

## work place news *by Chloe*



### Employer support for Ukrainians

Since the invasion of Ukraine began on 24 February, we've had several employers contact us asking what support they can offer to Ukrainian nationals.

The UK government has been slower to respond than some of mainland Europe, but a wide visa route for Ukrainians finally launched on 14 March, opening to applications from Friday 18 March.

In this article we take a look at the features of that scheme, along with other support employers can consider offering.

Even if you're not able to directly offer sponsorship, there are other ways you can offer support, including:

- Providing information to your workforce about the schemes mentioned here
- Offering support to your workforce – whether Ukrainian or otherwise

– who may be affected by the conflict. For example, via an Employee Assistance Programme

- Donating to humanitarian organisations and charities such as the British Red Cross

#### Homes for Ukraine

This scheme enables anyone (individuals, businesses, charities and community groups) to sponsor a Ukrainian national by providing a minimum of 6 months' rent-free accommodation.

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### *The editor's welcome*

Like most people, I've been watching events unfold in the Ukraine with despair. It feels very strange to carry on with the day to day when such atrocities are taking place in other countries.

In this issue, we're taking a look at what sort of support employers can offer to displaced Ukrainians.

As always, please follow us on [LinkedIn](#) to make sure you don't miss out on important updates in between newsletters.

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### *This month...*

#### Mandatory vaccines revoked

This comes following a government consultation in January 2022.

[Read more >](#)

#### Positively Working with Ayda

Feel good tips & workplace wellbeing from our trainee, Ayda.

[Read more >](#)

#### April Employment law changed

Other changes coming into force in April along with Statutory increases.

[Read more >](#)



## SUPPORT UKRAINE

### Key features

- It's completely free to apply and applications must be submitted online
- It's open to any Ukrainian individual/family who:
  - was resident in the Ukraine on or immediately before 1 January 2022
  - is currently outside of the UK
  - has a sponsor
- If the individual holds a current or expired Ukrainian passport they can apply entirely online, if they do not hold a passport they will need to visit a visa centre
- Applications are being processed as quickly as possible – the Home Office is prioritising these applications (which means decision times for other types of visa application are being impacted)
- Ukrainians granted permission under this route will be able to remain in the UK for 3 years and will be able to:
  - Work
  - Study
  - Receive benefits
  - Access healthcare and English language tuition

### The sponsor

- If a business, it does not need to hold a sponsor licence to sponsor a Ukrainian under this scheme
- Must be able to provide a minimum of 6 months' accommodation that is suitable for the number of people you wish to sponsor to live in
- Cannot charge rent, but will receive a £350 per residential address, per month as a thank you payment
- Will currently need to connect with third party organisations in order to find someone suitable to sponsor, if you don't already know of someone

### Further information

Homes for Ukraine general information:  
<https://homesforukraine.campaign.gov.uk/>

Homes for Ukraine FAQs:  
<https://www.gov.uk/guidance/homes-for-ukraine-scheme-frequently-asked-questions>

Homes for Ukraine application information:  
<https://www.gov.uk/guidance/apply-for-a-visa-under-the-ukraine-sponsorship-scheme>

Homes for Ukraine application form:  
<https://apply.visas-immigration.service.gov.uk/has-international-ukrainian-passport>

Connecting with Ukrainians requiring sponsorship:  
<https://www.ukrainetakeshelter.com/>  
<https://www.refugeesathome.org/>  
<https://www.roomforrefugees.com/>  
<https://resetuk.org/>

### Skilled Worker sponsorship

The Skilled Worker sponsorship route can be used by organisations who hold a sponsor licence. There does need to be a genuine vacancy and the usual minimum sponsorship requirements apply.

However, some of the rules have been relaxed, for example, in certain circumstances an individual would need to leave the UK in order to switch into the Skilled Worker route but this requirement has been waived for Ukrainian nationals.

Ukrainians already in the UK on work visas will have their visas temporarily extended, including those on seasonal work visas.

### Ukrainian Family Scheme

British nationals, and those of any nationality who are settled in the UK can be joined by immediate and extended Ukrainian family members - this includes parents, grandparents, adult children, siblings and cousins. Usual requirements for English language tests and salary are waived.

