

Insights

CORONAVIRUS: APPROACHING THE FORK IN THE ROAD - ANTICIPATING UK REDUNDANCIES

May 01, 2020

There is no change yet, but an expectation that there will soon be a UK lockdown exit plan. By 7 May 2020 we may have a better idea how and when the lockdown will fall away. But no promises are being made.

Along with the possible easing of restrictions, there is also the end of the UK government's job retention scheme. Furloughing will become a thing of the past. As it stands, the date for that is the end of June, although there are suggestions that, like the lockdown, there will be a gradual rather than cliff edge assignment of furloughing to history.

For some businesses it will mean a focus on managing within the workplace issues such as social distancing, testing and tracing. The direction for these businesses will be a return to a resemblance of normal.

For others, the direction will be acting on the permanent damage to the business or the sector in which it operates, and that means redundancies.

For many it will be a combination of the two.

The UK job retention scheme, as the name suggests, was intended to keep employees in jobs rather than them being made redundant during lockdown. It can hardly be a surprise that its end means that employees' status will need to be reconsidered. To some extent that will depend on the permanent damage. To some extent it will depend on the speed and scope with which the lockdown is lifted. We can hope that the lifting of the lockdown and the ending of the job retention scheme will work together – the UK government has hinted as much – but that does not avoid the need to address permanent damage.

But although the end of June is still two months away, there is no scope for just waiting.

Employers proposing at least 20 redundancies in one establishment within 90 days are required to carry out a collective consultation process before redundancy notices are given. It must start at least 30 days before the first redundancy notice – 45 days if 100 or more redundancies are envisaged. In fact it should start as soon as redundancies are proposed, which may be earlier.

Employers need to have employee representatives in place before consultation starts. Representatives could be a recognised trade union or a standing body of elected representatives whose mandate is broad enough to cover redundancy consultation. If there are no such representatives, employers have to assist and allow the employees to elect representatives – remotely, no doubt – and that takes time.

So, the time you need to start work on redundancies is very simple:

It's now.

It is a big decision to take. As well as the possible election of representatives, starting the consultation means providing detailed information on where the redundancies may lie, and the proposed numbers. It also means a formal notification to the Secretary of State. Failure to carry out the consultation properly exposes the business to a penalty of up to 90 days' pay for each affected employee – a quarter of the annual salary bill. Delay in starting consultation, so pushing back redundancies, can mean paying for a workforce the business can no longer afford after the safety net of the UK job retention scheme has fallen away. It does focus the mind somewhat.

BCLP's UK Employment & Labor team is hosting a [19 minute teleconference at 11am BST on Tuesday 5 May 2020](#), We'll cover key collective redundancy issues you need to bear in mind at this time.

BCLP has assembled a COVID-19 Employment & Labor taskforce to assist clients with employment law issues across various jurisdictions. You can [contact the taskforce here](#). You can also view other thought leadership, guidance, and helpful information on our dedicated [COVID-19 / Coronavirus resources page](#).

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