

# PROFESSIONAL

*in Payroll, Pensions & Reward*

Issue 66  
December 2020 - January 2021

## *Customer and client fulfilment*



### ***It's a real stretch***

Beyond December

### ***The (payroll) nightmare before Christmas***

Service delivery challenges

### ***Saying thank you?***

Seasonal gifts



CIPP UPDATE | POLICY HUB | PERSONAL DEVELOPMENT



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## Editor's comment

Recently, while wondering how people react in awful times, I researched the Spanish flu pandemic of 1918, and remembered watching in my teens the film *The Seventh Seal*, in which a desperate group somewhere in Europe strive to avoid the plague and evade death (depicted as a stalking grim reaper). During this horrible year I have found comfort and cheer in doing simple things, such as Skype-ing my grandchildren, and in the inspirational actions of countless people – especially the following individuals.

Marcus Rashford, a highly paid professional footballer, who triggered government policy turnaround on school meals provision.  
Annemarie Plas for initiating Clap for Carers, the UK-wide

weekly applause for NHS staff, during lockdown.

Well, it's that annual moment to extend my thanks to all those at the CIPP and beyond, without whose support and input production of the magazine would be impossible. Particularly meriting of my appreciation are the designers Sam Parkes and James Bartlett, the policy team for their continual supply of great articles, and Dawn Baxter and colleagues for their support and timely delivery of in-house content.

Bring on 2021!

**Mike Nicholas MCIPP** ([editor@cipp.org.uk](mailto:editor@cipp.org.uk))  
*Editor*



## Chair's message

I hope this finds each of you safe and well and adjusting to the new ways of working.

The feature topic this issue is customer and client fulfilment. Whether providing a service to an external or an internal client, I have some thoughts and messages to help either situation.

Very often in an external outsourced arrangement the most senior members of both businesses begin the process of tender response, pre-sales activity, system demonstration and contractual discussions. All this often happens either without anyone from the operational side of the business working alongside the team or perhaps from a distance. Therefore, any handover to operations once an agreement is made, and is in service, must ensure that all the finer points from the earlier conversations are documented and understood. It can be the smallest nuance in the early discussions that, if not transferred, can make a big difference to the service management and the expectations of the client and the service team. Take this scenario to an internal service provision, and you have the same issue if what is discussed in the boardroom as expectation is not then communicated to the team operating day to day services.

The key link here is communication. Very often once a commercial agreement is made, or objectives set for the service, those items may be parked. It is especially important to revisit and refresh them and keep the priorities front of mind for all delivering the service.

Transparency and regular communication help to resolve items quickly and highlight where either the internal or external customer maybe hampering the service team, by not delivering information for action, either in a timely manner or to a quality expected.

Client fulfilment can only be achieved if both parties are willing to listen, keep an eye on what is important and work together to overcome obstacles. This in turn, moves a service agreement to a partnership approach.

I hope you find the articles contained in this edition of interest and of benefit to you, and please drop me a line if you want to discuss anything in more detail.

**Jason Davenport MCIPP MIO D** ([jason.davenport3@cipp.org.uk](mailto:jason.davenport3@cipp.org.uk))  
*Chair, CIPP*



## CEO's message

What a year! I'm sure it's one which we will not forget, personally or professionally.

I am writing this as we hear the news that the coronavirus job retention scheme has been extended and the job support scheme postponed as we move into another national lockdown. Payroll professionals; key workers indeed.

Certainly, our Advisory Service has had its busiest year ever; hopefully, we have been able to give you help and assistance during these turbulent times. May I thank all who have availed of the assistance as, despite thousands of calls and emails at times and having to wait to be answered, I have been assured by the team that not one angry or unkind comment has been made by members in seeking help and guidance. That's really appreciated, and it is a testament to your professionalism during these challenging times.

This is a time when I normally reflect on the events we have delivered to you, our members. Well – it's been a virtual year –

dominated by MS Teams and Zoom (other platforms are available!), where human interaction in celebrating our profession has been almost non-existent.

Let's focus on next year – may 2021 be the time when we get together for the Annual Conference and Excellence Awards at the Celtic Manor Resort, a 'double' Graduation celebration to celebrate 2020 and 2021 successes, National Payroll Week, and the chance in our 41st year to actually celebrate our 40th anniversary in person!

Finally, on behalf of all the staff and board here at CIPP, I wish you all a well-deserved break over the Christmas and New Year period. May it be spent with family, friends and loved ones. Keep safe and well.

**Ken Pullar FCIPP** ([ken.pullar@cipp.org.uk](mailto:ken.pullar@cipp.org.uk))  
*Chief executive officer, CIPP*



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Full issue including additional online content available at [payrollpensionsandreward.org.uk](http://payrollpensionsandreward.org.uk)

## CIPP celebrates 40 years of supporting payroll professionals

AS THE Chartered Institute moves through its 40th anniversary year, we continue to review our history. We have spoken with industry luminary Alan Wigley MSc FCIPP, who has provided the following comments.

**What was your role within the Institute and across which dates?** – “After successfully completing the Diploma in Payroll Management I became a tutor and received lots of backing from Institute staff and fellow tutors. Seeing my first students graduate after two years was a proud moment for me.

“I was invited to write the first fast-track diploma course whilst delivering this to students in Manchester. With the assistance of Lawrence Worrall (deceased) this proved successful and was launched in other parts of the country.

“One of my students, who worked for me, took over my tutor role so I could concentrate for the MSc in Payroll Management. In 2001, after successfully completing my MSc and being named ‘UK Payroll Manager of the Year’, I was invited to join the board of CIPP. I stayed for six years, the last two as chair, before standing down due to a job opportunity that took me to Spain for a few years.”

**What was your motivation for being involved with the Institute?** – “I started working in payroll in 1975 as a wages clerk for a heavy engineering company. At that time, wages and salaries clerks (note, not ‘payroll staff’) were not seen as being of much value to many organisations and were the lowest grade for office-based staff in most company structures. It certainly was not seen as a career.

“After four years I went to work within the local authority, where the payroll function was still seen as a lower graded role. When, in 1980, the Association of Payroll and Superannuation Administrators (APSA) was launched, linked with our trade union NALGO (National Association of Local Government Officers), I felt that being a member of a professional body would help raise my profile in payroll. I was also able to use the letters ‘MAPSA’ after my name. This certainly helped, as in the mid-1980s I progressed through the organisation from wages clerk to payroll manager.

“When the British Payroll Managers Association was formed I thought it was another opportunity to raise my profile, so as soon as the Diploma was launched I signed up immediately.

“All these moves motivated me in my career that now spans 45 years in payroll. I have had the honour of representing the CIPP not just in the UK but in Canada, India, Ireland, South Africa,

and the USA. I believe it was the Institute that turned payroll into a true profession especially with links to the likes of HM Revenue & Customs.”

**What was your proudest moment working for the Institute?**

– “Being elected CIPP chair, which coincided with Gordon Creswell FCIPP being elected to the board.

Gordon has been instrumental in the development of the Institute, and someone I greatly admire. It was also the 25th anniversary of the formation of APSA. It was great to see the likes of Graham Francis FCIPP, Peter Blackhurst FCIPP, Lawrence Worrall, and other APSA founders in attendance. As a member of APSA I was the first to become CIPP chair.”

**What do you think has been the biggest change for the profession over the last forty years?** – “I’m sure nearly everyone working in payroll is screaming ‘furloughing and the events that are happening today’, but due to a major operation I’ve missed all the stress and hard work payroll professionals have endured this year. I did, however, recognise the value payroll was providing to employees, employers, and the government in ensuring all payments were made accurately and on time.”

“Which leaves me to talk about the introduction of statutory sick pay in 1983 when employers became responsible for paying it for the first eight weeks of illness. Payroll software providers struggled to provide automated calculations, especially when there was occupational sick pay to consider, so it became a manual process. As we had a weekly payroll in excess of 20,000 employees with high sickness levels it became an absolute nightmare to administer. (I think it still is for some organisations.) This was later followed by other statutory payments to the ones we have today.”

**What would you like to see the CIPP achieve in the future?** – “I would like the CIPP to continue raising our profile especially with our government and business leaders. I would like one day to hear our prime minister acknowledge how valuable the profession is to all and sundry. Not just when we have the challenges we face today, but those we constantly face every week. Hopefully, this will get our profession and the commitment of all payrollers recognition of the hoops we jump through to support our colleagues and our country constantly, meaning we are not taken for granted.”



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### Festive season office closure

THE CIPP office will close on 18 December, but the Advisory service will remain open until 22 December.

The office and all services reopen on 4 January 2021.

Have a happy Christmas, and we sincerely hope you get the chance to relax and reflect on what we have all achieved this year. See you in 2021!



## Congratulations to the newly accredited PAS organisations

THE CIPP's Payroll Assurance Scheme (PAS) is designed to test your payroll processes in relation to payroll processing, compliance and the people skills and development opportunities.

One of the most important elements is ensuring business continuity plans are in place and effective should they be required. Given recent events, congratulations to all organisations that have achieved this accreditation and will have been able to put those plans into action. Special congratulations to our recently accredited organisations:

- Frontier Software PLC
- IRIS FMP (Cascade)
- LKQ Euro Car Parts Ltd

Ken Pullar, CIPP chief executive officer, said: "Never has it been more important for businesses to have good payroll processes, knowledge and skills that enable them to implement new government legislation and guidance quickly.

"Congratulations to those organisations that have recently demonstrated just that."

The Payroll Assurance Scheme is still operating, with assessments currently operating virtually.

To find out how the Payroll Assurance Scheme can benefit your organisation, email [compliance@cipp.org.uk](mailto:compliance@cipp.org.uk).



## Market insight survey

IT'S YOUR time to have your say on the services the CIPP provide, as we launch our market insight survey. Set some time aside, grab a cup of tea and tell us your thoughts.

Your reply to this survey helps us shape the future of the CIPP, ensuring we understand your needs and support them the best way we possibly can.

Check your inbox for the survey and make sure you do not miss this opportunity to have your say.

## The CIPP Annual Excellence Awards 2020

THE CIPP'S Annual Excellence Awards are the industry's most prestigious awards for individuals and organisations who have had a positive impact on the payroll, pension and reward professions over the last twelve months. The 2020 Awards took place online for the first time ever, on 15 October.

The CIPP was overwhelmed by the number of nominees, especially considering how busy CIPP members and payroll professionals have been over the last twelve months. Ken Pullar FCIPP, CIPP chief executive officer, commented: "The nominations we have received show true professionalism and excellence within the sector in what can only be described as one of our most challenging years."

The CIPP extends thanks to the sponsors and to the judges.

### Newcomer/Apprentice of the year

*Sponsored by ADP*

Chloe Hesketh ACIPP, Civica UK Limited

### Manager of the year

*Sponsored by Cintra HR & Payroll Services*

Dianne Hoodless MSc ChFCIPP FHEA, Hyperion Services Limited

### In-house payroll team of the year

*Sponsored by iRealise*

Vertas Group Limited

### Project of the year

*Sponsored by The Payroll Centre*

Legal and General, OCE payments work stream

### Well-being and employee engagement award

*Sponsored by Intelligo*

University of Lincoln

### My biggest influencer award

*Sponsored by Workday*

Maria Mason MCIPPdip, BDO UK

### Software product of the year

*Sponsored by Cloudpay*

Zellis UK Limited, ResourceLink

### International payroll service provider of the year

*Sponsored by Portfolio Payroll*

ADP

### Payroll service provider of the year

*Sponsored by OneSource Virtual*

Cintra HR & Payroll Services Ltd

### Special award in recognition of services to payroll

HMRC



# UPDATE

On your  
behalf

## Policy team update

### The CIPP's policy and research team provide an update on developments

Payroll professionals have been exceptionally busy this month, and similarly the CIPP policy and research team have been challenged by the ever-evolving government measures implemented to help businesses and workers through the economic turbulence created by coronavirus.

Whilst these initiatives are to be applauded, as they are designed to help retain links to employment, the pace at which new policies have been amended has been difficult to keep up with, to say the least.

#### Extended coronavirus job retention scheme

Eagerly – and, we admit, impatiently – we awaited guidance on the job support scheme (JSS), and its two variations ('open' and 'closed') ahead of introduction from 1 November 2020. Though guidance was finally released on 30 October 2020, it was promptly withdrawn following the announcement the next day by prime minister, Boris Johnson, which confirmed that the coronavirus job retention scheme (CJRS) would be extended to run for the month of November. This announcement was made only a day before the new measure was to be introduced, giving businesses and payroll teams alike severely limited time to respond and adapt

to the changes.

Following this, Rishi Sunak, chancellor of the exchequer, spoke in Parliament on 5 November 2020 to confirm that the CJRS would actually be extended until the end of March 2021. This means that the JSS will be postponed, and also that the job retention bonus (JRB), due to be paid out in February 2021, will no longer follow the same timescales, and a retention incentive will be deployed at a different, more appropriate, time.

Once again, payroll professionals are having to deal with substantial changes within very stringent deadlines, so it is important that they are recognised and appreciated, during what will be an extremely busy – and, arguably, stressful – time. From a policy perspective, it has been difficult to keep track of the flurry of changes, but the team has endeavoured to keep members up to date with all of the news that will affect their day-to-day work.

#### Policy and research updates

As a reminder, the policy and research team publish updates through *News Online* which is delivered to members' email inboxes the next day. If preferred, weekly news emails can be requested by amending your details in the member section of the CIPP website [www.cipp.org.uk/my-cipp.html](http://www.cipp.org.uk/my-cipp.html). News is also

cascaded through social media platforms such as LinkedIn, Twitter and Facebook.

The team also produce factsheets and FAQs, also available through the Policy Hub, and record a monthly webcast which provides an overview of a given subject. As you may imagine, coronavirus measures have dominated the webcast subjects this year, but are by no means the only subjects covered.

#### Employer NICs holiday for employment of veterans

HM Revenue & Customs (HMRC) recently published a consultation – *Supporting veterans' transition to civilian life through employment* (<http://ow.ly/NVKr30riOO8>) – which ran from July until October 2020. This exercise explored some of the intricate details of the new entitlement to a secondary class 1 National Insurance contributions (NICs) holiday for a twelve-month period being introduced from 6 April 2021 for employers of veterans.

Although the consultation placed a lot of emphasis on certain definitions, including what the definition of a 'veteran' should be, and what the definition of 'civilian employment' should include, from the results of a survey and a virtual thinktank meeting that the policy team held it became apparent that payroll professionals were not particularly interested in these elements of the consultation. They were, however, concerned by the government's proposals for administering the initial year of the relief.

The intention is that employers will pay secondary class 1 NICs on the pay of the veterans for tax year 2021/22 and will then claim a credit for the amount in question via real time information (RTI) –

**...payroll professionals are having to deal with substantial changes within very stringent deadlines, so it is important that they are recognised and appreciated...**

*...would have created a considerable administrative burden for those working within payroll departments and dealing with sickness.*

specifically, the full payment submission (FPS) – from the start of the following tax year (2022/23). From this point onwards, a real-time solution will be offered, meaning that the employer does not pay secondary class 1 NICs on the pay of qualifying veterans.

Payroll professionals indicated that they did not favour this approach and asked why an existing NICs category (table letter) couldn't be utilised, such as 'M' which is used for employees under the age of 21. This letter means that no employer NICs liability is attached to the employee's earnings up to the upper earnings limit at which point the employer begins to pay secondary class 1 NICs at the rate of 13.8%.

Another suggestion was that a new NICs category/letter be established for the relief to be added to the payroll records of eligible veterans. The concerns were that this seems unnecessarily complex and poses an administrative burden on payroll departments. In addition, the fact that employers would have to wait to benefit from the employer NICs savings may deter them from using the entitlement in the first place.

The CIPP's policy team submitted a formal response to the consultation, which can be located in the Policy Hub area on the CIPP website: <https://bit.ly/38qOjNO>.

#### SSP1 form

Towards the latter end of 2019, the SSP1 form available online was amended (<http://ow.ly/TkIE30riORA>). This indicated that a SSP1 form would need to be completed every time an employee had a period of sickness that amounted to less than four consecutive days. This was a new requirement which would have created a considerable administrative burden for those working within payroll departments and dealing with sickness. The option provided was: "You have been off sick from work for less than 4 days". Similarly, several scenarios in which a SSP1 form would ordinarily be issued had been removed.

The CIPP and other stakeholders

approached both HMRC and the Department for Work and Pensions on the matter, and raised this issue at the Statutory Payments consultation group on which the CIPP sits, to advise that this form could potentially create extensive administrative burden and confusion for both employers and employees. The feedback was acknowledged and taken on board: the amended form was removed and the original restored.

At the time of writing, however, only the version that needs to be printed off and completed by hand has been changed (<http://ow.ly/pczt30riOTO>). The electronic version that is completed on screen and then printed has not been amended (<http://ow.ly/YJ4Z30riOUW>). This issue has been raised with the relevant departments, and it has been confirmed that both forms will be aligned, and that the on-screen version of the form will be changed in due course.

Payroll professionals may use whichever form is appropriate to the scenario they are dealing with. They are reminded, however, that there is no requirement to complete a SSP1 form for periods of absence that are less than four consecutive days in duration.

#### And, finally...

Member feedback plays a significant part in ensuring that the policy and research team accurately reflect views of the payroll profession which includes both members and also, by virtue of the CIPP's Chartered status, the wider profession. We gather views through surveys and through Think Tank roundtables, which normally would be held face-to-face but due to the exceptional circumstances this year have been held virtually, using Teams. This move has been successful, and we would just like to take the opportunity to say thank you to all members who have taken part.

Your views count, and they go a long way in affecting the direction of travel of government policy. ■

Wishing you all, a very happy and healthy 2021.

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# Advisory

The CIPP's **Advisory Service team** provides answers to popular questions

**Q: As it was my understanding that the March 2020 pension contributions were for tax year 2019/20, I made payment of them to the pension scheme before 6 April 2020. I was not aware, however, that the actual pension contributions for our company were to be paid to the defined contribution pension scheme around 15th of the following month (i.e. in April). Therefore, thirteen payments have been made to the pension scheme for tax year 2019/20.**

**Can you please advise if it is correct to make pension contributions for March before the start of the new tax year and what effect if any there might be for members?**

**A:** When making contributions to a pension scheme, employers and pension scheme administrators should be aware of the annual allowance and the due date for making contributions.

