



Weightmans

Weightmans

IOSH

H&S and Covid-19

23 June 2020

Key contact:

Dewi Ap-Thomas

Partner

0151 242 6898

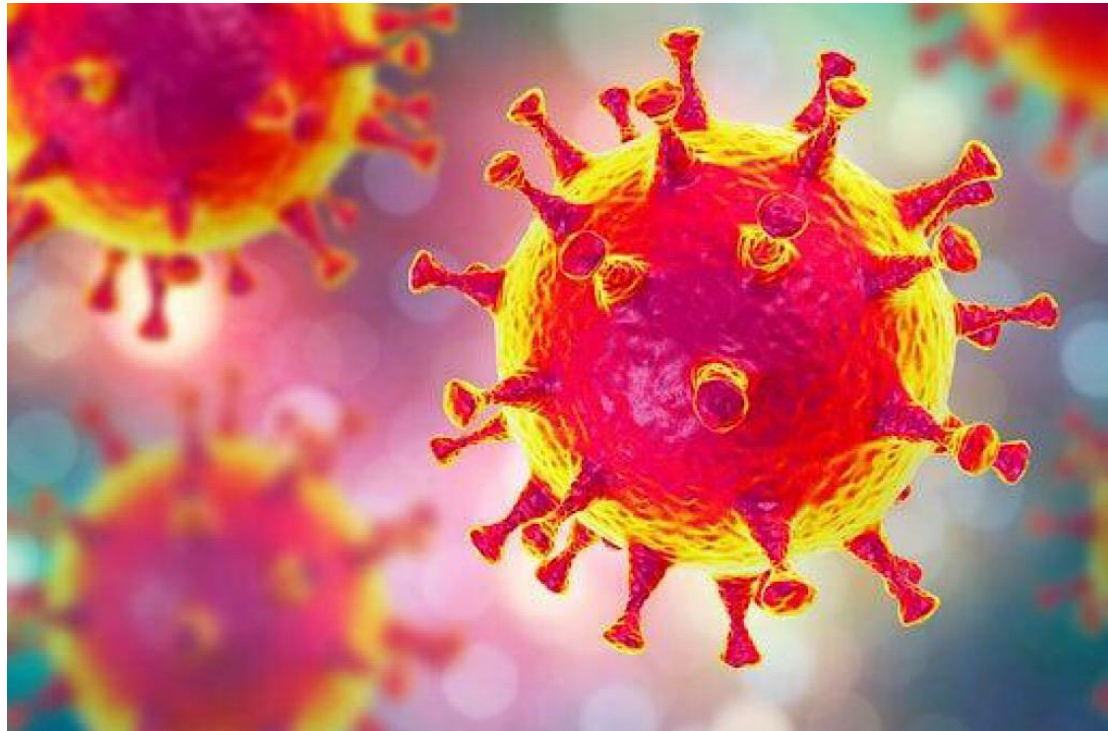
07850 311 496

dewi.apthomas@weightmans.com



Since we last met.....

The world has changed a little bit



Your presenter

- Dewi Ap-Thomas
 - Partner
 - Head of Regulatory Department
 - Based in ~~Liverpool~~ at home
 - Health & Safety Defense Lawyer
 - 15 years at Weightmans

What we'll cover

- The law for employers and employees during Covid
- HSE Enforcement
- RIDDOR and dispelling some myths
 - COSHH
 - PPE
 - “Everything Practical”
- Practical tips and horizon scanning

What we've been doing during lockdown

- Weightmans LLP
- Health sector – private and public
 - Liability advice
 - PPE
 - Whistle-blowing and media management
- Schools
- Covid Secure risk assessments
- And an asbestos prosecution!

H&S Law and Covid-19

- H&S Law (in England!) has not changed
- In 2003, HSE told us....
 - *“Although your employees may well pick up infections from workmates – those infections are not your responsibility under health and safety law. This is because the infection is just as likely to be caught outside the workplace as in it....”*
 - <https://www.hse.gov.uk/pubns/infection.pdf>
- In May, HSE said, *“social distancing is fundamentally a public health measure”*.

Guidance on return to work

- *“5 Steps to Working Safely” and 8 sector specific guides*
 - Eng & Wales vs N Ireland HSE
 - <https://www.hseni.gov.uk/publications/example-covid-19-risk-assessment-template>
- What legal status does Guidance have for employers?
- What duties/obligations does it impose on e'ees?
- Resolving conflicts between e'er and e'ee/Unions...
- Will it create a micro-claims industry?
- How will the law/guidance be enforced?
 - Notices first

RIDDOR

- Initially, scant guidance, even for healthcare sector
 - High-bar set for Reporting
 - HSE said, *we don't expect to see many Covid related RIDDOR reports*

- Last week, new guidance
 - Contract Covid-19 at work, AND
 - Reasonable evidence that *“the nature of the person's work.....increased the risk of them becoming exposed”*

- High-bar maintained...in essence, this is a PH issue

Myths

- COSHH
 - House of Commons Briefing
 - ACoP

- PPE
 - Is it the solution?
 - Objections from staff

- “Everything Practical”.....uugh?

Practical tips and looking forward

- Tips
 - Don't be blindsided by Covid
 - Risk assess, re-risk assess and date stamp!
 - Don't put control measures in place that aren't required – PPE, COSHH etc
 - Document trail – but how?
 - Consult widely – stakeholder engagement
 - Inform, train, enforce.....discipline?

- Looking forward
 - Claims may breed a new approach to legal interpretation of HSWA and Regs



Weightmans

Weightmans

IOSH

H&S and Covid-19

23 June 2020

Key contact:

Dewi Ap-Thomas

Partner

0151 242 6898

07850 311 496

dewi.apthomas@weightmans.com

