



November 2021 Update

Welcome to this month's update - where we discuss the latest legislation and guidance.

In this month's edition, we report on:

- Final call for the Corporate Social Responsibility Webinar on Friday 26th November, 11.00 am to 12 noon - starting your company journey
 - IR35 rule changes and key business actions needed
 - What do employers need to consider when an employee says they have long covid?
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Final call for the Corporate Social Responsibility Webinar invite, Friday 26th November, 11.00 am to 12 noon - starting your company journey

In 5 years' time, the most successful companies will be the ones that incorporate CSR into their business models. These will be the companies investors want to invest in and consumer and business will want to engage with.

By showing your company is not just driven by profit alone, this will in turn impact on your profitability levels by differentiating your business from your competitors.

Please join us for our Free Webinar on 26 November from 11.00 am to 12 noon where we share some practical insights on:

CSR – Practical guidance to start your journey

Key tips you can take away to implement for your business.

- Introduction to CSR

- Understanding the 4 pillars of CSR
- Looking at the key matrix questions
- Simple strategies to start an audit
- Question and answer session

Employers: We show you how to start building a CSR plan into your business strategy.

Contact us: Please email caroline.robertson@actifhr.co.uk, call 01327 317537 or <https://www.eventbrite.com/e/corporate-social-responsibility-starting-your-company-journey-tickets-190371224457>

IR35 rule changes and key business actions needed

As most of us know, changes to the IR35 rules came into effect on 6 April 2021, with the Government cracking down on companies who employ ‘contractors’ or ‘off-payroll workers.’

IR35 is tax legislation that aims to stop individuals from avoiding tax by supplying their services to companies through an intermediary, such as a limited company. And it’s not just individuals who have been saving tax but businesses who have paid contractors when they possibly should be classed as employees.

As employees, employers should have paid employers’ National Insurance Contributions (NICs), deducted tax at source or provided employment benefits like paid holidays, pensions or sick leave.

IR35 has existed since 1999 but up until 2018, contractors could choose their tax status, even if essentially, they should have been classed as an employee. Of course, many contractors classed themselves as self-employed to have the benefits of full-time work, with paying very limited taxes.

From April 2021, private businesses are responsible for making the business decision on whether these people fall inside or outside of IR35 and setting their tax status. If you get it wrong, you will be responsible for tax that should have been paid, fees and penalties.

What do you need to do?

- You need to review all workers associated with your company that are not on your payroll and decide if they are inside or outside of IR35.
- Don't forget there is a small businesses exemption that may be applicable.
- Send a letter to your contractors to set out the review you have undertaken, the result of your assessment and reference to the small business exemption, if applicable to confirm their status.

Employers: We can assist with contractor reviews and provide you with the right draft letter to confirm tax status.

Contact us: We provide the contractor review and status confirmation letter you need for as little as £150

What do employers need to consider when an employee says they have long covid?

It's estimated that more than 2 million people are still suffering the effects of long COVID. Going forwards, employers need to consider how they manage this.

The term "long COVID" is used to describe signs and symptoms that continue to occur or develop for more than 12 weeks, not explained by an alternative diagnosis, after an individual has suffered the effects of acute COVID-19.

Is it a disability?

It's been argued that long COVID should be classed as a disability, however, the effects of long COVID can vary for different people. Each case should be considered on its own merits as to whether their condition qualifies as a disability.

The Equality Act 2010 defines a disability as a physical or mental impairment that has a "substantial" and "long-term" adverse effect on a person's ability to do normal daily activities. Employment tribunals will look at the effect of the impairment. "Substantial" means more than "minor or trivial" and so has a low threshold and "long-term" means it has lasted or is likely to last 12 months or longer.

Even though long COVID is a new condition, it is possible that a tribunal could find that long COVID can amount to a disability under the Equality Act.

We thought it would be useful to offer our advice on how you should approach a case where one of your employees says they have long COVID?

Seven ways to reducing the risk of claims:

1. Treat long COVID as you would any other health condition. Ensure you have the relevant medical evidence in front of you before making any decisions. This may need to be a specialist report, rather than a GP's notes.
2. If there is a high likelihood that the condition amounts to a disability, you will need to look to meet your duties to that employee, through consultation and discussion on ways to alleviate the impact and, if appropriate, help them to get back to work.
3. Reassess workplace provisions, criteria and practices (PCPs), such as working hours, workload, physical tasks and travel requirements, looking at adjustments that could be made.
4. When it comes to implementing these adjustments, this will depend on what is reasonable, taking in account considering factors such as cost, the practicality of making the adjustment and its effectiveness. Employers will only rarely be required to extend sick pay as a reasonable adjustment because it does not usually assist the employee to work, although you may be expected to do what you can to allow employees to benefit from PHI.
5. Keep comprehensive notes of your decision-making process when implementing or rejecting reasonable adjustments.
6. If you come to the stage where you need to dismiss an employee, you need to make sure that what you do is not deemed as being unfair and/or discriminatory. You must ensure that your processes and procedures as well as your absence management policies, are appropriate, reasonable and have been followed properly.
7. Given the fact that the impact of the condition may vary between different groups, e.g., older workers, ethnic minorities and/or women, any capability procedures should be approached with caution and flexibly maintained to reduce the risk of an indirect discrimination claim.

Employers: Ensure your employees feel supported and know what's expected of them to reduce the risk of disability discrimination claims

Contact us: We can assist with long-term sickness advice and help

For more information or assistance Email: enquiries@employmentlawsupport.co.uk



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