The annual allowance is the limit for tax relief purposes for: (a) the total amount of contributions that can be paid to a defined contribution pension scheme; or (b) the total amount of benefits that a member can build up in a defined benefit pension scheme. The annual allowance is currently £40,000 although a lower limit of £4,000 may apply to those who have already started accessing their pension. The annual allowance is not a 'per scheme' limit. (See guidance on the Pensions Advisory Service site: <https://bit.ly/3lqJKXz>.)

The rule is that member contributions to defined contribution pension schemes must be paid by 19th of the month following the month in which they were collected from pay (or by 22nd if contributions are paid electronically). These dates do not override any earlier due date specified in the payment schedule. Employer contributions must be paid by

the due date in the payment schedule.

Although March contributions might be scheduled for payment to the scheme by 19 (or 22) April, this does not preclude the possibility of making payment earlier (e.g. before 6 April). Though it would seem that thirteen monthly payments of contributions have been made in tax year 2019/20, thereby raising the possibility that the extra contributions might have pushed an individual's pension savings over the annual allowance, this may not be the case as the tax charge arises on excess savings in the individual's pension input period.

You should discuss the issues with the scheme administrator.

**Q: I have a request to deduct lease contributions for car hire from an employee's earnings.**

**Can you advise if this deduction is from net or gross pay?**

**A:** Any lease costs would be deducted from the individual's net pay. For more information see section 114(A) of the Income Tax (Earnings and Pensions) Act 2003.

If your employees have lease agreements, company car benefit taxation rules will apply, and the provision of the car must be reported in the P11D return. Any contribution made by the employee is then reported as an amount made good in the return.

**Q: We have implemented a new system whereby employees can have the facility of accessing early pay for pay already earned. Could this affect staff members who are on universal credit?**

**A:** The term used to describe a payment does not decide its treatment, as it is necessary to look at the substance of

the matter. Something described as an 'advance' may actually be a 'loan' or a 'payment on account of earnings'.

Section EIM42280 (<https://bit.ly/2GCFkh0>) of HM Revenue & Customs' (HMRC's) *Employment Income Manual*, addresses the issues.

If an employee and employer make an agreement under which the employer lends money that the employee agrees to repay at a future date or dates, the amount is a loan not a payment on account of earnings. A system allowing employees to draw an advance of salary is a loan repaid out of a future salary. PAYE (pay as you earn) is applied when the salary is paid – not when the advance is.

In the noteworthy case *Williams v Todd*, which involved an interest-free advance to an Inspector of Taxes, Justice Walton said "I do not consider that the advance can be truly called anything other than a loan", noting there was "an express term of the advance that it is repayable on demand" and adding "the advance does not fall within the scope of income to be assessed under the PAYE system."

For purposes of universal credit, the Department for Work and Pensions receives claimants' earnings information from HMRC that had been supplied in employers' full payment submission (FPS) returns. Thus, if the advance is a 'loan' and not a 'payment on account of earnings', the employer would not make a FPS to report the amount advanced, as the earnings would be included in the FPS return when the employee was paid for the pay period in question.

**Q: How would you deal with overpayments made in a previous tax year and those in a current tax year?**

**A:** Looking at overpayments from the point of view of PAYE and National Insurance contributions (NICs), the court case *British Railways Board v Franklin* provides guidance (see HMRC's *Employment Income Manual* at section EIM00815 (<https://bit.ly/38fk38j>)).

Where the employer can only recover the net overpayment, the guidance at paragraph 1.19 of the CWG2 (*Employer further guide to PAYE and National Insurance contributions*) (<https://bit.ly/2JIRSEH>), says that for current tax year overpayments of salary the employer has to correct the figures so that the payment to the HMRC would be adjusted in the following tax month.

For closed tax years, the employer is expected to correct the figures and to write to HMRC to recover the tax and NICs rather than the employee requesting a refund. Previously correcting the figures was done via an earlier year update (EYU) but from April 2020 the EYU ceased to be a valid submission. For future years employers will need to use the extended FPS to revise year to date payment data after 19 April.

**Q: Does a deduction for an overpayment affect the national minimum wage?**

**A:** There is no statutory limit on how much can be deducted from an employee for an overpayment made by mistake.

Guidance for calculating the minimum wage – *National minimum wage and national living wage* (<http://bit.ly/34xzzqB>) – published by the Department for Business, Energy and Industrial Strategy, lists the excepted deductions from pay (and payments by workers) that do not reduce minimum wage pay. This list includes “deduction from pay or payment by the worker to recover an accidental overpayment of wages” (<https://bit.ly/3eAuzZc>).

**Q: We have an employee who has been receiving a net payment instead of a deduction for several years resulting in an overpayment. If the employee does not pay back the money, would this have to be processed as a benefit in kind?**

**A:** If you can arrange repayment (ideally over a period no longer than the period

that the overpayment occurred), this will result in status quo and HMRC will not need to be involved.

If you are unable to recover the funds from the employee, you would not be able to report it as a benefit as cash cannot be classed as a benefit. Cash payments should always be subject to PAYE income tax and class 1 NICs. In this instance you would need to write to HMRC and explain that the employee has received income that was not subject to income tax or class 1 NICs so that it can raise a demand against the employee and the employer for unpaid taxes. HMRC may well choose to assert that the employer is liable fully for tax and NICs.

**Q: Our company wants to enable all employees to have a flu vaccination by either claiming through the employer-provided Medicash healthcare benefit, which we report as a P11D item, or if the employee did not opt for this cover and has no Medicash benefit, reimbursing for the cost incurred (average £13). What is the taxation position?**

**A:** Section 323A of the Income Tax (Earnings and Pensions) Act 2003 sets out a statutory exemption for trivial benefits. Under this exemption, if an employer provides a benefit to its employees, the benefit is exempt from being taxed as employment income if all the following conditions are satisfied:

- the cost of providing the benefit does not exceed £50 (or the average cost per employee if a benefit is provided to a group of employees and it is impracticable to work out the exact cost per person)
- the benefit is not cash or a cash voucher
- the employee is not entitled to the benefit as part of any contractual obligation, and
- the benefit is not provided in recognition of particular services performed by the employee as part of their employment duties (or in anticipation of such services).

If the vaccination meets all the above, no reporting is required. Note that if you are reimbursing employees for their flu vaccine, this does not fall within the trivial benefit exemption as it fails the ‘not cash’ condition. ■

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# Being payroll

**Tristan Day ACIPP, general manager, Infinet Cloud Solutions,** discusses the benefits of being part of the CIPP

## **What attracted you to membership of the CIPP?**

I was attracted to CIPP membership because I took on a new role working for a payroll software company and we needed to ensure that I understood all the minor details of payroll calculations, and to give confidence to our customers that we were doing everything we could to understand it all.

## **Which benefits in the CIPP membership package appeal to you the most?**

The benefit that appeals the most is the ability to speak to the CIPP Advisory Service when we have specific scenarios. Particularly low use case scenarios, where we want to make sure that we are running that passed as many people as we possibly can, and the Advisory Service is very helpful in pointing us in the right direction.

## **How has CIPP membership helped you in your career?**

CIPP membership has helped my career because it does give confidence that we know what we are talking about. When we're doing payroll, it is not just the company that we need to look after; we need to make sure that their employees are getting paid accurately and efficiently and on time. The CIPP helps us do that.

## **Tell us about a time when you really felt the benefits of having CIPP membership**

We realised the benefit of CIPP membership when the General Data Protection Regulation was rolled out. There were obviously particular concerns around data privacy and payroll information and how that needs to be transmitted, both to ourselves as software providers, but also within a business as well.

## **Tell us about the day you realised CIPP membership was really of value to you**

I really noticed the value of my CIPP membership when I was talking to a family member and we were looking at their payslips, having first understood all the rules and regulations around it. When we looked at it, we realised they had paid about £2,000 too much in student loan deductions, which they were able to go and reclaim.

## **For someone who was thinking about joining the CIPP, what would you advice be to them about the benefits they might receive?**

If someone is looking to join the CIPP, I would recommend that they do look at it as a career progression path. It does make people more employable and it also gives those around you confidence that you know what you're talking about.

## **Why is being a CIPP member important to you?**

CIPP membership is important to me personally because it helps me maintain my knowledge and my understanding. But more importantly for us as a business. We are a payroll software provider, and at the end of the day if we can't speak to our peers and customers with knowledge and confidence then, really, we've got no right being in the industry. And being part a professional organisation like the CIPP is key.

If you would like to be part of the being payroll series, please email [info@cipp.org.uk](mailto:info@cipp.org.uk)



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**SO LONG, FAREWELL – AND THANK YOU**

WE END 2020 with the news that Samantha Mann MAAT MCIPPDip, policy and research technical lead, will be leaving the Chartered Institute at the end of December in order to spend more time with her growing family.

We thank Sam for her dedication, support, and enthusiasm over many years of service which will be sorely missed – not only by those within the CIPP but by those in the wider payroll industry for whom her knowledge has had a huge impact. We wish Sam the best for the future.

**NEW ROLE FOR CARSTEN STAEHR FCIPP**

LONG-TIME ADVOCATE of the payroll profession, Carsten has become chairman of Cintra HR & Payroll Services, following Cintra's recent accession to the Payroll Software Services Group which enables Cintra to develop and grow its market leading solutions. Carsten's new role will see him focus on developing Cintra's prestigious client base, whilst continuing to forge valued industry connections and partnerships.

Carsten commented: "I'm excited by the innovation and forward-thinking attitude of the PSSG and its genuine desire to develop solutions which make life better for the profession I hold dear. I'm delighted to be at the forefront of building networks which will enable us to be more effective and helpful than ever – these are exciting times for me personally, my Cintra family and our wonderful clients. I am looking forward to the future".

**IAN HOLLOWAY MSc FCIPP JOINS I-REALISE LTD**

IAN HAS joined i-Realise, an independent change management business operating in the HR, payroll and operations space, as payroll consultant. His role will include: publishing insights on payroll legislation and best practice through workshops, white papers, newsletters, and face-to-face presentations; leading i-Realise's monthly forum for in-house payroll leaders and managers; and contributing to payroll training.

Ian said: "Payroll is an ever-changing profession that requires clear and tailored communication, support and education. As an independent change management business, i-Realise have developed and delivered clear and robust strategies that enable this, and I am thrilled to be joining their colleagues in 2020."

Simon Puryer, managing director of i-Realise, said "We've worked with HR and payroll teams for over ten years [and] seen how much Ian has given to the profession. He will really help us better inform and support our clients and the wider payroll profession."

**NICK SOUTHWELL APPOINTED BY ACTIVPAYROLL**

GLOBAL PAYROLL and tax compliance specialist, activpayroll, has appointed Nick Southwell as chief financial officer. He will be responsible for helping shape the strategic and continued international growth, capitalising on the ever-increasing demand for activpayroll's payroll and tax solutions.

Nick Southwell said: "I'm certain that my varied experience built over the years will allow me to further strengthen not only activpayroll's finance team, but the business as a whole, helping it achieve its potential."

Alison Sellar OBE, chief executive officer of activpayroll, commented: "Nick's appointment comes at a pivotal time and I am confident he will play an integral role as we enter the next stage of our global growth strategy."

**PORTFOLIO GROUP PROMOTES GILLIAN OWEN**

THE PORTFOLIO Group has promoted Gillian Owen to associate director. Joining the organisation in 2018 as manager, she has built on Portfolio's market-leading reputation. Her initial team of just two recruiting solely for payroll has grown to eight consultants working across three divisions (payroll, HR/reward, credit control), and almost doubling sales figures within the first full financial year. Gillian commented: "I am delighted to have been promoted. I have been so lucky to be a part of a team that's been instrumental in the development of the Manchester office, built from the market reputation... and also proud of the fantastic, diligent and professional service we offer to all our clients."

**John Robert (Bob) Newsome 26 APRIL 1951–19 OCTOBER 2020**

BOB BEGAN his career working for Peterborough Software as a systems engineer, joining MidlandHR in 2010 where his roles included 'Government relations manager'. He retired in 2018.

Neil Tonks ChMCIPPDip has supplied the following.

"I knew Bob for the last ten years or so of his career, first meeting him during the consultations with HMRC about real time information. He was so valuable to the process of designing RTI that he was seconded part-time to HMRC for a number of months.

"Later, Bob joined MHR and we became colleagues. He quickly became a favourite both amongst the customers and the staff for his exhaustive knowledge and his knack of getting his message across clearly and concisely. He always had an anecdote or a (terrible!) joke ready to lighten the mood or break the ice as occasion demanded.

"Above all, Bob was a kind, gentle man who will be sadly missed."

# Mental health support

**Harriet Calver, senior associate** in the employment team at **Winckworth Sherwood**, explains that such support is now an essential business concern



**M**ental ill-health is now more prevalent than ever. Even before the Covid-19 pandemic it was the most common cause of long-term absence in UK workplaces and accounted for more than half the working days lost each year. Whilst we cannot quantify at this stage the true impact of the pandemic on the mental health of employees, early indications show that the pandemic, and the associated measures taken by the government to control it, have had a severe and negative impact on overall well-being.

Such a prevalence of mental ill-health is a major concern to employers, not only from an employee welfare perspective, but because mental health is integral to how employees feel about their jobs and how they perform. Poor mental health leads to increased absenteeism and staff turnover, reduced engagement and productivity – all of which is very difficult to manage at a time when many businesses are already dealing with the fallout from the pandemic and some are facing serious financial hardship.

Many employers are justifiably concerned about the negative impact that enforced working from home all or most of the time is having on employee well-being. Of course, for many employees working from home may be a positive thing and enhance their well-being and work-life balance, but for a large number of employees it has led to isolation, working

longer or more irregular hours and an inability to switch off due to the lack of separation between work and home and the pervasive use of technology. It is also harder for employers to spot the signs of poor mental health when employees are working from home.

A recent survey by Vitality shows that young employees are particularly at risk from mental health issues, with 12.5% of those in the 21–25-years-of-age category indicating that they suffer from depression. Concerns and stress over job security and personal finances in the current climate are also taking a toll, especially for those at the start of their career, many of whom feel unable to take time off from work even when sick.

There is evidently a need, now more than ever, for employers to put in place support systems for their employees who are experiencing poor mental health and, perhaps just as important, to implement measures to help prevent a decline in their employees' mental health, boost workforce morale and ensure that any issues are caught at an early stage.

Many employers have already increased their mental health support offering as a result of the pandemic. The range of mental health support on offer varies and examples we have seen include virtual well-being sessions, such as online yoga or mindfulness classes, encouraging employees to have thirty-minute virtual coffees with their colleagues, holding

lunch clubs and virtual social events, such as quizzes, to increase employee engagement.

More direct methods we have witnessed include the introduction of mental health first-aiders or mental health champions who employees can approach confidentially to discuss any mental health problem or concern. Line managers have also been provided with training so that they can more easily spot the signs of mental ill-health and learn how to handle sensitive conversations around this issue. The aim of these initiatives is to promote a culture where it is acceptable to talk about and seek support for poor mental health.

In the long-term, as remote working appears to be here to stay, employers have begun putting systems in place, such as risk assessments and a mental well-being at work policy. By monitoring working hours more closely, employers can assist their employees to regain a healthy work-life balance and avoid 'presenteeism'.

There is no doubt that mental ill-health is now an essential business concern and employers need to go much further than ever before to implement ways to counteract this and prioritise well-being. In our experience, an open dialogue and good communication between employees and their managers and colleagues is key to ensuring employees feel supported and that they can ask for help. Simply relying on written policies and/or paying lip service to the concept of positive mental health in the workplace will not be enough. Managers need to lead by example and champion mental health initiatives in order to break down stigma, gain traction across the organisation and to build a culture where employees feel comfortable to share their feelings and concerns. ■

***...monitoring working hours more closely, employers can assist their employees to regain a healthy work-life balance...***

# Diary of a student...



## Veronika Mackova MCIPPDip

Payroll manager,  
Wilson Partners Limited

### Tell us a little about your background and life so far.

I studied at Aberdeen University and graduated in 2014 with a degree in European studies. After graduating, I found myself accepting a role in human resources (HR), embarking on a completely different career path to my original plan. From the first day of joining HR I was eager to get into the 'payroll world'. After a three-month secondment in payroll I was offered a fixed-term contract, which then turned into a permanent role. I have been in payroll for five years now and I plan to stick with it.

### What can you tell us about your career and qualifications?

As I had no previous payroll experience, I had to start from scratch. My first job in the field was as a payroll adviser for a retail company which had 24,000 employees on payroll during peak periods. As I was really eager to learn, my manager at that time enrolled me on to the National Payroll Certificate, which I completed in 2017. She believed in me, and I don't think I would have managed my studies, including the Foundation Degree, without her support.

In summer 2017, I was offered an assistant payroll manager position, which required the CIPP qualification. I saw this position as a great opportunity to progress, so I enrolled on the Foundation Degree course in autumn 2017 and graduated in November 2019. This opened a new gate to become a payroll manager in an accountancy company.

### Why did you choose to study the Foundation Degree?

I chose to study the Foundation Degree because I wanted to become CIPP qualified and also because, I knew it would not be possible to progress my career without it.

### How did you find the qualification?

It was certainly a challenge; however, as they say, nothing worth having comes easy!

### What advice would you give to others who are thinking about studying in order to improve their career?

Try it, be open to new challenges and step out of your comfort zone. I think this is the best way to climb the career ladder.

### How did you manage the work-life balance and your study? Do you have any tips for others in the same position?

I am not going to lie – it was difficult. I am a well-organised person but studying and working full-time was a completely different experience and I had to sacrifice a lot, including my social life. However, it was definitely worth it.

My tips: plan, be organised, take time out to relax, and find 'me' time.

### What would you say is the most important thing you learnt?

The degree improved my management skills and helped me extend my technical payroll knowledge.

### What did you gain from this qualification – both in terms of skills and also career progression?

The role gave me the opportunity to better understand different aspects of payroll, from legislation and systems through to management. I believe payroll is about life-long learning and staying on top of constantly changing regulations.