Those granted permission under the Ukrainian family scheme can remain in the UK for up to 3 years, there are no fees. For further information and to apply: <https://www.gov.uk/guidance/apply-for-a-ukraine-family-scheme-visa>

# Mandatory vaccines revoked

On 31 January 2022, the government announced that it intended to revoke the regulations that would require all those working in health and social care settings to be vaccinated against covid-19 from 1 April 2022.

A consultation into revoking those regulations was launched and on 1 March 2022, the government published its response.

Of the 90,020 responses to the question of whether the regulations should be revoked, a staggering 90% voted in favour of revocation. This is compared to only 9% who felt that the requirement to be vaccinated should not be revoked.

In its response, the government confirmed three key factors that led them to bring forward the revocation of the regulations to 15 March:

1. The Omicron variant, relative to Delta, is less severe
2. A full primary course of vaccination does not provide long term public health protection against the spread of covid-19
3. The public are overwhelmingly opposed to regulations requiring vaccination

## What this means for employers

If you operate in the health and social care sector and have been pressing employees to get vaccinated and provide evidence – those practices should cease with immediate effect.

This will come as a welcome relief to many employers and individuals alike.

For others it may create nervousness around how to best protect patients and colleagues.

As in all settings, appropriate risk assessments and covid-secure measures should be habits that are well ingrained by now.



*Positively Working with Ayda*

## Working remotely or remotely working?

Many organisations have opted to engage in hybrid systems which consist of working from the office, flexible working and working from home.

Working from home or more flexibly, has become the 'norm' in our modern world with improved technology making it easier to stay connected. Research shows that organisations that adopt flexible employment policies increased productivity, improved employee well-being, talent attraction and retention, and a reduction in accommodation costs.

I've put together what I see as necessary ground rules when working flexible hours or from home to make it as productive and a positive experience as possible:

**1) Dress for success** - there is no need to suit up or shine your shoes for a day of remote work (although it may work for some) but there is a lot of power in wearing something that makes you feel energised and capable. You can still be comfortable and feel put together when getting ready for the day.

**2) Communication is key** – this seems obvious but when you are clear on what hours and days you are in the office, you give enough notice for others to plan ahead and swap things around if needs be. If you are client facing, ensure clients are made aware of your working pattern so they know when you are available, not doing so can make you look elusive and unprofessional.

### 3) Planning and scheduling workload

– I'm organisation obsessed so planning my daily and weekly to-do-list brings me great comfort. Planning your workload and finding a good diary management system that works for you will avoid panic stations down the line and promote efficiency. Stick to a plan of action for the day, building in a lunch break and getting fresh air to avoid cabin fever.

**4) Household tasks** - under previous circumstances, jobs like washing dishes, laundry or vacuuming might not be go-to activities, but they can suddenly build up when at home for longer periods of time. These tasks can get tempting when your alternative is preparing for a meeting. Out of sight, out of mind is a great rule of thumb here. Close the office door so you can't see housework tasks waiting to be done. If that's not an option, put laundry baskets and vacuum cleaners in a closet where they can't deviate your attention. These can be dealt with after finishing your work tasks or working hours.

**5) Keep work in a certain location or behind an office door** - even if yours is a 'kitchen table firm', try to create a dedicated office space, which you can close behind you at the end of the day. This physical barrier between you and your to-do list acts as a psychological barrier to your 'work brain'. Hopefully this makes it easier to bring your focus to family, friends, pets or even the television after a long day.



## Other changes in April 2022

In our January newsletter, we published a timeline of 2022 changes to look out for. Below are some additional changes announced since then.

### New statutory redundancy amount

From 6 April, the amount used to calculate a weeks' pay for statutory redundancy (and other compensation calculations) will increase from £544 to £571.

The maximum amount a tribunal can award for unfair dismissal will also increase, to £93,878 (from £89,493 – or a years' salary, whichever is lower).

### Digital fit notes

Also from 6 April, fit notes will no longer have to include a signature, and can instead be issued digitally.

### SSP & COVID

From 24 March, the COVID-19 provisions within Statutory Sick Pay and Employment and Support Allowance regulations will end.

People with COVID-19 may still be eligible, subject to the normal conditions of entitlement. Industry specific guidance is due from 1<sup>st</sup> April. More information about living with COVID-19 can be found [here](#).

