



EMPLOYER CONSIDERATIONS POST LOCK-DOWN

Kim Howell, Partner

Helen Snow, Senior Associate

Post Lock Down

- Clear Exit Plan awaited
- Businesses need to plan (for the worst!)
- “Life support” for the economy short lived
- Coronavirus Job Retention Scheme (CJRS) – count down to end date is underway **30th June 2020**

Agenda

- What might “work” look like post lockdown?
- What are the key considerations?
- Options and solutions
- Practicalities
- Route map

What might “work” look like?

- Continued closure
- Partial re-opening
 - Reduced staff requirement
 - Flexible furlough?
- Change of function/method of work
- Ongoing Social distancing obligations
 - Regulation 7A Health Protection (Coronavirus Restrictions) (Wales) Regulations 2020

What are the key considerations?

- Efficiencies
 - Reduce payroll costs
 - Changes to terms and conditions
 - Redundancies
- Redundancy cost vs savings
 - Unfair dismissal liabilities
 - Collective award
- When must the savings be achieved?

What are the key considerations?

- How does the CJRS impact on normal redundancy options?
- What are the minimum consultation obligations?
- How soon can notice be served?
- Are there any automatically unfair dismissal/discrimination considerations?
- Is there a better/safer alternative?
- The moral question!

Identifying options and solutions

- Not one size fits all
- Lockdown exit options expected will vary across sectors & workplaces
 - Increased demand/ activity
 - Decreased demand/ activity short-term & longer term
 - Decreased demand/activity initially but with recovery to “normal” expected
- Understanding the options is key to finding the best solution
- Explore opportunities to limit adverse impact

Restructure vs Redundancy

- Not mutually exclusive both present opportunities to reduce payroll costs
- Know your organisation
 - What resources do you expect to need and when

Restructure vs Redundancy

- Know your contracts of employment
 - What have you got versus what you need in future
- The difference between statutory rights and employer enhancements
 - Additional paid holidays, Enhanced sick pay, Additional Pension contributions; Enhanced Family benefits
- “All well having best Ts and Cs but not if you don’t have a job” - Unison/ GMB 2008

Restructuring terms and conditions

- How can employers make the best of what they have?
- How should employers go about making changes to terms and conditions?
- Can employers introduce changes by simply notifying employees?

Restructuring terms and conditions

- What are the options for achieving effective contractual change?
- Must agreement be in writing?
- What can employers do if (some) employees won't agree?
- Must employers comply with collective consultation rules?

Making Redundancies

- When do the collective consultation rules apply?
 - When are employees employed at the same establishment?
 - What information must be provided?
- HR1 Form
- What triggers the need to start consultation?
- Can notice of termination be served before the minimum consultation period ends?

Making Redundancies - Furlough

- Can redundancies be made even though staff are furloughed?
- Can employers collectively consult during furlough?
- Is an employee working whilst being consulted with?
- Can employers serve notice during furlough and does full pay or furlough pay apply?
- Can employers make PILONs and recover under the CJRS?

Making Redundancies

- How can employers consult during lockdown/furlough?
 - Must representatives be elected?
 - What about the practicalities?
 - Does the “ special circumstances “ exception apply?
 - Individual consultation

Making Redundancies

- Unfair dismissal considerations
 - Fair selection
 - Fair process
 - Automatic Unfair Dismissal
 - Whistleblowing/Health & Safety
 - Discrimination
 - Shielding employees

Counting the cost

- How much will redundancy cost the business
 - Financially, operationally and reputationally
- How much will restructuring save the business
- How much will restructuring help save jobs and sustain the future of the business for the longer term

The Route Map

- Consider & evaluate a broad range of potential options
- Identify the pitfalls and the risks
- Select potential solutions
- Develop implementation plans (and contingency plans)
- Present your proposals
- Consult (in a timely manner!) and reappraise options
- Implement decisions

Any questions



Contact details



Kim Howell

Partner

+44 (0) 29 2039 1473
kim.howell@geldards.com



Helen Snow

Senior Associate

+44 (0) 29 2039 1497
helen.snow@geldards.com

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