

Business Leaders Zoom Call Report



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For a confident future

Preparing for an HMRC CJRS Audit

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Sources:

REC

KPMG

ONS

BBC

NHS

Introduction

31st January 2022

As we enter a new year, businesses already lacking the people they need are experiencing up to 30% absenteeism due to Covid-19, although reduced regulations around self isolation and the lessening impact of the latest variant, combined with the extent of the vaccination programme will hopefully reduce the problem as we move forward.

The UK jobs market continued to rocket in December, with short term cover taking priority over long term growth, further skewing the figures and placing yet further pressure on pay rates to remain competitive.

Demand for new employees is however beginning to soften and was running at it's slowest rate since last April, although the number of open vacancies remains at an all time high of 1,219,000; double that of a year ago and in sharp contrast to the 811,000 open vacancies before the pandemic began in February 2020.

Substantial pay increases were seen across the whole of the UK and despite inflation easing from last November's all-time peak December was the third fastest rate of inflation since October 1997.

A topic we will address in a forthcoming Zoom call.

In the meantime, we are delighted to welcome back Helen Dyke from Irwin Mitchell to discuss the latest changes in employment law and our guest speakers today David Yewdall and Clare Halligan of Smith & Williamson discussing recent HMRC investigation into CJRS claims.

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EMPLOYMENT LAW UPDATE HELEN DYKE, SENIOR ASSOCIATE SOLICITOR

The Prime Minister announced that the measures it had taken to protect the public during the rapid spread of the Omicron variant would end at midnight on 26 January 2022 in England. The legal rules about wearing face coverings have gone, as has the advice to work from home if you can. This article considers what steps employers need to take. Spoiler alert – there may come a time when we can genuinely live with COVID-19, but we are nowhere near there yet and we are advising employers to remain cautious:

<https://imbusiness.passle.net/post/102hhay/the-end-of-plan-b-what-does-living-with-covid-19-mean-for-employers>

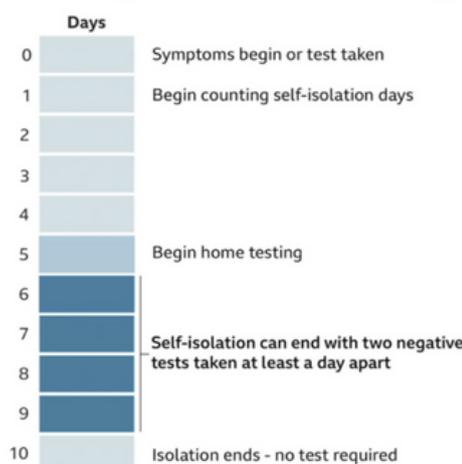
The government has (from 17 January 2022) changed the self-isolation rules for people who test positive for COVID-19 in England to enable them to return to work earlier than before. We've looked at the new rules and written a quick explainer for employers:

<https://imbusiness.passle.net/post/102hgei/changes-in-rules-on-self-isolation-in-force-today-employer-questions-answered>

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How five-day isolation rule works in England



Source: NHS



IKEA announced that it had changed its sick pay scheme to deal with COVID-19 related absences and a number of other big employers are thought to have done the same thing. Some of our clients want to explore this but there are significant employment and GDPR issues they need to consider first (the GDPR ones are particularly complex). We have prepared advice to help employers navigate this difficult issue:

<https://imbusiness.passle.net/post/102hgih/can-you-reduce-contractual-sick-pay-for-unvaccinated-members-of-staff?share=True>

We examine a claimant's successful claim that she was unfairly dismissed after raising health and safety concerns about her workplace, which the tribunal agreed were protected characteristics. [This is the first case we're aware of which has examined whistleblowing claims in the context of the COVID pandemic]:

<https://imbusiness.passle.net/post/102hgxy/covid-19-employee-who-employee-who-was-sacked-after-raising-health-and-safety-co>

We report on whether a claimant was harassed by her male boss after he asked her if she was menopausal:

<https://imbusiness.passle.net/post/102hgxy/boss-harassed-sales-assistant-by-asking-if-she-was-menopausal>

COVID-19 has dominated the agendas of many businesses. To make sure that they haven't missed any important decisions over the last 12 months, we've identified 10 key cases they need to be aware of:

<https://imbusiness.passle.net/post/102hg7f/the-10-most-important-employment-law-cases-of-2021>

We've reviewed the employment law changes that are coming into effect this year and have considered those that could be implemented:

<https://imbusiness.passle.net/post/102hf62/employment-law-changes-2022-guide-for-businesses>



Coronavirus Job Retention Scheme

Euro Projects

31 January 2022



Welcome to Smith & Williamson

1

The Government is aiming to recover £1 Billion in claims made by businesses in fraud or error

Coronavirus Job Retention Scheme HMRC's Compliance Activity



Implementation

- Guidance revisions
- Automated controls implemented into claim process
- Prevented 100,000 ineligible claims



