

Covid-19 and labour law in the United Kingdom

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Abstract

2020 had been marked as a significant year for the UK with its departure from the European Union. The coronavirus pandemic quickly became the most important issue facing the Government under a third Prime Minister since the 2016 referendum. From the start, problems have dogged this Government in meeting the monumental challenges posed by Covid-19. The UK approached the work implications of this pandemic in some distinct ways, as compared to European Union Member States. This piece is longer than other country reports in this volume as a result of critically engaging with these differences.

Keywords

Covid-19, income support, unemployment, health & safety, United Kingdom

I. The UK in comparative perspective

Contrasting the steps taken in Ireland with the United Kingdom (no longer an EU Member State)¹ draws attention to the interconnection amongst nations (also beyond the EU), especially with a borderless challenge such as a pandemic. The Republic of Ireland and Northern Ireland (part of the UK) share the same land mass. As of 12 March 2020, Ireland adopted a social distancing policy as part of the ‘delay’ phase of dealing with Covid-19. Early on, the neighbouring UK initially followed ‘herd immunity’² which relied upon ‘generating immunity in younger people [a]s a way

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1. The long and troubled history between the two nations is not overlooked in noting some comparisons between the two countries.
 2. There has been some confusion regarding the government and herd immunity. It had been widely reported that this was part of the Government’s plan. The reports were based upon statements by a government official regarding addressing Covid-19 in mid-March 2020. See for example, Cathleen O’Grady, ‘The U.K. backed off on herd immunity. To beat COVID-19, we’ll ultimately need it’ *National Geographic* (20 March 2020), www.nationalgeographic.com/science/

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of protecting the population as a whole.³ Additionally, the (to that point) unproven hypothesis that those who recovered were then immune appeared to be seriously contemplated.⁴ The border between the Republic and Northern Ireland, then, had two very different approaches and a human-drawn border was the dividing line. Even with the possibility of immunity organically developing, there would be ‘a very large number of people sick, and some of them will die.’⁵ An arrangement between Ireland and the UK allows individuals travelling from the Republic of Ireland to the UK to bypass border control. With Covid-19, the UK Government has exempted individuals travelling from the Republic of Ireland from its mandatory 14-day self-isolation period. So far, the reverse has not been put in place,⁶ meaning that travellers from the UK will be required to self-isolate for 14 days.

Moving to the UK’s response to the pandemic, on 16 March 2020, the Prime Minister asked all residents to work from home where possible and to limit out of home excursions to essential trips, such as for food.⁷ By 26 March 2020, the Government had ordered most businesses to close (what became known as a lockdown).⁸ Food businesses such as restaurants were ordered to close on-site dining and offer only takeaway options. A list of shops that could remain open was published (with those not listed in the Regulation requiring closure).

The tremendous and sudden shift in the change in approach early on not be overlooked. In some ways, it foreshadowed much of the criticism the Government incurred from its actions. The question of how much ‘political’⁹ decision-making as compared to health-based considerations may be a lingering challenge for the UK Government. Criticism of the Government has grown since those early days; with its ‘plan to rebuild’¹⁰ (released on 11 May 2020) being another focal point after Prime Minister Boris Johnson’s 10 May 2020 address to the nation raised more questions about next steps.¹¹

2020/03/uk-backed-off-on-herd-immunity-to-beat-coronavirus-we-need-it. Conversely, the UK Health Secretary Matt Hancock denied that herd immunity was part of the Government’s plan: Matt Hancock MP, ‘We must all do everything in our power to protect lives’ *The Telegraph* (14 March 2020), www.telegraph.co.uk/politics/2020/03/14/must-do-everything-power-protect-lives.

3. William Hanage, ‘I’m an epidemiologist. When I heard about Britain’s ‘herd immunity’ coronavirus plan, I thought it was satire’ (15 March 2020), www.theguardian.com/commentisfree/2020/mar/15/epidemiologist-britain-herd-immunity-coronavirus-covid-19. This article also identified the UK Government’s first response as ‘herd immunity’.
4. On 24 April 2020, the WHO stated that there was no evidence of so-called ‘immunity’ developing in those who have recovered from Covid-19: World Health Organisation: ‘“Immunity passports” in the context of COVID-19’ (24 April 2020), www.who.int/news-room/commentaries/detail/immunity-passports-in-the-context-of-covid-19.
5. *Ibid.*
6. Vincent Kearney, ‘New quarantine rules for all arrivals to Ireland, including British citizens’ *RTE* (15 May 2020), www.rte.ie/news/coronavirus/2020/0515/1138651-uk-ireland-quarantine.
7. Prime Minister’s Office, ‘PM statement on coronavirus: 16 March 2020’ (16 March 2020), www.gov.uk/government/speeches/pm-statement-on-coronavirus-16-march-2020.
8. The Health Protection (Coronavirus, Restrictions) (England) Regulations 2020, SI 2020/350. Pursuant to s.1(1), it came into force as of 13:00 on 26 March 2020 (the same day it was laid before Parliament).
9. The UK’s absence in EU procurement of personal protective equipment (PPE) for staff at medical facilities has been a matter of some controversy. Initially this had been explained as a political decision which the speaker later retracted: *BBC News*, ‘Coronavirus: Top civil servant says he was wrong about EU medical equipment claim’ (21 April 2020), www.bbc.com/news/uk-politics-52369916.
10. Her Majesty’s Government, ‘Our Plan to Rebuild: The UK Government’s Covid-19 Recovery Strategy’ CP 239 (May 2020).
11. See for example, Andrew Sparrow, ‘UK coronavirus: ‘This is not the time to end the lockdown,’ says Boris Johnson in address to nation – as it happens’ *The Guardian* (10 May 2020), www.theguardian.com/uk-news/live/2020/may/10/uk-coronavirus-live-boris-johnson-to-announce-covid-19-alert-system.

