

Redkite Digest

A Quarterly Newsletter on Employment Law Updates



OVERVIEW:

- New lockdown furlough scheme
- Christian school teacher loses discrimination claim
- Employee's requirement to self-isolate led to successful unfair dismissal claim
- Tougher measures proposed for Modern Slavery Act 2015
- New immigration points system: what will it entail?
- Six tips for supporting employees working from home

Welcome to our fourth edition of Redkite Digest.

If you have any queries about the topics contained within this Newsletter or if we can support you in any way, please feel free to contact us on the details provided below.

Please note that nothing contained in this Newsletter is intended to constitute legal advice and is for commentary and information purposes only.

We very much hope you, your colleagues and families are all continuing to keep safe and well.

What is the new local lockdown furlough scheme and how will it work?

On 31 October 2020 The Coronavirus Job Retention Scheme will come to an end. This will be replaced by the government's new Job Support Scheme from 1 November 2020 with a purpose of supporting viable jobs in businesses that will experience lower demand over the winter months (now labelled: Job Support Scheme Open).

Furthermore, the Chancellor announced on Friday 9 October 2020 that the Government will offer financial support for businesses that have been forced to close to stop the spread of Covid-19. This new lifeline for many is intended to support businesses and employees in geographical areas and sectors that are expected to face restrictions (now labelled: Job Support Scheme Closed).

The intention of both Schemes is to secure at least two thirds' pay for staff during these times but with different eligibility and employer contribution for each.

We have issued a detailed guidance document to key contacts and clients providing further information on these schemes. If you would like to be sent a copy of this guidance document, please contact us to request a copy.



October is Breast Cancer Awareness Month, a campaign to increase awareness of the disease. During this month, the Employment team are encouraging organisations to share information relating to breast cancer openly and to remind employees of the support available to them.

Christian School Assistant loses discrimination claim

A Christian teaching assistant (Kristie Higgs) was dismissed for gross misconduct after sharing Facebook posts that criticised the teaching of LGBT relationships in primary schools. She claimed that she was dismissed as a result of her religious beliefs.

The head teacher received anonymous complaints regarding the employee's post and described them as 'homophobic'. Following this, an investigation into the employee's conduct was launched.

During the hearing the Claimant argued that her dismissal breached her freedom of speech and religion and that she had been discriminated against.

The Tribunal concluded that there was not a causal connection between the employee's beliefs and the way in which she was treated – accordingly her claim of direct discrimination was unsuccessful.

The School stated that they "wished for their pupils to be treated equally and for them to be able to thrive in an inclusive environment". Therefore, the school's action were in response to the language used by the employee in her Facebook page which did not reflect the ethos of the school.

Employees' requirement to self-isolate led to unfair dismissal

A shop worker (Jackie Reid) in Isle of Man, who suffered from type 1 diabetes was dismissed due to her GP requiring her to self-isolate at the start of the Coronavirus pandemic.

On her GP's advice Mrs Reid was told to isolate for 2 weeks but that this could be up to 12 weeks. She informed her employer of this but told them that she would inform them as soon as she knew more.

On 31 March 2020, having been informed that she need only isolate for 2 weeks, she contacted her employer to arrange her return. Her employer refused this and she received no further contact from them.

When Mrs. Reid made contact with her employer again, she was informed by her employer that in their view she had resigned on 16 March. Her employer argued that the employee's conduct was to be viewed as repudiatory conduct and a breach of her contract. This was dismissed by the Isle of Man Tribunal.

The tribunal found that Mrs. Reid was unfairly dismissed as she had acted in accordance with medical advice and she was awarded £7,000 as compensation.



Modern Slavery Act 2015

Tougher measures proposed by the UK Government to tackle modern slavery

Whilst the number of reported incidences relating to modern slavery in the UK have fallen over recent years, the Covid-19 pandemic has created new opportunities for exploitation.

As many of you may be aware, the government allowed Companies to delay publication of the reporting requirements under the Modern Slavery Act 2015 if they are able to explain the reasons why.

Over recent years the UK Government has undergone consultation to determine whether the Act requires certain commercial organisations that supply goods and services to publish an 'Annual Modern Slavery Statement'. Such statement would set out the steps in which the Company has and is taking during that financial year to ensure that slavery and human trafficking is neither in its supply chains or part of the wider Company.

Various changes are expected to be implemented, a few of these have been detailed below:

1. Extending reporting requirements to the public sector;
2. Introduction of a single reporting deadline to ensure accountability and enforcement;
3. Creation of a new government reporting services (this will see Company annual statements published onto a government portal); and,
4. The introduction of harsher penalties for non-compliance.

Further detail in relation to these changes is to be expected from the Government in due course.

New immigration system: What do we need to know?

From 1 January 2021 the Immigration System will operate by means of a new Points-Based Immigration System.

The changes will mean that EU, EEA or Swiss citizens, as well as their family members will need to apply to the EU Settlement Scheme to continue living in the UK by 30 June 2021. Their rights will remain unchanged until then, provided that they were resident in the UK by 31 December 2020.

Even if an EU citizen has lived in the UK for many years and had a permanent residence document, they still need to apply. However, they would not need to apply if they have indefinite leave to remain in the UK.

When applying to the EU Settlement Scheme a citizen would need to verify their identity and nationality, prove their residence in the UK and complete a criminality check. Successful applicants will be provided with a **digital proof** of their status through the online service.

When providing work for an EU, EEA or Swiss citizen, employers will have to ensure that there is a genuineness to the role and that minimum salaries remain.

Further, those wishing to work in the UK will need sponsorship unless they have personal circumstances allowing them to rely on alternative immigration status. The sponsorship system regime will also be subject to changes on 30 December 2020, these changes are detailed below:

- No more Resident Labour Market Test (RLMT);
- No cap on number of sponsored workers;
- Skill level to drop to RQF3; and,
- Proposed routes include bespoke Health and Care visa; post study immigration permission for non-British university graduates.

For further information on the changes coming into force in relation to the 'New Immigration System', please contact us.



Six Tips to Continue Supporting Employees Working from Home

Be Flexible with Performance Objectives – It is likely that the pandemic has impacted business' workloads. Therefore, it is imperative that employee's performance goals, targets and objectives are adjusted to reflect this. Furthermore, if certain employees do not have the workload to carry out their usual tasks, you could consider using their skills sets to help other teams.

Set Expectations and Ensure Trust in your Team – Be clear from the outset about what is expected of them and try to understand what they expect from management. Try to avoid micro-managing and allow your team to have autonomy over their day-to-day work load.

Provide the Necessary Support and Equipment – This includes providing employees with any Display Screen Equipment, ensuring they have access to online systems and are able to work remotely in a comfortable and productive environment.

Keep in Touch (Virtually!) – Try to maintain structure and continuity with regard to team meetings and/ or catch ups. Some employees may find it helpful to have an informal meeting once a week as well to ensure that the social aspect of their job is maintained, albeit virtually.

Help Foster Relationships and Well-being – Try to make time for social conversation which does not centre around work. This can allow employees who may be struggling to say how they are thinking or feeling. By doing regular social activities it can increase employee engagement and performance.

Redkite Events 2020/21

Date	Topic	Location
24 November 2020	HR Network West Wales: Restrictive Covenants/ Restraint of Trade with guest speakers: <u>barristers Richard Shepherd and Darren Stewart of Albion Chambers</u>	Online Event
January 2021 (Date TBC)	Employment Law Update	Online Event

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