Completing this qualification was a crucial step in my career and only the beginning of my study journey in the 'payroll world'. ■

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### CJRS extended and lockdown announced

THE JOB retention scheme, which was scheduled to replace the coronavirus job retention scheme (CJRS), was cancelled at short notice. The UK government announced extension of the CJRS from 31 October 2020 until 31 March 2021, along with other amendments. See pages 16, 17 and 38.

In England, a lockdown came into effect on 5 November which would end after four weeks on 2 December.

### CJRS claims portal

THE ONLINE portal for making claims under the extended version of the CJRS opened on 11 November for those wishing to make CJRS claims relating to periods beginning on or after 1 November 2020.

Under the extended CJRS, it is mandatory for claims to be submitted by 14th of the month following the period to which the claim relates. (If the 14th falls on a non-working date, the deadline is shifted to the next available working date).

### England: shielding and the clinically extremely vulnerable

GUIDANCE ON shielding and protecting people who are clinically extremely vulnerable (CEV) from Covid-19 can be found here: <https://bit.ly/2RjSlc5>. Anyone in the CEV group will previously have received notification from the National Health Service or from their GP (general practitioner).

New shielding measures apply for the four weeks up to 2 December 2020. At the end of the period, the intention is to look to return to a regional approach with further guidance issued.

Those in the CEV group cannot attend work and may be eligible for statutory sick pay (SSP), employment support allowance or universal credit (subject to other eligibility criteria being met).

### Shielding note or letter for SSP

IN UPDATED guidance (<https://bit.ly/35GO9A5>) for the coronavirus SSP rebate scheme, HMRC confirms that employers may ask employees to provide a 'shielding note' or letter from their doctor or health authority, because employees are not required to provide a doctor's fit note in order for their employer to make a claim.

### Redundancy, notice

EMPLOYERS MAKING redundancies should do so in accordance with the normal rules (e.g. giving a notice period, and consulting staff).

For claim periods relating to November 2020, employers can continue to claim for a furloughed employee who is serving a statutory notice period.

For claim periods starting on or after 1 December 2020, employers cannot claim for any days on or after this date for which the furloughed employee was serving a contractual or statutory notice period (including those serving notice of retirement or resignation). If an employee subsequently starts a contractual or statutory notice period on a day covered by a previously submitted claim, the employer will need to make an adjustment.

When making an employee redundant, statutory redundancy and statutory notice pay are to be based on the employee's normal wage rather than the reduced furlough wage.

If an employee was made redundant, or had ceased working, on or after 23 September 2020 their employer can re-employ them and put them on furlough. This applies as long as the employee was employed by the employer on 23 September and a PAYE RTI submission was made to HMRC between 20 March 2020 and 30 October 2020, notifying a payment of earnings for that employee.

### Archived CJRS guidance

SOME OF the pages which contain obsolete CJRS guidance have been removed from Gov.UK and archived. These pages can, however, still be viewed through the UK Government Web Archive part of *The National Archive*. A table providing relevant search results and links for each of the main CJRS guidance pages can be found here: <https://bit.ly/3kLVjh0>.

### SSP enhancement in Wales

THE WELSH government has announced (<https://bit.ly/38SvOSw>) that there will be additional support for care workers who are required to stay off work due to actual (or suspected) Covid-19 or because they have to self-isolate. The intention is to remove the financial disadvantage to care workers of staying away from work, which will help to protect the most vulnerable citizens.

The statutory sick pay (SSP) enhancement scheme (<https://bit.ly/38SvOSw>), which will run until 31 March 2021, allows employers to pay eligible workers at full pay if they cannot work due to Covid-19. Payments made under the scheme are regarded as earnings, so liable to income tax, etc.

Eligibility depends on several factors: the care worker's role; their type of employment; the reasons for their absence; and what sick pay they get.

Where an employer is eligible to participate in the scheme, all potential eligible employees are to submit a brief declaration form which states the employee is content for personal data to be shared with their local authority to administer the scheme. It is recommended that employees complete these declarations as soon as possible, so they are in place for any relevant absence.

Declarations forms will be sent to employers by the local authority.

Employers and care agencies are responsible for: advising staff of the availability of the scheme; issuing declaration forms; retaining declaration forms for audit/checking purposes for a minimum of 24 months after date of the payment; continuing to pay employee or agency staff at full pay (no backdated payment should be made); submitting claims to the local authority.

## CJRS receives twelfth hour reprieve

**Samantha Mann MAAT MCIPPDip, CIPP policy and research technical lead**, delves into the intricacies and timings of recent sudden changes which unsurprisingly have prompted concerns for payroll professionals



The year 2020 will be remembered for many reasons. For the professionals serving employers through the delivery of payroll services, whether for colleagues or clients, 2020 has provided us with ample tests of our ability to respond to change in a way we could never have imagined even in our wildest nightmares.

With just 24 hours until it was due to go live, guidance was finally published for the job support scheme (JSS). However, within 24 hours of this prime minister Boris Johnson was announcing that a four-week period of lockdown in England would begin from 5 November. This led to the announcement that the JSS would be postponed and the coronavirus job retention scheme (CJRS) would continue for a further month, subsequently confirmed by the chancellor, Rishi Sunak.

The various Covid-19 restrictions may have prevented us from having anyone knocking at our doors on 31 October, for the annual trick or treat goodies, but we didn't entirely escape this Halloween tradition. Did the news from the prime minister and the chancellor deliver trick or treat?

**...extended until 31 March 2021, with no gap from 31 October when the scheme was due to close.**

### JSS batted to the long grass with JRB

Originally, the prime minister said that the CJRS would be extended until December but in an announcement on 5 November, the official date England started its national lockdown, the chancellor declared that CJRS would be extended until 31 March 2021, with no gap from 31 October when the scheme was due to close.

The rate of government support would return to the rates we last saw in August 2020, with government funding 80% of usual pay up to a monthly cap of £2,500. The employer would be required to fund all on-costs for employer National Insurance contributions (NICs) and minimum employer pension contributions.

Employees can be furloughed in full, for any period or time, or be required to work for a proportion of their usual hours and be furloughed for the remainder of their usual working hours.

To be eligible, an employee will need to have been on the employer's PAYE (pay as you earn) scheme as at 30 October and have been in a RTI (real time information) PAYE submission between 20 March 2020 and 30 October 2020.

### Claim deadlines

Although claims can be made in advance of paying furlough payments, they must be made by the 14th following the month being claimed. If the 14th is a non-working day, the claim deadline moves to the first available working day. See table.

Claim for	Submitted by
November 2020	14 December 2020
December 2020	14 January 2021
January 2021	15 February 2021
February 2021	15 March 2021
March 2021	14 April 2021

We know from talking to members that this reduced claim deadline has not proved popular. Having a month after the claim period was tight enough for employers that want to ensure their claims are accurate. Reasons received for not being able to claim by the 14th, include:

- complexity of claim calculations
- audit and double checking needed for data and claims
- existing and complex payroll processes and timelines
- limited resources available for payroll and claims processing
- conflict between normal business-as-usual operational issues of a payroll.

This list is not exhaustive.

Along with other stakeholders the CIPP policy team has lobbied HM Revenue & Customs (HMRC) and government in a bid to reconsider the unachievable deadline. Guidance has been updated to allow employers additional time to make claims in the event they make an underclaim.

On Friday 13 November, guidance was updated in recognition of this, with HMRC advising that it "may accept a claim made after the relevant deadline if you had a reasonable excuse for failing to make a claim in time and you then claimed without delay after the excuse no longer applied."

For claims relating to periods after 1 November 2020, employers are able to increase the amount of their claim if made within 28 calendar days after the month to which the claim relates. If this would fall on a weekend or non-working day, then it moves to the next working day.

### Relationship with previous CJRS

Employees on any type of contract can be furloughed, including agency workers and single company directors so long as all eligibility criteria are met.

There are other significant changes. Under the previous CJRS flex rules, a strict limit prevented the employer from claiming for more employees beyond those who had been claimed for under the first phase of the CJRS. This limit has not been carried forward from 1 November; indeed, an employer claiming under the extended rules does not need to have claimed under any previous CJRS, and the employees being claimed for do not have to have been subject to a previous period of furlough.

### Claim amounts

For employees who were previously eligible and included in a CJRS claim, the payment claimable is as follows.

● **Fixed rate employees** – The reference period is the last pay period ending on or before 19 March 2020 for employees who either:

- were on the payroll on 19 March 2020 and received a payment of earnings in the tax year 2019/20 which was reported to HMRC in a RTI full payment submission (FPS) on or before 19 March 2020

## ...employees will have more visibility of their employer's actions and could therefore aid HMRC in tackling abuse.

- the employer made a valid CJRS claim for a claim period ending any time on or before 31 October 2020.

For periods starting from 1 November 2020, the reference period for all other employees is the last pay period ending on or before 30 October 2020.

● **Variable pay employees** – For employees who were on the payroll on 19 March 2020, and who received a payment of earnings during the tax year 2019/20, which was reported to HMRC in a RTI FPS on or before 19 March 2020, the reference pay will use:

- the wages earned in the corresponding calendar period in the tax year 2019/20
- the average wages payable in the tax year 2019/20.

The same applies for employees for whom there was a valid CJRS claim ending any time on or before 31 October 2020.

Claims for all other employees should be based on 80% of the average wages payable between 6 April 2020 (or, if later, the date the employment started) and the day before they are furloughed on or after 1 November 2020.

### Recording keeping

As previously, written confirmation needs to be issued to the employee detailing the agreement that has been reached between the employer and employee. This needs to be re-issued with each variant and retained for five years.

Records needed to support the claim, such as hours worked, or hours recorded as furloughed, should be retained for six years.

### Annual pay periods

Employees who are paid using an annual pay period will be eligible for CJRS payment where made after 20 March and not later than 30 October and all other eligibility criteria are met.

Director-owned companies are subject to the non-working rules as with any other employee; however, they are permitted to carry out statutory duties as required of their role.

### CJRS TUPE

Initially, the information provided suggested that for claim periods after 1 November 2020, a new employer could claim in respect of the employees of a previous business if TUPE (transfer of an undertaking, protection of employment) PAYE business succession rules applied to the change in ownership, and they had transferred on or before 1 September 2020. However, this incorrect information has since been amended.

Employees transferred from their old employer to their new employer on or after 1 September 2020 will be eligible for the scheme. Employees have to have been employed by either their old or new employer on 30 October 2020 and been included in a PAYE RTI submission to HMRC whether by their old or new employer between 20 March 2020 and 30 October 2020.

### Notice periods

Claims made for notice periods have always been possible while the employee is serving a period of contractual or statutory notice, and this continues in November. However, from 1 December this is no longer the case so that employees serving a period of notice cannot be included within a CJRS claim.

### Employers named

HMRC has advised that it will publish the names and company registration numbers of those employers that are making claims for CJRS grants from 1 December onwards. Could this be in an attempt to reduce the fraudulent claims that have been seen previously as employees will have more visibility of their employer's actions and could therefore aid HMRC in tackling abuse?

### Trick or treat?

It has been a long year, and the profession has battled to keep up with hundreds of iterations of guidance, some of which has been published in advance but with much delivered at the twelfth hour. It would seem likely that this pattern is set to continue as we see the latest iteration of CJRS. ■

# The (payroll) nightmare before Christmas

**Lora Murphy ACIPP, CIPP policy and research officer**, reveals the processing challenges payroll faces in December



Millions of employees appreciate the additional time off that many employers grant over the festive period and are welcoming of the earlier December pay date which a lot of businesses offer. In addition, some employers may want to express their thanks and spread goodwill to their staff by providing gifts or vouchers or hosting a Christmas party.

For those working within the payroll department, however, there are additional concerns beyond what outfit to wear to the Christmas 'do' or what to do with those extra annual leave days. It is generally accepted that December is a nightmarish month to be working as a payroll professional.

To find out what are the biggest challenges in payroll departments ahead of Christmas, the CIPP's policy and research team posted a Quick Poll question. The results highlight that the shorter processing month provided the most significant challenge, commanding 83% of responses. This was followed by issues in obtaining additional information from different departments, which 7% of respondents confirmed was the most challenging aspect of the December payroll. One in twenty (5%) stated that the additional pay elements to be considered during the payroll period for Christmas, such as a Christmas bonus or gifts, and the associated tax and National Insurance contributions (NICs) implications, caused the most disruption. Real time information (RTI) considerations were cited by 4% of respondents; and 1% confirmed that something else altogether caused them

and their team the biggest headache over the festive period. All these are discussed below.

## Shorter processing month

Payroll professionals are extremely busy individuals, consistently working to deadlines and incorporating whatever pay elements they are required to, in order to ensure that employees are paid, both accurately and on time for each pay period. There are many businesses that actually close down over the Christmas period, or that do not operate on bank holiday dates. Additionally, a lot of businesses shuffle the December pay date forward, so that employees have access to extra money, whether for gifts or for celebrating over the festive period or indeed for both!

Payroll teams will have just as much information to enter into the payroll system as in any other pay period, and potentially more than usual if the business is offering gifts or putting on events for staff; and, of course, they have a shorter timeframe in which to action it all. It quickly becomes easy to see why payroll processing in December can be a period of such stress for those involved, particularly as many companies will not offer additional resource in payroll departments to account for the shorter month or any additional work that needs to be completed.

Take the example of an employer who ordinarily pays their staff on 25th of the month – which this year falls on Christmas day. In this example, the employer opts to pay their staff on the 21st of the month. As payments are submitted by BACS, which

takes two working days from the date the payment is sent to clear into employee bank accounts, the payroll department would need to finalise payroll by the 17th at the latest, as the 19th and 20th are weekend dates. This removes a significant chunk of time for the payroll team to complete all of their tasks.

Where pay dates are brought forward, there are steps that can be taken to ensure that payroll processing runs as smoothly as possible. Annual processing schedules should include the impact of Christmas so that clients and colleagues are aware of earlier deadlines.

Communications can be circulated nearer the time such as messages on payslips or reminders circulated in newsletters and communications from the payroll team to ensure the timely flow of information through to payroll for December.

## RTI considerations

Earlier pay dates have RTI implications for payroll departments to consider. Back in December 2018, HM Revenue & Customs (HMRC) wrote to employers to advise of a temporary easement on reporting PAYE (pay as you earn) information in real time. In the December 2019 issue of the *Employer Bulletin* (<http://ow.ly/vFri30rgjKE>), HMRC confirmed that this easement would be made permanent.

Any employers paying early over the Christmas period must ensure that the contractual pay date is reported as the payment date in the full payment submission return, and that the return is submitted on or before that date. This is primarily linked to universal credit claims and protecting employee eligibility and entitlements. This has often been cited as a cause of confusion within payroll

**...December is a nightmarish month to be working as a payroll professional...**

departments in the month of December, so teams should ensure that they are aware of what the rules are, and also what the effect of reporting incorrectly could be on certain members of staff, who otherwise may see the payment of their state benefits distorted due to this error.

### Obtaining information from other departments

Payroll teams will receive criticism if employee pay is incorrect. There are many instances, however, where pay has been processed incorrectly due to incorrect or incomplete information being submitted by managers or other supervisors from different departments e.g. bonuses and overtime.

When considering this, alongside the fact that many people opt to take annual leave in December, action is needed to ensure accurate and timely information is received.

### Additional pay elements

Businesses may choose to offer gifts to their employees or to host a Christmas party in December. Whilst applauded, it can create additional workload, not just for

## ...results in increased stress levels in the payroll department...

processing but also because each different element will have associated tax and NICs implications, which need to be observed and implemented correctly to avoid penalties and fines.

This element of processing payroll in December emphasises once again the importance of planning and preparation. If payroll departments have made colleagues in the wider business aware of changes to schedules and the importance of submitting information on time, they are more likely to make additional effort to get data across to the team, accurately and within the specified timeframe.

Where extra pay elements need to be considered in December, communication remains key so that other teams, responsible for organising annual events, for example, send all relevant information to the payroll department, ensuring that nothing slips through the net.

### Other

The 1% of 'other' responses to the Quick Poll included the following.

A member, who processes a weekly payroll of approximately 400 staff, stated that "although there's no shut down over Christmas, getting pay information in time for paying on a Friday each week is particularly hard in December, when managers seem to take an increased amount of annual leave. This, when coupled with the three bank holidays, results in increased stress levels in the payroll department"

Another member confirmed that "they also have to deal with applications for benefit renewals, which take effect from 1 January". ■

It is easy to see why payroll professionals are probably the last to enjoy the festive joy during December.

This year, more than any previous year, it is vital for everybody to get an opportunity to relax and unwind, and maybe indulge in a little too much turkey and wine. So, as we race towards the final pay run of 2020, I wish you a merry festive season and a happy and healthy 2021.

## Why 25th December? A brief history...

Christmas, the Feast of the Nativity, is an annual festival observed primarily on 25 December as a religious and cultural celebration. Christmas day is a public holiday in many of the world's nations, forming an integral part of the holiday season around it.

The date of birth of Jesus Christ was fixed in the early fourth century by the Roman church corresponding to the date in the Roman (Julian) calendar of the winter solstice. In addition, 25 December is nine months after 24 March: broadly, the date of the vernal equinox and linked to the conception of Jesus.

One hypothesis is that the Roman church deliberately chose 25 December to appropriate Pagan religion festivities that were held by the Romans in honour of the Sun god Sol Invictus. However, there are counter suppositions.

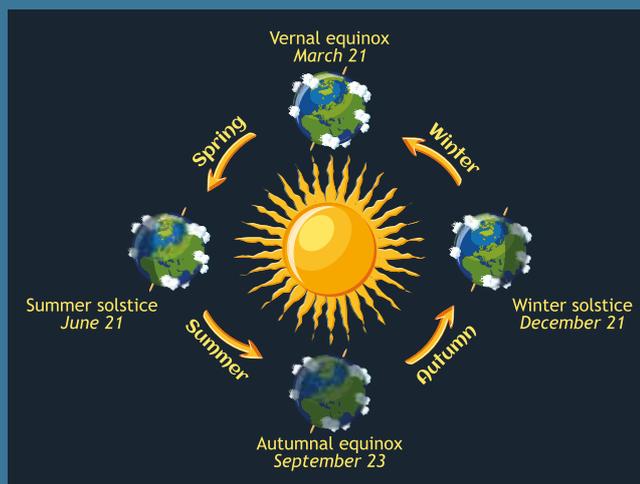
Although most Christians (and others) celebrate on December 25, some do so later (e.g. 7 January). The explanation for this difference derives from the adoption (or not) of the Gregorian calendar which replaced the Julian calendar as it did not accurately reflect the time it takes the Earth to circle the Sun.

