



Do you employ staff?

## Recent and Forthcoming Employment Law Update - January 2022

### December 2021

#### Temporary change to GP Fit Note Certification Requirements

On 17 December 2021 it was announced that between 10 December 2021 and 26 January 2022 employers cannot ask their employees to go to their GP for proof of sickness until the absence has lasted for 28 days or more. During this time the requirement to self-certificate will remain in place. It has also been made clear that Statutory Sick Pay (SSP) cannot be withheld due to late provision of medical evidence.

This temporary change has been introduced because of the exceptional pressure placed on GPs in managing the vaccination booster rollout. This is a significant change from the usual requirement that requires a medical certificate to be provided after 7 days of absence. Employers should be careful to make it clear to their employees that this is a temporary change only, and not a permanent change to the Company's sickness absence notification and documentation procedure.

Importantly, whilst employers cannot ask for proof of sickness for non-Covid related absences, *it remains possible to ask for proof of a positive test or the requirement to self-isolate, for those absences that are Covid related.*

#### Statutory Sick Pay Rebate Scheme (SSPRS)

On 21 December 2021 the Statutory Sick Pay (SSP) Rebate Scheme, which reimbursed employers for the sick pay paid to employees due to Covid-19, was reinstated.

The Scheme was initially created in April 2020 to assist employers with the rising cost of sick pay as employees took

time off work because they had Covid, or because they were self-isolating.

Eligible employers were able to claim back Covid related Statutory Sick Pay (SSP), of up to 2 weeks per person, for any absences which fell before 1 October 2021. Paying SSP is a legal requirement provided that the employee meets certain criteria. At the start of the pandemic, SSP laws were extended to include those who were self-isolating, in addition to those who were sick. Because of this, employers found that they were paying substantially more SSP to employees than they were previously.

The Scheme enabled employers with fewer than 250 employees (as at 28 February 2020) to claim back Covid related SSP to a maximum of 2 weeks per person. The Scheme was closed on 30 September 2021 – the same day the Job Retention Scheme (furlough scheme) was closed – due to the UK being in a better position in terms of Covid cases.

However, the emergence of the Omicron variant has seen an increase in cases and therefore an increase in time off from work due to either sickness or self-isolation. Therefore to help employers meet this extra cost, the Scheme re-opened on 21 December 2021 for eligible businesses across the UK.

New retrospective claims can be made from mid-January 2022. Employers should ensure they carefully record absence, reasons for absence and accompanying evidence in order to be able to make an accurate claim.

The temporary change to GP Fit Note Certification Requirements (detailed above) do not apply where the reason for absence is Covid related, so evidence for Covid related reasons can be requested as normal.

Further clarity from the Government is required (and we will provide this to you in due course) to confirm:

- whether eligibility to use the scheme still depends on headcount as at 28 February 2020, or whether a new, more recent, date will be used; and
- whether the scheme will be reset entirely, meaning that employers can claim in respect of employees that had already reached the maximum re-claim amount permissible.

## 31 March 2022

All Care Home staff must submit formal evidence of exemption from the Covid vaccine. More details to follow in due course.

## 1 April 2022

If successfully passed through parliament, this may be the date from which all those working on the frontline in health and social care, or ancillary to it, will be required to be fully vaccinated.

Increases to the National Living Wage, National Minimum Wage and Statutory Maternity, Adoption, Shared Parental, Paternity, and Parental Bereavement Pay are expected. More details to follow in due course.

## **5 April 2022**

From this date employers must revert to in-person checks of 'Right to Work' documentation.

## **6 April 2022**

Increases to Statutory Sick Pay (SSP) and the Lower Earnings Limit are expected. More details to follow in due course.

## **How Can We Help?**

If you have any queries relating to the content of this newsletter, or any other HR related topic, please don't hesitate to contact us via [hradvice@hasslefreehr.co.uk](mailto:hradvice@hasslefreehr.co.uk).