II. Income support

As of February 2020, unemployment was at 4%¹² (approximately 1.36 million unemployed),¹³ the employment rate was 76.6%,¹⁴ and economic inactivity sat at the ‘record low’ of 20.2%.¹⁵ The rate of regular pay grew to 3.9%, in the period April to June 2019, and since then it had slowed to 2.8% in the period December 2019 to February 2020.¹⁶ Since the impact of the coronavirus came at the end of quarter 1 of 2020, the figures for the ensuing period may better illustrate the employment impact of the virus: for example, an early estimate of a fall in paid work of 1.6% from March to April 2020.¹⁷ The ONS’ Labour Market Overview for June 2020 demonstrated some of the pandemic’s effect on work. The number of payroll employees fell by 2.1% since March 2020. The number of individuals claiming some form of benefit (people employed with low income or hours and those who are unemployed) grew to 2.8 million in May 2020; an increase of 23.3% from April and a 125.9% increase from March 2020. Between February and April 2020, the number of hours worked were 8.9% or 94.2 million fewer than the previous year.¹⁸

On 11 March 2020, the World Health Organisation (WHO) declared that Covid-19 had reached a pandemic.¹⁹ On 17 March 2020, the UK Government started what became a series of actions. At that time, it made GBP 330 billion (15% of the country’s GDP)²⁰ available in response to the Covid-19 pandemic.²¹ In devising these plans, it appears as though the Government consulted with business and worker groups (such as the Trade Unions Congress (TUC)). The extent of this engagement and its influence remains unclear.²² Lord Hendy QC offered a more critical appraisal on the limited extent of social dialogue: ‘The absence of any requirement of social dialogue in this extraordinary situation is a really striking deficit that says everything about the disrespect in which workers and trade unions are held by the government.’²³

12. Office for National Statistics, ‘Labour market overview, UK: April 2020’ (21 April 2020), 5. Unemployment was at 3.9% for the period January to March 2020; Office for National Statistics, ‘Labour market overview, UK: May 2020’ (19 May 2020), <https://www.ons.gov.uk/employmentandlabourmarket/peopleinwork/employmentandemployeetypes/bulletins/uklabourmarket/may2020>.

13. *Ibid.* 6.

14. Office for National Statistics, ‘Employment in the UK: April 2020’ (21 April 2020), 4.

15. *Ibid.* 11.

16. Office for National Statistics, ‘Labour market overview, UK: April 2020’ (21 April 2020), 9.

17. Office for National Statistics, ‘Labour market overview, UK: May 2020’ (19 May 2020).

18. Office for National Statistics, ‘Labour Market Overview – June 2020’ (16 June 2020).

19. World Health Organisation, ‘WHO Director-General’s opening remarks at the media briefing on COVID-19 - 11 March 2020’, www.who.int/dg/speeches/detail/who-director-general-s-opening-remarks-at-the-media-briefing-on-covid-19-11-march-2020.

20. Her Majesty’s Treasury, ‘Support for those affected by COVID-19’, www.gov.uk/government/publications/support-for-those-affected-by-covid-19/support-for-those-affected-by-covid-19#to-support-people-affected-by-covid-19

21. The government set up a website that is updated which outlines the various assistance programs for employees and employers: www.understandinguniversalcredit.gov.uk/employment-and-benefits-support/.

22. See comments in Tonia Novitz, ‘COVID-19 and Labour Law: United Kingdom’ (2020) 13 *Italian Labour Law e-Journal*, <https://doi.org/10.6092/issn.1561-8048/10808>

23. Lord Hendy QC, ‘A Briefing Note to Andy McDonald MP, Shadow Secretary of State for Employment Rights and Protections on the gaps in the government’s coronavirus income protection plans (5th edition 18 April 2020)’ Institute of Employment Rights, 3 April 2020, 13.

a) Temporary wage subsidy

The UK also operates a temporary wage subsidy, the ‘Coronavirus Job Retention Scheme’ (CJRS), ensuring ‘temporary job retention scheme’²⁴ where the government promises to grant²⁵ employers approximately 80% of the regular monthly wages of employees they retain during the lockdown period (provided certain conditions are met). The Treasury administers the scheme pursuant to ss.71 and 76 of the Coronavirus Act 2020.²⁶ This scheme (also called ‘furlough’)²⁷ has been available since 20 April 2020.²⁸

The CJRS assists those employers who ‘cannot maintain [their] current workforce because your operations have been severely affected’ by Covid-19. Any individual paid through PAYE²⁹ who was employed on or before 19 March 2020 and their employer had notified HMRC by the same time, can be furloughed.³⁰ After paying furloughed employees 80% of their ‘regular salary or wages’ for a month³¹ to a maximum of GBP 2500,³² employers apply for a grant from the government that covers this sum (plus national insurance and pension contributions).³³ Workers who are ‘shielding’³⁴ are eligible for furlough and alternatively sick pay (discussed below). As well, workers who must remain at home with someone who is shielding are eligible to be furloughed.³⁵ Workers engaged but at reduced hours (from their normal weekly hours) are not eligible

24. ‘Claim for your employees’ wages through the Coronavirus Job Retention Scheme’, www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme

25. Classifying this money as a grant means all visa holders qualify, whereas if the money was characterised as public funds, they would not be.

26. Her Majesty’s Treasury, ‘The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction’ (15 April 2020), https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/879484/200414_CJRS_DIRECTION_-_33_FINAL_Signed.pdf

27. Furlough means those ‘employees who have been asked to stop working, but who are being kept on the pay roll’. Furlough is ‘not a recognised term in UK employment law’: Daniel Ferguson, ‘FAQ: Coronavirus Job Retention Scheme’ CBP 8880 (House of Commons Library, London) (9 April 2020), 8.

28. Furlough does not change employment law, such as entitling employers to reduce employees’ wages to 80%. See further the discussion of this matter in David Reade QC, Michael Ford QC, Sean Jones QC & Caspar Glyn QC, ‘A Collaborative View on the Coronavirus Job Retention Scheme’, <https://482pe539799u3ynseg2hl1r3-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/4-Silks-CJRS-Collaborative-View1.pdf>, [4.1].

29. This means ‘workers’ under s.230(3)(b) of the Employment Rights Act, 1996 paid through PAYE (including agency workers, company directors, office holders, and those working under zero-hours contracts paid in the same manner) qualify.

