



3 HARE COURT

Employment concerns during COVID-19

The global nature and the virulence of the COVID-19 outbreak has had far reaching consequences for businesses and workers alike. Our first thoughts will naturally be about the safety and health of our families, friends, and colleagues. At the same time, the pandemic is moving so quickly that businesses need to take action. It will be tempting for businesses to make decisions quickly and revisit them when the crisis abates or slows, as some experts anticipate will happen over the summer. Questions of a business' viability will be paramount, especially with cashflows threatened in many cases, but they must be considered alongside continuing legal duties to employees. Below I touch upon some of the questions employers and employees should be considering during this period.

What does the government's guidance about working from home mean for me?

The government published its guidance on staying at home and away from others on Monday 23rd March. It is available in full [here](#). Going to work is one of the four reasons a person can leave their home "*but only where the work they do absolutely cannot be done from home.*" In the majority of cases, businesses and workers are being encouraged to use IT, where possible, to enable remote working.

There are certain categories of jobs that are explicitly mentioned as requiring travelling to work, such as construction or manufacturing. Even where your business does fall into this category, it is worth considering other measures that can help enable your employees and workers to comply with the guidelines on social distancing, including staggered starting and finishing times. This is particularly helpful for those employees or workers who have no choice other than to use public transport and who are therefore likely to be in closer proximity to other people.

For those businesses which are able to migrate to remote working, they should be cognisant of continuing responsibilities including data security. The Information Commissioner's Office has provided answers to some common questions [here](#). Employees and workers should also be reminded of proper procedures on data security including proper disposal of sensitive documentation and ensuring their monitors or screens when they are reviewing sensitive information are not visible to others. If you do have a written policy on data security, this should be circulated to all staff working remotely with suggestions as to how adaptations can be made for home working.

Redundancy or are there alternatives?

Redundancies are a clear concern for many employees at this time as many businesses have been prevented from trading at all. The Citizens Advice Bureau's website has shown an increase of 834% from the same time last year of people searching their site about redundancy pay.

The government has announced a scheme for the reimbursement of up to 80% of salary (capped at a maximum of £2,500 per month) through the Coronavirus Job Retention Scheme. This was extended to self-employed workers last week with details available [here](#). Further details of the mechanics of how and when these funds will be made available are still to be announced.

Some businesses will feel the pressure of time to make decisions about their overheads, including staff costs, in the coming weeks. They should ensure that they are aware of alternatives to redundancies such as re-deployment of employees to other areas of the business or, where this isn't viable, temporary measures including reduced hours or pay. When making business decisions about redundancy or any alternatives, you must check what contractual provisions are in place. Unilateral changes to hours of work or pay may give rise to claims later on. It is worthwhile considering the best way to proceed now as the cost of claims from hasty decisions may exceed short term savings.

Equality Act duties?

A sad component of the crisis has been the tendency of some to label COVID-19 the 'Chinese virus', most notably the US President. During this period, the Equality Act (2010) as with other laws, will continue to be in effect. This means discrimination against employees and workers on the grounds of race or ethnicity is unlawful.

Further, the government guidance identifies groups who are at particular risk including those aged over 70, people with certain underlying health conditions, and pregnant women. These individuals could conceivably be considered to have protected characteristics including age, disability or pregnancy. Any alterations to a businesses' policies or procedures should consider these protected groups.

Employers should be aware that enforced home working could prove challenging to a person's mental health. This current crisis has made physical health paramount in the government's efforts to suppress the spread of COVID-19. Many employees and workers do not have a dedicated space at home for working remotely. Further, they could face difficulties of being isolated from colleagues and clients in a restricted living space alone for a considerable period of time. Good practice would include considering employees' mental health at this time and providing opportunities for contact within the government's guidelines on social distancing.

Future – will it ever be the same?

Most people are looking forward to a return to normality and their usual routines. However, there will be long term ramifications for business and workers. Many businesses have until now been averse to requests for flexible or remote working. COVID-19 will have triggered one of the biggest global experiments in the viability of home working. Previous shibboleths about the centrality of the office for a functioning workplace are being tested.

In the longer term businesses will need to think about how they respond to requests for flexible working. Previously, businesses have cited the inefficiencies and unsuitability of remote working as a rationale for why it is a key business need for people to work in the office. This is likely to become difficult after weeks of home working and businesses telling their clients that they are operating as usual.

COVID-19 will have a far longer term impact on businesses and how workers carry out their roles than many are currently contemplating. Good business planning will involve adjusting to the new landscape and the legal challenges it throws up.

For advice on any of the issues raised or the impact of COVID-19 on your businesses or employment, you can contact [3 Hare Court](#) or [Sara Ibrahim](#) directly.