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# 'FREEDOM DAY' – What Could 19 July 2021 Mean for Employers?



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The Prime Minister announced that many of the current restrictions will be lifted in England from 19 July, whilst at the same time making it very clear that Covid-19 has by no means 'gone away' and that caution would be required.

Many business owners and employers have been waiting to hear exactly what 'freedom' will look like, and have held off making decisions on a return to the office, mask-wearing and social distancing measures until the government announcement was made.

## Changes

'Freedom' appears to mean a move from strict rules to guidance and expectations.

We know that legal limits on social contact will be removed (other than in some areas such as medical settings), the requirement to wear masks will move towards personal choice (again, other than perhaps in certain settings) and the removal of limits on care home visitors.

We will also see no limits on how many people can meet up socially (both inside and out), and the reopening of businesses that have remained closed, for example, nightclubs.

## Returning to the office

The government have made it clear that we cannot simply 'revert instantly' from next Monday to life as it was pre-Covid. The recommendations are for people who have been working from home to gradually return to the workplace.

When to return staff to the workplace, and how, depends very much on the nature of the business, the needs of service users, the facilities available and the vulnerabilities of your staff. It may also depend on the location of your premises and whether smaller, more localised, rules come into play.

Research suggests that the majority of office workers would prefer 'hybrid working'. Whilst some large

employers, particularly in the financial industry, have declared everyone must return to the office at soon as possible, it is likely that most employers were already considering a more gradual or mixed approach. This seems a sensible way to deal with any issues on a smaller scale, improving processes and building confidence gradually as more employees return.

We have spoken before about the need for risk assessments, and we would repeat that advice. Whilst risk assessments were important for people starting home working, they are equally important for those returning to the office. A thorough risk assessment will help identify risks and resolve issues early on, and show your employees how seriously you take their wellbeing. Where possible avoid 'one size fits all' risk assessments and include mental health risks as well as physical.

There can be no doubt that home working has protected huge numbers of employees from being exposed to the virus unnecessarily, and success in home working and enhanced flexibility can be seen as a positive step in many cases.

When it comes to vaccinations, we have previously provided advice [here](#). In certain care and medical settings vaccinations (and masks) may well be mandatory. Outside of these circumstances, remember that some of your employees may be unable to have the vaccine, either due to their age banding or as a result of medical conditions and treatments, and they should not be penalised for that. Claims for discrimination may result if treating employees differently due to their vaccination status without good reason. Questions are also beginning to be raised as to whether certain views on vaccinations may be 'philosophical beliefs' in some circumstances, which may offer enhanced protection to certain individuals. Employees should be protected from bullying and harassment based on their vaccination status.

Further points to consider:

- Communicate with staff early on, including those working from home, returning from furlough and office based.
- Give staff as much notice of changes as possible. Review your paperwork – have you committed to giving a certain amount of notice to those who are home working.
- Encourage discussion and make it clear where and how concerns should be raised.
- Ensure you always follow up-to-date government and business specific guidelines.
- Ventilation and hygiene will likely be key to making workplaces safer long term.
- Staggered start times can prevent unnecessary contact and 'rush hour' commutes.
- More frequent and available handwashing facilities and office cleaning will likely assist in limiting the

impacts of more general 'winter flu' season too.

- Think about whether face to face meetings are necessary, would video connections still be more appropriate.
- Be clear about what you expect from your employees.

## Health and Safety

Reassure your staff that you understand your duty of care to protect them at work, and show that your processes reflect how seriously you take this duty.

Remember your employees are individuals, with different attitudes to risk, and different vulnerabilities. Talk to your employees regularly and work with them to resolve any issues.

Even if a requirement is removed by the government, if employees wish to continue following it, for example, the wearing of masks or staggered start times to avoid busy commutes, that is likely to be a reasonable request and you should provide genuine business reasons why this cannot work for you if refusing to allow it. You may wish to consider a 'trial period' for some changes, but refusing outright could be problematic.

## Further concerns

What is clear is that some people will be very fearful of the lifting of restrictions, particularly when headlines refer to a potential surge in infections of up to 100,000 a day after regulations are removed. If you have employees who are vulnerable, you must ensure you uphold your duty of care to protect them.

Where an employee has a reasonable belief that they are in serious and imminent danger which they cannot avoid, they have the right not to suffer a detriment or be dismissed for leaving work or for refusing to return to work. They are also protected from detriment or dismissal for taking steps to protect either themselves or others from danger. This may include a risk of infection.

It is also worth remembering that if an employee feels that you have failed in your duty as an employer, they may become a 'whistle-blower'. If so, they can be protected from any detriment for making a 'protected disclosure' which they reasonably believe to be in the public interest. Not only could this be costly by way of claims against your business for any detriments, but it could also be damaging to reputation if it becomes publicly known that a business failed to properly protect its employees.

If you are an employer or employee and have any questions or concerns on how 'freedom day' can affect you,

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