions will also be payable in respect to

the grant payment, and not just the portion of wages paid by the employer. Full details on this are expected shortly.

The employer will also be responsible for paying the employee up front, with grant payments for the government's contribution made in arrears.

Can employers reduce a worker's contractual hours or make them part time before putting them on the scheme?

Employees must have been on an employer's PAYE payroll on or before 23 September 2020 to be eligible for the scheme and the government says a "usual wage" calculation similar to the one used for the furlough scheme will be in place – although full details are yet to be released.

For workers already on zero-hours contracts, the government has said employers will be allowed to change their contracts to make them eligible for the scheme. However, it does not seem there will be any requirement for businesses to do so.

Is there anything stopping businesses cutting workers' hours without using, and therefore contributing to, the scheme?

One of the issues with the scheme is that it makes it more expensive for an employer to pay the employee – not only will they have to pay them for hours worked as usual, but also a third of the hours not worked. There is nothing currently stopping employers from agreeing with an employee to move them onto fewer hours outside the scheme as long as it is done consensually, which would be less expensive for the employer.

The downside is that the employee will only be paid for the hours they actually work without receiving any top-up. But an employee might prefer this to the potential of being made redundant, and there is no obligation for an employer to use the scheme.

Any employer making redundancies when it may be possible to avoid them by using the scheme could be criticised in an employment tribunal.



WORKING FROM HOME

1. What is Homeworking?

Homeworking is when a member of staff is allowed to conduct their daily duties from home on an occasional, temporary or permanent basis. In its simplest terms, it means that employees work from home with the same contractual obligations, such as core working hours, pay and adherence to usual company policy.

Essentially, homeworking is a type of flexible working arrangement that allows staff to work outside of the traditional 9 to 5 day. All employees have the right to request flexible working hours after 26 weeks of continuous service, which can include home working. Whilst an employer does not need to permit flexible working, or homeworking, they have to consider it in this situation and provide sound business reasons for its refusal.

As of 22 September 2020, office workers are once again being encouraged in England to work from home if they can as a result of the coronavirus pandemic.

2. What are the benefits of Homeworking

Homeworking can be a very popular option with staff, providing them with a degree of flexibility whilst also assisting them in meeting the demands of their role. With studies showing that modern workers tend to gravitate towards roles that do offer flexibility. Homeworking can be a good way of both attracting and retaining key talent to your company.

Staff who are able to work from home can be available to look after their children if necessary, something that can be very helpful to working parents in particular. Such an option can help to avoid them having to take prolonged periods of time away from work or even leaving their role entirely, an issue that can lead to working mothers in particular missing out on key opportunities for progression.

Having some staff work from home can free up space in the workplace, meaning companies will need to facilitate less desks, and the associated costs, for staff. Whilst different employees will work in different ways, some people may be at their most productive when they are able to work in their own, quiet surroundings.

During the coronavirus outbreak, asking staff to work from home puts them at a decreased risk of getting the virus and therefore having to spend a prolonged period of time away from work whilst sick. This is because they will have less opportunity in which to come into contact with it, such as on public transport. There is also less chance of them bringing the virus into work with them if they do remain at home.

3. Who Should Work From Home

Legally, as an employer, it is entirely down to you who can work from home and your decision should depend upon eligibility (see 'eligibility for homeworking' below) and accessibility (see 'accessing home environments' below). However, who you should consider letting work from home on a short-term basis, especially as a result of the coronavirus outbreak, will ultimately depend on the needs of the business.

For example, it would be acceptable to only permit staff who have to use public transport to work from home, as they may be more likely to come into contact with the virus on buses or trains than those who drive or walk.

Homeworking does not need to be a company-wide implementation. That said, you should take care to avoid discriminating any employees. If some employees are to be allowed to do this over others, you should be open and honest with your workforce and outline why this is.

4. Eligibility for Homeworking

Before permitting an individual to work from home, you should first assess the impact that such an arrangement could have on your company. Fundamentally, regardless of the reasons behind the homeworking arrangement, you need to make sure that it is not going to place your business at a significant disadvantage.

Firstly, consider if the employee's job can feasibly be done from home, and the ease in which they would be able to do this. In a temporary arrangement, especially in light of the coronavirus outbreak, you are going to want to make this transition as easy as possible. If it is going to take time and money in which to establish their home work space, or if you do not feel it is feasible, this may not be the best option for you to consider.

Then, you need to look at the individual themselves. There is obviously going to have to be a degree of trust between yourself and them that they will be able to do their job and not use homeworking as an excuse to, essentially, not do it. Are they good at managing their own workloads and daily pressures? Do they get easily distracted? Have they had any disciplinary issues since they were employed, or have displayed forms of behaviour that has given you reason to doubt them? Fundamentally, you must assess if you think they would be reliable when they cannot be under the direct supervision of management.