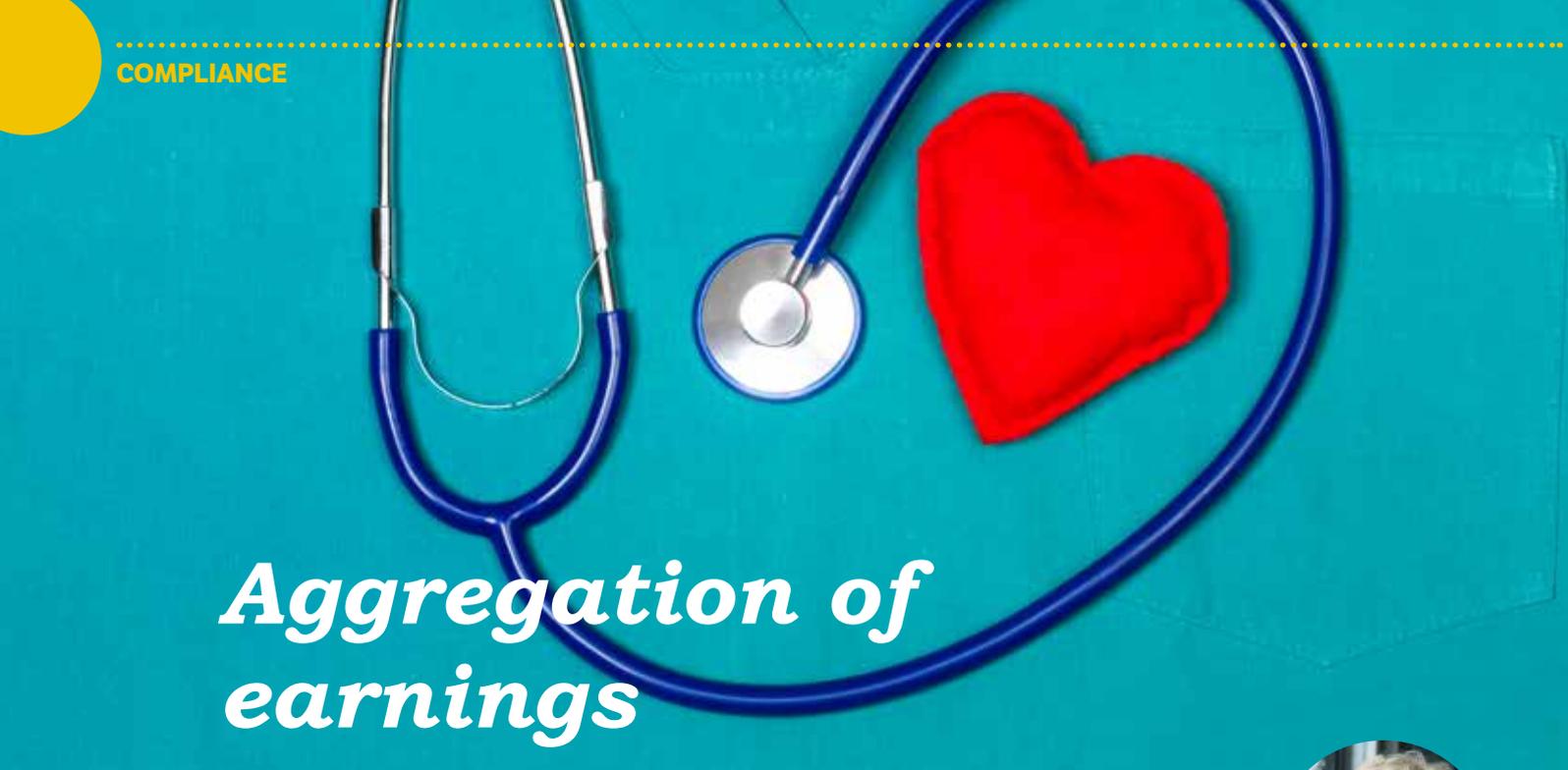
Though the Gregorian calendar was first introduced in 1582, it took more than 300 years for all countries to switch from the Julian calendar. Aligning the new calendar with the vernal equinox and winter solstice, meant radical change in the year of switchover.

In 1582, pope Gregory XIII decreed that ten days be dropped when switching. In the UK, the switch occurred in 1752 – which, incidentally, is partly the cause of the UK tax year beginning on 6 April.

Although banned for several years by the Puritans because of the association with drunkenness and other behaviour, Christmas day was restored as a holiday in England in 1660. In 1834, 25 December became a bank holiday.

(Source: *Wikipedia* (<https://bit.ly/3lF3dDU>))





# Aggregation of earnings

**Peter Minchinton, employment taxes senior manager at PSTAX**, discusses the implications of a question which has recently arisen at a NHS Trust and could be set to become a major national issue



Where an employee has more than one job with the same employer, the employer must consider whether the earnings need to be aggregated for the purposes of calculating class 1 National Insurance contributions (NICs). 'Aggregation' here is the process of adding together the earnings from two, or more, employments and calculating NICs on the total.

Currently the National Health Service (NHS) Trust in question has employees who are paid via both the substantive monthly payroll and, from time to time, the weekly 'bank' payroll. The Trust calculates the class 1 NICs on both the weekly and monthly earnings using the monthly payroll.

HM Revenue & Customs (HMRC) has advised the Trust that NICs on all the earnings must be calculated using a weekly earnings period.

The impact of using a monthly earnings period, rather than weekly, is that employer (secondary) NICs are under-deducted but employee (primary) NICs are over-

deducted. The HMRC view is that they will collect the underpaid employer NICs – which, in this instance, could be around £250,000 per year – but will not repay the annual overpaid employee NICs of circa £1,240,000. Bear in mind that these sums are for just one NHS Trust.

We have been advised that HMRC will be taking action to address this matter across the sector. At this stage, however, it is unclear whether HMRC will approach NHS Business Services Authority (BSA), which is responsible for the Electronic Staff Record (ESR) payroll used by NHS Trusts, consider the wider implications and issue revised guidance, or whether it will try and pick-off Trusts one by one through employer compliance reviews.

## What is the position in law?

The relevant legislation is contained in the Social Security Contributions and Benefits Act 1992 and the Social Security (Contributions) Regulations 2001. Regulation 14 of the latter allows employers not to aggregate where, due

to calculating earnings separately, it is 'not reasonably practicable' to do so.

This is a complex area with a considerable history across public bodies. There were several contentious cases involving local authorities around fifteen to twenty years ago, where the key issue was how what is now Regulation 14 should be interpreted. The term 'not reasonably practicable' is not defined in NICs legislation, so HMRC uses its ordinary meaning.

HMRC's National Insurance Manual (<https://bit.ly/2HUh7D3>) provides a detailed description of the 'not reasonably practicable' test, based on the available case law. Importantly, HMRC observes that it can be 'reasonably impracticable' to aggregate earnings on the grounds that they are separately calculated, even if the employments concerned are with the same employer and covered by the same payroll system. Its guidance also acknowledges that the cost to the employer is to be taken into account, not only in terms of finance, but in terms of time, effort and the effect on the business because "the weight of the cost of compliance should not be disproportionate to the loss of [NICs] and benefit entitlement".

The guidance is written in a way which places the burden of proof on the employer. To justify such a decision the

***...using a monthly earnings period, rather than weekly, is that employer (secondary) NICs are under-deducted but employee (primary) NICs are over-deducted.***

guidance states that the employer must consider the potential costs involved in aggregating and also the impact on employees who may, due to the failure to aggregate, end up without a NICs record and no entitlement to related benefits.

But how is this relevant in the case of the NHS Trust in question? The Trust has found a way to aggregate but only by using the monthly earnings period to do so.

Regulation 6 sets out the earnings period over which NICs must be calculated. Where there are different earnings periods, and the earnings fall to be aggregated, then the regulation prescribes the period to be used as the shortest one. In this instance, this is one week.

So, this returns us to the question of whether aggregation is 'not reasonably practicable'. Aggregation using monthly earnings period is, clearly, reasonably practicable, since this is achieved by the Trust and many other Trusts using ESR capability. However, the true test here is whether aggregation using a weekly earnings period is 'not reasonably practicable'.

Let us return to that point later, after establishing how these different methods of aggregation impact on the numbers in the worked examples.

### The 'wider' issues

This is clearly a matter of principle rather than being about a loss of NICs to the Exchequer. Indeed, using the legislative method, the Exchequer would lose out overall, as shown above.

We have sympathy with the view

**...the Trust would appear to have taken the 'least criticisable' option of aggregating based on monthly earnings periods rather than not aggregating at all.**

## Worked examples

### Scenario A (monthly earnings period)

Week 1:	£225.00
Week 2:	£187.50
Week 3:	£275.00
Week 4:	£187.50
April:	£5,333.00
Total pay:	£6,208.00
Total Employee NICs =	£445.82
Total Employer NICs =	£758.44

### Scenario B (weekly earnings period)

Week 1:	£225.00 Employee NICs = £5.04 Employer NICs = £7.72
Week 2:	£187.50 Employee NICs = £0.54 Employer NICs = £2.55
Week 3:	£275.00 Employee NICs = £11.04 Employer NICs = £14.62
Week 4 (including April monthly pay):	£187.50 + £5,333.00 Employee NICs = £184.65 Employer NICs = £738.43
Total Employee NICs =	£201.27
Total Employer NICs =	£763.32

Comparing the total NICs due in each scenario reveals that scenario A leads to higher employee NICs of £244.55 (i.e. £445.82 - £201.27) but lower employer NICs of £4.88 (i.e. £758.44 - £763.32), than the amounts obtained when using a weekly earnings period.

that employees should not be facing an additional NICs cost due to use of a monthly earnings period, rather than weekly. But can aggregation be achieved using a weekly earnings period?

Over the course of a tax year, there would be twelve weeks where there was both a monthly and weekly payment, with forty weeks where there was just a weekly payment.

Such a calculation would depend on several factors; for example: can monthly pay be processed during the period of a single week? Weekly pay would seem to be simpler to process because it is based on time input during a set period, whereas monthly pay would seem to carry more complexity such as around incremental pay, overtime, salary sacrifice, termination issues, etc. However, we have been reliably informed that ESR has advised that aggregation using a weekly earnings period is not something that it can currently cope with.

Should ESR have to find a way to do it? Or can Trusts fall back on the 'not reasonably practicable' reason? This may be the crunch question.

Since we are advised that ESR cannot, sensibly or reasonably, aggregate earnings using a weekly earnings basis, the Trust would appear to have taken the 'least

criticisable' option of aggregating based on monthly earnings periods rather than not aggregating at all. Is it right for that approach to lead to a retrospective settlement of employer NICs?

### Conclusions

If there are to be changes introduced by NHS Trusts as a result of this issue, we believe that should be a national matter first considered by a number of relevant stakeholders, including the Department of Health and Social Care, the NHS BSA, and staff representatives across the NHS. If, as HMRC advises, this is already a national issue and being pursued, then employers need to see the relevant communications across the stakeholder group and any professional advice obtained, so that proper consideration to the matter can be given, going forward.

It remains to be seen how HMRC will seek to deal with this matter. One would hope that common sense will prevail. Stakeholders should be invited to contribute to the discussion, particularly ESR, and a national strategic approach adopted, with updated HMRC guidance as appropriate. Then, and only then, should employer compliance officers come sniffing for retrospective liabilities, interest, and penalties. ■

# Labour market strategy

The CIPP's policy and research team outlines recent and continuing developments and the government's response

As the government continues responding to the pandemic, it is important that workers are protected and that support is offered to businesses to help them be compliant in these unnerving times. With recent allegations of exploitation in clothing factories in Leicester the need to protect workers is further demonstrated.

The role of the director of Labour Market Enforcement ('the director'), created through the Immigration Act 2016 ('the Act'), was designed to tackle labour market exploitation and bring increased attention and strategic co-ordination to the enforcement of labour market legislation by the following three enforcement bodies:

- the Employment Agency Standards Inspectorate
- HM Revenue & Customs' (HMRC's) national minimum/living wage team
- the Gangmasters and Labour Abuse Authority (GLAA).

Appointed as the first director on 1 January 2017, Sir David Metcalf CBE was required by the Act's provisions to prepare an annual labour market strategy report. The aim was to assess the extent and nature of non-compliance within the labour market, to set priorities for the future for the three enforcement bodies, and to distribute resources needed to deliver those priorities.

Important changes have already been made since the last strategy release, including legislation which extends to all workers the right to receive a payslip and ensures that employers must also state hours worked for those classed as 'time paid' workers.

In July 2019, shortly before retiring, Sir David Metcalf published the 2019/20 strategy, making 44 recommendations to the government. All the recommendations had the aim of building on developments

already made by the enforcement bodies, in response to the director's introductory strategies that were published in July 2017 and May 2018.

In June 2019, the government opened a public consultation on the proposals for establishing a new single enforcement body for employment rights (<https://bit.ly/2Tt4NMt>) and will be formally responding to the consultation shortly.

In August 2019, Matthew Taylor was appointed as the interim director of Labour Market Enforcement, and the government will shortly begin the recruitment process to appoint a permanent successor. The appointee will have a role to play in the transition to a new body, guaranteeing enforcement outcomes are maintained. The government will need to work directly with the director during the process to develop and implement plans for the new body.

## The government's response

In October 2020, the government published a response to the director's 2019/20 strategy. Of the 44 recommendations considered by the government, 35 are accepted, eight partially accepted and just one rejected in full. As well as setting out the steps the government is taking to protect vulnerable workers, supporting businesses to adhere to the law and to improve joint working between the enforcement bodies, the actions detailed in the response represent an important foothold to deliver on the Conservative party's manifesto's pledge of establishing a single labour market enforcement body. It is intended this body will bring together all the enforcement bodies listed above into a single organisation to develop best practices.

National minimum wage (NMW) and its compliance dominates the strategy set out

by Sir David Metcalf, with a strong emphasis on communication and collaboration between the government departments, which enforce the need for the single enforcement body. It was highlighted that there was a strong need to better understand the scale and nature of non-compliance within the labour market. By doing so, this would enable effective prioritisation of the enforcement resources available and fully evaluate the impact of enforcement activity. This was agreed by the government, with them stating that "it is important that resources and interventions are targeted in the most effective way to reduce employer non-compliance and protect workers and welcomes the recommendations in this area".

## National minimum wage

Currently, HMRC deploys national resources in order to meet the commitments set out in their service level agreement with the Department for Business, Energy & Industrial Strategy. The NMW compliance strategy – based on promote, prevent, respond – sees HMRC taking a differentiated approach to tackle identified risks, ensuring that efficient use of resources occurs and to maximise the scope of coverage to the enforcement programme. Action has already been undertaken to broaden the coverage by way of extension to include Scotland and Northern Ireland, with new teams being created in areas of concern such as Bradford and Nottingham. Some 166 joint working operations have been conducted by the HMRC serious non-compliance teams in areas which have been identified as being high risk which includes car washes, nail bars, construction, and the textile industries.

Recommendations were made for HMRC to review its strategic intelligence function, which is already actioned by way of the production of the *NMW Risk Strategic Report* assessment that includes complaints along with intelligence analysis reviewed monthly at the Risk Governance Board. The Risk Intelligence Service analytical report includes analysis into the relevant sector or risk area derived from Risk Model information,

**...44 recommendations considered by the government, 35 are accepted, eight partially accepted and just one rejected...**

Complaints, and Intelligence Analysis.

As NMW dominates the strategy, ensuring NMW compliance has never been more essential. Although a review of the 'naming and shaming' scheme for non-compliant NMW employers was suggested in the 2018/19 strategy, during this period the scheme was placed on hold. The review has been conducted and the government has decided to resume the naming for non-compliance. Cases where arrears are more than £500 per employer will be published which will enable focus on more serious cases; however, repeat offenders will be subjected to the previous lower threshold of £100 per employer.

When compared to the figures of 2015/16, the budget for NMW has more than doubled. Sir David's recommendation of an increase to the budget for compliance and enforcement was accepted and increased to £27.4 million, which was beyond his actual recommendation.

The government also accepted that the GLAA should undertake more unannounced visits across the sectors that have been identified as being non-compliant.

## *...excuse of not being aware of NMW/NLW requirements is not viable, especially with reminders being present almost everywhere.*

### **Improving awareness of workers' rights**

It was recommended that the government and the enforcement bodies raise the awareness of workers' rights. Both the government and the bodies understand the importance of this and accept there are opportunities for awareness to be increased. Measures have already been put in place to assist with this, one of which came into force in April 2020. From this date, it became a day-one right that all workers receive a written statement of particulars, and a key information document must be given to all agency workers who have registered with an agency.

It is recognised that the majority of employers want to do the right thing and comply with the complexities of employment law. Although guidance is updated across all sectors regularly, we are aware it can be a challenge to

interpret. In the 2019/20 strategy, it was recommended that supplementary booklets should be produced to sit alongside published guidance. The government has advised that this recommendation will be partially accepted and that it will be publishing thematic guides on areas where breaches are most common. HMRC already deliver webinars to help with understanding complex topics surrounding employment rights and to aid employers to be compliant.

NMW and NLW are continually advertised not just to employers but to employees, too. Campaigns around the time when rates are changed are frequent, with the use of various types of media platforms. The excuse of not being aware of NMW/NLW requirements is not viable, especially with reminders being present almost everywhere. ■

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## *Customer and client fulfilment*



**Jerome Smail, freelance journalist**, presents the views of four industry luminaries

**P**ayroll is a high-stakes endeavour, whatever the scenario. But it could be argued that when the function is operating in a client/customer context, those stakes are raised even higher.

To find out the secrets of success in client and customer fulfilment, I spoke to four key players in the industry:

- **Stuart Price**, head of payroll products, MHR
- **Paul Thickett**, payroll services director, SD Worx
- **Karen Thomson**, payroll partner, Armstrong Watson
- **Abigail Vaughan**, chief operating officer, Zellis.

