

TRANSPORT FOR THE NORTH

Internal Audit Progress Report

18 February 2021

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1 Key messages

The internal audit plan for 2020/21 was approved by the Audit and Governance Committee at the February 2020 meeting. As the developments around Covid-19 will continue to impact on all areas of the organisation's risk profile, we will work closely with management to deliver an internal audit programme which remains flexible and 'agile' to ensure it meets your needs in the current circumstances.

This report provides an update on progress against the audit plan and summarises the results of our work to date.



Three audit assignments have been completed since the last Audit and Governance Committee meeting. These relate to the New Payment (Commissioning) Process (6.20/21) review which concluded that 'substantial assurance' could be taken (no management actions raised), the Investment Programme Assurance review (7.20/21) which concluded that 'substantial assurance' could be taken (one 'medium' priority management action agreed) and the Income and Debtor Management (8.20/21) review which concluded that 'substantial assurance' could be taken (one 'low' priority management action agreed). A summary of the outcome of the reviews is provided in section 2. [\[To discuss and note\]](#)



No changes to the internal audit plan 2020/21 have been made since the last Audit and Governance Committee meeting. [\[To note\]](#)

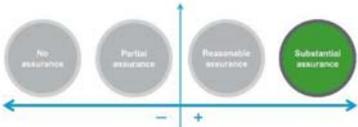
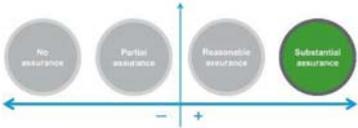


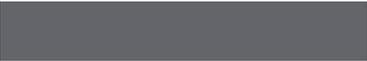
The internal audit plan and strategy 2021/22 to 2023/24 has been provided as a separate agenda item for consideration by the Committee. The potential areas of coverage have also been discussed with the Finance Director. [\[To note\]](#)

2 Reports

2.1 Summary of final reports being presented to this committee

This section summarises the reports that have been finalised since the last meeting.

Assignment	Opinion issued	Actions agreed		
		L	M	H
<p>New Payment (Commissioning) Process (6.20/21)</p> <p>Through the work performed, we confirmed that TfN has an established framework in place in relation to authorising the commissioning of purchases orders and utilisation of the Dynamics365 system for approvals, which includes a requirement for requisitions to be authorised in line with the Scheme of Delegation. The framework is supported by overarching Financial Regulations, policies and process maps that take the form of rules and guidance for undertaking the commissioning process and these documents are accessed via TfN's intranet.</p> <p>Our sample testing of approval levels for commissioning of purchase orders confirmed that the approval levels in Dynamics365 for a sample of requisitions was in line with the Scheme of Delegation, and that the storage of evidence (invoices, goods received notes by way of example) were in the form of shared folders that can only be accessed by the Finance Department.</p> <p>We have also undertaken data analytics testing using data from the quarter two 2020/21 Transparency (expenditure) report to identify potential duplicate payments made during 2020/21. The conclusion of our analysis does not require any further investigation from management.</p> <p>In light of our findings, we have not raised any management actions.</p>	<p>Substantial Assurance</p> 	0	0	0
<p>Investment Programme Assurance review (7.20/21)</p> <p>Through our work we confirmed that established processes are in place for providing updates on the Investment Programme to TfN senior management and Board members; (this includes updates provided historically for the qualitative sequencing process and updates relating to the forthcoming Investment Programme Benefits Analysis (IPBA) process). In addition to this, through our sample testing we confirmed that the information provided in the project documentation and</p>	<p>Substantial Assurance</p> 	0	1	0



Assignment	Opinion issued	Actions agreed		
		L	M	H

Board/Committee update reports was consistent with source records and supporting evidence for those actions and activities we tested.

Further to the above, we also obtained evidence to confirm that an Assurance Framework is being developed by management to set-out the structures and processes that will support the delivery of the Investment Programme following the completion of the forthcoming IPBA process.

