

Throgmorton – COVID-19: Lockdown 2.0 – Q4 Update

Lockdown 2.0

We have reviewed the government guidance At over 30 pages and nearly 14,000 words long, the [Health Protection \(Coronavirus, Restrictions\) \(England\) \(No. 4\) Regulations 2020](#) are complex and hard to navigate. They cover the new prohibitions on leaving home, the new prohibitions on operating certain businesses/services and the new prohibitions on gatherings.

In summary, there is a work exception clearly stated in section 6, should your employees need to see it or refer to it. It is based around whether work can be performed effectively from home or whether they need to attend work in person. Who determines whether in person attendance is necessary is a matter for you and your employees to agree. It is clear that if they want to attend in person and you are happy to maintain an open office space for them to do so, that they may do so.

We know after working remotely for nearly 9 months, that many people are struggling with feelings of isolation and frustration. Many clients are starting to see a downturn in employee motivation and productivity that goes hand in hand with a lack of face to face collaboration. A number of clients report that at least half of their workforce are choosing to spend part of their working week in the workplace and they are seeing the benefits of this approach. Talk to us if you want more specific guidance on how to navigate these tricky people decisions.

Performance and Remuneration

Many of you have been in touch to talk to us about the challenges of how to measure employee performance in these challenging times. There is no question that we have to think carefully about how we can obtain an accurate view of performance given that there are numerous factors outside of employee and employer control. We suggest that any performance assessment is conducted with employee input and bearing in mind some 2020-specific considerations:

Are you and the employee aligned over desired outputs?

- Are those outputs measurable?
- Is the measure clear and unambiguous to all?

Has the role changed or diminished as a result of remote working?

- If so, how much change has there been, and have they picked up additional work?
- Do you still need the role to be performed?

To what extent has the employee availability and performance been hampered by their personal commitments?

- What flexibility have you shown them?
- Does the level of output delivered match the expectation?

Are you measuring expectation and performance fairly?

- Consider whether you are getting a good return on investment for the remuneration you are paying. (We have observed a drop in salaries in the market in 2020, across the board, between 10-25%.)
- Would you hire somebody to deliver the same outputs for the same pay today?
- What else does the individual bring to the firm?
- Are you cutting some people more slack than others based on your perceptions of their responsibilities?
- How might that feel to those without caring responsibilities?

How has the firm or funds performed this year?

- How will that translate in respect of Salary review?
- How will that translate in respect of Bonuses and LTIPS?
- Have you been communicating this year to manage expectations?

Feel free to call us to talk about the direction of travel in the sector, for insights into market trends or for more specific and tailored advice and support.

Immigration Changes

We still await the detailed new Immigration Rules for EU citizens post 31st December 2020, but we have some information of note to share in the meanwhile.

From 1st January 2020, all EU nationals other than those with Irish passports, will need to have permission to live and work in the UK. EU freedom of movement will cease.

If they have been living in the UK prior to 1st January 2021, they need to apply for settled status.

We can help guide your employees through the process, it is quick and free to apply. Results have been coming through within 2 weeks, but with the clock ticking we expect processing times to be longer in November and December. If your employees have applied, they may enter the UK and work until they have had the decision.

Note - the proof you need to meet due diligence is the Certificate, NOT just the outcome letter. You will have until 1 July 2021, to recheck all EU employees right to work documentation and status to avoid illegal working.

We suggest that any new hires or employees currently residing abroad return to the UK before 31 December to cement their residence status and if they haven't already, apply for settled status. We anticipate that UK Border control queues will be long until the new rules have become bedded in.

There are new increased fees applicable for Work Permits, we will update you on those as the information is released and the new Work Permits regime is point based.

| Current Name/Category | New Name/Category | Comments |
|---------------------------------|------------------------|--|
| Tier 1 - Entrepreneur | Start-up/Innovator | Few changes anticipated. £2m investment is the minimum threshold. |
| Tier 1 – Exceptional Talent | Global Talent | This is a very narrow category mainly used for sports and the arts. |
| Tier1 - Post-Study Work | Graduate | The current category was abolished in 2012 but is being re-introduced from January 2021. |
| Tier 2 - General | Skilled Worker | This is the most common route for our clients. |
| Tier 2 - Intra-Company Transfer | Intra-Company Transfer | A good route for our global clients where they are transferring a senior employee. |
| Tier 4 - General | Student | For full-time students, we anticipate few changes other than the ability to apply for a two-year post study work visa 31 st December 2020. |
| Tier 5 - Youth Mobility | Youth Mobility Scheme | We anticipate that many more countries will be added to the scheme from 2021, but as yet it remains the current list. Currently these people aged 18-30 from Australia, Canada, Hong Kong, Japan, Monaco, New Zealand, South Korea and Taiwan may apply. |

Visitor Visas

Nationals from former EU Countries will be classified as 'Non-Visa-Nationals' joining countries such as the USA, Canada, and Australia and will be able to apply for their visitor visa upon arrival. They may undertake courses of study for up to 6 months duration on this type of visa. As is the case today visitors may attend conferences, meetings, interviews, give and receive training and gather information to aid their work overseas. They may not undertake any work or long-term study in the UK and any time spent here on this category of permission will not count towards residency.

Dependent Visas

Tier 2 dependents will need to be supported via savings of £62,500 or the appropriate increase to salary level. This is not likely to pose an issue for our clients or their employees, as the threshold is anticipated to be around £20,000, but something to bear in mind when applying. Dependents may switch visa category to Skilled Worker once in the UK.

We will follow up with more detailed information about the Tier 2 points system.

Furlough Scheme Continuation

For those of you who have utilised the Furlough scheme it will continue on the same basis until 31 March 2021 at 80% of pay up to the £2500 per month cap. This may be useful for those of you who have employees who have to shield or shield in support of their family members during this time. Talk to us for guidance on steps to follow and how make the reclaim for support.

IR35

We are led to believe that this is back on the statute books for April 2021 implementation, we will recirculate our update from last year on this topic, if you want to hear more about the potential impact on your workforces feel free to email us directly at HR@throgmorton.co.uk with **IR35** in the subject line and we'll provide the bulletins to you.

If you need further information please do not hesitate to get in touch with your usual Throgmorton contact or **Lauri Cox** at lauri.cox@throgmorton.co.uk.