

Coronavirus (COVID-19): Returning to the workplace

Updated 4th May 2020

While at present there is no formal end to the government's restrictions on work or travel, other countries have begun to ease certain restrictions and it is possible that the UK will follow suit in the following weeks.

In addition, the current Coronavirus Job Retention Scheme (CJRS) is due to end on 30 June 2020, and so organisations need to start thinking about what happens next.

As the timing and nature of any relaxation of restrictions is uncertain, it would be sensible for businesses to consider all the options and have the capability to move quickly from one scenario to another.

Returning to the workplace

How you manage a return to the workplace will depend on the type of closure arrangements you have been operating. The three most prevalent types are:

1. Business not trading at all (all staff furloughed)
2. Business trading on a limited basis (some staff furloughed, some working from home or in company premises) or where only 'essential' workers are currently in work
3. Business trading fully but all staff working from home.

Whichever of these is closest to your individual business, there are some common issues you will need to address:

- It seems highly likely that there will be a requirement for some form of social distancing for some time to come. Lockdown restrictions will likely be lifted incrementally, and all staff who can work from home will be expected to carry on doing so. Where certain groups of employees or businesses are part of a sectoral return to the workplace, employers will need to consider detailed risk management approaches to safeguard their health and minimise the risk of infection.
- It is likely that more large-scale testing for COVID-19 infection will form a key part of facilitating a safe return to the workplace for larger numbers of employees. This could form an extension of the current framework for the testing of essential workers and members of their household, and will mean every employer implementing a systematic approach for their workforce.



- The risks to people's health from this pandemic are psychological as well as physical. These include anxiety about the ongoing health crisis and fear of infection, as well as social isolation due to the lockdown. Many will have experienced challenging domestic situations, such as juggling childcare or caring for a vulnerable relative, as well as financial worries if a partner has lost their income. Some will have experienced illness, or bereavement. Even if staff have carried on working and participating in video meetings, they will still need to adjust to working in a shared environment with colleagues. Some may take more time than others may and it is likely that most people will need a period of readjustment. Many may find that they are still coming to terms with the significant change which society has seen, and the familiar workplace routines could feel very different.
- Finally, it will be important for every employer to ensure that the organisation culture is inclusive, and that every employee feels they are returning to a supportive and caring environment. The pandemic has had an unequal impact across the workforce in many ways, as different groups of employees, and individuals, will have been affected in diverse ways according to their job role and individual circumstances. Some organisations will have people who have been furloughed on 80% or 100% pay, for example, while others may have continued to work or even had increased workloads. The uneven nature of people's work and personal experiences and the challenging nature of the lockdown and ongoing situation, means there could be potential for some negative feelings creeping into the employment relations climate. Therefore, it is important that the organisation fosters an inclusive working environment, and managers are sensitive to any underlying tensions and confident about nipping potential conflict in the bud.

You will need to review the workplace and consider:

- Can staff maintain a 2m physical distance between each other?
- How will you manage meetings, interviews and other interactions?
- What about communal areas such as canteens or kitchen areas?
- How can you implement resourcing strategies to support physical distancing such as 'cohorting' (i.e. keeping teams of workers working together and as small as possible), or staggering working hours so that not all staff are in at the same time?
- Depending on your working environment, you may need to consider providing additional PPE, including gloves, masks or anti-viral hand gel.
- If your premises have been closed for a period of time, you should carry out a deep clean before you reopen. You should therefore review your cleaning arrangements, for example ensuring all phones/keyboards etc. are wiped daily with anti-viral cleaner.



Legal considerations

There will also be a number of employment law and administrative issues that need to be covered:

- Ward Williams advice throughout has been that you should seek written agreement with staff to be furloughed. Even if you put in a clause allowing for an immediate recall, you should still give staff a reasonable period of notice of requiring them to return to the workplace. This is particularly important given that many people will have additional childcare or other responsibilities, which they may need to, make arrangements to manage.
- You'll need to ensure that your payroll staff or provider are aware that furlough has ended for these staff and they should return to full pay (taking into account the national minimum and living wage rates increases from April for any staff employed on those rates).
- What criteria will you use to recall staff? Will it be simply business need? Will you consider individual personal circumstances? Remember not to use discriminatory criteria; be fair and inclusive and keep in mind your organisational values and any diversity and inclusion aims.