5. Assessing Home Environments

Employers have a duty of care towards the health, safety and wellbeing of their staff, and this extends to those who work from home. To this end, before permitting any member of staff to enter into a homeworking arrangement, you need to check that their home environment is suitable.

You will need to assess the space that is in their home in which they will have to work and whether there are any hazards that could place them at risk. If they are to use any appliances, such as a computer, you will need to make sure that this will not place them at any undue risk that they would otherwise not have come into contact with had they stayed in the usual workplace. All employees who are allowed to

work from home should also be reminded of the company's health and safety policies.

Ideally, a full health and safety risk assessment should be conducted on the workspace, but if this is going to be a quick arrangement then there may not be time in which to facilitate this. Instead, you can ask the employee to conduct an assessment of their working space and report back to you in order to determine its suitability.

6. Consider what the employee will need

You should determine what you may need to provide to the employee, such as a company laptop, a telephone, or particular forms of software. This will vary from job to job; for some, a connection to the internet may suffice. For others, they may need to be given more appliances in which to do their job.

It is important to take care in this situation and, where possible, avoid the employee using their own personal devices. It may be difficult for you to get the employee working again if their appliance breaks or is unreliable.

7. Data Protection

If the homeworker is likely, in the course of his or her work, to obtain or use personal information about individuals, you should ensure he or she is trained fully in the requirements of the General Data Protection Regulation and current Data Protection Act relevant to data security. Issuing, or re-issuing, your data protection policy is advisable.

Consider also if they are going to need to take confidential information home with them and if this will remain safe whilst in that environment. For example, do they have cabinets in which to store files to keep them away from children that may be present and, if not, is this something that you would be able to provide?

8. Establish a Homeworking agreement and policy

You should ask the employee to sign a written agreement which outlines how long the period of homeworking is to last for. If it is being introduced as part of your response to the coronavirus, you may consider stating that it will be regularly reviewed and that the period of homeworking will cease when it is no longer deemed to be necessary.

Within this agreement, employees should be reminded of the expectations placed upon them by the company, such as disciplinary

procedures. It should also be specified what hours they are expected to work; you may wish for them to continue to work their usual hours or, alternatively, may be happy for them to change these on a temporary basis.

The agreement should also specify that staff should not work for longer than their usual hours, in line with the Working Time Regulations 1998. At no point should you encourage them to do so if such a provision is going to mean they are working for longer than 48 hours per week and they have not signed an opt-out agreement.

As well as an agreement it is important to have a policy in place which sets out the guidelines for employees working from home which will help to clarify what is expected of them on a daily, weekly or monthly basis.

9. Managing the homeworker

Once the period of homeworking has begun, it is important to keep in regular contact with the employee. You should set them clear targets to work towards and invite them to outline why these targets have not been met as a way of making sure that tasks are still being completed. One option is to request that they submit daily or weekly reports whilst the period of homeworking continues. By keeping in regular contact, you can also keep them up to date on all developments, such as the company's continued response to the coronavirus issue.

It is also important to maintain this contact with the employee in order to ensure that they are not being adversely affected by the arrangement. Whilst some individuals may prefer working from home, others may start to feel isolated, something that could potentially impact upon their performance. If an issue such as this does start to develop, it may be that the agreement needs to be re-assessed.

10. What to do if the homeworking arrangement does not work during the coronavirus outbreak

If you decide that the homeworking arrangement is not working and your business remains open, you can terminate the agreement and ask the employee to return to work as normal. If the employee refuses to return, you might consider treating this as a disciplinary matter, however it is advisable to have a degree of flexibility.

If you have had to close the business as a result of the virus and the individual is deemed unable to be given work whilst at home or elsewhere, they would need to be placed on lay-off.

FORTHCOMING CHANGES TO EMPLOYMENT LAW IN 2021

This table shows forthcoming changes.

1 September 2020	Employers will start funding 10% of the 80% wage payable to furloughed staff
1 October 2020	Employers will start funding 20% of the 80% wage payable to furloughed staff
31 October 2020	The Job Retention Scheme will close
1 November 2020	Introduction of Winter Economy Plan – new Job Support Scheme
1 January 2021	New immigration scheme comes into force for all applicants regardless of nationality
April 2021	IR35 update: large and medium sized organisations in the private sector who engage contractors through intermediary companies will be responsible for assessing the employment status of those contractors.
April 2021	Job Support scheme ends
30 June 2021	EU Settlement Scheme closes to applicants.
Mid-2020s	Reforms to automatic enrolment to be introduced
To be confirmed	New law prohibiting confidentiality clauses in contracts or settlement agreements from preventing disclosures to the police, regulated health and care or legal professionals to be introduced
To be confirmed	New law requiring confidentiality clauses to set out their limitations to be introduced
To be confirmed	Laws on criminal record disclosures to be amended, reducing the disclosure period for sentences lasting four years or less
To be confirmed	Redundancy protection for new parents to be extended
To be confirmed	New law introducing right for all workers to request a more predictable and stable contract after 26 weeks' service to be introduced
To be confirmed	New law to increase break in continuous employment from one week to four weeks to be introduced
To be confirmed	New law preventing deductions from 'tips' to be introduced
To be confirmed	New legislation to clarify employment status tests to be introduced
To be confirmed	New law introducing tribunal sanctions where organisations commit repeated breaches to be introduced
To be confirmed	Extension of shared parental leave to grandparents



