

# CORONAVIRUS: DEALING WITH HOUSEHOLD STAFF

The COVID-19 pandemic continues to cause unprecedented disruption to businesses and lives throughout the world, as countries go into lockdown. Private households which may have previously been assisted by household staff may now be in disarray trying to apprehend the current guidance of what they can and cannot do.

The UK government has set out a range of guidance but many situations, such as these, are not explicitly covered. As we only have guidance and not legislation on the topic, it is subject to change as circumstances change. This article sets out some of the key household issues and uses what guidance we currently have available to us, to consider the best way forward.

## COVID CHANGES

One welcome change is the increase in community spirit; with this comes new rules on social acceptability. It is hard to escape the increased curtain twitching and reporting, locally and in the mainstream media, of those who flout the rules, arguably putting not just themselves and their families at risk, but also those around them. Media attention and focus will readily shift to name and shame anyone endangering the safety of others, and this will be of particular interest if the individual or family is high profile.

Therefore, you should consider carefully what your essential needs are and be very mindful to place utmost importance on safety. To do otherwise would not only risk health but also your reputation and exposure to potential legal claims.

## TOP 5 TIPS ON DEALING WITH HOUSEHOLD STAFF

### 1. Assess your risks

Check your family's health risk level. See whether you or your family fall into the categories [defined by the NHS](#) as being at higher risk. Ask your staff to make the same assessment of their own situation. For their protection, they should inform you if they are at a higher risk.

### 2. Assess your needs

As businesses slow down and outings are only permitted for limited purposes, assess what you and your family really need during this period of lockdown. Consider what skills and tools you have between you and where the gaps are. Make greater use of on-line services, such as deliveries, medical advice and tutoring.

### 3. Assess your staffing

You may employ a combination of live-in and live-out staff:

- **Live-in staff.** These individuals pose less of a problem, as they can form a unit with your family. However, the work of that employee, such as a live-in nanny, housekeeper or butler may change. They may need to work more hours or have a wider range of roles; their pay may need to be adjusted accordingly. You should ensure that the government guidance on staying at home is strictly adhered to by your family as well as by your live-in staff. Depending on your family's level of health risk, it may be prudent for you to set out the guidance as a set of rules for the employee, where it is made clear that any flouting of those rules will be considered a disciplinary offence. This can be in the form of an update to an existing Health & Safety policy or a separate lockdown letter.

- **Live-out staff.** Current government advice is that, as an employer, you should take every possible step to facilitate your employees to work from home. This could be possible for some roles, such as a house manager or a personal assistant. If they are now working from home, be mindful of the security, confidentiality and privacy implications of doing so and reduce risk wherever possible by providing them with suitable IT and communication equipment for work and updating your policy in this respect. Hours or pay may also need to be revised in light of their varied method of working, this would be a contractual variation. For general information review the Acas Guidance on [working from home](#).

For some roles, it will not be possible for the employees to work from home, such as if they are a chauffeur, groundsman or gardener. According to the current government guidelines, it is still possible for them to travel to work and attend work.

However, if they continue to work for you and they do not live-in, your exposure is increased. It will inevitably be more difficult for you to control their outdoor movements or who they mix with within their own home. You should therefore consider this exposure, in light of your family's own level of health risk as well as that of the employee's. As an employer, you are under a duty to provide a safe place of work and you should instruct your staff to comply with the government guidance. A lockdown letter or update to an existing Health & Safety policy would be prudent to set out the possible consequences on their continued employment should they breach the rules.

#### 4. Make changes

If after assessing your risks and your needs, you want to change the hours or roles of your existing staff, it is likely that you will be making contractual variations. Before you can do this, to reduce the likelihood of any claims, you will need the agreement of the employee and any variation should be in writing. If you have an existing Health & Safety policy which is not contractual, you will be able to update that policy without the need for consent. It is also possible to introduce any other relevant non-contractual policies for your protection during this period, without seeking consent. Imposing any unilateral changes will give rise to various risks including unfair dismissal claims.

#### 5. Provide no work

If you have no work for your employee or you or your employee wish to reduce exposure by not undertaking any work during this period, there are multiple options for you to continue your lifestyle in a safe way:

- **Annual leave.** You may want your employee to take some of their accrued leave. Unless the employment contract says something different, you can require employees to take their holiday entitlement by giving notice to the employee which is at least twice as long as the holiday period being imposed. Any paid leave should be at full pay.
- **Unpaid leave.** If your employee wants to self-isolate purely as a precautionary measure without it being advised by government guidance, you should listen to any concerns your staff may have and carefully consider their personal circumstances, while treating requests consistently.
- **Sick leave.** If they are sick, they would be entitled to their usual contractual sick pay. If your family or the employee's family are self-isolating following [government advice](#), such that they are unable to work, they will be treated as 'sick' for statutory sick pay purposes.

- **Furlough.** This is where there is no work for your staff to do. You can still retain them and keep them on the payroll. If your employees do not have a lay-off clause in their contract, they will need to consent to be "furloughed", although this is likely to be forthcoming where the alternative might be redundancy. The Chancellor announced a Coronavirus Job Retention Scheme (the "Scheme") which will be available to any employer to apply to the HMRC for a grant of 80% of the wages of all employees on the PAYE system who are furloughed, up to a maximum of £2,500 a month. The Scheme is available up to 30 May 2020 and is subject to the [claim guidance](#) provided by the government.

- **Redundancy.** If you believe a redundancy will ultimately be required, it is a potentially fair reason for dismissal but employees with at least two years' service will be eligible to bring unfair dismissal claims if a fair process is not adopted.

To manage the safety aspects and your reputation, ensure you treat your staff fairly, listen to their concerns and come to an agreement wherever possible. If your staff are continuing to work, consider updating your policies and/or providing them with a lockdown letter.

For any changes, whether you are changing roles and responsibilities, reducing hours, changing to furlough status, updating any policies, or making redundancies, you will need to follow the usual employment law processes and procedures. However you find the balance between your family's needs and your household staffing, to protect your exposure, from a health and legal perspective, be sure to keep an eye on the up-to-date government guidance and seek legal advice where necessary, to limit any likelihood of claims.

#### FOR FURTHER INFORMATION



SOFIA SYED  
Partner

M: 07902 345 007  
T: 020 3319 3700  
E: [sofia.syed@keystonelaw.co.uk](mailto:sofia.syed@keystonelaw.co.uk)