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Attenborough**Law**Limited

IRPM – Remote Conference 2020

Employment Law Update

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Introduction

Your Presenter: Tina Attenborough

Solicitor - Employment Law, HR and Training

Run time: 30 minutes

Have questions?

As the session is recorded, if you have any questions for the presenter to respond to, please send your question by email to Tina directly at tina@attenboroughlaw.co.uk.

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Attenborough Law Solicitors – Advice Service

From the moment it is necessary to deal with a situation regarding an employee – speak to the team at **Attenborough Law on 01332 558508**

Not only for employment law advice but also to obtain outsourced (seamless or ad hoc) HR services and standard documentation and templates of letters from which you can draft communications to your specifications with our assistance.

We look forward to hearing from you!



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Topics we will cover:-

1. Lockdown Update
2. The Furlough and JSS Scheme
3. Furlough and Redundancy
4. ACAS Redundancy Guide
5. Joint Statement – Redundancies
6. Job Retention Bonus
7. Track and Trace
8. Annual Leave
9. Quarantine
10. Modern Slavery Statements
11. Post Brexit immigration
12. The Good Work Plan
13. Parental Bereavement Leave
14. Increases to statutory rates
15. The Current situation SSP
16. Domestic Abuse – Employer's Role
17. Monitoring Workers – Working from home
18. Case Law update

Lockdown update

England

- Lockdown continues – various guises - 3-Tier system
- Individuals - Returned to work - COVID secure.
- Shielding - ended
- S.44/100 ERA - H&S – should they get paid?

Furlough and Job Support Scheme

- Current position
- The Flexible Furlough Scheme ends on 31 October
- Job Support Scheme commences 1 November
- The new scheme - one third of their usual hours
- The Government - top up scheme
- Employer to pay one third

Furlough and Job Support Scheme

- The Government's contribution is capped at £697.92 per worker per month
- 77 per cent of their normal wages
- Employers pay workers' NICs and pension payments.
- The scheme - *viable jobs*
- Not if given redundancy notice
- The scheme - six months

Furlough Scheme and Redundancy

- Can still make redundancies – must follow fair procedure
- On 31 July 2020 - new law – SRP based on *normal* wages
- Does not apply to enhanced/contractual redundancy schemes
- Redundancies - inevitable
- ACAS – Guide “Manage Staff Redundancies”

ACAS Guide on Redundancies

- Make a redundancy plan
- Avoid compulsory redundancies
- Redundancy consultations
- Select employees for redundancy
- Give employees notice of redundancy
- Work out redundancy pay
- Support your staff and plan for the future

Joint Statement on Handling Redundancies

- ACAS - CBI - TUC issued “Joint Statement on Handling Redundancies”
- They set out five guiding principles:
 - Do it openly
 - Do it thoroughly
 - Do it genuinely
 - Do it fairly
 - Do it with dignity

The Job Retention Bonus

- Incentive - not make staff redundant who have previously been furloughed
- Employers receive £1,000 per employee – 31 January 2021.
- Staff - average pay £520 pm - 1 November 2020 and 31 January 2021.
- Keep up to date RTI records
- Not serving contractual or statutory notice period before 1 February 2020.

What you need to do now

- Job Retention Bonus, you must:
- PAYE submissions up-to-date
- Real Time Information (RTI)
- Variable pay staff
- CJRS claims – accurate - amendments/changes

Track and Trace

- On 28 May 2020 - NHS test and trace service launched
- Contacts - positive test result
- Alerts those contacts - self-isolate for 14 days
- Notification - evidence of SI
- Staff entitled to receive SSP
- Employers - required to support - do not attend the workplace
- Alternatives – work from home - annual leave
- Beware Fines!

Annual Leave

- Statutory right - 5.6 weeks leave pa
- Law amended - 4 weeks carry over
- Carry over - two years
- 1.6 weeks - carry over subject to agreement
- Enhanced contractual leave above 5.6 weeks - usual rules apply

Quarantine

- Returning to UK from overseas – SI 14 days unless exempted list
- List continually changing - minimal notice
- May need to quarantine even if not the case when left
- Staff not entitled to SSP
- Need to be consistent
- Work from home - annual leave - agreed or enforced
- Unpaid leave

Modern Slavery Statements

- Relaxed rules - compliance
- Updated Government guide - identify and address risks
- Recognises challenges publishing statement - reduced staff capacity
- Will not be penalised
- Reason for any delay to be published - delayed statement

