

20 March 2020

# Briefing Note

CECA Member Briefing:

## Coronavirus - Guidance for Employers

All CECA members are able to consult with the CECA Employment Adviser Gerry Lean - e-mail [gerrylean@ceca.co.uk](mailto:gerrylean@ceca.co.uk) or telephone 07778 809480.

Members are also able to access the ACAS (Advisory Conciliation Arbitration Service) free helpline on 0300 123 1100 or click [here](#) to visit their website.

*This document is intended to give general advice and guidance and is not a definitive statement of the law on a particular subject.*

### Introduction

The coronavirus pandemic is driving a coach and horses through all of our lives and employers are bereft of knowing what they should be doing and what rights and entitlements their workforce has.

The Government is giving announcements daily with the goalposts constantly moving.

This document is designed to give some straightforward advice and guidance on some of the more likely employment issues employers may face in the coming weeks and months.

### 1. Self-isolation and Sick Pay

The Government has announced that those who self-isolate and qualify for Statutory Sick Pay (SSP) will be entitled to receive it from day one instead of having to wait for three days before it becomes payable.

This entitlement applies only to those who self-isolate and will be temporary.

Employees can self-certify for the first seven days of absence and nothing has changed here. Beyond seven days employers may require a doctor's medical certificate to allow any further payment. However, under the current situation this will not be possible, and it is suggested that employers exercise discretion in this matter. Unless the employee becomes seriously unwell and requires medical attention it would be reasonable to expect a return to work after two weeks. If the condition extends beyond two weeks, then it would be reasonable to request a medical certificate.

[This website](#) gives Government advice for employers.

[This website](#) gives Government advice for employees but is also useful for employers.

It should be noted that where someone in a shared household is required to self-isolate but is not actually suffering symptoms they are entitled to the same benefits as the individual with the symptoms.

One question is how we treat Industry Sick Pay (ISP) under the provisions of the CIJC Working Rule Agreement (WRA), the entitlement for which virtually mirrors that for SSP?

ISP is a contractual entitlement, over and above the SSP entitlement, under the provisions of the WRA. It provides for three waiting days before it becomes payable and the current view is that this should prevail. That said there is nothing to stop an employer exercising discretion in cases of required self-isolation and paying ISP from day one.

### 2. How Should Employers Deal With Parents Of Children Who Have To Stay At Home Due To School Closures, etc?

Employees have a Statutory Right to take unpaid time off work to deal with family dependants. Click [here](#) for more information.

This entitlement is intended to provide the employee with breathing space to put alternative arrangements in place. It is intended to be limited in time, normally just a few days and is not normally paid.

However, given these extraordinary times alternative arrangements may prove difficult to impossible to put in place. Therefore, employers should give consideration to individual circumstances and measures such as working from home, sabbatical, reduced working hours, taking holiday entitlement, etc, and consult meaningfully with the employee.

### 3. Lay-Off and Short Time Working

This applies where there is a temporary shortage of work.

In the construction industry this has in the past been typically as a result of inclement weather, shortage of materials, or a gap between contracts.

The overriding factor is that the situation is temporary, and the employer has a reasonable expectation that work will resume within the foreseeable future.

To put an employee on temporary lay off there must be a specific term allowing this in the contract of employment, otherwise the employer will be in breach of contract and vulnerable to a claim before the Employment Tribunal.

It is usual for such a term to be included within the contracts of employment for blue collar workers, but not usually in the contracts of employment for white collar workers.

The basic entitlement, when an employee is laid off, is to be paid Guarantee pay for the first 5 days, following which the employer pays no pay and the employee signs on to claim state benefit. If the lay off reaches 13 weeks, then the entitlement revolves. Currently lay off pay is £29 per day increasing to £30 from 6 April.

The Construction Industry Joint Council (CIJC) Working Rule Agreement (WRA) provides for lay off in WR 17.4 page 14.

The terms under the CIJC WRA are more generous than statutory entitlement and provide for basic pay in the first 5 days.

Other Collective Agreements may have different provisions.

The following specimen letter applies only to the those employed under the terms of the CIJC WRA.

If the employer is considering laying off white collar workers who do not have the appropriate clause in their contract of employment, then individual consultation is a must.

Lay off is generally considered to be an alternative to redundancy, and has the benefits of the employer retaining members of the workforce, providing the employee with continuity of employment and a job to go back to.

#### Model Letter

Dear \_\_\_\_\_

Re: TEMPORARY LAY-OFF

*Due to inclement weather/temporary shortage of workload\* the Company must regretfully inform you that we are implementing the Temporary Lay-off Regulations under Clause 17.4 of the CIJC Working Rule Agreement.*

*In accordance with the requirements of the Agreement the company is giving you notice that you are to be temporarily laid off from (date). During the first week of lay-off you will not be required to report for work and you will be paid the guaranteed minimum of earnings under the Agreement. After one week you should register as unemployed and receive state benefit.*

*The company will inform you as soon as further work is available.*

*The implementation of the lay-off Regulations does not infringe your Statutory Rights in respect of continuous employment with the Company.*

*Yours sincerely etc.*

\*Delete as appropriate.

Employers considering laying employees off should seek prior advice.

### 4. Redundancy

This is a situation where the employer has a permanent need to reduce the workforce and requires a significantly greater degree of consideration, consultation and formalities than lay off.

[This web link](#) will take you to an ACAS website giving advice. CECA members may also seek advice from the CECA employment adviser – see contact details above and below.

Finally, [this link](#) will provide further advice from ACAS.