30. Employees made redundant on or after 28 February 2020 can be re-hired and placed on furlough.

31. The 80% figure presumes there is no contractual language requiring 100% payment of wages. Lord Hendy QC points out the unexplained deviation in measurement from the established one week (see further sections 220-227 of the Employment Rights Act 1996) to one month: Lord Hendy QC, ‘A Briefing Note to Andy McDonald MP, Shadow Secretary of State for Employment Rights and Protections on the gaps in the government’s coronavirus income protection plans (5th edition 18 April 2020)’ Institute of Employment Rights, 3 April 2020, 7.

32. Her Majesty’s Treasury, *The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction* (15 April 2020), [7.1].

33. *Ibid* [8.1], [8.2].

34. An individual classed as ‘extremely vulnerable and at very high risk of severe illness from coronavirus (COVID-19)’ is also eligible for furlough. This conclusion is derived from the *Explanatory Memorandum to The Statutory Sick Pay (General) (Coronavirus Amendment) (No.3) Regulations 2020*, [7.2].

35. ‘Employees who are unable to work because they are shielding in line with public health guidance (or need to stay home with someone who is shielding) can be furloughed’: Her Majesty’s Revenue and Customs. ‘Check if you can claim for your employees’ wages through the Coronavirus Job Retention Scheme’ (updated 23 April 2020), www.gov.

for the CJRS,³⁶ until summer 2020.³⁷ From 1 July 2020, the Government permits furloughed employees to carry out some part-time work for their employers while also receiving CJRS payments. As of 29 May, the government amended the CJRS as follows. In June and July, the government pays up to 80% of wages to a cap of GBP 2500. This continues in August, but employers will be asked to make certain contributions to social security payments amounting to ‘5% of the gross employment costs’. In September, the government reduces the amount it pays: 70% of wages up to a cap of GBP 2187.50. Employers will continue to make social security payments and to pay 10% of wages so that workers continue earning 80% of wages up to GBP 2500. In October, the government pays 60% of wages up to GBP 1875, while employers will pay social security costs and 20% of wages to a cap of GBP 2500 per month.³⁸

In relation to so-affected workers, the Employment Rights Act 1996 (ss.28-35) contains a ‘right to guarantee payment’, but this figure is quite low at GBP 30³⁹ for a period of five days in a three-month period for a full-time employee.⁴⁰ Originally the CJRS was in place for three months commencing 1 March 2020. It was extended on 17 April 2020 until 30 June 2020,⁴¹ two days after a re-affirmation of the 31 May 2020 end date.⁴² On 12 May 2020, the CJRS was extended again, this time until 31 October 2020.⁴³

While at first only notification to the employees was required, as of 15 April 2020 both employers and employees must have ‘agreed in writing (which may be in an electronic form such as an email) that the employee will cease all work in relation to their employment.’⁴⁴ The change in guidance may be viewed as an error induced by the remarkable circumstances; though this in itself does not lessen the trouble caused. Employers who simply notified their employees that they were furloughed without seeking written agreement may face problems. If they subsequently sought employees’ agreement, there may be a question of what ‘consideration’ there would be for this promise to accept 80% of regular wages – where there is no right under the contract to unilaterally vary wages. As well, it is unclear what happens to the earlier period when furlough arose without agreement: will HMRC reimburse employers for the wages paid during that time or will that

uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme?fbclid=IwAR01rSs4rCE4YS-aLNhJjLHYOFTCyfai2dDeniRYcWWyaROVwuDDBO1QKo#who-can-claim.

36. Ibid.

37. Her Majesty’s Treasury, ‘Chancellor extends furlough scheme until October’ (12 May 2020) www.gov.uk/government/news/chancellor-extends-furlough-scheme-until-october.

38. Her Majesty’s Treasury, ‘Chancellor extends Self-Employment Support Scheme and confirms furlough next steps’ (29 May 2020), <https://www.gov.uk/government/news/chancellor-extends-self-employment-support-scheme-and-confirms-furlough-next-steps>.

39. The Employment Rights (Increase of Limits) Order 2020 (SI 2020/205) raised the sum by £1.

40. Employment Rights Act 1996, ss.31(1),(2),(3).

41. Her Majesty’s Treasury, ‘Chancellor extends furlough scheme to end of June’ (17 April 2020), www.gov.uk/government/news/chancellor-extends-furlough-scheme-to-end-of-june

42. Her Majesty’s Treasury, *The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction* (15 April 2020), [12].

43. Her Majesty’s Treasury, ‘Chancellor extends furlough scheme until October’ (12 May 2020), www.gov.uk/government/news/chancellor-extends-furlough-scheme-until-october. The government has also provided a fact sheet regarding the CJRS and the SEISS (discussed below): https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/888764/Factsheet_for_SEISS_and_CJRS_schemes.pdf.

44. Her Majesty’s Treasury, *The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Coronavirus Job Retention Scheme) Direction* (15 April 2020), [6.7].

payment be lost? It seems as though the matter may be addressed by HMRC in a flexible manner given a statement from HMRC to an employment law barrister seeking clarification: 'Put simply, the employer and the employee must reach an agreement and an auditable written record of this agreement must be retained. It does not necessarily follow that the employee will have provided written confirmation that such an agreement was reached in all cases.'⁴⁵

While on furlough, employees continue to accrue leave and may take annual leave. Pay during this time will be at employees' regular rate. Employers may still pay employees through the CJRS, but they will have to pay any additional amount (such as the 20% not covered in the scheme) themselves. The Government's advice to employees ends with the following statement that likely sums up the state of more than annual leave: 'During this unprecedented time, we are keeping the policy on holiday pay during furlough under review.'⁴⁶ In theory, employers may compel employees to take annual leave during furlough. It may be a curious step, though, if employers are required to top up regular pay during annual leave, but are not required to do so if the CJRS is accessed.

Given the delay in setting up this aspect of the scheme, there is a question as to: i) whether employers will be able to wait that long and ii) if they do not, how many workers will seek unemployment benefits of some kind? With a wider lockdown ordered on 26 March 2020, the CJRS presumed employers would continue to pay workers on the assurance of the scheme. This may factor in negatively with businesses uncertain about the short-term future (let alone their longer-term viability). In the last two weeks of March 2020, Universal Credit claims (unemployment allowance, discussed below) jumped by about one million.⁴⁷ In essence, the delay (access to the framework, then processing and payment) may be one strain too many for both businesses and workers (many of whom may not have savings to maintain themselves) in the interim. It may also bear noting a rather obvious point that there has not been any planning for a widespread 'lockdown' type of cessation in economic activity. In this instance, effective, stable government planning, resources, and execution are essential.