One management action is included in this report, which relates to the mapping of actions between the Northern Transport Charter, the Investment Programme and the Business Plan KPIs. However, this matter has not impacted upon our assurance opinion provided

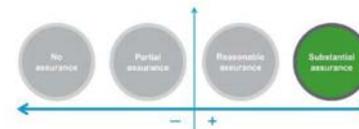
Income and Debtor Management (8.20/21)

Through our work, we were able to confirm that TfN has an established framework in place in relation to income and debtor management, which includes the recording and monitoring of grant funding and income received from sales invoices, as well as the reporting of financial information to the TfN Board and Audit and Governance Committee.

In addition, through our sample testing we confirmed that controls were operating as intended for all areas reviewed. However, we identified one developmental area where controls could be strengthened in relation to establishing regular review of the Grant Acceptance and Management Policy. This has not impacted the positive opinion provided.

Substantial Assurance

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2.2 Themes arising from control observations

	Advisory	Low	Medium	High
Policies and / or procedures	0	3	1	0
Non-compliance with policies / procedures	0	0	2	0
Design of the control framework	0	1	1	0
Management or performance information	0	2	1	0
Poor record keeping	0	1	0	0
Board Assurance Framework	0	0	0	0
Training	0	0	0	0
Governance	0	0	0	0
Information Governance	0	0	0	0
Follow Up of management actions raised in previous audits	1	1	2	0
Total	1	8	7	0

We have not identified any themes that indicate areas of concern through the work completed to date.

Appendix A – Progress against the internal audit plan 2020/21

Assignment and Executive Lead	Status / Opinion issued	Actions agreed				Target Audit and Governance Committee (as per IA plan 2020/21 / change control)	Actual Audit and Governance Committee
		A	L	M	H		
Risk Management - Risk Register Deep Dive (1.20/21) (Finance Director)		0	1	0	0	June 2020	June 2020
Contract Management (2.20/21) (Finance Director)		0	2	2	0	September 2020	September 2020
Follow up (3.20/21) (Finance Director)	Good progress	1	1	2	0	March 2021 / September 2020 Please refer to Appendix B below.	September 2020
Human Resources – Recruitment and Selection (4.20/21) (Director of Business Capabilities)		0	1	0	0	December 2020	November 2020
IT Audit – Cyber Security Review (5.20/21) (Director of Business Capabilities)		0	2	2	0	March 2021 / December 2020	November 2020
New Payment (Commissioning) Process (6.20/21) (Finance Director)		0	0	0	0	September 2020 / February 2021	February 2021



Assignment and Executive Lead	Status / Opinion issued	Actions agreed				Target Audit and Governance Committee (as per IA plan 2020/21 / change control)	Actual Audit and Governance Committee
		A	L	M	H		
Investment Programme Assurance (formerly Risk and Governance Assurance Framework) (7.20/21) (Finance Director)		0	0	1	0	February 2021	February 2021
Income and Debtor Management¹ (8.20/21) (Finance Director)		0	1	0	0	N/A / February 2021	February 2021

¹ This review replaced the cancelled Flexi-time review.

Appendix B – Other matters

On-going liaison and internal audit plan 2021/22

Ongoing liaison has taken place between RSM and Iain Craven throughout the year to discuss progress against the internal audit plan 2020/21 and ongoing developments at TfN; including and not limited to Lisa Randall's one to one meeting with Iain Craven to discuss any TfN updates, contract dates and the upcoming Committee papers. Further to this, RSM's Andrew Mawdsley met with the Finance Director on 28 January 2021 to discuss coverage of the internal audit plan 2021/22. The internal audit plan 2021/22 and three year strategy is presented as a separate agenda item at this meeting for the Committee's consideration and approval.

Updates, briefings and invites

The following updates, briefings and invites have been issued since the last Audit and Governance Committee meeting:

- Employment Matters (November 2020 and February 2021) – this is summarised below and we have incorporated a link to the full newsletter for further reading;
- Government workforce schemes update (November 2020 – issued separately);
- Coronavirus Job Retention Scheme (CJRS) and CJRS Extension deadlines (November 2020 – issued separately); and
- We invited management at Transport for the North to our:
 - Job Support Scheme webinar that took place 3 November 2020;
 - Coronavirus Job Retention Scheme Extension webinar that took place 10 November 2020; and
 - A Practical Guide to the Off-Payroll Rules webinar taking place 25 February 2021.