### **How have customer/client needs changed for payroll and human resources (HR) suppliers in the last decade?**

**Stuart Price:** There are greater demands and expectations from the customers' systems due to evolving legislations and the need for the technology to keep

pace. Systems, rather than people, now manage legislation, and complex decisions are able to be made via technology and assist customers through a process. As a result, people in payroll now don't need to know the ins and outs of the field, when a decade ago this wasn't the case.

This isn't to say that the decision making has been completely removed from the person. How successfully a system runs a policy depends on the correct initial input of the user, as it can only do what it's originally programmed to do. In more fringe areas, such as where councils and government departments need to issue orders for money to be taken from people's pay, an initial decision, such as the type of deduction required, still needs to be made at the human level before the system can then guide them through the rest of the process.

**Paul Thickett:** I believe that customers are looking for a digital-focused approach for key teams and employees. People want to be able to access payslips online or on

their mobile phones and payroll teams need to be able to work from anywhere, so the demand for cloud technology has grown significantly.

Inputs are more efficient, and the quality of service delivery is more about core HR and payroll and its associated outputs working together and aligning to insights that contribute to effective policy decision making for the whole business.

**Karen Thomson:** As legislation has increased and more responsibility put onto payroll and HR service providers, I have found clients want less interaction with both areas. Most clients are very happy to provide the minimal amount of information and leave the rest to payroll. I am finding many clients are viewing the payroll service as providing HR support, too. For example, I often have requests to work out holiday entitlement (not the pay side), work out redundancy entitlements, and so on. The landscape is changing significantly in my experience, with HR and payroll becoming ever closer.

**Abigail Vaughan:** Although payroll and HR has significantly evolved, there are two types of customer needs that have been consistent over the last decade.

The first is the need for the supplier to

***...the quality of service delivery is more about core HR and payroll and its associated outputs working together...***

prove it has deep expertise and proven experience in its fields. The second important need is cost efficiency. Payroll is a major cost centre in most organisations, and so there has always been a need to find new ways to create efficiencies, particularly around the more transactional processes that have traditionally been done manually. Many organisations are therefore looking to suppliers to provide solutions that help them harness process automation and artificial intelligence.

**What are the key principles of customer/client fulfilment in payroll and HR?**

**SP:** Along with accuracy, the customer’s system being able to match their expectations is another key factor. Customers are truly fulfilled if the system is able to automate complex processes and remove the day-to-day calculations, which is why it’s so important for the right data to be input from the get-go. The system is only as good as the data fed into it, so the more accurate the data, the more able the system is of supporting the customer throughout.

**PT:** You must create a partnership and collaborative approach with all key stakeholders (external and internal) in order to get the most of your payroll, especially at the beginning of the relationship when you’re discussing the objectives and details.

There needs to be lots of communication and discussion and the results will reflect that approach. It will be clear if there has been no communication because you’ll experience issues, missed deadlines and overall poor performance, which will be evident in the data that underpins the whole process.

*...the right (and only) thing to do is to communicate what’s gone wrong and what you’ll do to resolve it and make sure it doesn’t happen again.*

**KT:** If I answer this as what would be the wish list of many of our clients it would be to provide a full HR service from recruitment to exit, collate all payroll information and act as the payroll department and the HR department in one.

**AV:** As a supplier, you must understand and address the needs of individual customers and not just say, ‘Here’s my solution, let’s make that fit your problem’. Suppliers need to be flexible enough to consider what is and isn’t important for each customer, and therefore develop a tailored solution which directly solves that customer’s key issues.

Another key principle is having a mindset for continuous improvement, even if customers already believe the service is exceptional.

And, finally, it’s key to deliver value at a strategic level. Beyond just providing software or a service, a truly customer-focused supplier should deliver real data-driven insights that help payroll and HR teams have relevant and impactful discussions at board level.

**In what ways can payroll/HR providers go the extra mile to**

**ensure customer/client needs are fulfilled?**

**SP:** Clearly listening and engaging with customers while also including them on your own journey ensures they are at the heart of everything you do. At MHR, we arrange regular panels with customers to gain their feedback on how best to enhance or improve a system, and find this highly beneficial. Customers then feel that they have had an active role to play in such a project, and a positive perception of the company’s brand is maintained.

**PT:** At SD Worx we have a continuous improvement culture that aligns with our customers’ culture, and we measure this through clear deliverables and KPIs [key performance indicators] – which can be in ‘upcoming legislation’ and ‘key end to end processes’. Above everything, we always try and put ourselves in our customers’ shoes and understand their needs.

**KT:** The key is to go the extra mile in customer service, and I believe over the last eight months this is what has happened. The difficulty, however, is a payroll service provider must make a profit, and more resource is going to be needed to really go beyond client expectations.

**AV:** You must recognise that customer success doesn’t begin and end with the sales process. Suppliers not only have to hold themselves accountable for delivering on the value and benefits they have promised to customers, but they also have to look for ways to preserve and strengthen that relationship in the long-term. This includes, for example, proactively bringing forward ideas for further process optimisation, or how to improve the quality of reporting.

Plus, even if the qualitative feedback from customers is good, suppliers should consider if there are other effective ways of measuring customer fulfilment, such as through metrics like transactional net promoter score, as these often shed light on opportunities for improvement that may otherwise be missed.

**How should payroll/HR providers deal with situations where mistakes are made or the customer/client is dissatisfied with the service?**

**SP:** The first step to rectifying this is accepting the responsibility and being honest about where it went wrong. No software is 100% error-free; providers should be transparent about the timeframe





for resolving the issue, providing regular updates and looking for alternative solutions to help the customer in the meantime.

**PT:** Transparency, ownership and clear action plans for immediate recovery are key. I'm a big believer in honesty. If mistakes have been made the right (and only) thing to do is to communicate what's gone wrong and what you'll do to resolve it and make sure it doesn't happen again. This goes back to communication; if you have a good relationship with the customer and can honestly communicate then you can work through any issues together and agree KPIs that are measurable.

**KT:** In my experience, when you are honest with a client and explain what has happened then most, if not all, will be understanding. Fixing the mistake quickly is a priority, but never hide it!

If a client is dissatisfied, it is important to understand why. It might be they do not understand why information has to be provided in a certain way, or it could be they don't enjoy the checking or authorisation of the payroll. So often it is about talking and seeing where compromises can be made to ensure a smooth customer relationship.

**AV:** You need to really listen and get to the root cause of the dissatisfaction.

Is it performance, or is it behaviours? In my experience, the latter can make a challenging situation much, much worse.

Once the root cause is understood, the supplier must take rapid action to address it. This could include, for example, providing the team with additional customer service training, making staff changes where the relationship has broken down; or, if the problem is performance related, proposing a rapid service improvement plan to address it in a sustainable way.

It's important that when required, you pull out all the stops to deliver on what has been promised to the customer.

**How much has Covid-19 changed the landscape of customer and client fulfilment for payroll and HR providers?**

**SP:** The industry has had to adapt payroll and HR systems very quickly. As a result of the situation, we are no longer able to truly prepare for any legislation change, going from a few months' awareness previously to having to change processes almost daily. This has, of course, made work more difficult for providers to ensure the correct legislation is in place at dramatically reduced notice, so it's been more important than ever that these changes are communicated immediately to customers.

**PT:** I think it has brought to the forefront the calm and composed nature that generally exists within our industry, and I feel our customers have appreciated that even more than usual. As our customers wrestle with the challenges, the quality of the end results have to remain. This is always the case, but even more so during times when pay may be lower than usual for a large proportion of the population.

**KT:** In my 25-years-plus career I have never seen changes happen so quickly, and clients expect the world. Payroll professionals are used to saying yes and finding solutions, but the furlough schemes tested this to the highest level. There were just some things we couldn't do, either due to resource and being unable to recruit or not having the right data.

One example is knowing when someone worked their hours, as most systems just record paid hours unless linked to a time and attendance system. This caused great confusion to clients who just wanted us to take care of it all. However, despite the extreme pressure put on our industry, I am proud to say we have come through it.

Good luck to all my peers. And don't forget to join the CIPP Specialist Interest Group so we can learn from and, more importantly, support each other.

**AV:** We are seeing customers place increasing value on the expertise and solutions of their suppliers to help them navigate the complex government subsidy schemes. At the core of any resilient payroll and HR department is strong, flexible, and reliable technology. As a result, we are seeing customers accelerate the digitisation of their operations, with a particular focus on moving to cloud-based solutions to assist with remote working, implementing more process automation to create efficiencies, and using data analytics to better understand key trends and challenges.

Unsurprisingly, we are also seeing cost reduction go straight to the top of the agenda for customers. So, it's now more important than ever for suppliers to demonstrate how their solutions and services can help customers optimise the major cost centre that is payroll and HR. Cost effectiveness can be achieved not only by creating process efficiencies, but also by using payroll and HR data strategically to help organisations make smarter and more profitable business decisions. ■

***...more important than ever for suppliers to demonstrate how their solutions and services can help customers optimise the major cost centre that is payroll and HR.***

# Get ready for changes to off-payroll working rules



HM Revenue  
& Customs

## HMRC sets out how to prepare for the imminent changes

From 6 April 2021, the way contractors pay tax may change. Many organisations and contractors are already preparing for this change.

The off-payroll working rules, commonly known as 'IR35', are changing for medium- and large-sized non-public sector organisations that engage contractors through their own limited company or other intermediary. The rules ensure that people working like employees, but through their own limited company or other intermediary, pay broadly the same income tax and National Insurance contributions (NICs) as regular employees.

To help contractors and organisations deal with the impacts of the Covid-19 pandemic the government delayed introduction of the changes from 6 April 2020 until 6 April 2021.

### What are the changes?

This is not a new tax. From 6 April 2021, medium- and large-sized organisations outside of the public sector will become responsible for deciding the employment status for tax purposes of contractors. Currently, the contractor's own limited company, or other intermediary, is responsible for making this decision if they are providing services for organisations outside the public sector.

This brings the private sector into line with the public sector, where these rules changed in 2017. There are also additional changes to the public sector from April 2021, which public sector organisations should familiarise themselves with.

Contractors providing their services to small non-public sector organisations will continue being responsible for deciding whether the off-payroll working rules apply.

### What do organisations need to do?

Organisations and contractors should prepare for these changes now. You will need to prepare if you are:

- a medium- and large-sized non-public sector organisation which engages contractors who work through their own limited company or other intermediary

## *If the rules apply, organisations will need to provide contractors with a status determination statement...*

- an employment agency which supplies contractors who work through their own limited company or other intermediary
- a public authority – there are additional changes from April 2021
- a contractor providing services through your own limited company or other intermediary.

HMRC is providing information and support now to ensure organisations and contractors are prepared for the changes in April 2021.

Organisations should review their contractor arrangements and talk to their contractors about whether the off-payroll working rules will apply to them from April. HMRC's check employment status for tax (CEST) tool (<http://bit.ly/2VF2ZTI>) is a free online tool which can be used to find out if a contract is inside the rules and the contractor should be treated as an employee for tax purposes.

If the rules apply, organisations will need to provide contractors with a status determination statement (SDS), setting out and explaining their decision. If they contract with an agency rather than directly with the contractor's limited company, they will also need to pass this SDS onto the agency. Organisations will also need to put in place a status disagreement process to handle any disputes that may arise from any of the determinations they provide to contractors.

If a contractor is determined as inside the rules then the organisation, or the agency that pays the contractor, will need to set the contractor up on payroll and deduct income tax and NICs before paying the contractor.

### Extra help

HM Revenue & Customs (HMRC) has launched its programme of support for customers, and as part of this a series of webinars are running from October 2020 to April 2021. There are webinars for

organisations and contractors setting out an overview of the rules.

HMRC is also delivering a series of webinars on specific topics providing detailed support on key areas where customers may need additional education, including a webinar on fee-payer responsibilities to help clients and employment agencies who may need to put contractors on their payroll as part of the changes.

### Support for contractors

Organisations should talk to their contractors, to help them understand what the changes might mean for them.

As well as webinars, HMRC has updated its information resources to help contractors understand what the reforms mean for them and what the changes will be from April. These include a factsheet setting out the changes, and a flowchart to help contractors identify whether they are likely to be affected by the rules. Client organisations and employment agencies can share these with the contractors they engage to help them get ready for the changes.

HMRC has also published a guide on tax avoidance schemes aimed at contractors and agency workers (<https://bit.ly/3nk9JQZ>). Contractors should always think carefully before signing up to schemes, to ensure they don't involve tax avoidance. They may be tempted by arrangements that are described as a way of taking home a larger portion of their income or to simplify their tax affairs but are in reality tax avoidance schemes. If something looks too good to be true, it probably is. ■

### More information

All the resources mentioned above, and sign-up links for the webinars, can be found at [www.gov.uk/topic/business-tax/ir35](http://www.gov.uk/topic/business-tax/ir35).

# Homeworking expenses and benefits

The CIPP's policy and research team outlines the taxation and reporting rules

As the outbreak of coronavirus intensified, and stringent social distancing measures were implemented across the UK, the government instructed employers to allow their staff to work from home, where possible. This placed a spotlight on the equipment and additional household expenses and benefits that employees may incur or receive whilst working from home. As it looks likely that the number of people who work from home on a permanent basis will increase significantly, it is important to discuss the tax and National Insurance contributions (NICs) implications and reporting obligations for employers in relation to homeworking expenses and benefits.

Homeworking expenses include any equipment, services or supplies that an employer provides to employees who work from home. Examples include computers, office furniture, internet access, and any stationery such as pens and paper. These expenses also cover additional household expenses, inclusive of any gas or electricity charges that an employee may incur as a result of working from home, instead of within a workplace provided by the employer.

Depending on the circumstances there are certain exemptions for homeworking expenses so that they do not need to be reported to HM Revenue & Customs (HMRC). However, homeworking expenses still need to be reported if they are part of a salary sacrifice arrangement.

There is no requirement to report

anything in relation to equipment, services and supplies provided to an employee who works from home, if they are solely used for business purposes, and private use is kept to a minimum. If the cost of additional household expenses for an employee working from home is covered by an employer, it is not necessary to report anything as long as:

- the employee needs to work from home, because equipment that they need is not available at the workplace or their work means that they live too far away from the employer's workplace to reasonably commute there every day
- the amount provided is not more than their additional household expenses
- the amount provided does not exceed the current weekly limit, which increased to £6.00 per week for tax year 2020/21.

Employers need to report costs to HMRC and deduct or pay tax and NICs on any homeworking expenses they meet that are not exempt. For equipment, services and supplies provided for both business and private use, employers must report them in P11D returns and pay class 1A NICs on the value of the benefit. Payments in excess of an employee's additional household expenses are classed as earnings, so employers will need to establish the excess amount and add this to the employee's other earnings, ensuring operation of PAYE (pay as you earn) income tax and class 1 NICs via the payroll.

In order to calculate the value of certain expenses, different processes

apply. For equipment, services and supplies, employers must simply use the cost of providing them. If there is no supporting evidence held of the cost of an employee's additional household expenses, then the employer must use the total cost, less £6.00 (tax year 2020/21). Where there is supporting evidence to display the level of an employee's additional household expenses, any amount exceeding these additional expenses should be used. For salary sacrifice arrangements, where costs are below the amount of salary sacrificed, the salary amount is to be reported instead. These rules do not apply to arrangements made prior to 6 April 2017.

HMRC issued guidance (<http://ow.ly/1Ejk3Or1ree>) relevant to employees working from home due to the pandemic either because their workplace closed or where they were following advice to self-isolate. Employees who have been furloughed and are eligible for the coronavirus job retention scheme are not affected by this.

The tax and NICs treatment, and whether or not something is reportable, depends on the nature of what the item is. The following rules apply.

- Where employers provide mobile phones and SIM cards, with no restriction on private use, this is non-taxable but is limited to one per employee.
- If an employee already pays for their own broadband, then no additional expenses can be claimed. If a broadband internet connection is required to work from home and it was not previously available, the employer can reimburse the employee for the broadband fee and this will be non-taxable. Where the employer is reimbursing the employee for their broadband fee, private use must be limited.

***...additional household expenses, inclusive of any gas or electricity charges that an employee may incur as a result of working from home...***

● Where companies provide laptops, tables, computers and office supplies, and they are for business purposes and there is not significant private use, they are non-taxable.

Where an employee needs to buy home office equipment to enable them to work from home, they must discuss this with their employer in advance.

Where employees are reimbursed for the actual costs of the purchase then this is non-taxable providing there is no significant private use. If an employer does not reimburse their employee, the employee can claim tax relief for these purchases via their tax return or form P87 provided that the amount claimed is incurred wholly, exclusively and necessarily in the performance of the duties of the employment. Employees will need to retain records of any purchases and claim for the exact amount.

Any salary advances or loans intended to help employees in times of hardship count as employment-related loans. Where loans are less than £10,000 in a tax year, they are non-taxable. If they exceed this amount, then different rules

## *...provided that the amount claimed is incurred wholly, exclusively and necessarily in the performance of the duties of the employment...*

apply.

Where employees are required to self-isolate but cannot do this within their own home, employers can reimburse hotel and subsistence expenses; however, this would be a taxable expense.

Where employees are using their own vehicle for business purposes, employers can pay approved mileage allowance payments of 45p per mile up to 10,000 miles and 25p per mile thereafter, without attracting any tax and NICs liabilities. Where an employer does not pay their employee mileage allowance, the employee can claim tax relief through their personal tax account.

'Significant private use' should not be determined on the basis of the time spent on different uses, but instead be based on the employee's duties and

the requirement for them to have the equipment or services provided in order to do their job.

Any taxable expenses or benefits provided to employees, and related to the coronavirus, could be included in an employer's PAYE settlement agreement. This means that tax and NICs can be settled by the employer even though the responsibility would normally fall upon the employee or both the employer and the employee. It is important to note that this is only applicable to coronavirus related items.

For any employers who payroll benefits in kind, they can continue to report expenses and benefits via payroll, and through P11D returns. There is no requirement to report non-taxable expenses or benefits to HMRC via any method. ■

## OFF-PAYROLL WORKING (IR35)

Medium and large organisations in all sectors of the economy will become responsible for assessing the employment status of individuals who work for them.

Make sure you are compliant with the legislation with our [off-payroll working \(IR35\) webinar](#) and [off-payroll working \(IR35\) and other employment status considerations](#) training course.

**Find out more and book your place today**

Visit [cipp.org.uk/training](https://cipp.org.uk/training), email [enquiries@cipp.org.uk](mailto:enquiries@cipp.org.uk) or call 0121 712 1044 for more information.

