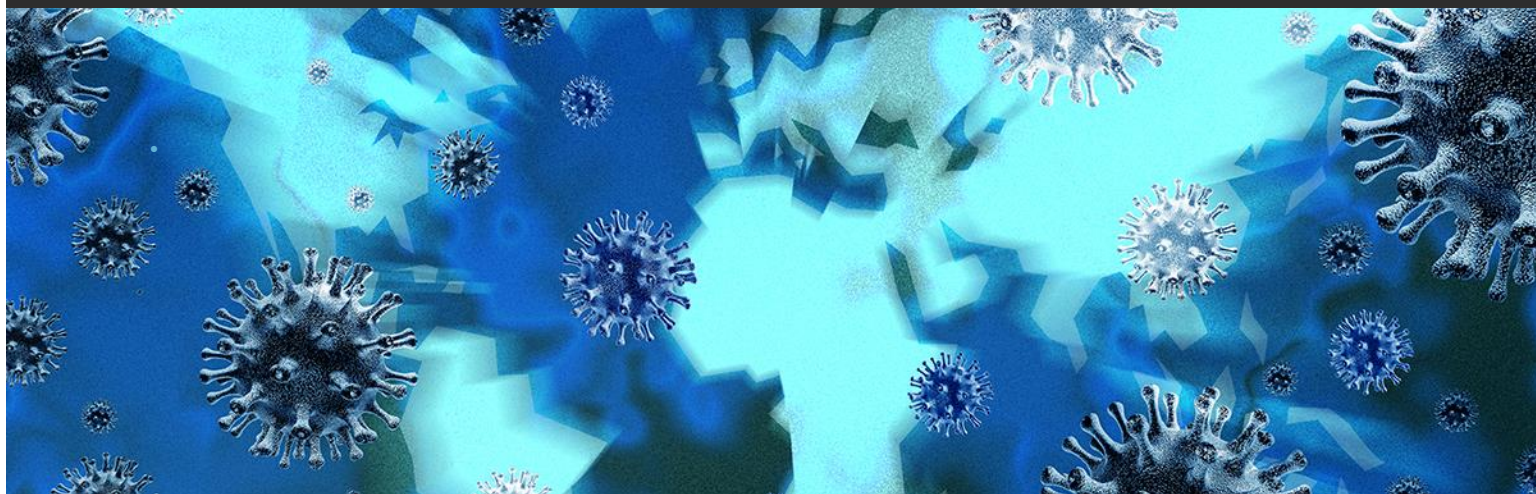


**Alert | Health Emergency Preparedness Task Force:
Coronavirus Disease 2019**



March 2020

UK Workforce Considerations for Businesses During Coronavirus Disease 2019

The spread of Coronavirus Disease 2019 (COVID-19) in the United Kingdom and the measures being implemented by employers in the many businesses affected by closures and reduced economic activity have raised questions surrounding the options for an employer to require staff to take unpaid leave, or accept reduced hours or pay cuts.

In the United Kingdom, provisions relating to ‘furlough’ and ‘lay-off’ apply to a minority of workers, those who are paid based on the work they produce (‘piece workers’) or their hours worked (‘zero-hours workers’). In these cases, there may be no employer obligation to provide work, or a certain amount of work, and such workers may only be paid to the extent work is provided or available for them.

For piece and zero-hours workers, an existing legislative regime applies in relation to lay-off and short-time working; however, these rules do not apply to the majority of the workforce.

Most employees are paid an annual salary in return for which they work a full or part-time working week. The employer contracts to pay them this salary in return for doing the job they are employed to do; most employment agreements typically do not provide for an adjustment to hours or pay if the work dries up. In such cases, under English common law, a reduction in hours and/or pay may only be imposed by agreement with the employees. To impose such measures without employee agreement could potentially give rise to claims for unlawful deductions from wages; breach of contract; constructive unfair dismissal; and failure to consult over collective redundancies, this latter if a sufficient number of employees (more

than 20) resign in protest against the measures. *See* Sections 188 and 195 of the Trade Union and Labour Relations (Consolidation) Act 1992.

In difficult economic times such as these, workers may be receptive to a collective pay cut, as a potential alternative to layoffs or resultant redundancies.

Against this backdrop, on 20 March 2020 the **UK chancellor announced unprecedented measures** in response to these economic circumstances, offering relief to employers across the UK.

The relief package includes a Coronavirus Job Retention Scheme, under which 80% of furloughed workers' wage costs will be reimbursed, up to £2,500 per month, initially up to the end of May 2020, but this may be extended.

This relief is available to all UK employers, to enable them to continue paying part of their employees' salary for those employees who would otherwise have been laid off due to the COVID-19 crisis. Workers who have been recently laid off and are brought back into the workforce and then furloughed can also be covered.

However, under common law, this relief does not change the underlying contractual position referenced above, meaning that employers need employees' agreement to change their hours or pay, or put them on a short-term leave of absence.

See **COVID-19: support for businesses** for more information about this and other UK government measures.

For more information and updates on the developing COVID-19 situation, visit **GT's Health Emergency Preparedness Task Force: Coronavirus Disease 2019**.

This GT Alert is limited to non-U.S. matters and law.

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