Employment Matters – November 2020 - <https://www.rsmuk.com/ideas-and-insights/employment-matters>

The Year of Remote Working: What more can you do to help staff work from home?

With further UK lockdowns, the Government is encouraging employees to continue (or begin) working from home. Many find themselves remote working for what can only be described as the 'long-haul'. We look at how organisations support most of their workforce still working remotely and ensure teams remain productive during this time.

Employees are creating new expectations on flexibility, working conditions and their work/life balance. Staff are championing a hybrid remote-office model for the post-coronavirus working world. With the ongoing pandemic and latest lockdown many offices have remained open for employees who need a different working space other than their own homes. Businesses have kept occupancy levels level low and continued to offer coronavirus secure alternative spaces. This has been particularly beneficial for workers with an environment not totally conducive to work and who can access their office safely.

The wider remote workforce has faced new challenges such as suffering from a form of 'virtual fatigue' (spending extra time online and participating in regular virtual meetings and communications) and continuing to feel pressure to work hard at home whilst threatened by burnout. Many employers have reacted with simple steps to support the workforce and protect positive wellbeing. The CIPD has published a long list of top tips for managing remote working but here are just a few for managers to consider during these unusual times.

- 
1. Agree ways of working - how will tasks be delegated, how will progress be monitored, what support will be in place to ensure more junior members of the team have access to more experienced team colleagues when they need it.
 2. Show the big picture but prepare to flex - if there is some work that is more pressing help teams to make that a priority by making sure they are clear on the deliverables attached to the work. Help them to reorganise other parts of their role that can be re-distributed to ensure all of the Company's goals are achieved. Review and revise plans if they need to change and communicate this openly with teams.
 3. Set expectations and then trust - if goals are clear then trust your team members to do the job. There is nothing more de-motivating than micromanaging for individuals who are responsible and accountable already.
 4. 'Meet up' - be it a virtual team huddle, or a smaller group meeting on Teams, or when times permit it a walk and talk either in person or remotely. Organisations have embraced the technology platforms, but many have reported feeling 'zoomed out'. Some platforms are also mobile so dial in occasionally as it can stop team members from feeling like they are stuck at their desks for extended periods. It can be refreshing to connect in different ways so be creative.
 5. 'Read the room' - look out for how people are feeling, this can be in the way they act, the way they say things or the things they don't say. Home in on what's not being said and check regularly people are okay and keep talking not just about work but make time for actual conversations away from work. This can help to keep the social bonds that many are missing from seeing each other every day. It can also help to prevent loneliness especially for those who do not live with others or who may be forced to isolate.

Although many may look back at 2020 as the chance to have a 'leisure wear' work wardrobe, the larger consequence of a societal and cultural shift of remote working will only be fully realised in time. This amplifies the importance for employers to support and manage their staff to keep them engaged and efficient both now and post-pandemic.

Coronavirus Job Retention Scheme Extended (CJRSE)

At 8pm on Saturday 31 October 2020 the Coronavirus Job Retention Scheme (CJRS), which was due to end that day, was extended for a further month. On 5 November, the Government confirmed that the extension was until the end of March 2021. The Scheme was published on 10 November at 6pm and claims could be made from 8am on 11 November.

The Government has issued this guidance for the initial period from 1 November 2020 to 31 January 2021 with a planned review in January 2021 to decide whether economic circumstances are improving enough to ask employers to contribute more.

A fifth Treasury Direction setting out the legislation for the CJRSE until 31 January 2021 was published at 5pm on Friday 13 November. A further Treasury direction will be issued for the scheme applying after 31 January 2021.