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## PAYE penalties

FOLLOWING A review of the effectiveness of the risk-based approach to PAYE (pay as you earn) late filing and late payment penalties, HMRC has confirmed that this approach will continue for the current tax year, which means late filing and late payment penalties will continue to be considered on a risk-assessed basis rather than issued automatically.

The first penalties for this tax year (beginning 6 April 2020) were issued in September 2020. During the pandemic, employers have more time to appeal against a penalty, and can include problems caused by the outbreak as a reasonable excuse that prevented them from meeting their tax obligation. For more information about this, go to GOV.UK – reasonable excuses.

HMRC is continuing to not charge penalties automatically if a full payment submission (FPS) is filed late but within three days

of the payment date and there remains no pattern of persistent late filing. Employers persistently filing after the statutory filing date but within three days will continue to be monitored and may be contacted or considered for a late filing penalty as part of HMRC's risk-based approach.

HMRC are advising employers not to ignore generic notification service (GNS) electronic warning messages that are intended to notify them that they have not filed or paid on time. HMRC send a message: monthly when it receives a FPS later than the payment date without a valid reason, or on the 11th or 12th of the month where it has not received either a FPS for the tax month that just ended on the 5th or an employment payment summary stating no employees were paid in that month.

## HMRC webchat service

SINCE SEPTEMBER, a webchat service has been available to the 2020/21 annual statement page in the business tax account within HMRC's ePAYE online service. This service is part of a test and learn initiative which may become a permanent feature if after three months of trial HMRC decides it is has been successful.

Those wanting to contact HMRC about PAYE for employers can, instead of making a telephone call, click the green button which may appear at bottom right of the page and ask a question and, depending on availability, begin a conversation with a person on HMRC's employers' helpdesk.

## Finding NINo

THE DEPARTMENT for Work and Pensions (DWP) is currently offering a reduced service for applications for National Insurance numbers (NINos). At present it is only possible to accept applications from those who were granted permission to work in the UK by the Home Office prior to them coming to the UK.

To support the reinstatement of the NINo service, DWP

is developing a digital solution to reintroduce the process incrementally during the autumn.

Those who have a NINo, but cannot remember it, can use either their personal tax account, where they can save or print a copy of a NINo confirmation letter, or the HMRC app where they can share their 'my details' page with their employer.

## Employer Bulletin

ISSUE 86 of HM Revenue & Customs' (HMRC's) *Employer Bulletin*, which was published online in October (<https://bit.ly/38Lp3lk>), contains much payroll-related content, including:

- off-payroll working rules (IR35): Education and support available to customers
- UK transition – National Insurance and social security coordination

- student and postgraduate loan refunds, and thresholds
- making PAYE settlement agreement payment
- disguised remuneration
- PAYE Online service for reporting P11D, P11D(b) and P46(car)
- update on the withdrawal of P45 and P60 bulk stationery
- corporate criminal offences.

## Diary dates

Last day for submitting a RTI employer payment summary to apply to tax month 8	19 December
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by non-electronic method – Add '2108' to accounts office number to ensure accurate payment allocation	22 December
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by electronic method – Add '2108' to accounts office number to ensure accurate payment allocation	5 January
Last day of tax month 9	6 January
First day of tax month 10	19 January
Last day for submitting a RTI employer payment summary to apply to tax month 9	22 January
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by non-electronic method – Add '2109' to accounts office number to ensure accurate payment allocation	5 February
Deadline for payment of PAYE and NICs etc to HMRC's Accounts Office by electronic method – Add '2109' to accounts office number to ensure accurate payment allocation	6 February
Last day of tax month 10	
First day of tax month 11	

# It's a real stretch...

The **CIPP's policy and research team** present and comment on recent research results of what employers do to help their employees financially in December and January

**M**uch emphasis has been placed on the notion of financial wellbeing and helping individuals who following the devastating outbreak of Covid-19 may be struggling with money worries this year.

January is a notoriously difficult month for a lot of people because, although Christmas and the festive season is a magical time for most, the period can also be expensive. This, combined with the fact that January is a long month, filled with short days and long nights, and the fact that employers may have brought forward their December pay date, can leave many employees feeling depressed and concerned about the state of their finances. So, what steps can be put into place to prevent it from happening in the future?

## Quick poll

To gauge whether businesses are doing anything to help staff at this time of year, the CIPP's policy and research team posted a Quick Poll in the CIPP's *News Online* pages. We asked the question: "As January is a long month, due to most businesses offering an earlier pay date in December, what do you do to assist employees?".

The responses varied, and it appears that the majority of companies don't do anything to assist employees in the month of January, which accounted for 52% of responses. However, some 40% of respondents stated that they maintain the regular pay date in December, so the length of time between the December and January pay dates is not increased. December bonuses are provided by 4% of employers, 2% offer advances to help over the winter months, 1% confirmed that they provide financial education to help employees to budget effectively, with a further 1% providing a Christmas savings scheme.

One member confirmed that their employer actually brings forward the

January pay day slightly shortening the time since the previous payment. As February is a short month, this eases the pain for many very effectively.

## **...brings forward the January pay day slightly shortening the time since the previous payment.**

### Financial awareness

Businesses do not necessarily need to offer support to staff that costs them money but can divert employees to the wide range of impartial free advice that is available. The Money Advice Service (<http://ow.ly/yvsk30rh6b>) is one such provider of guidance of this nature.

Often, the issue is that those who find themselves in debt cannot always see a way out of the perpetual cycle, but these organisations are there to help by establishing tailor-made advice plans to suit individuals and their differing circumstances.

Something as simple as using payslips, for example, to signpost employees to these organisations and their contact details could really help staff during the period following the Christmas break.

This links to the 2% of respondents who confirm that they provide employees with advances. Though beneficial in theory, it must be remembered that employees have to repay that advance through the following payrun, which will inevitably leave them with a lower net pay figure in their standard January pay packet. Again, the advance does not remove the issue of financial hardship but simply seeks to delay it in certain circumstances. For many, however, it does work effectively, reducing stress levels over the festive period and

having no substantial domino effect in the following months.

### Maintaining the December pay date

It was surprising to see how many responses to the Quick Poll confirmed that businesses make no change to the December pay date; however, this seems to stem from the fact that many employees who were once weekly paid are now paid on a monthly basis. It is common practice for many businesses to bring forward the pay date in December, so that employees have some extra cash in their pocket ahead of the big day, for purchasing gifts and for socialising. The fact that many companies refrain from delivering the December pay day earlier does not seem to be a bad move, as it means that the period between the December pay date and the January pay date is not extended.

Many employers produce a list of pay dates for the year and distribute it to all staff. This is to help payroll communicate the essential deadlines for submitting data that will impact pay each month to the wider business areas, and also means that employees can plan ahead. This may be instrumental in supporting staff financially where the pay date in December is not maintained, and is shifted forward, as preparation is essential in healthy budgeting.

### A final thought

Although it is recognised that January is potentially a tough month for employees, it is also important to consider the effect the pandemic may have had on a much larger group of people, and to a more detrimental extent this year.

Employers, where they are in a position to do so, should seek to ensure that they act in whatever ways possible to help to support their staff, and to help them following on from all the economic turbulence encountered in 2020. ■

# Saying thank you?

**Gemma Mullis ACIPP, CIPP policy and research officer**, outlines issues to be considered by employers giving gifts



As Christmas and the festive period approaches employers may be considering giving employees a gift, perhaps to say 'thank you', particularly when reflecting on the year we have endured so far. Popular seasonal gifts include wine, chocolates, and turkeys.

Employers should make themselves aware of the tax implications that may arise as a result of their generosity, as giving an employee a gift that they are later taxed on may adversely affect morale.

## Trivial benefits

Section 323A of the Income Tax (Earnings and Pensions) Act 2003 sets out a statutory income tax exemption for trivial benefits. If an employer provides a benefit to an employee (or to a member of the employee's family or household), the benefit is exempt if all the following conditions are satisfied:

- it costs the employer less than £50 to provide
- it is not cash, or a voucher that can be exchanged for cash
- it has not been given as a reward for performance at work
- it is not detailed in their contract of employment.

Some of the above four conditions are easier to satisfy. A receipt or invoice will prove the cost of the gift purchased; and the employee's contract will confirm whether the gift is or is not a contractual requirement. Proving that it was not given as a reward could be trickier if it is not given to all employees, so this may be something to be considered when providing gifts.

## *...no limit on how many trivial benefits can be given over the course of the tax year...*

There is no limit on how many trivial benefits can be given over the course of the tax year to an employee; however, for directors of 'close' companies (i.e. limited companies with five or fewer shareholders), there is a limit of £300 that can be given to the person (or to a member of their household) in any tax year. (The £300 limit is per individual and per employer.) Where the employer provides benefits and considers them as trivial, suitable records must be kept demonstrating that the £300 limit has not been exceeded.

Although certain benefits provided under a salary sacrifice arrangement do not attract income tax liability, any other benefit that is given via a salary sacrifice arrangement, including those that would otherwise fall under the trivial benefit exemption, do attract liability. This is because in order for the exemption to apply the employee must not be entitled to the benefit as part of a contractual

obligation (including under salary sacrifice).

Just because a gift is provided each year, or is provided to all staff members, does not mean that the employee has a contractual entitlement to it. However, if an employer provides their employees with benefits on a regular or frequent basis HMRC might well consider there is a link to the services.

If the cost of providing the benefit exceeds £50, the full amount is taxable, not just the excess over £50.

In determining the cost of the benefit for the purposes of the exemption, the VAT inclusive amount is used. Where the benefit consists of more than one item the cost of providing the benefit is the total cost.

A commonplace scenario occurs where the employer gives a gift to each worker paying an overall amount to a supplier without knowing the cost of each specific gift and whether the £50 limit is

### Example 1

An employer provides each of its 100 employees with a turkey. As a bulk order, the turkeys have not been priced individually but would cost in the region of £40 to £60, with the total bill coming to £4,500.

As HMRC accepts an averaging approach giving a cost per head of £45 (i.e. £4,500 ÷ 100), the benefit can be covered by the exemption.

### Example 2

The employer gives each of its 25 workers a bottle of wine with the total bill coming to £1,000. This package comprises 20 bottles at £15 and 5 bottles at £140 each for senior managers. It is not impracticable to determine the cost of the individual benefit to each worker, so the benefit of the £15 bottles can be covered by the exemption but the benefit of the £140 bottles cannot.

breached. In such a scenario, the average cost can be used but this averaging approach is not always permissible. See the Examples.

Detailed information about trivial benefits with further examples can be found in HMRC's *Employment Income Manual* (<https://bit.ly/38FPc55>); see pages EIM21864–EIM21872.

### PAYE settlement agreements

Employers can be more generous and offer employees more than the £50 available under the trivial benefit taxation rules, or indeed want to gift certain employees for going above and beyond, especially due to the current challenges the pandemic has posed to working life. Many employers would then wish to cover all of the associated income tax costs by doing so. For them to cover this cost, the employer will need to have a PAYE settlement agreement in place (PSA).

A PSA allows an employer to make one annual payment to cover all tax and National insurance contributions liabilities on items that are minor, irregular, or

impracticable.

Although a PSA can be applied for at any time, the timing of the agreement will affect the items that can be included.

If a PSA is agreed before the start of the tax year, there are no restrictions on the expenses and benefits that can be included, other than the requirement to fit into one or more of the three categories above. If a PSA is agreed during the tax year, it is not possible to include items provided before the date of the agreement where either of the following applies:

- PAYE has or should have been operated on the item, or
- the item has been reflected in the employee's tax code for the year.

If a PSA is agreed after the end of the tax year, but before 6 July, it is not possible to include any items provided during the tax year to which either of the following applies:

- PAYE has or should have been operated

on the item, or

- the item has been reflected in the employee's tax code for the year.

Once a PSA has been applied for and agreed, it will remain in place for each subsequent tax year until an employer requests to either cancel or make an amendment to it.

Payments due for a PSA must be paid by the 22 October after the tax year in which it applies (or 19 October if by post). Fines and interest may be payable if made after this date

### Annual Christmas function

Given the pandemic's effects on the economy, socialising and travelling, fewer if any annual Christmas parties are likely to be provided by employers this year. Page EIM21871 of the *Employment Income Manual* sets out how the trivial benefits exemption interacts with other exemptions such as that which might apply to annual functions. ■

## ...fewer if any annual Christmas parties are likely to be provided...

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# Splitting of pension funds on divorce

**Ian Neale, director at Aries Insight**, provides an introduction to this challenging and complex issue



A disproportionate number of the queries we receive about pensions legislation concern the treatment of pension rights on divorce. It's no wonder, because the law here is a particularly challenging morass for the different parties involved, including the courts, the pension scheme administrator, the trustees, the divorcing couple and their advisers.

The main rules and procedures governing divorce in England and Wales are laid down in the Matrimonial Causes Act 1973 and the Family Procedure Rules 2010 (<https://bit.ly/3eP6QnX>). In Scotland, the main legislation governing the financial aspects of divorce is the Family Law (Scotland) Act 1985. In both, the options for dealing with pension rights on dissolution of a civil partnership are the same as apply on divorce.

There are four main ways of dealing with any pension rights in a divorce (none of which are mandatory):

- one party can make a lump sum payment to the other
- the rights can be offset against other assets of the divorcing parties
- the rights can be subject to an earmarking (also known as 'pension attachment') order
- the rights can be subject to a pension sharing order.

It is important to note that 'earmarking' or sharing of UK pension rights cannot be ordered by an overseas court (even though a settlement made by an overseas court may purport to do so). Conversely, where an individual has pension benefits that are held overseas, it is not possible for a UK court to make a pension sharing or earmarking order against those benefits.

Earmarking has been available to divorcing parties since 1 July 1996. When the pension rights come into payment, a percentage as defined in the earmarking order is paid direct to the former spouse. The member remains liable for income tax on the whole pension; the ex-spouse has no liability at all. In England and Wales, both pensions and lump sums (on retirement or death) can be earmarked. Under Scottish law, only lump sums can be earmarked.

There are a number of problems with the earmarking approach, as follows, and in practice it is not used widely.

- There is uncertainty about the eventual payment of the benefits – because, if the scheme member dies before retiring, or if the ex-spouse marries or forms a civil partnership, any earmarking order (other than for lump sum death benefits) ceases to apply.
- The earmarked payments do not start until the member retires – a problem if the ex-spouse is older than the member, or if the member delays the retirement date.
- If the member retires early on reduced pension, then the earmarked payments will also be reduced, yielding the ex-spouse a lower annual pension than might have been expected.
- The payments cease on the member's death, thus leaving the ex-spouse without that income for the last years of life, when need may well be greatest.
- Earmarking does not fit with the clean-break approach to divorce/dissolution, as generally favoured by law and courts in the UK.

The pension sharing option was introduced from 1 December 2000. The

member's pension rights are divided at the time of the divorce: a pension sharing order specifies a certain percentage (in Scotland, an amount or percentage) to be removed and secured for the ex-spouse as part of the settlement. The rights so secured form immediate or deferred benefits for the ex-spouse, independent from the member's remaining rights.

In technical terms, a 'pension debit' is created against the member's rights, matched by the creation of a 'pension credit' for the former spouse which becomes payable when they reach retirement age. Usually the ex-spouse will have the right to transfer the pension share to another pension arrangement, in which case they will be required to nominate the destination.

However, the trustees of the member's scheme may choose to offer an internal transfer within the scheme, where it would be treated rather like any other pension or deferred pension. In this case, the ex-spouse will have the choice of whether to remain in the member's scheme or to transfer out.

In practice, in England and Wales, a pension sharing order will be accompanied by a pension sharing annex (Form P1) giving details of the member, the ex-spouse, the pension scheme to which the annex relates, the percentage of the benefits to be shared and the date on which the sharing order takes effect. This must be sent to the pension scheme trustees within seven days.

Since – unlike earmarking – pension sharing does fit well with the clean-break principle, and does secure pension rights for the ex-spouse at the time of the divorce, it is more widely used than earmarking. However, lump sum payments and offsetting also have their advantages, and will undoubtedly continue to be used in many cases. ■

***...the law here is a particularly challenging morass for the different parties involved...***

# Where next for AE?

**Henry Tapper, chief executive officer of AgeWage, discusses the issues, proposals and timelines**



At the time of writing, the Pension Schemes Bill (<https://bit.ly/2GP8wkO>) is working its way through the committee stages of the Parliamentary process and is expected to be enacted shortly, maybe even this year. It has been three years in the making and in that time much has happened including the conclusion of staging of automatic enrolment (AE) and the publication by the Department for Work and Pensions (DWP) of *Automatic enrolment review 2017 – Maintaining the momentum* ('the report') (<https://bit.ly/3pl48vi>).

The report identified three shortcomings in the way AE was operating:

- contributions were too low to ensure retirement financial security for a great many savers
- many were excluded from AE through choice (self-employment) or by accident of working (the various shades of the grey economy)
- many who were automatically enrolled had not engaged with their workplace pension or the cashflow implications of being retired.

## Improving funding of workplace pensions

The DWP agreed to make a number of interventions to the way that AE works, and was specific about what these would be. The DWP's proposal to reduce the lower age limit, from 22 to age 18, would simplify workforce assessment for employers so that all eligible workers would benefit from AE from age eighteen whoever employs them.

The DWP proposed to change the framework for AE so that pension contributions would be calculated from the first pound earned, rather than from the lower earnings limit, then set at £5,876.

The department also pledged to monitor the impact of the fully phased contributions both in absolute terms and in terms of the

split between savers and employers. It made no promises to increase the headline rate of 8% of earnings within the band.

While the scale of the promised interventions was exact, the timing was not. The DWP's ambition was to implement these changes to the AE framework in the mid-2020s. The government is repeatedly reminded of this timetable and pressed for more detail, most recently in the reading of the Pensions Schemes Bill, but pensions minister Guy Opperman has refused to be drawn.

## Including the excluded

By maintaining the minimum earnings threshold at £10,000, the government has included more workers in AE – though this has exacerbated the net-pay anomaly where those enrolled but not paying tax can miss out on an incentive that saves 25% of the real cost of the contribution. Those impacted are workers (mainly women) who earn more than £10,000 but below the basic rate income tax threshold. It's estimated that as many as 1,700,000 savers may be missing out. So, the 'inclusion measures' that have been implemented have worked out with mixed results.