Unfortunately, some confusion lingers around what the Government intends by the phrase where employers 'cannot maintain [their] current workforce because [their] operations have been severely affected by coronavirus'. For example, the HMRC guidance also included a statement that 'all employers' may be eligible under the scheme.⁴⁸ This would seem to enlarge the scope of eligible employers. Additionally, it is foreseeable that some discrepancy in understanding remains regarding whether furloughed employees would have to have been otherwise declared redundant in order to be eligible.⁴⁹ While furlough may arise where employers are 'unable to operate or have no

45. Correspondence between Daniel Barnett and HMRC 23 April 2020 <http://emplawservices.co.uk/wp-content/uploads/2020/04/HMRC-Letter-redacted.pdf>.

46. Her Majesty's Revenue and Customs, 'Check if your employer can use the Coronavirus Job Retention Scheme' (updated 17 April 2020), www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme.

47. BBC News, 'Coronavirus: Nearly a million universal credit claims in past two weeks' (1 April 2020), www.bbc.com/news/uk-politics-52129128.

48. 'However, all employers are eligible to claim under the scheme and the government recognises different businesses will face different impacts from coronavirus': Her Majesty's Revenue and Customs, 'Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme' (updated 23 April 2020), www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme?fbclid=IwAR01rSs4rCE4YS-aLNhJLHYOFTCyfFai2dDeniRYcWWyaROVwuDDBO1QKo#who-can-claim.

49. See also the discussion of this matter in David Reade QC, Michael Ford QC, Sean Jones QC & Caspar Glyn QC, 'A Collaborative View on the Coronavirus Job Retention Scheme', <https://482pe539799u3ynseg2hl1r3-wpengine.netdna-ssl.com/wp-content/uploads/2020/04/4-Silks-CJRS-Collaborative-View1.pdf>, [3.3].

work for [workers] to do because of coronavirus (COVID-19);⁵⁰ the statement above indicating that workers shielding are also eligible for furlough suggests that redundancy may not be a mandatory aspect of eligibility. Furthermore, the government also states in employees' guidance on the CJRS that '[y]our employer can still make you redundant while you're on furlough or afterwards.'⁵¹

The temporary wage scheme appears to have received notable uptake by businesses, especially considering the lower figures for the same programme in Ireland (even factoring in country size differences).⁵² On its first day, 185,000 firms submitted claims for the CJRS, with 1.3 million employees being furloughed,⁵³ though the figures regarding Universal Credit applications (discussed below) should be kept in mind. By the period 6 to 19 April, 67% of businesses that continued trading had applied for the CJRS.⁵⁴ The UK's Office for National Statistics (ONS) estimated 0.5% of employees in businesses that had suspended trading were made redundant in the period 23 March to 5 April.⁵⁵ During this same time, the ONS expected that around 78% of employees in businesses which had temporarily suspended trading or closed had been furloughed.⁵⁶ Amongst businesses continuing to trade, accommodation/food services (40%)⁵⁷ and construction (30%) experienced the highest levels of furlough in the early stage of lockdown.⁵⁸ As of 12 May 2020, Her Majesty's Treasury stated that 7.5 million jobs had been furloughed by 935,000 employers, at a cost of approximately GBP 10.1 billion.⁵⁹ In the period between 6 and 19 April, for responding businesses continuing to trade, the Office for National Statistics reported: 19% of workers had been furloughed, 73% of the workforce continued in their positions, 6% had been on sick leave, and less than 1% had been made redundant.⁶⁰ Businesses that had temporarily closed or paused trading had furloughed 81% of

50. Her Majesty's Revenue and Customs, 'Check if your employer can use the Coronavirus Job Retention Scheme' (updated 23 April 2020), www.gov.uk/guidance/check-if-you-could-be-covered-by-the-coronavirus-job-retention-scheme.

51. *Ibid.*

52. See Report on Ireland in this issue.

53. HM Revenue & Customs Twitter feed: https://twitter.com/HMRCgovuk/status/1252616495407992834?mc_cid=18b23520d5&mc_eid=%5bUNIQID

54. Office for National Statistics, 'Coronavirus and the economic impacts on the UK: 7 May 2020', 12.

55. Office of National Statistics, 'Furloughing of workers across UK businesses: 23 March 2020 to 5 April 2020' (23 April 2020), 5. Data informing this release came from Wave 2 of the Business Impact of Coronavirus (COVID-19) Survey (BICS) which consisted of a 35% (approx.) response rate amongst the over 17,000 businesses invited to participate in the survey: Office for National Statistics, 'Coronavirus and the economic impacts on the UK: 23 April 2020' (23 April 2020), 22.

56. Office of National Statistics, 'Furloughing of workers across UK businesses: 23 March 2020 to 5 April 2020' (23 April 2020), 3.

57. Where 81% of businesses in this industry had temporarily closed or ceased trading: Office of National Statistics, 'Furloughing of workers across UK businesses: 23 March 2020 to 5 April 2020' (23 April 2020), 5.

58. Office of National Statistics, 'Furloughing of workers across UK businesses: 23 March 2020 to 5 April 2020' (23 April 2020), 7.

59. Her Majesty's Treasury, 'Chancellor extends furlough scheme until October' (12 May 2020), www.gov.uk/government/news/chancellor-extends-furlough-scheme-until-october.