Short term working/Redundancy

When the government furlough scheme ends, your business may still not need to bring its entire existing workforce back.

- Agree reduced working hours with some or all staff
- Furlough staff for a further period, at your own expense
- Consider redundancies.

Reduced working hours

If your business has work for its entire staff, but not at the level before restrictions, you may want to consider asking staff to reduce their working hours on a temporary basis. As with furlough, because this will be a temporary contractual change, people will need to agree in writing. It is legally possible to impose a change but this is a complex and time-consuming approach, which may undermine goodwill with employees, so should be weighed carefully and following proper legal advice.

The hope is that the government will amend the CJRS to allow staff to return to work on a phased basis.

Further furlough

If the CJRS ends as currently scheduled on 30 June, that may not necessarily fit in with your own business timescale. It may be that you would prefer to keep some staff furloughed for a further period as you implement a phased return to normal working.

If your furlough letter to individual employees did not include a specific end date, then you can continue to keep staff furloughed on the same terms as the CJRS, although your business would need to bear the full cost of their 80% payment and other employment costs. It would be sensible to write to employees to explain that you are continuing furlough for them (with an estimate of how long for if you can give it) as many will expect

the end of the government scheme to mean a return to more normal working.

If your furlough letter did include an end date or linked furlough to the CJRS, you will need to seek further agreement from staff to continue being furloughed. Again, you will bear any employment costs and it would be sensible to give an estimate of how long the further period is likely to be.

Redundancies

Your business may not be able to continue trading, or you may only have enough business to require significantly fewer staff. In such a situation, the end of the CJRS may require you to make redundancies. While you need to follow the correct legal process take, any steps you can to support employees through this process. Redundancy will be a crushing blow to many people, at a time when they have been through a very challenging time – be very mindful of how you communicate, continue to support them and treat their health and welfare as a priority.

If you are looking to carry out redundancies, please get in contact with Ward Williams HR as we can ensure the correct process is followed.



Dealing with other groups of staff

Since not all restrictions will be lifted at the same time, there are some other issues that you will need to consider:

- Staff who are advised to shield or self-isolate
- Staff who have suffered a bereavement
- Managing holidays after the return.

Some of your staff may still be required to shield (currently for 12 weeks) because they are 'extremely vulnerable' and at particular risk from COVID-19 infection. Others may be very concerned because they live or care for someone who is classed as high risk. If individuals are still shielding as restrictions begin to be lifted, or the CJRS ends, you should:

- allow them to continue to work from home
- if this is not possible, look at other options to retain them such as a further furlough period.

While deaths from COVID-19 are still comparatively rare, it is possible you will have employees who have suffered the bereavement of a partner or other family member. You should be sympathetic to requests for additional time off during this period, and if you can, we recommend that you pay normal pay.

In very rare cases, you may have an employee who has died from COVID-19. You will need to support their colleagues and again, signpost staff to any mental health support you offer.

Staff are now allowed to carry forward some of their statutory holidays if they are unable to take them in the current leave year.

- Encourage staff to take previously agreed holiday dates – even if working from home, people still need time away from work.
- Have a clear policy to allow as many people as possible to take leave this year while still maintaining key business services – perhaps relaxing normal rules around maximum numbers allowed off at once.

Conclusion

Changes to the current lockdown restrictions are likely to be slow and gradual. They are also likely to fluctuate, and stricter measures imposed, possibly with very little notice. While we do not know yet what the specific steps will be taken to start to lift the lockdown, there are certain principles and measures that every employer will need to consider. Organisations therefore need to use this time to prepare and plan their next steps.

Should you require specific advice on any question please do get in contact with Sally Phillips, the MD of Ward Williams HR Limited. Tel 01932 830664. Email sally.phillips@wardwilliams.co.uk.

Should you require advice on the wider business impact and the options available to you please get in contact with your usual WardWilliams Creatives contact.