

## Business Update 5 January 2021

The Prime Minister announced last night that England is going into its third national lockdown. This lockdown will be more reflective of the first lockdown and you may only leave home for one of the allowable reasons detailed in the legislation.

But what does this mean for employers in 2021 that have already had a challenging year in 2020.

### The New Lockdown

Effective immediately, England is in lockdown and the rules will be reflected in law from 00:01 on Wednesday 6 January 2021. In general, everyone must stay at home unless there is a permitted reason for you to leave such as shopping for necessities, work which cannot reasonably be done from home, exercise or medical assistance. Colleges, primary and secondary schools will close for the majority with children learning remotely until at least February half term.

There are many ways this could affect your business, employees and finances, and there is some action that all employers must take immediately.

### New strain of COVID-19

With a new, highly transmittable strain of COVID-19 all employers must review and update their COVID-Secure Risk Assessment and communicate this to employees. Please check the following link for the latest COVID-Secure guidance <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>

Ensure that social distancing can be maintained for all employees that are required to attend work and put additional measures in place such as protective screens, face masks, etc. if social distancing cannot be maintained.

It is essential that employers ensure all employees know the rules they must follow while at work and so this is an ideal opportunity to resend, redistribute or recommunicate your COVID-Secure guidance. Employers must also take seriously and act on any reports of COVID-Secure breaches.



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## **Working from home or onsite?**

There is a strong message that will shortly be reflected in legislation: ‘You can only leave home for work purposes where it is **unreasonable** for you to do your job from home.’ This is stricter guidance than for the second lockdown, and in essence is a return to what we saw back in March 2020. Most office workers should be able to work from home for the majority, if not all the time and employers will be required to take ‘**every possible step**’ to help employees do this including providing suitable IT facilities such as laptops, phones and software. Employers may wish to consider allowing employees to take their work PCs home if laptops are not available. For employees who have not previously been working from home, employers will need to ensure that they have a suitable and safe place to work at home, conducting health and safety assessments and ensuring security and confidentiality of information.

Where a job cannot be completed at home such as construction, manufacturing, logistics, etc. employees should still attend work within a COVID-Secure manner. All employers should review who can and cannot work from home and communicate this to employees urgently, addressing any COVID concerns that are raised by employees. The message is no longer subject to ‘effectiveness’ of home working, therefore, if you are concerned that employees can not be as productive at home, suitable management, alterations to working practices or adaptations should be considered to increase productivity and effectiveness which do not include working in the office.

## **Childcare**

With schools moving to online learning, many working parents will now need to juggle work and childcare. For employees that can work from home, it may be possible to continue working. However, it is advisable that employers are flexible with working arrangements to allow time for working parents to look after their child, while juggling work. This may be through flexible working hours, extended breaks or reduced hours if required. Any temporary changes must be confirmed in writing and reviewed regularly.

If a working parent, cannot work from home or work at home with their childcare commitments, employers may need to consider placing the employee on furlough. Under furlough rules if an employee is unable to work because they have caring responsibilities resulting from COVID-19 including childcare, they may be eligible for furlough. All effort should be made to try and support working parents to continue to work, where possible, even if this is reduced under flexible furlough.



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## Vulnerable employees

There are different types of vulnerable groups:

- ◆ *High Risk – Clinically Extremely Vulnerable (CEV):* These employees are now required to **shield** and must not attend work. If a CEV employee cannot work from home, they can be placed on furlough if eligible.
- ◆ *Moderate Risk – Clinically Vulnerable (CV):* These employees may have health conditions, are pregnant or are over 70. These employees can still currently attend work; however, extra consideration should be given to these employees and if current COVID-Secure provisions are not suitable to protect a CV employee, furlough may need to be considered.
- ◆ *Living with a CEV:* Employees may inform you that they are living with a CEV and have concerns regarding transmitting the virus to their family member that is CEV. The current guidance is that they should continue to attend work if it is unreasonable to work from home. However, like the first lockdown, this guidance may be updated to allow CEV's family members to be furloughed to protect their family. Please ensure you are reviewing the guidance as it develops this week.

## Breaching COVID legislation

From Wednesday, the COVID lockdown rules will be enforceable by law, employers have a responsibility to ensure that they are not encouraging or allowing any employee to breach COVID lockdown legislation or COVID-Secure rules in work. An employer also has a responsibility to ensure that employees are not placing themselves or other members of staff at risk by breaching rules outside of work. While an employer is limited to the action that can be taken against employees if they breach legislation outside work, if this affects their ability to attend work, or places other employees at risk, action may be required. Please speak to your HR Consultant for further advice.

## Coronavirus Job Retention Scheme (CJRS)

The CJRS has been extended until 30 April 2021, employers with eligible employees can claim 80% of an employee's usual salary for any hours they do not work, up to a maximum of £2,500 per month.

- ◆ Employees must have been employed on or before 30 October 2020 and you must have made a RTI submission on or before 30 October 2020 for that employee.
- ◆ Employers and employees do not have to have used the CJRS before.



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- ◆ Employees can be on any type of contract with their employer.
- ◆ The Government will cover 80% of pay up to £2,500 a month and employers need to cover pension and National Insurance Contributions (NICs) for the hours the employee does not work.
- ◆ Employers can top up the additional 20% should they wish to.
- ◆ Flexi-furlough – employers can still bring employees back on a part-time basis and place them on furlough for the time they do not work. For the hours the employee works, the employer will pay wages, employer NICs and pension contributions.
- ◆ Employers will need to claim furlough for a minimum period of 7 consecutive calendar days, this includes flexible furlough. This means an employee can work during the seven days but you must claim for the hours not worked over the 7-day period.
- ◆ Furlough and flexi-furlough arrangements and agreement to them, must be in place, in writing, for all employees for any period of furlough.
- ◆ Employees must continue to receive their contractual holiday entitlement including bank holidays and must be paid a normal salary for any holidays. Employees should be encouraged to still take holidays during a period of furlough and receive full pay for these days.
- ◆ Employers must submit furlough claims monthly and any claims for a month must be made by 14<sup>th</sup> of the following month.
- ◆ Employers must keep accurate records of their employees' furlough agreement, hours worked, hours not worked and holiday pay during any period of furlough.

## Is the COVID Temporary Arrangements in Place Still Temporary?

For employers that have required their employees to work from home continually since March 2020 or implemented alternative working patterns, shifts, etc. consideration should be given to whether these arrangements can still reasonably be considered temporary or have they now become permanent.

Any permanent changes to an employee's working arrangement must be agreed and confirmed in writing. You must take into consideration several factors including, but not limited to: pay, holidays, health and safety, mental health, etc. Please speak to your HR Consultant to discuss any temporary arrangements that have been in place long term.



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This is a difficult time for employers, employees, family, and friends. We are in a unique position that has not been seen before and previous ways of working, practices and rules must be amended to reflect the current times.

**Please contact your Beststart HR Consultant or any of our HR Team on 01438 747 747 or email [enquiries@beststarthr.com](mailto:enquiries@beststarthr.com) to discuss how these may impact your specific circumstances.**

Whilst every effort has been taken in compiling this Business Update, the current situation is fast changing and Government announcements on COVID-19 can be clarified and/or amended after their initial publication. Beststart HR cannot be held responsible for any errors or omissions. The update is not intended to be a substitute for specific advice from Beststart HR or other suitably qualified professional.



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