60. Office for National Statistics, 'Coronavirus and the economic impacts on the UK: 7 May 2020', 11. Workers in the arts, entertainment and recreation, and construction sectors experienced the highest proportion of furlough at 40%.

their workforce, less than 1% had been made redundant, and ‘19% of the workforce had other arrangements’.⁶¹

b) Sick pay

Statutory Sick Pay (SSP) operates on the basis of employers continuing to pay employees if employees are self-isolating for one of the following reasons: experiences symptoms of coronavirus;⁶² resides with someone experiencing symptoms; or the person is isolating because they reside with a symptomatic person and they also start to show symptoms.⁶³ Employees on furlough are excluded from SSP.⁶⁴ As of 16 April 2020, those persons classed as ‘extremely vulnerable and at very high risk of severe illness from coronavirus (COVID-19)’⁶⁵ also have access to statutory sick pay.⁶⁶ In the period 23 March to 5 April 2020, 5% of the workforce in businesses that continued trading were off sick.⁶⁷

SSP⁶⁸ of GBP 95.85 per week is available for employees for up to 28 weeks from employers,⁶⁹ from the first day of illness without the waiting period (for illness arising on or after 13 March 2020).⁷⁰ The sum stands out when compared to other countries such as the EUR 350 per week provided to Irish workers.⁷¹ In addition to being classed as an employee,⁷² the individual must have worked for the employer, earn at least GBP 118 per week, be in self-isolation for a minimum of 4 days, and notify employers of their self-isolation due to Covid-19. A ‘sick note’ or ‘isolation note’ is required, but can be obtained online (not through a visit to a doctor or hospital).⁷³ Employers pay SSP as they would regular wages. Small-to-

61. Ibid 12.

62. The symptoms of coronavirus are: (a) a continuous cough; (b) a high temperature; (c) both a continuous cough and a high temperature; or (d) any other symptoms of coronavirus as may be specified by the Chief Medical Officer or one of the Deputy Chief Medical Officers in guidance as amended from time to time. The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020, No. 374, s.6 ‘symptoms of coronavirus’.

63. The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020, S.I. 2020/374, Schedule ‘Isolation Due to Coronavirus’.

64. Her Majesty’s Revenue and Customs, ‘Statutory Sick Pay (SSP): general information - employee not entitled to SSP’ (updated 22 April 2020) www.gov.uk/hmrc-internal-manuals/statutory-payments-manual/spm110700.

65. *Explanatory Memorandum to The Statutory Sick Pay (General) (Coronavirus Amendment) (No.3) Regulations 2020*, [2.1]. The regulation calls this ‘shielding’.

66. The Statutory Sick Pay (General) (Coronavirus Amendment) (No. 3) Regulations 2020 No.427, s.2(3).

67. Office of National Statistics, ‘Furloughing of workers across UK businesses: 23 March 2020 to 5 April 2020’ (23 April 2020), 4.

68. Coronavirus Act 2020, c.7, s.39. The eligibility for sick pay of agency workers, those on zero hours contracts, and similarly situated individuals remains unclear.

69. ‘Statutory Sick Pay (SSP)’ www.gov.uk/statutory-sick-pay

70. Coronavirus Act 2020, c.7, s.40; The Statutory Sick Pay (Coronavirus) (Suspension of Waiting Days and General Amendment) Regulations 2020, S.I. 2020/374, s.2.

71. Lord Hendy QC also raised the matter in his briefing note: Lord Hendy QC, ‘A Briefing Note to Andy McDonald MP, Shadow Secretary of State for Employment Rights and Protections on the gaps in the government’s coronavirus income protection plans (5th edition 18 April 2020)’ Institute of Employment Rights, 3 April 2020, 2.

72. Individuals classified as employees are eligible: www.gov.uk/statutory-sick-pay/eligibility

73. <https://111.nhs.uk/isolation-note>.

medium-sized businesses (of less than 250 employees as of 28 February 2020) may be eligible for a refund of up to two weeks of SSP for each eligible employee.⁷⁴ Those who are employees of multiple employers are eligible for SSP from each employer.⁷⁵ Self-employed individuals (or those making less than the lower earnings limit) who have been advised to quarantine or self-isolate due to Covid-19 may make a claim for Universal Credit (UC)⁷⁶ or a ‘New Style Employment and Support Allowance’.⁷⁷

c) *Unemployment allowance*

Those ineligible for SSP and unemployed may be in a position to claim Universal Credit. Those affected by Covid-19 may receive an upfront advance of one month’s payment.⁷⁸ A single person over 25 years of age may receive GBP 409.89 per month. ‘Workers’ and self-employed individuals may claim Universal Credit. From early March to 12 April 2020, 1.8 million applications had been made, approximately five times the usual number.⁷⁹ Additionally, these individuals may qualify for the ‘New Style Employment and Support Allowance’. To be eligible, one of the following must describe the applicant:

- ‘you or your child think you have coronavirus or you’re recovering from it
- you or your child are self-isolating because you came into contact with someone who might have coronavirus
- you have been told to stay at home for at least 12 weeks by the NHS because you’re at high risk of severe illness’.⁸⁰

The Department for Work & Pensions has mapped out how these benefits may interact.⁸¹

d) *Self-employed*

Self-employed individuals can also qualify for income support of up to 80% of average monthly income (based upon average income over the last three years) up to a maximum of GBP 2500 per month through the Self-employed Income Support Scheme (SEISS).⁸² Only those with trading

74. The two-week limit matches the same timeline the UK’s National Health Service recommends for self-isolation or quarantine.

75. www.gov.uk/statutory-sick-pay/what-youll-get.

76. www.gov.uk/universal-credit.

77. Department for Work & Pensions, ‘New Style Employment and Support Allowance’ (updated 20 April 2020), www.gov.uk/guidance/new-style-employment-and-support-allowance.

78. This advance may need to be paid back: Department for Work & Pensions, ‘Universal Credit advances’ (updated 1 April 2020), www.gov.uk/guidance/universal-credit-advances.

79. Department for Work & Pensions, ‘Management Information: 1 March to 12 April 2020 supporting explanatory note’ (21 April 2020), www.gov.uk/government/publications/universal-credit-29-april-2013-to-12-march-2020/management-information-1-march-to-12-april-2020-supporting-explanatory-note.

80. Department for Work & Pensions, ‘New Style Employment and Support Allowance’ (updated 20 April 2020), www.gov.uk/guidance/new-style-employment-and-support-allowance.

81. See further, Department for Work & Pensions, ‘New Style Employment and Support Allowance’ (updated 20 April 2020), www.gov.uk/guidance/new-style-employment-and-support-allowance.

