



COUNCIL NEWSLETTER FEBRUARY 2022

The End of Covid Restrictions and Self-Isolation

At the start of February the Government announced the end of Covid restrictions, including the need for people to self-isolate if they test positive for the virus, from the 21st February 2022.

Currently, we are still waiting for more detail, however this decision by the Govt is expected to result in the end of Covid specific Statutory Sick Pay, that currently provides payments to workers from day one, and which Councils can claim back from the Government.

There are also other Employment considerations that need to be taken into account, such as what to do with workers who insist on coming to work despite testing positive, and those who are worried about coming in.

Councils cannot force staff to have a vaccination, or to inform their Managers if they have tested positive for the virus. However, Councils are still obliged to ensure that they maintain a workplace that protects the health, safety and wellbeing of staff (s2 HASAWA 1974). Councils can still retain protective measures within their own premises, such as social distancing, temperature checks for staff, sanitizing, the use of PPE and home working. However these limitations don't apply to the public, and many Council staff are in regular contact with members of the public.

Furthermore, if an Employee insists on attending work, or their temperature check is high but they still want to work, the Council would have to decide whether or not to allow them in. If the worker is sent home by their Manager, they are entitled to receive full pay for that period of time. This could incentivise some individuals who may not be on NJC sick pay terms, or are relatively new recruits and only qualify for Statutory Sick Pay, and have tested positive, to come into work, causing their Employer to send them home on full pay. Obviously, this is a better option for them compared to getting SSP, which they would have received if they had called in sick.

Another consideration for Managers is how to address the concerns of Employees who are classed as vulnerable, and who were previously advised to shield. If they are genuinely anxious that the workplace is not safe, they can refuse to attend work. Anyone who has a genuine belief that it is unsafe for them to go to work, and refuses to do so, are protected in

law from suffering any detriment, including dismissal for not attending (s44 & 100 Employment Rights Act 1996).

If Managers can demonstrate that work is as safe as it possibly can be, they may be able to counter such claims by Employees, and require them to attend work. However, it is also worth remembering that most vulnerable Employees are in that category due to disabilities. Consequently, to force them to attend work when they genuinely believe it is unsafe could not only give them grounds to claim Constructive Dismissal due to loss of statutory rights, but also Disability Discrimination as a result of being treated 'unfavourably' for reasons linked to their disability.

PROFILE

Chris Moses LLM Chartered FCIPD is Managing Director of Personnel Advice & Solutions Ltd. He is a Chartered Fellow of the Chartered Institute of Personnel and Development, and has a Master's Degree in Employment Law. If you have any questions regarding these issues please feel free to contact him on (01529) 305056 or email p.d.solutions@zen.co.uk
www.personneladviceandsolutions.co.uk