Browne Jacobson

Back to School: HR and employment FAQs, March 2021

Despite the national vaccination rollout going to plan it is understandable that many school staff will be feeling hesitant about next week's almost full return to the school site. We have put together FAQs to assist with your ongoing support and management of your employees.

05 March 2021

Please note: the information contained in this legal update is correct as of the original date of publication.

Despite the national vaccination rollout going to plan it is understandable that many school staff will be feeling hesitant about next week's almost full return to the school site. Whilst much of the framework for how you make decisions on this issue will be broadly familiar to you from other points in the pandemic over the last year, we have put together the following HR and employment focused FAQs to assist with your ongoing support and management of your employees.

Areas of focus include:

- Long COVID
- Vaccines
- Annual leave
- Performance management
- Risk assessments
- Clinically Extremely Vulnerable
- Anxious employees
- Face coverings
- Recruitment

Long COVID

What is long Covid? +

What do we do if an employee is absent due to having symptoms of long Covid? +

If an employee is off with long Covid symptoms, would this count towards absence triggers in line with our sickness absence policy? +

Can we dismiss an employee who is absent due to long Covid if we have exhausted the stages in our sickness absence policy? +

Vaccines

Should employers mandate staff to have the Covid-19 vaccination? +

What are the risks of making the vaccination mandatory? +

What should employers do? +

So practically how do you encourage staff to have the vaccination? +

An employee has had a dose of the vaccine and is now absent from work due to feeling poorly, how do we manage this absence? +

Do Clinically Extremely Vulnerable employees still need to shield after having the vaccine? +

Annual leave

What should I do about employees who have a holiday entitlement and are needed to work during term time? +

Can an employee carry forward holiday due to Covid-19? +

Can I tell my staff when to take leave? +

Performance management

How should we manage the appraisal process at this time? +

Risk assessments

Do we need to review our Covid-19 risk assessments? +

Who should the school consult with when amending the risk assessment? +

What areas of the risk assessment do I need to particularly review? +

Clinically Extremely Vulnerable

The employee is clinically extremely vulnerable – can we insist that they return to work onsite? +

Can CEV employees return to work on site if they have had the vaccine? +

What if an employee refuses to attend the workplace because they live with someone who is classified as a CEV? +

The employee is clinically vulnerable – can we insist that they return to work onsite? +

The employee is pregnant – can we insist that they return to work onsite? +

The employee is concerned that their characteristics place them at a higher risk from coronavirus – can we insist that they return to work onsite? +

Can supply staff and other temporary or peripatetic staff return in the normal way? +

Can we deploy staff and use them more flexibly on return? +

What do we need to consider for CEV staff now that the previous shielding guidance has been extended until 31 March? +

If an employee who is CEV wants to return to work onsite can we allow them to? +

Anxious employees

We have employees who are too scared and anxious to return to work for fear of having an increased exposure to the coronavirus. What can we do? +

What do section 44 and section 100 of the Employment Rights Act 1996 (ERA) involve? +

What can we do to mitigate section 44 and section 100 being used by employees? +

If an employee decides to follow union advice and refuse to attend work on the ground of section 44 and section 100 what will this mean for how their absence will be managed? +

If an employee decides to follow union advice and refuse to attend work on the ground of section 44 and section 100 what will this mean for their pay? +

What if an employee refuses to attend the workplace because they live with someone who is CEV? +

What if an employee refuses to attend as they have not yet had the vaccine or because they refuse to have the vaccine? +

Face coverings

What is the latest Government advice on face coverings? +

What should I do if an employee refuses to wear a face mask? +

Do we need to provide masks to employees? +

What if staff wear branded or themed face masks? +

What if staff do not stick to social distancing measures generally? +

How should face masks be disposed of and stored? +

Recruitment

How can we recruit as safely as possible? +

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