82. Her Majesty’s Revenue and Customs, ‘Claim a grant through the coronavirus (COVID-19) Self-employment Income Support Scheme’ (updated 21 April 2020), www.gov.uk/guidance/claim-a-grant-through-the-coronavirus-covid-19-self-employment-income-support-scheme. One study suggested that the self-employed ‘highly’ valued income

profits up to £50,000,⁸³ who earn the majority of their income from self-employment,⁸⁴ and whose business has been ‘adversely affected by reason of circumstances arising as a result of coronavirus’ are eligible.⁸⁵ The last requirement deviates from the employer’s guidance for the CJRS (temporary wage scheme),⁸⁶ which seems to expand the scope beyond employers affected by coronavirus. Additional qualifications include having the intention to carry on the business in the 2020-2021 tax year.⁸⁷ HMRC was to have contacted those eligible around mid-May 2020. These SEISS payments⁸⁸ (which are a maximum of GBP 7500)⁸⁹ could be claimed while self-employed individuals continue to carry on business (a distinction from furlough noted above). A second and final grant may be claimed in August which will be worth 70% of average monthly trading profits. It will cover three months’ of profits and has been capped at GBP 6570 in total.⁹⁰ The scheme may wander into the maelstrom that is the so-called ‘limb (b)’ worker⁹¹ or determination of employment status.⁹² Self-employed individuals may also be eligible for support regarding tax bills through Her Majesty’s Revenue and Customs’ Time to Pay service. They may also be able to claim Universal Credit (discussed above).

From the outset, this framework was not to be ready until June 2020. It remains a question as to why the income support for the self-employed has been put off for (relatively speaking) so long.⁹³ When considered along with the Irish Government’s changes to the temporary wage subsidy for the lower range of pay earners, the suggestion is that the pandemic has revealed areas of governments’ weaker understanding. Leaving self-employed individuals to receive income support in June 2020 (seemingly the earliest) presumes that these individuals have sufficient savings to endure until then (bearing in mind business costs coupled with family expenses during the lockdown period).

support: Jack Blundell & Stephen Machin, ‘Self-employment in the Covid-19 crisis’ Paper No. CEPCOVID-19-003 (London: Centre for Economic Performance, May 2020).

83. There is a more complicated rendering of this threshold in the Treasury’s guidance: Her Majesty’s Treasury, ‘The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Self-Employment Income Support Scheme) Direction’ (30 April 2020), [5].
84. The government suggests this threshold covers 95% of self-employed persons.
85. Her Majesty’s Treasury, ‘The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Self-Employment Income Support Scheme) Direction’ (30 April 2020), [6].
86. ‘However, all employers are eligible to claim under the scheme and the government recognises different businesses will face different impacts from coronavirus’: Her Majesty’s Revenue and Customs. ‘Check if you can claim for your employees’ wages through the Coronavirus Job Retention Scheme’ (updated 23 April 2020), www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme?fbclid=IwAR01rSs4rCE4YS-aLNhIjLHYOFTCyfFai2dDeniRYcWWyaROVwuDDBO1QKo#who-can-claim.
87. *Ibid* [4.2](d).
88. As they have been referred to by the Treasury: Her Majesty’s Treasury, ‘The Coronavirus Act 2020 Functions of Her Majesty’s Revenue and Customs (Self-Employment Income Support Scheme) Direction’ (30 April 2020), [4.2].
89. *Ibid* [6.1]; though note the averaging of profits in [6.2].
90. Her Majesty’s Treasury, ‘Chancellor extends Self-Employment Support Scheme and confirms furlough next steps’ (29 May 2020), <https://www.gov.uk/government/news/chancellor-extends-self-employment-support-scheme-and-confirms-furlough-next-steps>.
91. It is so-called because limb (b) refers to s.230(3)(b) of the Employment Rights Act, 1996.
92. It may be wagered that the pandemic will precipitate fresh judicial consideration of employment status.
93. Abi Adams-Prassl, Teodora Boneva, Marta Golin, & Christopher Rauh, ‘Inequality in the Impact of the Coronavirus Shock: New Survey Evidence for the UK’ *Cambridge-INET Working Paper Series No: 2020/10* (1 April 2020), 15.

III. 'Our plan to rebuild'

The UK Government's plans for re-opening from its lockdown have not been smooth due in large part to its own absence of clarity regarding these next steps.⁹⁴ The 'reproduction number' (R)⁹⁵ stands out as one clear measurement moving forward. With the aim of maintaining R at less than 1, follow-up questions include: what actions will be taken if R moves above 1? There does not appear to be the capacity to measure R on a workplace level. And so, some level of vigilance will be required of individual employers; though matters such as a threshold for the number of workers who become infected in one workplace seems to be left largely untouched by Government. In itself, this is a statement on where matters stand as the Government re-opens workplaces; that is, a number of factors remain unknown with no foreseeable potential for discerning an answer.

'Our Plan to Rebuild'⁹⁶ contains the Government's three steps to re-opening society and businesses. Details on workplace implications (particularly the health and safety of workers) are muted and would benefit from further elaboration for the purposes of clarity and safety. Reference to the COVID-19 Secure Guidelines form a catchall for these concerns. As of 13 May, Step One has been enacted. For workplaces, teleworking remains the advocated means of carrying on with employment. This instruction is set, first, within an economic imperative.⁹⁷ Workers who cannot work from home and whose workplaces are open should travel to work. Sectors that may open include 'food production, construction, manufacturing, logistics, distribution and scientific research in laboratories' and excludes hospitality and non-essential retail. Open workplaces 'should follow' the government's COVID-19 Secure Guidelines, including advising the use of face coverings in public spaces.⁹⁸ With regards to those who are symptomatic, the same guidance has been given.⁹⁹

Step Two was set for 1 June, though the Government has left itself room to make a determination upon the latest information at that time. Re-opening of schools takes effect in Step Two with a 'phased return'. While direct trade union involvement has been muted, schools constitute one area in which there has been a notable role played. Teachers' unions have expressed significant concern regarding the re-opening of schools and the safety concerns for students, school personnel, and the wider communities.¹⁰⁰ When teachers raised these concerns, they were supported by the

94. There is not uniformity across the UK regarding these steps. The document itself identifies England, where the other parts of the UK have their own governance for this matter.

95. 'If this is below one, then on average each infected person will infect fewer than one other person; the number of new infections will fall over time. The lower the number, the faster the number of new infections will fall. When R is above one, the number of new infections is accelerating; the higher the number the faster the virus spreads through the population': 'Our Plan to Rebuild: The UK Government's Covid-19 Recovery Strategy' CP 239 (May 2020), 7.

