

**NEWSLETTER - EMPLOYMENT LAW UPDATE  
FEBRUARY 2022**

- 1. Update to Covid Restrictions**
- 2. 2021/22 Statutory Payment Rates**

**1. Update to Covid Restrictions**

At the start of February the Government announced the end of Covid restrictions, including the need for people to self-isolate if they test positive for the virus, from the 24<sup>th</sup> February 2022.

The Government has also announced the end of Covid specific Statutory Sick Pay from 24<sup>th</sup> March 2022, currently providing payments to workers from day one, and which Employers can claim back from the Government.

There are also other Employment considerations that need to be taken into account, such as what to do with workers who insist on coming to work despite testing positive, and those who are worried about coming in.

Employers cannot force staff to have a vaccination, or to inform their Managers if they have tested positive for the virus. However, Employers are still obliged to ensure that they maintain a workplace that protects the health, safety and wellbeing of staff (s2 HASAWA 1974).

Employers can still retain protective measures within their own premises, such as social distancing, temperature checks for staff, sanitizing, the use of PPE and home working.

However, if an Employee insists on attending work, or their temperature check is high but they still want to work, the Employer would have to decide whether or not to allow them in. If the worker is sent home by their Employer, they are entitled to receive full pay for that period of time. This could incentivise some individuals who have tested positive to come into work, causing their Employer to send them home on full pay. Obviously, this is a better option for them rather than getting SSP, which they would have received if they had called in sick.

Another consideration for Managers is how to address the concerns of Employees who are classed as vulnerable, and who were previously advised to shield. If they are genuinely anxious that the workplace is not safe, they can refuse to attend work. Anyone who has a genuine belief that it is unsafe for them to go to work, and refuses to do so, are protected in law from suffering any detriment, including dismissal for not attending (s44 & 100 Employment Rights Act 1996).

If Managers can demonstrate that work is as safe as it possibly can be, they may be able to counter such claims by Employees, and require them to attend work. However, it is also worth remembering that most vulnerable Employees are in that category due to disabilities. Consequently, to force them to attend work when they genuinely believe it is unsafe could not only give them grounds to claim Constructive Dismissal due to loss of statutory rights, but also Disability Discrimination as a result of being treated 'unfavourably' for reasons linked to their disability.

## **2. 2021/22 Statutory Payment Rates**

### **From 4 April 2021**

#### **Shared Parental Pay (ShPP)**

Statutory rate of £151.97 or 90% of employee's weekly earnings if lower.

#### **Maternity Pay (SMP)**

6 weeks at 90% of average weekly earnings. Then statutory rate of £151.97 or 90% of employee's weekly earnings if lower.

#### **Adoption Pay (SAP)**

6 weeks at 90% of average weekly earnings. Then statutory rate of £151.97 or 90% of employee's weekly earnings if lower.

#### **Paternity Pay (SPP)**

Statutory rate of £151.97 or 90% of employee's weekly earnings if lower.

#### **Parental Bereavement Pay (SPBP)**

Statutory rate of £151.97 or 90% of employee's weekly earnings if lower.

### **From 6<sup>th</sup> April**

#### **Statutory Sick Pay**

£96.35 pw for 28 weeks subject to earnings (average £120 per week)

### **Minimum Wage from 1 April 2021**

Workers aged 23 and over (National Living Wage)	£8.91 an hour
Workers aged 21–22	£8.36 an hour
Development rates for workers aged 18–20	£6.56 an hour
Young workers rate for workers aged 16–17	£4.62 an hour
Apprentices under 19, or over 19 and in first year	£4.30 an hour

### **PROFILE**

Chris Moses LLM Chartered FCIPD is Managing Director of Personnel Advice & Solutions Ltd. He is a Chartered Fellow of the Chartered Institute of Personnel and Development, and has a Master's Degree in Employment Law. If you have any questions regarding these issues please feel free to contact him on (01529) 305056 or email [p.d.solutions@zen.co.uk](mailto:p.d.solutions@zen.co.uk). Whilst every care has been taken in compiling these notes, Personnel Advice and Solutions Ltd cannot be held responsible for any errors or omissions. These notes are intended to provide general information. Guidance for specific legal problems should be sought separately.

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