Employers who cannot maintain their workforce because their operations have been affected by coronavirus can furlough employees and apply for a grant to cover a portion of their usual monthly wage costs where they record employees as being on furlough. The fifth Treasury Direction, as others previously, states that it is integral to the purpose of CJRS that the amounts paid to an employer pursuant to a CJRSE claim are only made by way of reimbursement of the expenditure incurred or to be incurred by the employer in respect of the employee to which the claim relates whose employment activities have been adversely affected by the coronavirus and coronavirus disease or the measures taken to prevent or limit its further transmission.



To claim, employers must pay to the employee 80 per cent of their employee's current salary for hours not worked, up to a maximum of £2,500pm. The £2,500 cap is proportional to the hours not worked. Employer contributions during the CJRS extension until 31 January 2021 will be the same as in August 2020. This could be changed from February following the review in January 2021, but any change is unlikely to be known until the new year. This means that for hours not worked by their employee, employers will only be asked to cover National Insurance and employer pension contributions.

Employers will have to pay the employee's wages for the hours they work as normal, as well as employer National Insurance and employer pension contributions. The extended CJRS (CJRSE) is more generous for employers than CJRS was in October.

For further information visit: <https://www.rsmuk.com/ideas-and-insights/job-retention-costs-reimbursement-support>

Social security and Brexit: what's likely to change and how should employers prepare?

Despite the Brexit transition period ending on 31 December, there is still much uncertainty regarding if a 'deal' will be reached and what, if any, final agreed position will be post 1 January 2021.

Either way, there will very likely be an impact on employers and the social security positions of their UK-touching globally-mobile employees.

The current landscape: an overview

The UK is currently subject to the European Social Security Regulations in respect of:

- UK employees who spend time working in another EEA location (and Switzerland); and
- employees from EEA locations (and Switzerland) who spend time working in the UK.

These regulations ensure that employees who work across the EEA only pay social security in one country. Where applicable, the regulations enable an employee to remain within the social security system of their country of employment (which would also ordinarily be their home location) for a period of time (usually for up to 24 months, although this can be extended by agreement) whilst working temporarily in another EEA location.

In terms of UK-touching globally-mobile employees, the application of the regulations would commonly result in a UK employee remaining within the UK National Insurance system when working in another EEA country. The same process would also apply to EEA employees working in the UK whereby they would remain subject to social security in their home location.

To ensure the application and coordination of the regulations across the EEA, the Form A1 regime is in place to administer this process. Under the regime, employees need to obtain a Form A1 (typically from the authorities in their home location) to confirm the country to which they need to make social security contributions. This, in turn, confirms that they are exempt from having to make social security contributions in the other EEA location they are working in. Compliance with the Form A1 regime continues to be a hot-topic for employers and an area of increased focus by authorities across the EEA.



The Posted Worker Directive and mandatory registration

The Posted Worker Directive (PWD) was updated in July 2020 to ensure a 'level-playing field' in respect of a number of employment related terms and conditions for employees who work temporarily in another EEA location.

Because of the PWD, several EEA countries have introduced mandatory registration requirements which employers must to adhere to when sending employees to work in their country. These include, for example:

- prior notification of any new employees;
- registration of the employee;
- work and salary details; and
- providing a Form A1.

The registration requirements vary country-to-country and can give rise to many practical and administrative challenges for employers, such as identifying the specific requirements in the EEA location concerned and ensuring timely completion of these ahead of any overseas posting.

What will the post-Brexit landscape look like?

HMRC's most recent guidance, as set out in their October 2020 Employer Bulletin, confirms that the UK will apply the following approach to EEA social security coordination up to 31 December 2020:

- where a UK employee is sent to work in an EEA location before 1 January 2021, HMRC will still issue a Form A1 in respect of the period of posting (subject to the usual limits) including where the period goes beyond 1 January 2021. This can be used as confirmation that UK National Insurance will apply for the period of the Form A1. HMRC will not currently issue Form A1 for postings after 1 January 2021 whilst the current Brexit negotiations continue;
- where an EEA employee comes to work in the UK before 1 January 2021 and they have a Form A1 which confirms continuation in their home country social security scheme, this will still apply and no National Insurance will be due for the period stated on the Form A1. This includes periods beyond 1 January 2021 where the posting to the UK took place before this date. Similarly, it is anticipated that EEA locations will not issue Forms A1 to employees who are due to start work in the UK after 1 January 2021 whilst the negotiations continue; and
- the UK has reached a reciprocal agreement with the Republic of Ireland which ensures that the current social security coordination rules in respect of moves by UK and Irish employees will continue to apply post 1 January 2021.