Correcting Claims

- Correct claims with no penalty
- Demonstrate reasonable care taken
 - Justify position



Enforcement

- Taxpayer Protection Taskforce - tackle 8.7% lost to fraud and error
- Nudge letters / Enquiries

2

- Three phased approach by the HMRC:
- Implementation – Guidance & controls into the claim process, could only be made to business that are on the HMRC system, prevented over 100,000 ineligible claims
- Correcting claims – Gave businesses a 90 day window to come forward to amend claims, give them a chance to avoid any penalties, independent reviews
- Enforcement –
- Now in 2022 we are in the enforcement phase – Government have invested £100 million in a Taxpayer protection taskforce, to claim money back due to fraud or error, nudge letters and enquiries that HMRC are opening. HMRC own fraud team are also working alongside taskforce, should you receive a letter from HMRC then double check it, if it mentions anything to do with fraud then important to follow this up.
- No internal comms about reopening the furlough scheme as Omnicron started / Taskforce have focussed on businesses that made claims but have now gone into liquidation / Significant proportion of enquiries were handled by payrolls agents
- You can take an independent review to check your accuracy to cover you should the HMRC contact you about claims – can reduce penalties should there be any errors

Risk areas



- Example of a business that had made a £3 million claim, said that they had it all covered, S&W conducted an audit and found over £400k was over claimed and due to be recovered by HMRC.
- Job retention scheme is a formula that applies to a figure - Reference Pay needs to be based on an amount on pay after salary sacrifice, not before
- Payment couldn't be paid if employees were actually working – confusion what 'work' actually was classed as – had to be furloughed for 3 continuous weeks
- Confusion of cut off date for new employees – needed an RTI no later than March 2020, employees who employed in first quarter, did they make the cut off?
- If you have a claim then important to do a review, or at least a sample check to ensure the accuracy



Review of claims and rectification of errors

- Sample review of claims strongly recommended
- Latest HMRC guidance says that overpayments can be offset against underpayments in the same claim period
- Each employee must have received at least their entitlement
- Overclaims for any claim periods must be repaid to HMRC
- If an employee has been underpaid the employer can either a) top up their wages to the required level or b) pay the grant back
- You must top up wages within a 'reasonable period'. For companies this is normally 12 months after the end of the relevant accounting period.

Key takeaways

1

2022 = HMRC enforcement phase

2

Businesses who have completed an independent review are in the strongest position

3

Defence for reasonable excuse

4

Reduces penalty exposure and reputational damage

- Awareness that Job retention scheme claims remains a risk for business in 2022/2023, the taskforce will be very active – looking to recuperate billion by 2023
- Businesses who undertake an independent review, are in the strongest position, business has a defence against HMRC, 'what did you do to ensure that your furlough claims were compliant'
- Reduces your penalty, exposure and reputational damage

Contacts

Coronavirus Job Retention Scheme

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Disclaimer

This webinar is of a general nature and is not a substitute for professional advice. No responsibility can be accepted for the consequences of any action taken or refrained from as a result of what is said.

Tax legislation is that prevailing at the time is subject to change without notice and depends on individual circumstances. Clients should always seek appropriate tax advice before making decisions. HMRC Tax Year 2021/22.

Smith & Williamson LLP

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Questions:

- Are you seeing HMRC aiming for a particular target?
- Yes, certain areas they are focussed on, size of the claim is one area, higher risk and more likely to be an error in this one, and maximise tax yield. Also looking at businesses that have gone into liquidation – powers that directors are responsible, so the debt can be transferred onto them
- Sectors or industries they may target?
- Not as much, with covid different report schemes, hospitality, eat out to help out – two areas because of bounty and size of claims that they were looking into
- Any correlation with claim size and turnover ?
- HMRC has huge wealth of information, areas they look at is your company tax return and size of your claim.



STEPHEN BROWN
MD
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RECRUITMENT



For a confident future

Once again we are truly grateful to our friends at Irwin Mitchell and Smith & Williamson for bringing such a wealth of information to our clients and business associates on a wide range of important HR topics.

As demand for recruitment remains at such unprecedented levels, we are here to help and support your business to find the people you require in a timely fashion and with minimal risk.

Please contact us to discuss how we can assist your business to recruit the best people, who match your culture, values and expectations.

JOIN US AGAIN...

Our next Business Leaders Call will be on 28th February, where we look forward to bringing you information on the subjects important to keeping your business running smoothly.

In the meantime, please get in touch if you need us, or you would like to recruit top talent for your business.

HOW ELSE CAN WE HELP YOU?

IF YOU HAVE A ROLE YOU WOULD LIKE US TO HELP YOU TO RECRUIT FOR, PLEASE GET IN TOUCH WITH YOUR REGULAR CONSULTANT, ME, OR IF YOU'RE NEW TO US VIA THE DETAILS BELOW:

EMAIL: [CUSTOMERS@EUROPROJECTS.CO.UK](mailto:customers@europrojects.co.uk)

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