



19 March 2020

ECSG Members

Covid 19 – Coronavirus Update from Prospect

Dear Member,

The rapid escalation of the Coronavirus pandemic is affecting every one of Prospect's members and their families.

Every day seems to bring unprecedented restrictions and challenges to both personal and professional lives. For professionals working in Education and Children's Services (ECS) will have felt particularly concerned as public and health policy has evolved over the last weeks leading to the announcement last night, with schools across the UK to be shut for most children and young people.

I know that the pressure on our ECS members is intense and uncertainty deeply unsettling.

You may have seen that Prospect and the TUC has been pressing for the Government to provide additional measures and support to freelancers https://prospect.org.uk/news/the_union-urges-government-to-do-more-for-creative-freelancers-losing-livelihoods-due-to-coronavirus/

You can find out more about your rights by visiting the Prospect website. <https://prospect.org.uk/topic/covid-19-coronavirus/> but in general –

Homeworking

Members have been increasingly home working for some time and this will be pushed to levels never seen before. Where the union is recognised, our Full Time Officers will be able to assist in reviewing the processes and seeking to develop pragmatic guidance.

- Can my employer force me to work from home?
- If there is a mobility clause in your contract it is likely to apply.
- Even if there is no mobility clause, there will be an implied term in every contract of employment that an employee will follow a reasonable and lawful order. In the circumstances, requiring employees to work from home is likely to be considered a reasonable request.
- If it is unsafe or completely impracticable you should not be required to work from home and should seek Prospect advice.

Prospect had developed a members' guide to homeworking as well as a video of our top 10 tips.

<https://d28j9ucj9uj44t.cloudfront.net/uploads/2019/07/2005-00631-Members-guide-Homeworking-Version-08-01-2019.pdf>

<https://prospect.org.uk/news/coronavirus-and-working-from-home-top-10-tips/>

Hours and Pay

Please remember that the union is recognised in many workplaces and your local rep or Full Time Officer should be consulted on any changes to terms and conditions. In addition we negotiate pay scales and SPA points centrally for Soulbury officers.

- Can my employer reduce my hours and pay?
 - This will largely depend on the terms of your contract.
 - If you are on a zero-hours contract for example, there is unlikely to be any rights to be provided with work or paid (even in these circumstances, you should seek advice).
 - If there is an express clause regarding “lay-off” or short time working, see below. If there is no clause of this type, continue with this section.
 - Generally, a term of the contract of employment cannot be lawfully unilaterally changed by one party. Agreement should usually be sought and consultation with affected individuals should take place. However, given the nature of the situation, this may not be possible.
 - If an employer reduces an employees’ pay, without their agreement, this may be an unlawful deduction from wages. However, given the circumstances and the fact that the employer may move to dismiss instead, you would need to think carefully about whether to try and raise this.
 - Employees could resign and claim constructive unfair dismissal in response to the breach of contract. However, in unfair dismissal claims (including constructive dismissal) the tribunal will be considering the reasonableness of the employers’ actions. In these circumstances, where there has been a reduction in the employers’ work, the decision to reduce hours and pay, may be seen as a reasonable one. Alternatively, this could be a redundancy situation.
 - We would strongly recommend against this course of action, particularly because finding other work is likely to be difficult. Therefore, any decision to terminate your contract of employment should not be taken lightly. It would be better to remain in employment and consider claims for unlawful deductions from wages.

- Can I be “laid-off” by my employer?

- If your employer does not have enough work for you, they can tell you not to work. You should get your full pay unless your contract has an express clause regarding lay off or short-term working but see above.
- Where there is an express clause regarding lay-off, employees will be entitled to a guarantee payment of £29 per day (£30 from 6 April 2020) up to a maximum of 5 days of guarantee payments. These minimum payments are clearly set at such a low amount that this will be little assistance. It may be that there is Government announcements in respect of this.
- If an employee is laid off or on short time working for either 4 weeks in a row or 6 weeks in a rolling 13 week period, they can apply for redundancy and seek redundancy pay. However, complicated rules around giving notice apply, so contact Prospect for more information, if this scenario applies.
- Any decision to terminate your contract of employment should not be taken lightly as finding other work is likely to be difficult.

Schools Closures

The announcement of school closures in England, as well as Wales, Scotland and Northern Ireland yesterday <https://www.gov.uk/government/news/schools-colleges-and-early-years-settings-to-close> was deeply shocking, if not surprising.

Prospect members will note the call from Secretary of State for Education, Gavin Williamson MP for local authorities to work with DfE regional teams. The lack of capacity and increasing fragmentation of provision after years of neglect hinders that.

It is vital that more detail is provided on this for all stakeholders and clearly there is a huge amount of work to be done to assess how statutory obligations are affected, who 'key workers' are and what implications there will be for pupils with EHCPs.

Emergency legislation has been published that can relax some requirements around education legislation that will require implementation by an already stretched profession
<https://www.gov.uk/government/publications/coronavirus-bill-what-it-will-do/what-the-coronavirus-bill-will-do>

Prospect Education and Children's Services Group

Like you, Prospect full time officers and staff and our Group Executive members are all affected by this pandemic. We are facing challenges to how we work, in particular with the need for social distancing and self-isolation.

We will however continue to provide a service to members in the current crisis through our usual channels. If you have a question or need advice please contact our Wakefield Office on 01924 207890 or email wakefield@prospect.org.uk You should also keep an eye on the main Prospect website www.prospect.org.uk and our ECS twitter account [@ProspectECSG](https://twitter.com/ProspectECSG)

Regards

Steve Thomas

National Secretary