Whilst the above sets out the approach HMRC intends to take from a UK perspective, it is not yet clear if the EU will take a similar approach with regard to UK employees working overseas in an EEA location even when they commenced their assignment prior to 31 December 2020 and have a Form A1 in place. For example, the EU may take the contrasting view that regard will need to be given to the local domestic rules and any existing social security reciprocal agreement (which may be in place with the overseas country concerned) when determining if social security is due in the overseas EEA location.



In that respect, there is still much uncertainty regarding the post-Brexit landscape. If a deal is reached, it is possible that any such agreement will mirror and ensure a broad continuance of the current position. In a no-deal scenario, a number of points may arise including:

- determining an employee's social security position on a country-by-country basis;
- reliance on historical social security agreements;
- awaiting refreshed HMRC guidance;
- the UK entering into new country-by-country social security reciprocal agreements;
- continuance of the need to provide PWD style data (or increased data) in EEA locations and additional registration requirements; and
- ensuring appropriate healthcare coverage/insurance is in place for employees working across the EEA. Currently, some coverage in the host EEA location may be available to an employee via obtaining an EHIC card and a Form S1, however, these schemes would likely be removed.

All these matters have the potential to give rise to a wide range of additional compliance, administrative and practical considerations for employers.

What should you do to prepare?

In anticipation of the end of the Brexit transition period, there are various actions which employers should take, including:

- identifying UK employees working across the EEA and EEA employees working in the UK and/or who may be in the future;
- identifying any additional employees who are home working internationally across the EEA because of the coronavirus pandemic;
- ensuring Forms A1 have been obtained and are up to date;
- ensuring PWD registrations have been completed as applicable; and
- reviewing healthcare coverage and provision of health insurance.

How can RSM help?

We are working with a number of employers to prepare them for the post-Brexit landscape and to assist with their social security compliance processes and procedures. We have extensive experience in this area and our recent work has included:

- conducting Brexit awareness workshops;
- assisting with implementing processes and procedures for tracking individuals to ensure compliance; and
- assisting with the Form A1 process.

Post-Brexit workers' rights

The UK has left the EU and the transition period following Brexit comes to an end on 31 December 2020.



In most cases there will be no change to employment legal rights from 1 January 2021. The rights of UK and EU employees working in the UK will not change from 1 January 2021.

There will be some changes to rules on:

- employer insolvency for UK employees working in the EU; and
- membership of European Works Councils.

Much of UK employment law comes from the EU, including discrimination rights, collective consultation obligations, transfer of undertakings regulations, family leave, working time regulations and duties to agency workers. However, some EU employment law brought into effect employment protections already provided by UK law. For example, UK equal pay, race and disability discrimination laws preceded EU anti-discrimination obligations. Similarly, there was a UK right of return from maternity leave before EU maternity leave rights were implemented. Therefore, it is important to remember in considering what may change after the Brexit transition period ends that many UK workers' rights were in place before the UK joined the European Community.

Also, when it comes to employment protections, UK law often goes further than EU law. For example, the UK offers a greater statutory annual leave allowance and more generous maternity and paternity leave rights than EU law.

What does this mean in practice? It is unlikely that there will be immediate changes to workers' rights after the end of the transition period. It will largely remain business as usual, with little need to flex existing workplace practices.

However, as EU imported legislation is reviewed and considered by the UK courts, we could start to see changes and even unintended consequences.

Maintaining the status quo

The government plans to transfer EU case law and regulatory workers' protections as at the end of the transition period into UK law.