Other plans in the report included tackling the problem of the 2,000,000 self-employed who'd chosen not to be employed. Unlike the proposals to increase funding for those who were 'in', those for including the self-employed were delivered in classic civil-servant waffle:

"We will test targeted interventions with the aim of establishing what works to increase pension saving for the self-employed.

"We will use the evaluation of these to inform implementation options and will consult on specific proposals prior to any changes to legislation."

The paper also expressed concern for those who found themselves in self-employment, mainly because they had fallen into the gig economy. While The Pensions

Regulator argued that many of these people had contracts that could identify them as 'workers' and eligible for AE, the DWP decided to 'outsource' this can-of-worms to Matthew Taylor, a think-tanker who delivered a report on the gig-economy that has been filed under 'for the mid 2020s'.

## Increasing member engagement

The third of the report's three identified challenges related to what we now call 'getting to know the workplace pension'. As well as an advertising campaign, the DWP promised "to galvanise efforts to build a sense of personal ownership of workplace pension saving amongst individuals ... we are setting out specific areas where there is scope for pension providers, the advisory community and employers, working with government where necessary, to do more to support individuals' engagement with their savings and to deliver better value for their customers".

To be fair to the DWP, this they have done through a variety of means. These have included the simplification of pension statements announced this autumn, the strengthening of AE pensions through the introduction of the master-trust authorisation framework and improvement to disclosures through trustee chair statements – both of costs and charges and of investment strategies.

## How does the government rate on its promises?

With regards increasing funding, the government's promises are still to play out, but 'mid 2020s' is a big playing field. Attempts to include the self-employed, including those in the gig-economy, have been woeful. The measures adopted to improve engagement have been good, though the most important of them, the introduction of the pension dashboard, is running around five years behind schedule.

Has DWP kept its promise to maintain the momentum of AE? I would give it seven out of ten for recognising that doing nothing when something is working, is probably the best policy. ■

**...ambition was to implement these changes to the AE framework in the mid-2020s.**

# Equal pay, dismissal, disability



**Nicola Mullineux, senior employment specialist for Peninsula,** reviews the decisions in three cases

## **Walker v Co-operative Group**

The Court of Appeal has ruled that, when considering a 'material factor' defence within an equal pay claim, employers need to explain not just justify pay disparity.

Walker, the claimant in this case, was promoted in February 2014 when the respondent was in financial crisis, which was labelled as essential to its survival. She, along with her colleagues on the executive team, was offered increased salaries but her salary was lower. As time passed, the crisis was resolved, and a decision was made to downsize her role and pay her less.

In February 2015, a job evaluation study (JES) was conducted which concluded that the claimant was paid substantially less than others whose work was of at least equal value to hers i.e. her 'comparators'. Following a later dispute which took place in April 2017, she was dismissed from her role and later brought numerous claims to the employment tribunal (ET), including equal pay.

When faced with an equal pay claim, it is open for employers to point towards a material factor not connected to gender which explains the difference in pay. The respondent sought to rely on a number of material factors.

The ET determined that the material factors which related to her pay as it was originally set in February 2014 were sufficient justification. These were as follows:

- the claimant's comparators were vital to the immediate survival of the company as they formed part of a core team, whilst the claimant was not part of this team

- the claimant was newly promoted and unproven at executive level

- there was a more significant risk that the claimant's comparators would leave the organisation

- one of the comparators was a 'top' corporate lawyer and therefore paid at a higher market rate.

However, the ET then assessed the impact of the JES outcomes as outlined in February 2015. The tribunal concluded that, at some stage in the twelve months leading up to this study, the claimant's comparators' roles had been shown to have declined and had become more comparable to her own. Therefore, the ET was of the view that the material factors present in February 2014 were no longer material by the time of the study. The claimant was entitled to equal pay.

The respondent, the Co-operative Group, appealed to the employment

appeal tribunal (EAT), arguing that the ET should not have decided that the non-discriminatory factors that applied in 2014 did not continue to apply when the JES was carried out in 2015. The EAT agreed. They outlined that a material factor defence continues to be in place until there is a reason for it not to be e.g. a further pay review is carried out.

The claimant appealed to the Court of Appeal, but this was dismissed; the EAT's finding stands.

## **Argos Ltd v Kuldo**

The EAT has found that an employee was constructively dismissed when she was moved onto a different role instead of being subject to appropriate redundancy procedures.

The claimant, Ms Kuldo, was employed as a costs manager at Argos when it was acquired by Sainsburys. As a result of this business acquisition, she was informed that her role was at risk of redundancy but that she, along with a colleague, was being considered for the role of central costs manager. At this time, she was provided a job description, alongside information about a proposed collective redundancy process. She was eventually told she would be given this role.

Argos maintained a procedure where employees could be 'mapped' into similar roles if these were only 30% different at the most. Whilst Argos argued that the new role fell into this bracket, the claimant disagreed. In writing, she outlined that it offered less responsibility, less status and

***...a material factor defence continues to be in place until there is a reason for it not to be e.g. a further pay review is carried out.***

too much of a change in her daily duties. Argos treated her concerns as a grievance and ultimately rejected it, informing her that she was to move into the new role.

The claimant later brought claims to the ET, including unfair dismissal and failure to provide redundancy pay. The ET upheld her claim for constructive unfair dismissal. In forming their decision, they agreed that the new role offered had been significantly different to the old one and Argos had failed to properly assess how the 30% rule should be applied. The ET also found that as Argos had failed to properly consult with the claimant, it had breached the implied term of mutual trust and confidence. As the claimant had resigned in response to these breaches, she was constructively dismissed.

The ET failed to deal with the redundancy pay issue, instead postponing this to a remedy hearing.

Argos appealed on numerous grounds, arguing that the ET had failed to consider if the organisation had acted reasonably in the circumstances. Argos also stated that the ET had misinterpreted the law in finding the new role was not a suitable alternative role.

The EAT agreed that the ET had carried out a fair, objective assessment as to whether Argos's actions amounted to a breach of the implied term and had correctly concluded this amounted to a constructive dismissal. That said, as constructive dismissals are not always necessarily unfair dismissals, they had failed to properly consider if Argos had acted reasonably.

A significant aspect of this decision was the ET's failure to assess the suitability of the new role. The EAT explained that, from what it could see, the ET had not approached this in the correct way, and it was therefore unclear how they had

### ***...distinction between the claimant's condition, namely his delusional beliefs, and the impact of this on his ability to carry out day-to-day tasks.***

assessed the role was unsuitable. To this end, the EAT concluded that this needed to be revisited to confirm whether the dismissal was fair and what redundancy pay should be due to the claimant. The case was remitted to the ET for further consideration on this point.

#### **Sullivan v Bury Street Capital Ltd**

The EAT has considered whether a claimant suffering from paranoid delusions had a disability for the purposes of the Equality Act 2010.

Mr Sullivan, the claimant in this case, developed paranoia in May 2013, later specifying that this caused him to deliberately avoid putting information into his work calendar, or deliberately giving misleading information. The chief executive became aware of this situation in July 2013, admitting that the claimant appeared to be in a "bad place psychologically". Despite this, the two went on a business trip in September 2013, where the claimant's condition appeared to be improving.

Over the next few years, the claimant received psychological help for his condition and started to manage it much more effectively. However, the relationship between him and the chief executive began to break down, with continued discussions being had over his time-keeping and attitude. His paranoia did not affect him again at work until 2017, when a discussion over his remuneration was held. Following this, the claimant's condition decreased significantly, leading to him

taking time off work. After being dismissed, he brought a claim to the ET for disability discrimination. The ET addressed whether he was disabled for the purposes of the Equality Act, ultimately concluding that he was not.

They held that although there was a 'substantial adverse effect' present both in 2013 and 2017, it did not meet the definition of 'long-term'. Following his improvement towards the end of 2013, this condition had not resulted in the relevant effect on the claimant. For example, he had been allowed to attend a business trip, which would not have been permitted if he were not fit for the task.

The claimant appealed on numerous grounds.

The EAT dismissed the appeal, finding that the ET had lawfully drawn the distinction between the claimant's condition, namely his delusional beliefs, and the impact of this on his ability to carry out day-to-day tasks. Explaining that the effect of a condition can vary over time, they held that although there was a substantial adverse effect in 2013, and again in 2017, in neither case was it likely that the condition would last twelve months or more.

The ET had correctly assessed the intermittent years where the condition had not had an adverse effect, taking evidence from medical professionals, and other employees of the respondent, to find that the claimant's condition had improved between September 2013 and April 2017.

The EAT also dismissed the claimant's argument that his condition was likely to recur. This was because the law on recurring conditions relates to past disabilities; the claimant's condition had continued throughout the period in question. Where an adverse effect does occur again at a later date, it does not mean that the ET automatically needs to conclude that the first occurrence was 'likely' to reoccur; they need only assess the situation with the evidence at hand. The EAT agreed that the adverse effects were unlikely to recur as the triggering events. ■



# The extended job retention scheme

Danny Done, managing director at Portfolio Payroll, outlines the details



The government has announced that the job retention scheme (JRS), which began in March 2020 and involves designating some or all employees as 'furloughed workers', will be extended until March 2021.

'Furloughing' means temporarily changing an employee's status of employment so that they do not do any work at all, or work for fewer hours than normal, but are retained by their employer. It is an alternative to making employees redundant which may otherwise be required due to having no, or little, work to offer the current workforce.

The JRS was scheduled to come to an end on 31 October 2020, but it will now be extended for all UK nations. This means that the job support scheme, which was meant to begin on 1 November, will no longer be coming into force until further notice, if at all. The extended JRS will return to its original structure of covering 80% of furloughed employees' wages for any unworked hours within an employee's usual working hours, to a maximum of £2,500 per employee per month. This level of grant will be reviewed at the end of January 2021 and grant levels may change.

Full and flexible furlough will both still be running within the JRS. When an employee is on full furlough, no wage contribution is needed from the employer except for pension and National Insurance contributions. Flexible furlough rules mean that employers pay staff for the hours they work and can claim 80% of wage costs for unworked hours to a maximum which

is proportionately reduced in accordance with the number of unworked hours.

In both cases, employers can choose to top up pay to the amount the employee would normally receive.

Both employers and employees must be eligible for the scheme for claims to be successful. All employers with a UK bank account and UK PAYE (pay as you earn) scheme can claim the grant whether their business is open or closed due to lockdown restrictions of any kind. However, the government expects that publicly funded organisations will not use the JRS, but partially publicly funded organisations may be eligible where their private revenues have been disrupted. The same rules have applied to use of the JRS since it began.

Importantly, employers do not need to have used furlough before in order to use the extended scheme and, similarly, employees do not have to have been furloughed before to also be eligible. For employees to be eligible to have their wages claimed for under this extension, they must be on an employer's PAYE payroll by 23:59 on 30 October 2020. This means that a real time information (RTI) submission notifying payment for that employee to HM Revenue & Customs must have been made between 20 March 2020 and 30 October 2020.

Since it was announced that the furlough scheme was to be extended until the end of March 2021, attention turned to the government in anticipation of further guidance on usage of the scheme. This was released on 10 November 2020 with much similarity to the way the

scheme has always functioned. However, despite the increase in flexibility that the extended scheme provides when compared to its original incarnation, further restrictions on its usage that were not previously seen have been introduced, likely to keep its ongoing cost down.

The government has confirmed that the same rules on annual leave apply to the extension as it did during the original scheme, including the requirement to top up pay – for example, an employee who takes annual leave whilst on furlough will need to be paid their normal rate of pay rather than their furlough rate. Another major point to consider is that employers can also furlough employees transferred under TUPE (transfer of undertaking protection of employment) or PAYE business succession rules subject to certain conditions; as before, it seems that this will depend on when the transfer took place.

Furthermore, if an employee decides to end her maternity leave early, so that she can be furloughed, she must give her employer at least eight weeks' notice of her return to work, meaning that her employer will not be able to furlough her until the end of the eight-week period. Notably, in a significant change to the previous position, the government reviewed whether employers can claim from the JRS for employees serving their notice period – see <https://bit.ly/339cPPN> for the limitation from 1 December.

It is essential that employers familiarise themselves with this guidance as much as possible and regularly check it for updates. It should be remembered that the JRS has seen numerous amendments since it was originally implemented, a trend that seems likely to continue over the next few months. ■

***...similarly, employees do not have to have been furloughed before to also be eligible.***



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## activpayroll and e-days partnership

GLOBAL PAYROLL and employee mobility specialist, activpayroll, has partnered with global absence management provider, e-days. With absence management getting more complicated globally, e-days' global coverage and integration stood out as the perfect partner for activpayroll.

Alison Sellar, chief executive officer (CEO) of activpayroll, said: "Our customers' main inefficiencies appeared to be around global compliance with local holidays and sickness rules in the high number of countries we now operate in, as well as unplanned absence and challenges around leave and employee engagement. Finding a partner that was as eager as us to enhance and solve these issues was top of our list."

Steve Arnold, CEO of e-days, said: "Every decent payroll system should have absence management at its heart: systems that do are so much stronger. The similarities between e-days and activpayroll make this a winning formula and we're looking forward to helping more businesses see the importance of absence."

## Capita gives helping hand to their workforce

CAPITA, THE consulting, digital services and software business, is introducing a new personal finance app to help its 45,000 UK workforce manage their money more easily during these tough economic conditions. The purpose-built app, called 'Level', which received strong positive feedback after being trialled by 2,000 of Capita's employees, can be accessed via desktop, mobile or SMS.

Level lets employees easily keep track of their disposable income throughout the month, access instant earned-salary advances and automatically save part of their monthly wage into the best savings accounts typically reserved for those with large

sums of money.

Level and Capita are working closely with the Behavioural Insights Team to test and evaluate the best ways to encourage everyone to build up a savings buffer for the future.

Will Serle, chief people officer of Capita, said: "By looking after our employees, we are helping build an environment in which they are happier and more productive, and in turn delivering a better service to our clients."

Stephen Holliday, CEO and founder of Level, said: "We are very excited to see how Level can support Capita's employees both now and as we launch more features."

## Record-breaking results for Portfolio Group

AWARD-WINNING SPECIALIST recruiter, The Portfolio Group, has seen year-on-year record figures during July and August as the nation came out of lockdown. Recruitment only briefly slowed during the national lockdown as many clients continued to move forward with their hiring plans.

Danny Done, managing director of the Group, said: "These results are a testament to the dedication and hard work of our consultants

who worked tirelessly to maintain contact with both clients and candidates giving them the confidence to hire during these uncertain times."

Anthony Macey, Group director, added: "We have now tried and tested remote recruitment and, as a result, know that online interviewing and remote on-boarding recruitment solutions do work so that businesses can continue to hire the best talent for their teams."

## SAGE UPDATES ITS CORONAVIRUS HUB

SAGE, MARKET leader in cloud business management solutions, has announced a full range of free tools, support and guidance. Its Coronavirus Hub has been a destination for small- and medium-sized businesses looking for support since its launch in April. The popular Job Retention Scheme Module will be updated to meet emerging government guidelines around the extended employee furlough scheme.

Paul Struthers, executive vice president and managing director of Sage UK & Ireland, said: "Businesses across the UK have demonstrated extraordinary resilience and adaptation but will need intensive support to continue to succeed. We therefore urge the government to continue to provide targeted and local support, placing digital investment at the heart of its strategy. As businesses rely on technology to operate, we must use this moment to bolster their chances for future job creation and cracking the UK productivity puzzle." Paul added that survival of small-to-medium-size enterprises "is integral to our country's economic recovery."

## New system launched

PAYCAPTAIN, WHICH launched in October, combines payroll, banking and wellness tools, allowing employers to support and empower their employees to take control of their finances to achieve greater financial wellbeing. Amongst other things, PayCaptain helps employees understand and control their earnings via Yapster, a new workplace messaging app.

Rob Liddiard, CEO of Yapster, said: "We're excited by PayCaptain's vision to turn pay from a functional, routine process into a driver of empowerment and engagement."

Simon Bocca, CEO and founder of PayCaptain, explained: "Payroll is such an important part of peoples' lives, yet employers and employees have been using the same payroll mechanics for years. We want to give people control over the money they earn, creating a way for payroll to be on-company brand and in line with their values, just like so many other elements of the employee experience."

Stuart Hall, non-executive director of both PayCaptain and the CIPP, said: "Payroll professionals have been looking for new processes for years and PayCaptain is ready to challenge the market. PayCaptain means the experience of paying people and getting paid has dramatically improved."

# Finding a partner in payroll success



Abigail Vaughan, chief operating officer, Zellis, discusses the issues

Payroll will always be a mission-critical function for any organisation but in the current climate making sure that it runs accurately, efficiently, and compliantly is more imperative than ever. As the pandemic continues, many payroll teams are struggling with challenges like adapting to remote working, managing a loss of capacity, and complying with rapidly changing legislative measures.

As a result, an increasing number of organisations are considering deploying support from an external payroll service provider, in order to ensure continuity, build resilience and save much needed costs at a time of considerable financial pressure. However, evaluating a potential payroll partner is no simple feat, especially as both customer expectations and provider capabilities have evolved significantly over the past decade. So, if you are considering a managed payroll service, here are four areas to focus on.

● **Expertise and experience** – It may go without saying, but you need to be completely confident in your provider's expertise and experience that they can get it right each and every time. At the moment, it's particularly crucial that they can quickly assess what new legislative measures mean for your payroll and respond to them in a way that aligns closely with your business objectives and protects the colleague experience.

But a good provider's expertise shouldn't just cover payroll processing and compliance. It should also cover the ability to proactively propose opportunities for improvement and advise on how payroll and HR (human resources) can add strategic value to the wider organisation, especially during the current period of uncertainty.

It's valuable to spend a bit of time to understand the people behind your payroll

service provider. How are they trained? How are they kept engaged and motivated? What technology do they use? What is their approach to innovation? Building trust and transparency with the people running your payroll is key to a long and successful partnership.

● **Tailored solutions** – An 'out-of-the-box payroll solution' could be something of a contradiction, since no two payrolls are quite the same. Every organisation has a unique combination of workforce complexity, sector-specific challenges, internal controls, colleague terms and conditions, and strategic objectives which influence how payroll is managed.