## RECENT CASE LAW

### Arvunescu v Quick Release (Automotive) Ltd

## Settlement documents can protect against future claims

Arvunescu brought unfair dismissal and race discrimination claims against their employer. Those claims were settled by a COT3 settlement agreement. Two months after the settlement, that same employee brought a new claim.

The new claim alleged that, before the settlement had been reached, the employer had caused the employee to be rejected for a job with the employer's German subsidiary due to the previous "animosity" – amounting to an act of discrimination (victimisation).

The COT3 signed by the parties contained very wide wording, and sought to compromise claims "arising directly or indirectly out of or in connection with the claimant's employment... its termination or otherwise" and apply to claims "of any kind whatsoever, wheresoever and howsoever arising". The employer argued that the wording prevented Arvunescu from bringing his new claim, even though he hadn't contemplated it at the time of signing the COT3.

The Employment Appeal Tribunal confirmed the first instance decision, and agreed that the specific wording of the COT3 covered the new claim. In other words, Arvunescu was prevented from proceeding with his new discrimination claim.

Although this ruling doesn't tell us anything we didn't already know, it isn't often that we see cases in which the wording of settlement agreements is scrutinised in order to assess whether a newly-realised claim can proceed. It's welcome reassurance therefore that employers can protect themselves against the unforeseen.

This case also restates the importance of employers trading carefully when considering amendments to settlement agreements put forward by employees (or their advisers). Particularly when it comes to the clauses that deal with the nature of the waiver of claims, where the employee may look to narrow wording, employers will need to keep it as wide as possible to protect themselves.





## RECENT CASE LAW

### Fentem v Outform EMEA Ltd

## Invoking PILON clause doesn't make a termination out of a resignation, for now

Employment Tribunals are bound by the decisions of the higher courts (e.g. the EAT and Court of Appeal), although not bound by the decisions of other employment tribunals (known as first instance decisions). However, higher courts such as the EAT are bound by their own decisions in cases analysing the same legal principles.

In an earlier case (Marshall (Cambridge) v Hamblin), the EAT found that where an employee resigns, and then the employer invokes the pay in lieu of notice (PILON) clause to bring the employment to an end sooner, that does not turn it into a dismissal by the employer.

In the case of Fentem, the employee resigned giving his one months' contractual notice. The employer told him they were invoking their contractual right to bring the employment to an end immediately by making a payment in lieu of notice. The employee sued for unfair dismissal.

The EAT decided it was bound by the Marshall decision, however it express misgivings about the Marshall decision, saying it thought it was wrong. The EAT couldn't say that the Marshall decision was manifestly wrong however (which is the threshold it would have to reach to depart from its own prior ruling).

We're currently waiting to see whether leave to appeal will be granted. In the meantime, if an employee resigns and the employer wishes to end the employment sooner, they should ensure they are relying on a contractual PILON clause giving them the right to do so. In an ideal world, the employee would be in agreement.

In the absence of a PILON clause, paying an employee in lieu of notice after they have resigned is likely to overrule the resignation, and become a dismissal by the employer (in breach of contract to boot). If the employee has at least 2 years' service, they could bring an unfair dismissal claim.

## Spotlight on... PILON

Replacing our 'Believe it or not' feature, this new Spotlight piece will focus on a small employment law topic each week and provide a bite size breakdown of it, starting with PILONs.

Pay in lieu of notice – PILON – is a mechanism employers can use to cut short the usual notice period.

Whether the employee or employer is terminating the relationship, it's the employer's choice whether to PILON. When the employer does decide to PILON, this can be for all of or part of the notice period.

The key point to remember is that the employment will come to an end immediately and the employer must pay the employee in lieu of the balance of their notice period.

The advantages of using PILON are that the employee can be released from employment immediately – allowing them to start a new role with a new employer, and ensuring they're kept away from the employer's confidential information, clients and other valuable relationships.

With a PILON clause drafted so that basic pay only is due, it can also be a way for the employer to potentially save some costs.

Employers should ensure that they have the contractual right to PILON before doing so, to avoid breach of contract claims.

You should also check the wording of the clause carefully to see what payments are due – is it basic pay only? Or are benefits payable too?