Therefore, most EU-derived employment legislation will remain applicable in the UK immediately after the end of the transition period but on a different constitutional basis, for an indefinite period, unless and until altered by the appropriate UK legislative body.

The government has committed to protecting workers' rights and to maintaining for example the Equality Act protections, which aim to protect workers from discrimination in the workplace.

Businesses may well like to see changes in areas such as in the need to retain workforce terms of employment after TUPE transfers on mergers and acquisitions or integrations, or workers' accrual of statutory holiday leave during sickness absence. An Employment Bill in 2020 was announced in the Queen's Speech in December 2019 but no such changes were referenced.



Possible considerations

Under post-Brexit arrangements, the Supreme Court and High Court of Justiciary (HCJ) (sitting as a criminal court of appeal) in Scotland are no longer bound by any retained case law, particularly Court of Justice of the European Union (CJEU) decisions that were handed down before the end of the transition period (and after the end of the transition period). As a result of the European Union (Withdrawal) Act 2018 (Relevant Court) (Retained EU Case Law) Regulations 2020, the power to depart from retained EU case law when interpreting retained EU law, has been extended to the Court of Appeal in England and Wales, the Inner House of the Court of Session and the Court of Appeal of Northern Ireland, and other appellate courts (relevant courts).

It is also important to remember that public sector and private companies have been used to different legal regimes when it comes to employment rights around equality: public sector organisations are subject to directly enforced EU rights while the private sector is subject primarily to UK legislative incorporation of those rights.

There are also areas where EU law has not been fully incorporated into UK legislation or regulation. This has led to the ECJ stepping in during its cases to override the UK's interpretation and secure a new route to compliance.

The Civil Jurisdiction and Judgments (Amendment) (EU Exit) Regulations 2019 (SI 2019/479), which will come into force at the end of the transition period (11pm on 31 December 2020), sets out a number of amendments to legislation on civil judicial cooperation in civil and commercial matters, including rules of jurisdiction and recognition and enforcement of judgments.

After the end of the transition period, the rules governing jurisdiction in all cross-border disputes, including those involving parties domiciled in the EU (or in other states party to the Lugano Convention 2007), will be governed by the domestic law of each UK jurisdiction. In England and Wales, that comprises the common law, together with various statutory provisions. After the end of the transition period, the rules governing recognition and enforcement of foreign judgments in cross-border disputes are generally contained in the common law. Care is needed in respect of exclusive jurisdiction and choice of law clauses and the position may yet be impacted by whether there is a no deal position at the end of the Brexit transition period.

The full picture is unlikely to materialise immediately after Brexit; changes may have a long lead time. The smartest organisations, however, will remain vigilant to early signs of landscape shifts and take proactive steps to prepare, plan and adapt.

Employment Matters – November 2020

Coronavirus Job Retention Scheme claims: How will you check your claims are correct?

The Coronavirus Job Retention Scheme (CJRS) brings in three new concepts, all of which are utilised in determining the amount that can be claimed. These concepts are:

- furloughed workers/employees;
- regular wage or salary/reference pay (based on set HMRC calculations); and
- for flexi furloughed employees: Usual hours (based on set HMRC calculations) less worked hours are furloughed hours.



Employers who claimed based on the initial guidance back in March 2020 may have worked out their own version of how calculations should be done. This may have been done for variable paid employees (engaged before 19 March 2020) where the 2019/20 average is required, as the initial guidance was less than clear. Those employers may not have revised their calculations each month and spotted changes or the expansion of the HMRC guidance, making it very clear over the following months how HMRC thought the calculations should be done.

Since the introduction of the penalty legislation, many employers have started to review claims. If you've made mistakes or you haven't reviewed your previous claims, we recommend acting as soon as possible. Where mistakes have been made, consider what action needs to be taken to rectify the mistakes.

In order to tackle claims review, the differing versions of the CJRS need to be explored. There are three versions of the scheme to consider:

- V1: CJRS original fully furloughed scheme, 1 March 2020 to 30 June 2020
- V2: CJRS flexible scheme, 1 July to 31 October 2020
- V3: CJRSE flexible scheme, 1 November 2020 – 30 April 2021.