96. *Ibid*, commencing at page 25.

97. 'All those who work are contributing taxes that help pay for the healthcare provision on which the UK relies': *Ibid*.

98. 'advising the use of face coverings in enclosed public areas such as on public transport and introducing stricter restrictions on international travellers': *Ibid* 22.

99. 'It remains the case that anyone who has symptoms, however mild, or is in a household where someone has symptoms, should not leave their house to go to work. Those people should self-isolate, as should those in their households': *Ibid* 26.

100. The National Education Union (NEU) is one example. It has devised five tests to be met prior to re-opening schools. Its position can be found at: <https://neu.org.uk/coronavirus>. Another teachers' union, the NASUWT has also outlined its requirements for re-opening schools: <https://www.nasuwt.org.uk/advice/health-safety/coronavirus-guidance/requirements-for-reopening-of-schools.html>. The NASUWT has contended that teachers can legally refuse to return

British Medical Association (BMA);¹⁰¹ though the BMA softened this position subsequently.¹⁰² Unfortunately, the Government has attempted to diminish teachers' apprehension by calling it 'scaremongering'.¹⁰³ While it may not consistently be acknowledged, teachers' unions bring a legitimate voice to professional discussions including, as here, important questions about the timing of a safe re-opening of schools during this pandemic.

Returning to the Government's plan for Step Two, non-essential retail may also open at this time. Sporting and cultural events, without an audience, could take place as of Step Two and be broadcast. Social and family contact may be extended to include 'one other household'. Some disconnect arises here when factoring in work. This plan treats work contact and social or family contact separately. The understandable aim of limiting contact remains evident. However, if non-essential retail is to open under Step Two, the limited extension of family contact to include one other household is incongruent. Step Two expands re-opening and therefore contact with individuals more extensively than the more measured family/social contact stipulation suggests. While it may be conjectured that close contact with another household may be more likely to transmit the virus than walking past individuals in the wider retail sector, there is no publicly available information to suggest this is necessarily so. Furthermore, the advice to wear a mask in settings such as retail indicates that transmission remains a possibility even when close contact is time limited. It may be that the idea of 'bubbles'¹⁰⁴ or the European Centre for Disease Control's 'micro-communities'¹⁰⁵ informs the Government's strategy in attempting to have the public think about those with whom they come in contact. While workplace interactions seem to be overlooked, they are no less important a factor and their absence remains curious. It may be that the Government is shifting onus onto employers to ensure that both staff and customers are safe within premises by implementing the COVID-19 Secure Guidelines published by the Government.

In Step Three, commencing no earlier than 4 July, remaining businesses and premises may open. Businesses falling under this Step are largely those with close contact with others in a retail setting involving personal care (i.e. hairdressers), hospitality (pubs), places of worship, and leisure facilities. While there is an emphasis on opening as widely as possible by Step Three, the Government hesitates in going so far as to declare it as such. Instead, businesses where 'it may prove difficult to enact distancing may still not be able to re-open safely at this point, or may be able to open safely only in part.'¹⁰⁶ As noted earlier in this section, the health and safety considerations of workers remain less pronounced in this plan (indeed the plan as a whole is slight on details). Although monitoring and taskforces are mentioned in the plan, the health and safety of

to work. See also, Sarah Marsh, 'Teaching unions vow to work towards reopening English schools' *The Guardian* (16 May 2020).

101. Richard Adams, Heather Stewart, & Libby Brooks, 'BMA backs teaching unions' opposition to schools reopening' *The Guardian* (15 May 2020).
102. <https://www.bma.org.uk/news-and-opinion/covid-19-statement-on-schools-reopening>
103. Freddie Whittaker, 'Coronavirus: 8 things we learned from Gavin Williamson on plans to reopen schools' *Schools Week* (13 May 2020), <https://schoolsweek.co.uk/coronavirus-8-things-we-learned-from-gavin-williamson-on-plans-to-reopen-schools/>
104. Her Majesty's Government, 'Our Plan to Rebuild: The UK Government's Covid-19 Recovery Strategy' CP 239 (May 2020), 31.
105. European Centre for Disease Control, 'Rapid Risk Assessment Coronavirus disease 2019 (COVID-19) in the EU/EEA and the UK – Ninth update' (23 April 2020), 18.
106. Her Majesty's Government, 'Our Plan to Rebuild: The UK Government's Covid-19 Recovery Strategy' CP 239 (May 2020), 31-32.

workers (i.e. the general public) must be subject to more definitive plans than the aspirations identified in ‘Our Plan to Rebuild’.

IV. Further questions

Presenting a conclusion as the country tries to emerge from lockdown seems premature. In this final section, a few points for observation are outlined. Overall, there are questions that can arise from changing guidance. As noted at the start of this piece, the Government’s handling of the pandemic has exacerbated the natural anxiety regarding the challenges faced. In itself, this must be a factor in considering future steps; especially since the Prime Minister connected the need for special measures to be taken with the timeline until a vaccine may be mass produced or widespread drug treatment is made readily available.¹⁰⁷ Beyond the absence of clarity from the Government regarding its own plan, other matters remain and a few are considered here.

a) Health and safety protection for workers

Noted above, questions remain as to how workers will be protected and proposals for answers seem less detailed than plans to more widely open businesses. Though it is not an exclusive example,¹⁰⁸ stark warning can come from the health sector, particularly care and support workers whose workplaces include both homes for the elderly as well as private residences.¹⁰⁹ Significant numbers of both workers and patients in these settings speak of pronounced concerns regarding provision for their health and safety. The care industry is instructive as businesses and society open again because they give some authority to the earlier-posed question: how will workers be protected in this transition while the reasons for lockdown remain present? The situation seems likely to create various steps being taken concurrently, independently, and without a more widespread societal plan. Broad statements regarding self-isolation if symptoms present are evidently insufficient.

As one example, taking the temperature of workers each day may be introduced. Evidence as to the soundness of temperature as a determining factor in whether or not workers may re-enter workplaces remains questionable (since asymptomatic transmission has been found). And so, temperature taking seems more like a box-ticking exercise with little authority behind it; not to mention the data protection, privacy and discrimination points noted in the main article accompanying this volume. In brief, English employers may justify the taking and recording of workers’ temperatures by relying upon Art.9(2)(b) of the GDPR (processing of data for the purposes of carrying out obligations and exercising specific rights in employment) coupled with Schedule 1,

107. Her Majesty’s Government, ‘Our Plan to Rebuild: The UK Government’s Covid-19 Recovery Strategy’ CP 239 (May 2020), 4.

