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Covid and Remote working - can I monitor my staff?

By Gill Reid, Head of Employment

Amid fears that a new Covid variant could trigger a new wave of infections, plans by the UK Health Security Agency for autumn vaccinations have been brought forward from October to September 2023 for the most vulnerable.

Covid restrictions are no longer in place in the UK, but current government advice is to try to stay at home. Whilst there is no planned return to fully remote working for those employees whose work can be done from home, some employers may want to consider allowing staff to work remotely for some or all of the working week, particularly for staff with health conditions which could make them susceptible to catching the new Pirola BA.2.86 Covid variant.

It's estimated that only 40% of staff are back in the workplace full-time according to a recent study.

Data protection law does not prevent employers from monitoring staff provided it is:

- necessary;
- proportionate; and
- respects the rights of workers.

In March 2023 the Institute for Public Policy Research (IPPR) published a report on digital monitoring practices and considered whether key stroke monitoring should be banned.

The Information Commissioner's Office (ICO) has announced that it will 'take action' against employers who use 'excessive' monitoring of staff calls, messages and keystrokes and may issue fines.

In its new guidance, the ICO advises employers that any monitoring must be done in the least intrusive way possible, and staff must be made aware of the reasons for, and extent of, the monitoring.

For the most serious breaches, the ICO has the power to impose fines of up to 4 percent of a company's global turnover.

Best practice for employee monitoring will involve:

- creating a clear monitoring policy
- complying with legal requirements
- notifying your employees
- blocking undesired content
- practicing monitoring, not surveillance
- respecting employee privacy

ACAS has produced useful guidance for managing staff who work from home.

Our expert team of employment lawyers is on hand to help if you need further advice or guidance on remote working and employee monitoring.

Call us on **01904 528223**.

The above is not intended to provide advice.