PREPARATIONS FOR BREXIT

Brexit might not have been at the forefront of our minds this year (albeit for a brief period in January, as the country geared up to begin 2020's transition period). But it is still happening at the end of this year, coronavirus or no coronavirus. If you're a business owner it's very likely that your mind is now returning to it as it creeps ever closer. So, how can you begin to prepare your business for our imminent exit from the European Union?

Frustratingly, there still aren't firm rules or guidance in place for what businesses need to do to prepare for Brexit. However, whilst the government continues to work on the finer details of trade and tariffs (and numerous other things that will need to be organised before the year is out), there are still a few things that business owners can be getting on with. Here, we'll outline some of the most important.

- Communicate with Your International Clients
- Check Data Protection Laws
- Be Aware of Visa Changes and Rules for EU-based Staff
- Update Your Passport
- Keep a Close Eye on Export Duties and Import Costs
- Check Rights for Any Business Premises Based in EU

Communicate With Your International Clients

Even if as a business you don't deal in imports or move goods overseas as part of the day to day operations, your international and EU clients might still be worried about doing business with you once Britain has left the EU. Their confidence might be lessened further if we end up crashing out without a deal.

As a business you need to provide your clients with confidence, so make sure you're as open with them as possible. Communicate any changes you'll need to make to the way that you work as soon as you know what they are. Stay in contact as much as possible for the rest of the transition period, and afterwards.

Whilst encouraging clients' confidence, you still need to protect yourself whilst you're preparing your business for Brexit. It might be a good idea to alter your contracts to reflect that you will no longer be operating within an EU framework, in order to ensure that clients don't drop you without warning. Get written agreements on all work that you plan to undertake in 2021 and

beyond, in order to secure your business as much as possible.

Prepare Your Business: Check Data Protection Laws

The way that you use and store data is likely to change once the transition period is over. Make sure you're aware of what these changes are likely to be, to avoid getting caught out by huge fines or other sanctions.

The UK will absorb the EU's General Data Protection Regulations (GDPR), which was introduced in 2018, so this is one thing that you can be safe in the knowledge will stay the same.

Be Aware of Visa Changes and Rules for EU-Based Staff

If your employees travel internationally for work, they will need to keep a close eye on potential visa changes as you prepare your business for Brexit. This also applies if you have staff based within the EU, including those working remotely. Their working rights may change after Brexit, as might their right to work for your company.

There are other regulations that you'll need to consider when it comes to your staff in the EU, too. They include:

- Insurance
- Professional qualifications
- The ability to earn money

Gov.uk has a page that offers more information on these considerations.

Update Your Passport

Gov.uk outlines the new passport rules for travelling in the EU after Brexit, including that you will need six months remaining to avoid being refused entry. Your passport must also be less than 10 years old, even if it has more than six months remaining. Of course, you will need to make sure any of your staff who are travelling abroad are aware of these changes too.

Keep a Close Eye on Export Duties and Import Costs

If you're selling goods within the EU, you should be aware that import charges might require you to charge more after the transition period has ended. Customs duties might apply, making EU

trade more expensive for UK retailers... (they) could now struggle to remain competitive as EU consumers are attracted to more affordable offerings from other Member States, where no additional charges apply.

One thing that you should do right now is fill in this government form, which will give you a better understanding of the process of importing into the EU after Brexit. Following this process will help guide you through the new rules for various types of goods, let you see the amount of tax you'll need to pay, and help you to set up the Economic Operators Registration and Identification (EORI) number. This is the number that you'll need to move goods in or out of the EU.

Check Rights for Any Business Premises in the EU

If your business owns property in the EU, you'll need to check what changes are going to come with Britain's exit. There isn't currently a lot of readily available information on UK businesses with properties in the EU after Brexit. You should keep an eye on the government's pages as they are updated over the coming months, and take any required actions promptly as soon as they're announced.

If you're an EU-based business that operates or has staff in the UK, you should read this detailed guide from the government, which explains what you'll need to do to prepare your business for Brexit.

Thank you for taking the time to read our Newsletter which I hope you found informative. An e-newsletter will be sent on a quarterly basis to help keep you up to date with current legislation changes, as well as giving you some helpful hints and tips to help your business run smoothly.

In the meantime please contact us if we can be of service to you or your company. Have an enjoyable quarter and we look forward to issuing you with our next newsletter in January 2021.

May you have a Happy and Prosperous New Year.