108. The nonsensical death of Belly Mujinga, a rail worker in London, surely illustrated that ‘front lines’ are not only in medical facilities. See further, Matthew Weaver & Vikram Dodd, ‘UK rail worker dies of coronavirus after being spat at while on duty’ *The Guardian* (12 May 2020), <https://www.theguardian.com/uk-news/2020/may/12/uk-rail-worker-dies-coronavirus-spat-belly-mujinga>.

109. On this point see research by Lydia Hayes, Alison Tarrant & Hannah Walters, ‘Care and support workers’ perceptions of health and safety issues in social care during the COVID-19 pandemic. Initial findings, 15th April 2020’, <https://media.kent.ac.uk/se/11148/CareworkersHealthandSafetyreport15042.pdf>.

s.1(1)(a) of the Data Protection Act 2018 (conditions relating to employment). Still, the principles for data processing outlined in Art.5 GDPR, as well as following a basis set out in Art.6(1), are also required. To be lawful, processing may be undertaken pursuant to one of Art.6(1)(c)-(f), where the Information Commissioner's Office has identified (f) (legitimate interests) as 'flexible'.¹¹⁰ A challenge in relying upon legitimate interests (Art.6(1)(f) GDPR) is that the provision is assessed by way of a three-part test: purpose, necessity, and balancing. What information is disclosed by taking an individual's temperature could be a challenge when applying the three-part test.

b) Discrimination

Accompanying these national reports, the main article in this volume identified gender discrimination as a particular concern. It centred on the resilience of gendered roles when it comes to caring responsibilities.¹¹¹ The job impact on the work of women may be anecdotal,¹¹² but, at this early stage, it may foreshadow future findings. With teleworking being prominent Government advice, the gender differences may also be forthcoming when considering performance management where workers are balancing work and childcare responsibilities simultaneously.

c) Payments to workers

Will all employees be paid what they are owed under the income support schemes in place? The question is posed with sensitivity to the tremendous upheaval caused by the pandemic. It focuses on the potential precedent set in terms of workers' income. The CJRS does not require employers to top-up the remaining 20% for furloughed employees. And so, a pay reduction has been de facto introduced. Workers who experience Covid-19 symptoms present a complicated point. Official guidance has been to self-isolate when symptoms arise. However, a survey of care and support workers found a concern that if time was taken off, there would be no pay.¹¹³ While difficult to quantify, this sentiment serves as a point-in-time suggestion as to how workers are approaching the balance between fulfilling work obligations and also following public health guidance. The questions do not end here.

The basis for this issue stems from the surprising numbers regarding awards payments to employees from employers against whom a judgment has been made by an employment tribunal. According to a 2014 study, almost a third of employers refused to pay when tribunals made

110. <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/what-is-the-legitimate-interests-basis/>. See also the Information Commissioner's Office's discussion on legitimate interests: <https://ico.org.uk/for-organisations/guide-to-data-protection/guide-to-the-general-data-protection-regulation-gdpr/legitimate-interests/what-is-the-legitimate-interests-basis/>.

111. See also ILO, ILO Standards and Covid-19 (23 March 2020), vers.1.2, 18.

112. See for example the widely reported tweet of an editor of an academic journal pointing out the remarkable decline in submissions by female academics: https://twitter.com/El_Dritch/status/1251469394582089731. See also Claudia Hupkau & Barbara Petrongolo, 'Work, care and gender during the Covid-19 Crisis' Paper No. CEPCOVID-19-002 (London: Centre for Economic Performance, May 2020).

113. Lydia Hayes, Alison Tarrant & Hannah Walters, 'Care and support workers' perceptions of health and safety issues in social care during the COVID-19 pandemic. Initial findings, 15th April 2020', <https://media.www.kent.ac.uk/se/11148/CareworkersHealthandSafetyreport15042.pdf>, 12.

awards.¹¹⁴ Businesses were more likely to refuse to pay awards below GBP 5000 than above (32% as compared with 22%).¹¹⁵ Insolvency is another consideration. For some time, the UK Government has been concerned with regulating for competitiveness; an ethos which also precipitated the subsequently unlawful scheme for employment tribunal fees.¹¹⁶ Former employees with unfair dismissal awards over GBP 5000 were more likely to report the employer had become insolvent or ceased trading (46% versus 35% for those with awards below GBP 5000). Outside of unfair dismissal, awards under GBP 500 were most likely to be paid without enforcement (55%).¹¹⁷ About half of the awards over GBP 5000 were at least partially paid without enforcement (58%), as were awards under GBP 5000 (50%). Enforcement of awards increased the overall payment rate from 53% to 64% of claimants receiving full or partial payment of their awards. If Government sources were not factored in, 'the proportion of awards that [were] honoured by the employer against which they [were] made would be even lower.'¹¹⁸

The troubling information regarding tribunal award payments grounds the concern that employees may lose out in some way if employers do not adhere to the CJRS parameters. While HM Customs & Revenue is attuned to the potential for fraud (as noted in its guidance to employers), it also seems to place the reporting of suspected fraud in the hands of the public and employees.¹¹⁹ Whether workers are paid what they are owed (with or without resort to an employment tribunal) will remain a matter to monitor moving forward.

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114. IFF Research, *Payment of Tribunal Awards* (London: BIS, 2013) [IFF Research].

115. *Ibid.*, 38.

116. *R (on the application of UNISON) v Lord Chancellor*, [2017] UKSC 51.

117. IFF Research, 31.

118. *Ibid.*, 48.

119. Her Majesty's Revenue and Customs. 'Check if you can claim for your employees' wages through the Coronavirus Job Retention Scheme' (updated 23 April 2020), <https://www.gov.uk/guidance/claim-for-wage-costs-through-the-coronavirus-job-retention-scheme?fbclid=IwAR01rSs4rCE4YS-aLNhIjLHYOFTCyfFai2dDeniRYcWWyaROVwuDDBO1QKo#who-can-claim>.