The employment tax and NIC implications of employer provided coronavirus tests and vaccines

As many employers will be aware, the provision of medical tests, medical treatment, and immunisations by an employer is generally considered a reportable benefit, meaning that employees are liable to tax, and employers are liable to NIC on the earnings arising when such a benefit is provided.

There are some exceptions to this general rule, for example when an employer provides employees with immunisations against seasonal flu, the benefit arising could be regarded as trivial and exempt from tax and NIC when certain conditions are met.

There are also potential tax exemptions for employer provided annual health checks, eye tests, medical treatment when an employee is working abroad, and certain medical treatment which enables an employee to return to work, although each of these exemptions comes with limitations and conditions attached.

For employer provided coronavirus tests the above rules have been temporarily adapted and new rules apply, albeit for a limited period of time.

What are the new rules?

In July 2020, the government and HMRC updated their position so that any coronavirus tests provided by the government, as part of the national testing scheme, as well as other employer provided antigen tests, would temporarily not be treated as a benefit in kind. So, if an employer:

- 
- employs healthcare workers and other eligible front-line staff who can get a coronavirus test through the national testing scheme during the current tax year to 5 April 2021; and/or
 - provides coronavirus antigen testing kits to its employees, outside of the government’s national testing scheme, either directly or by purchasing tests that are carried out by a third party in the current tax year to 5 April 2021; and/or
 - no benefit arises, no income tax nor NIC will be due, and there is no need to report the benefit to HMRC.

Furthermore, employers and their employees will temporarily not be liable to tax or NIC where an employer makes an advance payment to an employee for, or reimburses an employee for the cost of, a coronavirus antigen test. Strictly, for NIC purposes, this temporary measure only applies from 25 January 2021, but for payments for such tests made to employees during the 2020/21 tax year before 25 January 2021, HMRC will refrain from collecting the tax and NIC due.

Are there any limitations?

Yes, there are.

Firstly, the measures highlighted above only apply to coronavirus antigen tests which determine whether someone has an active case of the coronavirus, and do not extend to coronavirus antibody or other tests which seek to identify whether someone has had the coronavirus before.

The HMRC guidance defines a coronavirus antigen test as a test “which can detect the presence of a viral antigen or viral ribonucleic acid (RNA) specific to severe acute respiratory syndrome coronavirus 2 (SARS-CoV-2)”.

Secondly, these measures are currently only applicable for the tax year to 5 April 2021 and will therefore end on 5 April 2021. This may put a strain on some employers from 6 April 2021 (especially those employing key workers and those in particular industries such as retail and hospitality) who are trying to protect their staff and businesses by requiring employees to get tested regularly or before returning to work, and then meeting the cost.

Without these measures, an employer paying for an employee’s coronavirus antigen test from 6 April 2021 will be providing a benefit or earnings equal to the cost of the test, resulting in tax and/or NIC costs for both the employee and employer, as well as the additional administration associated with reporting the benefits to HMRC.

We along with the professional bodies are therefore calling for HMRC to extend these measures beyond 5 April 2021 given the ongoing pandemic. Watch this space for an update if the position changes.



What about coronavirus vaccines?

Employer provided vaccines are not currently an option but once a vaccine is available commercially, employers might want to obtain and provide these for their staff via a third party. Some employers have already announced their intentions to require employees to be vaccinated. The provision by an employer of such a vaccine would give rise to a benefit in kind, liable to tax and NIC, unless an exemption or similar measure applied and provided a different outcome.

At present, the only existing tax and NIC exemption that might be relevant here is the trivial benefits exemption (see our previous article 'Applying the trivial benefit in kind exemption'). However, HMRC's previous guidance on trivial benefits before the trivial benefit exemption was introduced on 6 April 2016 states that only seasonal flu injections can be regarded as trivial, and no other sort of medical treatment or immunisation. We will have to wait and see if HMRC update their guidance on the use of the trivial benefit exemption for coronavirus vaccines when they become commercially available. The use of the exemption may, in any event, depend on the cost of such a vaccine and whether this costs more than £50.

