



WHAT2WATCH4

Issue 32

Back to Lockdown!

November 2020

With the country going back into full lockdown mode for a month and the announcement of the furlough scheme being extended, all businesses are being affected and the pressure is mounting. As things are changing every day, we will keep you up to date with the latest information. But if you have any questions about the extended furlough scheme and whether it applies to your employees or not please do pick up the phone to ask the question.

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**Direct Law
& Personnel**

Manchester - Leeds
Birmingham - London

A publication of
Direct Law & Personnel

Gender Fluidity & £180,000 Tribunal Payout

A gender-fluid (non-binary) worker has won an employment tribunal against Jaguar Land Rover (JLR) winning £180,000. The employee successfully argued that she suffered harassment and direct discrimination because of gender reassignment and sexual orientation. JLR have since apologised to the employee for her experience and they state that they are striving to improve moving forward.

Part of the argument of the case was whether being gender fluid/non-binary was a protected characteristic within section 7 of the 2010 Equality Act. The protected characteristics covered in the act are age, disability, gender reassignment, marriage and civil partnership, pregnancy and maternity, race, religion or belief, sex and sexual orientation.

The ruling has been hailed as a

milestone win for equality by campaigners, with the tribunal making it clear that "gender is a spectrum" and that it is "beyond any doubt" that the Equality Act protections apply to people with diverse gender identity or expression, and not solely transgender men and women.

DEFINING "NON-BINARY"

Non-binary: a gender identity which falls outside of the gender binary, meaning an individual does not identify as strictly female or male.

A non-binary person can identify as both or neither male and female, or sometimes one or the other. There are several other terms used to describe gender identities outside of the male and female binary such as genderqueer, gender nonconforming,

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agender, and bigender. Though these terms have slightly different meanings, they refer to an experience of gender outside of the binary.

What can employers do to ensure that employers are taking the steps towards being more inclusive of trans and non-binary employees?

- One area you can look at is offering gender-neutral pronouns like Mx on titles and email signatures.
- You can also ensure that your policies explicitly reference protection for non-binary people in relation to bullying, harassment and

discrimination in the workplace and promote a zero tolerance approach to tackling any discriminatory behaviour.

- Including employees in the process can help smooth the way
- Making proactive changes to policies and introducing specific training to ensure working practices are inclusive
- Updating information on company dress codes
- Making sure facilities are not gendered

Please speak to a DLP Advisor if you wish to discuss the above in more detail.

RISKY BUSINESS

PUTTING SOMEONE 'AT RISK' & THE RISKS INVOLVED



Many clients have asked whether face-to-face meetings are now encouraged in the workplace. The guidance from the government remains for office workers to work from home (where possible) until early 2021. However, some meetings are being requested to be held on site.

However, our advice is to have a think whether the meeting really does need to be held face-to-face. After all, the more individuals from different areas of the country and different companies in a room may raise the risk of spreading COVID-19. Therefore, it is crucial to consider other alternatives, over the phone, over Microsoft Teams, Zoom, FaceTime, WhatsApp etc. This keeps employees, clients and external providers safe.

For face-to-face meetings, subject to a risk assessment and individually reviewed for its necessity, we have the following tips.

1. Ensure you remain two meters apart from all

participants to the meeting at all times.

2. Wear a face covering during the entirety of the meeting (or, if you are an external contractor, for the whole duration of your visit to client premises).
3. If you are handing a formal document to an employee (at risk letter, termination letter etc) then ask for the employees email address to send this to them after the meeting to prevent the document from having COVID-19 on it.
4. If any participants to the meeting feel unsafe at any point, then you should adjourn and agree a different way for this to take place (i.e. one of the platforms above).

Remember, there are various other ways a meeting can take place during these unprecedented times to ensure we all play our part to keep each other safe.

To discuss any of these meeting styles contact a DLP advisor.

Microsoft Teams, Zoom, FaceTime and WhatsApp are registered trademarks or service marks of their respective owners. Their inclusion here is not an endorsement of the service nor an indication of their endorsement of DLP.

CREEPY CALLERS...

THE PIT FALLS OF THE NHS TRACK AND TRACE SERVICE

WHAT IS TRACK AND TRACE AND HOW DOES IT WORK?

- The contact tracing app is designed to let users know if they have been in close contact with someone who tests positive for COVID-19.
- The purpose of the app is to track down people who have been in contact with an infected person and alert them to self-isolate.
- The app keeps track of people you have been in contact with through Bluetooth signals.
- If another person tests positive for the virus you will be notified and told to self-isolate.

CREEPY CALLERS...