Post-Brexit Immigration

- On 13 July 2020 - Immigration from 1 January 2021 - transitional period
- Three methods to entry - Skilled Worker, Global Talent or Start Up and Innovator
- Skilled Worker route - points-based immigration
- At least 70 points - 50 mandatory - 20 tradeable points

Good Work Plan

- The Good Work plan - 6 April 2020. Key matters:-
 - Employees - written statement - main terms of employment – on or before commencement
 - Workers - equivalent to written statement
 - More detailed information - written statement
 - Holiday pay (variable hours) based on average 52 wks - from 12wks
 - Swedish Derogation Model contract - banned
 - Agency workers - key facts page - each engagement

Parental Bereavement Leave

- Introduced 6 April 2020 - lose a child under the age of 18 or still-birth (24 weeks)
- Permits two weeks leave
- Taken in blocks of one or two weeks
- 56 weeks following the death
- Doesn't have to be taken together
- Parental bereavement pay £151.20 pw – after 26 weeks service

Increases to statutory rates

- National minimum wage increases:
 - **£8.72** per hour for workers aged 25 and over
 - **£8.20** per hour for workers aged 21-24
 - **£6.45** per hour for workers aged 18-20
 - **£4.55** per hour for workers aged 16-17
 - **£4.15** per hour apprentice rate
- Family leave pay, including maternity pay, increased to **£151.20** per week.
- Statutory sick pay increased to **£95.85** per week.
- The lower earnings limit rose to **£120** per month.

Current rules on statutory sick pay (SSP)

- If test positive for coronavirus or symptoms or told to SI - entitled to SSP
- No waiting days
- **NOT** the case for travellers - quarantined
- Organisations with less than 250 members of staff (as at 28 February 2020) can claim back up to 2 wks SSP - Rebate Scheme.
- Contribution to cost of SSP - to help businesses

Domestic Abuse and the Role of the Employer

- Domestic abuse - huge increase in cases - lockdown
- Home working – not helped
- Work place - haven away from abuse

- 29 September CIPD - guidance for employers

- “Managing and Supporting Workers Experiencing Domestic Abuse”

- Advice was produced jointly with the Equality and Human Rights Commission.

- Employers - encouraged to help break the silence

- Encouraging clear and widely communicated policy

Four steps are recommended:

- Recognise the problem
 - Respond appropriately and non-judgementally
 - Provide support
 - Refer to appropriate help; eg counselling, professional organisations
-
- May need time out:
 - Counselling
 - Change accommodation
 - Childcare arrangements
 - Legal and finance appointments
-
- Employers being encouraged to accommodate needs.

Monitoring of Workers Working at Home

- Working at home - New territory for many
- Employers anxious – motivated or distracted?
- Workers reporting - longer hours and work-life balance issues
- Daily video conference call with webcam - all day
- Surveillance software and apps – screenshots, websites visited, keystrokes and mouse movements
- Monitor systems, taking regular photographs - appropriate?
- Private place - entitled to respect, privacy and family life

Monitoring of Workers Working at Home

- Article 8 of the European Convention on Human Rights
- CIPD - 73 per cent of workers say monitoring - damage trust
- If surveillance necessary – must be justified and proportionate
- Changes needed to policies and procedures
- Must be informed - breach of data laws
- Digital burn out and mental health issues arising from isolation

And finally:

Three Big Case law Developments in the last three months

- Constructive dismissal (Phoenix Academy Trust v Kilroy)
- Personality clash dismissals (Gallacher v Abellio Scotrail)
- Changing contract terms after a TUPE transfer (Fergusen v Astrea Asset Management)



THANK YOU FOR YOUR ATTENTION!

As stated earlier if you have any questions about the matters addressed here please email tina@attenboroughlaw.co.uk and subject to the number of queries, we will aim to respond before the end of the week!

PROFILE - Tina Attenborough is a Solicitor and Managing Director of her own law practice. She has over 30 years experience and undertakes both contentious and non-contentious employment law work & training for employers and is also a registered workplace and commercial mediator. Her clients come from a wide range of sectors, including education, leisure, manufacturing, construction and professional services.

Tina is experienced in a variety of areas, in particular running complex Tribunal cases, seeking injunctions and more generally in relation to Unfair Dismissal, all types of Discrimination, Whistle-blowing, TUPE related claims, Disciplinary, Redundancy, and Executive Severance.

The firm provide a wide range of retained and ad hoc services guiding and supporting her client's through general day to day workplace issues with a view to keeping them out of tribunal hearings!

If my firm can help you with your staff, HR and employment law issues please don't hesitate to get in touch.