

# Redkite Digest

A Quarterly Newsletter on Employment Law Updates



Welcome to the sixth edition of Redkite Digest.

Should you have any queries about any of the topics contained within this Newsletter, 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.

## COVID-19 Concession: Right to Work check amendments

As many of you are aware, on 20 April 2021 the Home Office announced that the temporary COVID-19 right to work checks will end on 16 May 2021. Therefore, from 17 May 2021, employers will be required to either check applicants original work documents, either by conducting a manual check, or by checking the applicant's right to work via the online tool.

Employers will be able to breathe a sigh of relief as the Home Office also confirmed that employers will not need to carry out any retrospective checks on those who had checks adjusted, due to the COVID-19 pandemic, between 30 March 2020 and 16 May 2021. Employers must however, ensure that any checks carried out during this period were in accordance with the amended guidance.

Whilst this may be a relief for many employers, there is likely to be potential issues for employers from 17 May 2021, especially for individuals who are unable to demonstrate their right to work via the online service, and will therefore require employers to undertake manual checks in accordance with the employer's guide on right to work checks, a potentially lengthy and time sensitive task.

It is worth noting that manual checks must be undertaken in person or via a video call facility, and the employer must be in possession of all the applicant's original documentation, meaning that the documents cannot be scanned or shown via video link. Therefore, it is worth bearing in mind how manual checks will be conducted in advance.

### OVERVIEW:

- COVID-19 concession: Right to Work check amendments
- Proposal for class to become a protected characteristic
- XPO logistic furlough payment dispute
- Annual leave and potential HR dilemmas
- Religious holidays and rituals

## LONELINESS

Understanding loneliness one conversation at a time

LONELINESS AWARENESS WEEK

Loneliness Awareness Week will take place from 14 – 18 June, and is hosted by Marmalade Trust, in a bid to raise awareness of loneliness. After a year of lockdown, social distancing and restrictions, more people have experienced loneliness than ever and this has understandably had a massive impact on well-being. This year, the Employment team therefore encourages Company's to remove the stigma and talk about loneliness with their employees.

## Should class become a protected characteristic?

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The Social Mobility Commission has requested for the UK government to consider making an individual's socio-economic background a protected characteristic in accordance with the Equality Act 2010 (EqA).

As many of you are aware, the EqA outline a number of protected characteristics that ensure certain individuals have added protection from being treated or placed at a detriment due to their age, sex, sexual orientation, pregnancy / maternity, marriage / civil partnership, race, religion / belief or disability.

A report from Navigating the Labyrinth found that 18% of senior civil servants are from lower socio-economic backgrounds and that the class composition of the civil service has seen limited change since 1967. It was noted that 72% of all senior civil servants come from a high class background, with one in four attending an independent private school.

Furthermore and potentially unsurprisingly, those from higher socio-economic classes are more likely to be based in London and therefore, the commission found that there are far more top-grade posts in London for this reason than elsewhere.

Following the findings of the commission, an action plan has been drawn up to ensure equal career progression for all those from different socio-economic backgrounds. One of these recommendations is to introduce socio-economic background as a protected characteristic, thus ensuring that individuals are not discriminated against.

The commission has also recommend that departments within the civil service report socio-economic data, similar to gender pay reporting, to ensure that progress is being made and that there is greater representation from a number of different backgrounds.



## XPO Logistics in hot water following furlough payments

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XPO Logistics, a transport and logistics company that has an array of customers such as Morrisons and Waitrose, is in hot water with the GMB union after paying its CEO a multi-million dollar bonus whilst also claiming millions of pounds in furlough payments.

The bonus payment totalled £4.6 million, which included £3.3 million to its CEO, Bradley Jacobs, all whilst the Company continuously refused to top-up any employee's wages whilst on a period of furlough.

According to the UK Government, the Company received a minimum of £2.5million in grants through the Coronavirus Job Retention Scheme during the periods December 2020 – February 2021.

Both Unite and GMB union have been requesting that the Company pay 25,000 of their UK employees a pandemic-related bonus in recognition of the health risks associated with their front-line roles during the past year, but to no avail.

In conjunction, the Company posted a global revenue of \$16.5billion and Jacobs (CEO) received a long-term cash award of up to \$80m in July 2020.

With the furlough scheme set to run until 30 September 2021, we are yet to see whether XPO Logistics will continue to utilise this scheme, or follow other Companies such as Hotel Chocolat who have stopped utilising the scheme and voluntarily agreed to repay the £3.1million it received from the Government after seeing a surge in sales over Easter and Mothers Day.

## We're all going on a summer holiday... potential HR dilemmas

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With restrictions on international travel finally easing around the World, HR may find that the number of employees requesting annual leave to have a holiday in the sunshine significantly increases over the following weeks.

Whilst there are a number of countries on the UK's green list, meaning that individuals will not be required to self-isolate upon their return, there is a significant number of countries that have long been a holiday hotspot, such as Spain and Italy, which are currently on the orange list, requiring self-isolation for up to 10 days upon return to the UK.

We would encourage HR professionals to take a sympathetic approach towards employees who request a period of annual leave to travel to an orange list country, especially if the reason for travel is to visit a relative who is ill, or they may not have seen for a long period of time.

Depending on the role and type of work, the employer could arrange for the employee to work remotely during a period of self-isolation, take additional annual leave, or a one-off period of unpaid leave to accommodate such a request.

Ultimately, there may be circumstances whereby the leave request cannot be accommodated and, in such instances, the reasons for refusal should be provided to the employee in person.

If you require any further advice on how best to handle such employment issues, please do not hesitate to contact us.



## Religious holidays and rituals in the workplace

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There are many religious holidays to be mindful of as an employer and, as many will be aware, the 12 and 13 April saw the beginning of Ramadan, during which those observing the holy month, took part in fasting and prayer for 30 days.

We encourage HR professionals to be mindful of the requirements of religious festivals and rituals, to ensure that they are sensitive to the needs of their employees during such periods.

It is imperative that HR professionals are supportive of the various religious festivals and rituals that their employees may be taking part in to ensure inclusivity:

- Keep track of upcoming religious festivals and holidays;
- Be mindful of employee's reasons for taking annual leave during religious holidays and act in a fair manner when making a decision as to whether such requests are to be accepted;
- Consider the practical elements of religious rituals, for example try offering a quiet and private space for prayer / meditation;
- Introduce speakers (both internal and external) to talk about different religious festivals, what they mean and how they are celebrated – all of which will create an inclusive culture.

If you require any assistance in the drafting of a religious observance policy or have any questions, please do not hesitate to contact the employment team on

[employment@redkitelaw.co.uk](mailto:employment@redkitelaw.co.uk).

## Redkite Events 2021

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Date	Topic	Location
24 June 2021	Managing Poor Performance	Online Event
26 August 2021	Sickness Absence and Workplace Stress	Online Event
30 September 2021	Discrimination	Online Event
TBC	<b>HR Network West Wales</b>	TBC

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For further information please contact the Redkite Employment team on:

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