

Insights

UK COVID 19: GOVERNMENT ANNOUNCES DELAY TO FINAL STEP ON ROADMAP, EMPHASISING THE NEED FOR EMPLOYERS TO BE READY FOR CHANGE

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SUMMARY

The government has announced that stage 4 of the lockdown roadmap will be delayed. This article looks at how employers need to be able to anticipate future change in their return to work policies.

On Monday 14 June 2021, the government announced that stage 4 of the lockdown roadmap will be delayed for a period of up to 4 weeks. As part of this, the government guidance that workers should work from home if possible will continue beyond 21 June.

This comes at a time when employers, particularly those with an office-based workforce, have been considering the approach they will take in return to work policies. That will continue, but with the inevitable pushing back of implementation. Employers, quite understandably, want to be ready for an influx of people coming back to the office and, more often than not, have been steering towards a policy that allows the workforce to continue working from home to some degree.

Since the outbreak of the pandemic in the UK in March 2020, one thing we have known for certain is unpredictability. It was only in September last year that the government launched a short-lived advertising campaign to encourage workers to return to their workplace - a campaign that was abandoned as a second wave grew in strength. Employers remain at the mercy of the pandemic but also the law and government guidelines. The 14 June announcement underlines that.

In addition, employers need to be respectful of public opinion and the mood of the labour market in general. No employer wants to be seen as the worst place to work, but also they don't want to have an arrangement that on paper looks good but means that service delivery will suffer. Employers will be to some degree dependent on the requirements of customers, clients and suppliers.

Also, employment law has an ongoing theme of the importance of employers being reasonable. This applies to almost all types of claim that may arise in an employment tribunal. The idea of

reasonableness is influenced by government guidelines but also public opinion; in this ever-changing environment what may be seen as unfair or unreasonable now may be fair and reasonable in six months' time.

Therefore, employers need to continue to act with caution and ensure flexibility when implementing policy changes in respect of the return to the workplace. There has to be an element of 'wait and see'. The end result, once the pandemic ceases to be a major factor, should be a productive and adaptable working environment, but it will take time before employers will really know how it looks.

Tips for employers

- Don't try to change contracts of employment yet. Keep the default place of work as the office. Any hybrid working policies should be non-contractual;
- Retain the ability to require an office worker to come to the office at a particular time. However, this needs to be exercised carefully, bearing in mind business need, government guidelines but also individual circumstances which could lead to discrimination issues;
- Make it clear policies are open to review and change at any time; and
- Communicate and consult with the workforce to ascertain their objectives but also to give transparency on decisions.

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