Social security and Brexit: new rules for globally mobile employees and six actions for employers

After many months of speculation, the UK and the EU finally agreed a post-Brexit trade agreement to apply from 1 January 2021 onwards. An important component of the post-Brexit UK/EU trade agreement is the rules around social security contributions for employees who spend time working across the EU.

This article summarises the agreement from a social security coordination perspective and highlights the practical and administrative actions that employers of globally mobile employees should take now.

Our article on 16 November provides a brief summary of the previous social security coordination rules that applied before the end of the Brexit transition period.

How should employers tackle the coronavirus vaccinations

The coronavirus vaccine roll out is now underway and, if all continues to go to plan, all employees will be given the chance to have the vaccination in 2021. The matter of whether employers insist employees take the vaccine when it's offered to them, how to deal with employees who refuse it and the impact the vaccine may have on return to workplace strategies is now being discussed.

Employers should now be considering how to approach this development and whether to issue a policy covering their position.

Will people be forced to get the vaccine?

The Government does not have the power to force citizens to get the vaccine. This has led employers to consider their options in enforcing vaccination on their employees in order to protect their workforce and the business overall.



Organisations are likely to find some employees deciding that they do not want the vaccine. For example when it comes to vaccines some religious groups and vegans have concerns over the use of animal products – and these groups are protected by The Equality Act 2010. The government are running an awareness campaign which employers can use to signpost employees.

Do employers have the right to discipline and dismiss employees who refuse the vaccination?

Firstly, employers should always consider an employee's reasons for not wanting to be vaccinated before it makes any decisions about disciplinary action in order to avoid claims against it in relation to unfair dismissal or discrimination. There are some groups of people, such as those with severe allergies and pregnant women, who have been advised not to have the vaccine or will not be routinely offered it.

Secondly, it's important to consider alternatives to vaccination, such as permanent homeworking or moving to a role that does not require face to face contact, which may avoid the requirement for a vaccine.

Whether you can ask that your employees have the vaccine will depend on a number of factors and it has yet to be decided in employment law as a potential 'reasonable management instruction' justifying disciplinary action.

In some sectors it may be easier for organisations to implement a policy which makes vaccination a requirement of employment so that vulnerable patients are protected. For example, frontline health care professionals who are responsible for the care of others and often vulnerable patients. Regardless of the sector, making vaccination compulsory could lead to issues and therefore it's important to consider all aspects before blanket approaches are adopted.

Is encouragement the best option?

Most employees will likely be keen to take advantage of the vaccine for reasons around social interaction, for example to enable them to see colleagues and potentially work in shared workspaces some of the time. The best course of action for most employers will likely be that of encouraging vaccination by publicising the benefits.

Staff may be worried about having the vaccine and discussing their concerns and signposting to them where they can find accurate and impartial information may help alleviate those fears. Taking it a step further may be to consider, when possible, leading by example.

Should employers implement a Coronavirus Vaccination policy?

Some employees may be concerned about taking time off during their working days to have the vaccine and employers may like to take the opportunity to let employees know how the time will be treated. Putting a policy in place could help employers who want to encourage take up as well as creating an opportunity to reiterate stance and approach to employees in an open and transparent way.



Eventually it may become possible for employers to provide vaccination to its employees in the same way some companies offer the flu vaccine, although this is likely to be some way off given the global demand. For now, it is more important for employers to reflect on how they will adapt to the rollout of the vaccine and begin preparing their approach.

Post assignment surveys

We are committed to delivering an excellent client experience every time we work with you. Your feedback helps us to improve the quality of the service we deliver to you. Currently, following the completion of each product we deliver we attached a brief survey for the client lead to complete.

We would like to give you the opportunity to consider how frequently you receive these feedback requests; and whether the current format works. Options available are:

- After each review (current option).
- Monthly / quarterly / annual feedback request.
- Executive lead only, or executive lead and key team members.



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