



Covid – Staff Safety & Wellbeing

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20 May 2021



Duty to ensure health and safety

- Health and Safety at Work etc Act 1974
 - s2 – the duty of every employer to ensure, so far as is reasonably practicable, the health, safety and welfare at work of all his employees
 - s3 – the duty of every employer to.... ensure, so far as is reasonably practicable, that persons not in his employment who may be affected thereby are not thereby exposed to risks to their health or safety
- Implied term
- Common law duty of care
- Equality Act 2010 - reasonable adjustments



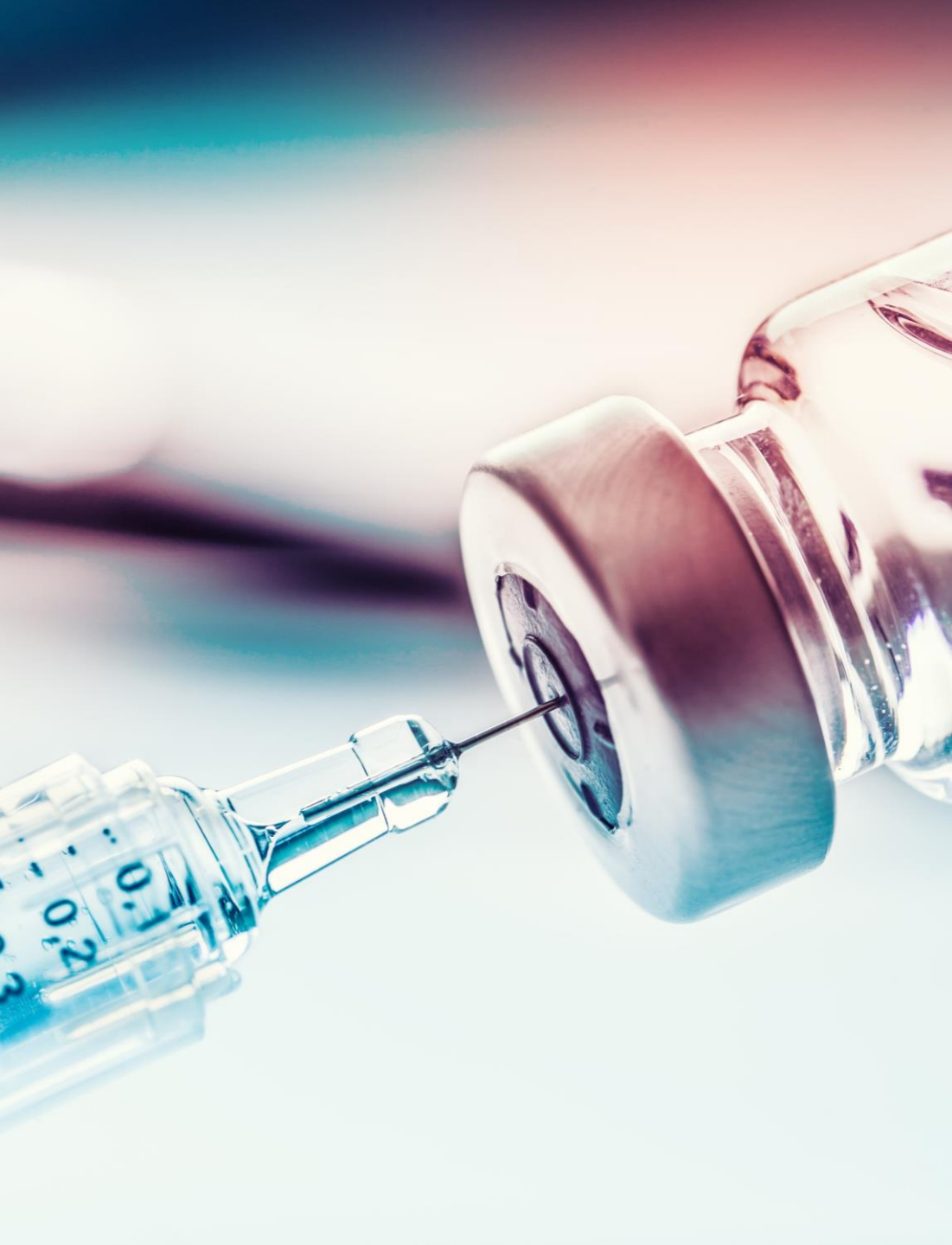
Return to the workplace

- What if an employee refuses to return to work – section 44 Employment Rights Act 1996?
- Is the workplace Covid secure ?
- Is the request to return to the workplace a reasonable instruction?
- Is the employee disabled or does he/she have another protected characteristic?
- Flexible working/ homeworking

Covid testing

- Can an employer force? Guidance?
- Consent or contractual provision?
Reasonable instruction?
- Testing policy?
 - Testing is not a legal requirement in the workplace
 - Consult with staff
- Data protection considerations





No jab, no job?

- Can an employer enforce a mandatory vaccine policy?
- Discrimination?
- What are the alternatives?
 - Flexible working
 - Workplace measures
 - Testing?
 - Voluntary vaccination?

What if employee breaches the rules?

- s7 Health and Safety at Work etc Act 1974 – duty of every employee at work to take reasonable care of their own health and safety and that of others
- Misconduct – disciplinary action?





Amend policies

- Sickness absence and pay
- Health and Safety
- Disciplinary offences
- Homeworking
- Flexible working

- Contractual changes?

Conclusion

- Watch this space!
- Preparing to return to the workplace – communicate with staff
- Amend policies
- Be wary of “blanket policies” – are you acting reasonably as an employer?
- Discrimination?



Further Information

- CIPD www.cipd.co.uk
- BEIS <https://www.gov.uk/guidance/working-safely-during-coronavirus-covid-19>
- HSE <https://www.hse.gov.uk/index.htm>
- ACAS www.acas.org.uk

Please note the contents of this presentation are given for information only and must not be relied upon. Legal advice should always be sought in relation to specific circumstances.

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