Despite the positive intent for the service, there are many examples of personal information being used for the wrong reasons.

BUS WORKER SACKED FOR SENDING TEXT MESSAGES

A worker has been sacked for sending creepy text messages to a woman using the track and trace contact details.

The woman went on a bus tour in Windsor and provided her name and phone number in case she needed to be contacted if there was a coronavirus outbreak. She was then shocked when she received several text messages from the bus driver asking if he could see her again.

The bus driver was subsequently sacked following an investigation. The company are now introducing a new system for track and trace where personal data will be stored more securely.

THIS IS NOT AN ISOLATED INCIDENT

A University student from Glasgow went out for a meal and drinks in Edinburgh and gave her number at the restaurant. She later got a text from a man asking if she wanted to meet up. The student confirmed that she had not given her number out apart from the Track and Trace system.

All business owners are supposed to ensure they have a secure method for storing the data before it is passed on to a Test and Trace team then destroyed within 21 days—and failure to comply can result in a fine between £1000 and £4000.

A Department of Health and Social Care spokesperson said “The unauthorised use of customers’ information provided for contact tracing is unacceptable and every business must comply with all data protection legislation.”

WHAT CAN EMPLOYERS DO TO PROTECT THEMSELVES?

COLLECT CUSTOMER AND STAFF INFORMATION

- As well as collecting the information of customers it is

vital to collect information from your staff. While you may think this information is easy to maintain, many independent businesses may not be retaining all the information that is needed. With that being said make sure that both sets of information are GDPR compliant.

COLLECT ONLY RELEVANT INFORMATION

- The information you collect from both customers and staff doesn’t need to be extensive and certainly doesn’t need to be more personal than usual data collection. Keep the information you collect simple, their name, email, contact number and their time of arrival and departure in your business. Collecting other data can be seen as invasive and reflect poorly on your business.

STORE YOUR DATA APPROPRIATELY

- When you collect data from staff or customers make sure all this information has been organised properly. The information is important if needed so ensure it is all correct. Additionally, you must store the data securely, meaning that you should make sure this information cannot be seen by other customers or anyone that is not in charge of keeping these records. The customers are not bound by law to give their information to you, so by giving it to you they are trusting that you can keep it secure. A breach of this information is obviously not GDPR compliant, further demonstrating its importance.

USE YOUR DATA PROFESSIONALLY

- Once you collect the information there are a few ways that the use of this data can fail your compliance. If you are a business, such as in the hospitality sector that normally collects personal information—as long as you are GDPR compliant—you are free to continue to store and use that information.
- However, if your business does not normally collect personal information and are only collecting for the purpose of Track and Trace, then you cannot use this information in any other way and must dispose of it after the required length of time has been reached. It must not be used for general marketing and other opportunistic ways that fall outside of contact collection. Doing so would be a GDPR violation. Businesses that would want to use the collected information for marketing purposes must make this known at the time the information is collected. Customers are likely to be upset if they find this data being misused and will reflect poorly on your business.

ANNUAL LEAVE CRISIS

Almost a third of UK workers cancelled annual leave in 2020

A RECENT REPORT CLAIMS

- 28% of UK workers have cancelled 2020 annual leave
- The highest months for cancelled leave were while the UK was in full lockdown
- The highest number of leave cancellations were in April, followed closely by May

With the global pandemic still playing a significant role in the way people live their lives and the uncertainty of going holiday abroad due to the rules around quarantine, these findings are not surprising, and lots of employees will have accrued weeks of annual

leave—and, in some cases, not enough time to use it all.

This is troubling for employers who may have employees with a significantly large amount of leave left to take in the final quarter of the year and there could be real productivity issues going into winter.

WHAT ABOUT EMPLOYEES?

Although employees may not want to take their leave and go abroad as they do not wish to have to quarantine on their return, it is important for employees to take time away from work.

Annual leave gives your people downtime to refresh and recover, so employers should encourage employees to take time out from work.

The onus is on employers to fully explain their leave process to staff, as well as the updated rules around annual leave carry-over, as set out by the government earlier this year. That information might help them to spread leave throughout this year and next, therefore 'flattening the curve' of cancelled annual leave being rebooked and ensuring productivity stays high for the remainder of 2020.

STATS FOR OCTOBER

Sickness Absence/Welfare - 39%

Job Support Scheme - 1%

Disciplinary - 3%

AWOL - 3%

Redundancy - 4%

End of Furlough - 7%

Long-Term Sick/Capability - 8%

Meeting of Concern (informal meetings) - 15%

Contractual Terms/Changes - 20%