A good supplier should have the scale, expertise, and flexibility to meet a customer exactly where they are, using standardisation where it makes sense to do so but also developing a tailored solution which directly solves their issues. Perhaps most importantly, the supplier must be willing and able to adapt to change, since both stakeholders and priorities change over time.

Ultimately, traditional payroll outsourcing is being displaced by fully fledged managed payroll services which are characterised by a much closer and more strategic partnership between customer and provider.

● **Cost efficiency** – Unsurprisingly, the pandemic has seen process efficiency – and, by extension, cost optimisation – go straight to the top of the agenda for payroll teams. To achieve this, organisations need to accelerate the digitisation of their operations, with a particular focus on areas like cloud, journey automation, and data analytics. For many, process transformation will be more easily achieved by working with a payroll service provider that already has the right technology in place.

A provider's use of technology is key

to its ability to deliver – and to continue to deliver – real customer value beyond simply running the payroll. Remember that journey automation is by no means the only way to drive payroll cost-efficiency. A provider that knows how to use payroll and HR data strategically can help organisations make smarter and more profitable business decisions.

● **Customer satisfaction** – Another trait to look for in a payroll service partner is a strong approach to customer satisfaction and, more specifically, a mindset for continuous improvement. All providers have to be held accountable for delivering on what they have promised in their SLA (service level agreement), but the best of the bunch will look to go above and beyond.

At Zellis, for example, we give each client a dedicated customer success manager who, amongst other things, is tasked with championing service improvement, even if the client's feedback is already excellent. So if there was only one error in last month's payroll, we would focus on reducing that to zero next month.

## Ticking all the boxes

Working with a managed payroll service provider may not be right for every organisation. However, as the pandemic has exposed inherent flaws and points of fragility in payroll operations, it's worth evaluating the role that an external partner might play in addressing both short-term needs (e.g. adopting new government subsidy schemes) and long-term challenges (e.g. cost reduction and digitisation).

And it doesn't need to be all or nothing. Most providers can provide support on just part of the service (such as payroll processing), while others can provide advisory services for customers who just want some additional support for their in-house team.

In any case, don't settle for an out-of-the-box solution. Instead, find a solution that ticks all of the right boxes. ■

**...payroll outsourcing is being displaced by fully fledged managed payroll services...**



# So long, farewell



**Vince Ashall MSc FCIPP, industry luminary, payroll veteran and tutor, and retiree,** provides a brief history of his career in payroll, and comments on developments and the future

## My career, in brief

As was commonplace 'back in the day', I got into payroll completely by accident. I had attended for interview for an accounts office position at my local hospital, didn't get it, but was offered a similar position in the salaries and wages department – as payroll offices were then known.

My commencement in payroll in the National Health Service (NHS) coincided with a review of the function resulting in a career structure being set up. I progressed through the grades up to executive officer II level before being appointed deputy payroll manager and pensions officer. This progression was with various health authorities in the North West, thus giving me experience of how different payroll departments performed similar tasks.

I then moved from the 'frontline' to working behind the scenes. The NHS had its own bespoke payroll system – the Standard Payroll System (or SPS, as we called it). Here I was responsible for ensuring the payroll system was updated with the relevant tax and National Insurance contributions (NICs) rates, and the payscale values used in the NHS.

In or around 1994, following one of the incessant reviews that are undertaken within the NHS, it was decided that IT – I was based within the North Western Regional Health Authority's computer centre – wasn't core NHS business. As a consequence, I was privatised under 'TUPE' arrangements along with the other staff.

Several further TUPE transfers occurred thereafter. The joke in the office being that as well as keeping our terms and conditions, we kept the same desk and chairs.

Following the demise of the SPS around 2008, when the NHS moved to a fully integrated HR and payroll system using

Oracle software, I combined working part-time processing payrolls for companies, with self-employment undertaking payroll training and updating payroll manuals for various organisations.

## Significant changes

The significant changes during my career in payroll management are all related to statutory changes, as follows:

- introduction of statutory payments, their associated reclaims and how they fit in with occupational schemes; the latest being statutory parental bereavement leave and pay. Statutory sick pay (SSP) has lost none of its complexity and, at the risk of sounding like Uncle Albert from *Only fools and horses*, I remember when there were three levels of SSP depending on the employee's average weekly earnings in the previous eight weeks
- auto-enrolment
- real time information (RTI) – need I say more?!

## Achievements

My best achievements in payroll are:

- obtaining the CIPP's Master's degree and becoming a Fellow of the CIPP, and
- overseeing the implementation in the SPS of the NHS's new pay and grading structure, 'Agenda for change'.

## Regrets

Not one! I have no hesitation in recommending a career in payroll. Although there is a regularity to the payroll process, no two pay periods are exactly the same; and there is always some bright spark in government sticking their oar in.

## The future

I expect to see more automation of the transactional aspects of payroll, leaving

senior payroll personnel to concentrate more on the strategic elements and helping organisations improve the 'bottom line'.

Growth in the take-up of 'pay on demand', as per the roundtable article in the September issue of *Professional*. I can't help but wonder if HMRC will try and get in on the act and want their share 'on demand' – or more on demand than they have at present.

I predict further changes to RTI. When first mooted, the proposal was that pay files would be submitted to HMRC for the calculation of tax and NICs. With HMRC's move to all things digital and its 'Making tax digital' agenda, will this raise its head again? In my view, not until the thorny problem of attachment of earnings orders has been dealt with.

The Covid-19 crisis has prompted another look at NICs and whether they should be subsumed into tax. A full subsumption is still a long way off owing to the link with state benefits even though the 'contribution principle' has been somewhat eroded with the introduction of the flat rate state pension and the NICs nil rate band for earnings between the lower earnings level and the primary/secondary earnings thresholds. However, the introduction of the apprenticeship levy possibly points the way to the replacement of the secondary (employer) NICs with a payroll tax since employer's NICs confer no eligibility to benefits on employees.

The introduction of the various payroll qualifications, together with the payroll apprenticeship, should all go to make payroll a career of choice rather than a career one falls into by accident.

## And, finally...

I take this opportunity to thank all those who have helped me along the way in my payroll career. In particular (but not limited to), those stalwarts of the payroll profession, Kate Upcraft and the recently retired Ken Gurr. □

**...I have no hesitation in recommending a career in payroll.**

# Festive season wordsearch

To provide some light relief and in the spirit of celebrating the annual festive season, the CIPP's policy and research team are delighted to have prepared for your enjoyment this classic word puzzle which features 36 festive-related words.

The words can be forwards or backwards and vertical, horizontal or diagonal. Visit [cipp.org.uk/wsdec20](http://cipp.org.uk/wsdec20) to see the answers.

E	L	R	V	T	L	S	A	L	E	E	R	T	F	X	N	P	L	F	Y	O	S	K	O
V	S	N	E	K	C	I	D	T	Y	B	A	I	X	L	N	A	R	C	X	H	C	P	C
A	Y	U	M	I	S	T	L	E	T	O	E	D	N	E	W	Y	E	A	R	S	D	A	Y
E	H	A	M	J	M	B	C	T	Y	P	R	D	F	B	W	R	P	J	R	E	B	S	S
L	S	X	N	B	S	N	O	L	N	A	J	B	M	P	X	O	M	G	B	X	C	Y	Y
L	A	B	L	A	V	G	E	B	J	E	D	O	U	Z	U	L	A	Z	A	S	I	A	A
A	C	S	E	M	M	S	G	J	Q	M	V	Y	R	O	M	L	H	I	R	P	Y	D	D
U	N	N	Y	N	N	G	K	G	U	I	F	E	A	V	T	I	O	R	M	V	T	I	I
N	O	O	C	I	E	P	O	E	R	T	R	N	L	P	L	N	S	I	Z	V	I	L	L
N	N	I	T	Y	K	F	Q	H	R	R	Y	K	Q	A	S	G	N	X	V	C	F	O	O
A	N	T	F	G	T	K	I	A	F	E	W	K	P	V	U	C	V	Z	M	H	E	H	H
N	P	A	A	M	D	R	L	T	S	V	O	H	B	S	E	N	V	T	Z	R	N	K	U
Z	S	R	M	U	T	E	A	S	S	O	C	M	Q	P	U	L	N	Y	X	I	E	N	T
S	E	O	I	S	P	Z	R	P	F	I	U	S	I	T	I	N	E	A	B	S	B	A	C
D	T	C	G	I	E	H	X	H	D	L	N	E	U	S	R	H	O	I	H	T	L	B	P
R	A	E	C	C	Z	U	O	P	L	R	S	K	R	O	L	E	I	B	P	M	A	G	B
A	L	D	O	A	S	B	N	E	S	T	I	W	I	B	W	O	H	L	T	A	I	I	R
C	O	C	S	O	H	T	D	I	R	L	K	H	O	N	P	F	R	U	H	S	V	F	H
F	C	Q	A	Q	C	W	A	A	E	K	N	C	T	A	D	R	R	A	U	D	I	T	X
Y	O	R	N	S	I	X	Z	Y	W	P	I	B	R	W	A	K	Q	U	C	A	R	S	E
G	H	D	C	N	H	O	T	W	O	X	T	T	I	F	E	C	C	V	F	Y	T	L	Q
G	C	X	E	E	Z	V	O	J	L	U	I	N	S	Y	B	V	I	H	G	B	V	L	R
Y	A	D	G	N	I	X	O	B	F	E	E	A	S	C	A	K	E	K	N	F	D	E	T
R	W	Q	L	E	W	O	J	K	S	Y	T	R	A	P	S	A	M	T	S	I	R	H	C

(Note that the space between multi-word search items listed below is ignored in the table above. So, BENEFITS IN KIND would be shown as BENEFITSINKIND and MINCE PIES as MINCEPIES.)

ANNUAL EVENT  
ANNUAL LEAVE  
BANK HOLIDAYS  
BENEFITS IN KIND  
BONUS  
BOXING DAY  
CAKE  
CARDS  
CAROLS

CASH  
CHOCOLATES  
CHRISTMAS DAY  
CHRISTMAS PARTY  
DECORATIONS  
DICKENS  
FLOWERS  
GIFTS  
HAMPER

HOGMANAY  
HOLIDAYS  
MINCE PIES  
MISTLETOE  
MULLED WINE  
MUSIC  
NEW YEARS DAY  
NON-CASH  
OVERTIME

PARTIES  
PAYDAY  
PAYROLLING  
THIRD PARTY  
TINSEL  
TREE  
TRIVIAL BENEFIT  
TURKEYS  
WINE

# What makes an employer-provided benefit 'qualified'?

**Gretchen Inouye CPP, payroll consultant** and the APA's 2015 Payroll Woman of the Year, outlines the rules

**P**er the Internal Revenue Code (IRC), all employee compensation – which includes fringe benefits and reimbursements – is taxable income unless there is a specific exclusion in the tax code making an item nontaxable. Numerous employer-provided benefits and reimbursements are eligible for tax-favoured treatment, including total or partial exclusion from taxable income for withholding, social security, and Medicare taxes or deferral of income tax until a later date. To be nontaxable or deferrable, however, those benefits and the participants must meet requirements under the specific sections of the applicable law to be 'qualified'.

The three most frequent basic requirements for a qualified benefit are:

1. Description of the benefit plan's provisions including eligibility, enrollment, coverage, and other rules (most plans require a written plan document).
2. Communication to employees regarding the existence and operation of the benefit provisions.
3. Non-discrimination in favour of highly compensated employees (HCEs) or owners.

For 2020, annual compensation of more than USD125,000 in the preceding year constitutes highly compensated or 20% of the top-paid employees. Discrimination against HCEs is not permitted.

Qualified eligibility for most employer-provided plans is restricted to employees and their beneficiaries. Former employees such as retirees or those who have been laid off may be covered.

Employers may restrict benefits to specific categories of employees. It is not uncommon to exclude part-time or temporary employees from benefit

eligibility. Employers may legitimately exclude collective bargaining unit (union) employees based on contract provisions. A qualified plan may not be limited to HCEs if it is subject to nondiscrimination rules.

Enrolment rules established by the employer may include a waiting period before entrance to any plan, rules around when changes may be made, and what type – subject to IRC limitations. Qualified cafeteria plans under IRC section 125, for example, restrict employee election changes to open enrolment or listed life-event changes (temporary changes permit employees to make mid-year changes due to Covid-19).

Any business or benefit plan providing reimbursement of expenses is required to meet plan and regulatory requirements before substantiated reimbursements can be qualified as non-taxable. Substantiation includes documentation of amount, purpose, time, and place; receipts may be required. Reimbursements under various health/medical plans must be limited to medical expenses as defined by the IRC.

Qualified retirement and other deferred compensation plans must have and follow distribution rules setting restrictions around when and how employees take distributions from those plans.

Regardless of what type of employer benefit or reimbursement plan is provided and whether a plan document is required, organisations should clearly define the elements and requirements and ensure the qualifying provisions are met. Plans often require annual testing to validate that the plans meet non-discrimination rules, and corrective steps must be taken if they do not. A plan may be written to follow all the requirements, but it needs to be compliant in action as well. Records of

benefits and reimbursements are subject to audit by the Inland Revenue Service and the Department of Labor. Failures to meet plan requirements can partially or completely disqualify a plan, resulting in taxable income to employees and penalties for employers. ■

More information can be found in: the APA's *The Payroll Source*, section 4: Health, Accident, and Retirement Benefits; and the Inland Revenue Service's publications: 15-B (*Employer's Tax Guide to Fringe Benefits*), 525 (*Taxable and Nontaxable Income*); and 535 (*Business Expenses*).

This article is reprinted from the August/September 2020 issue of the APA's *PAYTECH* magazine.

The American Payroll Association (APA), [www.americanpayroll.org](http://www.americanpayroll.org), is the U.S. leader in payroll education, publications, and training. This nonprofit association conducts more than 300 payroll training conferences and seminars across the country each year and publishes a complete library of resource texts and newsletters. Representing more than 21,000 members, the APA is the industry's highly respected and collective voice in Washington, DC.

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**...rules established by the employer may include a waiting period before entrance to any plan...**

# Employees accessing their pension early

**Jonathan Watts-Lay, director, WEALTH at work**, outlines five things employees should consider before accessing their pension early



With many household incomes under pressure following the impact of coronavirus, it is very tempting for those aged over 55 to withdraw from their pension early as a way of supplementing a shortfall in income. In fact, 347,000 people did this throughout July, August and September 2020, which is not the usual seasonal pattern.

There are significant risks involved when taking money from a pension and there may be better options available, so it is crucial that employees understand the implications first.

● **Explore all other options** – It is important that employees consider all other options such as using non-pension savings, cutting back on expenditure or taking debt payment holidays through the government-backed recently extended mortgage holiday and debt repayment deferrals, and weigh up the best option for them to get through this difficult period.

Accessing a pension early should be weighed with the potential drawbacks such as paying significant tax on the withdrawals, drawing money from investments whilst markets are depressed, limiting the amount they can pay into a pension in the future if they want to rebuild their pension, and ultimately reducing the amount of money they will have in retirement.

● **Tax due can be 20%, 40% or even 45%** – There are important tax considerations that everyone should be aware of prior to taking money from their pension. Firstly, up to 25% of a pension pot can be received as tax-free cash, but withdrawals beyond this are potentially taxable.

There can be a huge difference in the income tax due when withdrawals beyond the tax-free entitlement are received. For example, a person who receives small amounts from a pension whilst receiving

no other income may be able to ensure these withdrawals are within their income tax personal allowance. However, if they were to draw large sums from a pension, particularly if they are still working, they may find they pay tax at 20%, 40% or possibly 45% on them.

● **Pensions need to last** – People spend most of their working life saving for their retirement, so it is a big decision how and when they withdraw money from their pension. Employees need to carefully consider if they will have enough money to last throughout their retirement. Most people live longer than they expect to, which means they could be facing an income shortfall at retirement if they do not plan properly.

The Institute for Fiscal Studies found that those in their 50s and 60s underestimate their chances of survival to age 75 by around 20%, and to 85 by around 5% to 10%. For example, men interviewed at age 65 believed they had just a 65% chance of reaching age 75, but the official estimate is 83%.

● **Rebuilding a pension pot could be difficult** – When someone draws money from their pension beyond their tax-free cash entitlement, a money purchase annual allowance is introduced. For most people this means an annual limit of £4,000 will apply to all future pension contributions, instead of the usual £40,000. If contributions beyond this limit are made, a tax charge will be due. This could be particularly significant for employees who continue working and contributing into their workplace pension scheme.

The effect of the money purchase annual allowance will typically mean that it would

not be practical for an individual to repay money into their pension once withdrawn, so it could be difficult to build it back up.

● **Scams and fraud** – Scammers often see turbulent times like these as an opportunity. In July, Action Fraud reported that victims of coronavirus-related scams had lost over £11,000,000. Victims of pension scams can be left approaching retirement with a significantly reduced income and, in some cases, entire life savings can be lost.

It is important for employees to be on their guard. Scammers tend to sound completely legitimate and it's easy to see why so many people are fooled. So, whatever employees are planning to do with their retirement savings, it's vital they check whether the company that they're planning to use is registered with the Financial Conduct Authority (FCA). They can also visit the FCA's ScamSmart website which includes a warning list of companies operating without authorisation or running scams. Regulated financial advice can also offer added consumer protection should anything go wrong.

## Conclusion

Many of those employees who are considering accessing their pension early don't realise the risks involved; ultimately, employers and trustees have a key role in stepping up and ensuring individuals can make informed choices. Many leading companies are now putting robust processes in place including providing access to financial education, guidance and regulated financial advice, to ensure their employees receive the right support at the right time. ■

**...significant risks involved when taking money from a pension...**

# Useful contacts directory

Content is supplied by the organisations themselves. *Professional in Payroll, Pensions and Reward* cannot accept any responsibility for the accuracy of the information that is supplied or the views contained therein. If in any doubt, please contact the organisation directly.

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## CONSULTANCY

**Chartered Institute of Payroll Professionals**  
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Solihull, West Midlands, B90 4ZL  
Tel: 0121 712 1000  
Email: [compliance@cipp.org.uk](mailto:compliance@cipp.org.uk)  
Website: [www.payrollcompliance.org.uk](http://www.payrollcompliance.org.uk)

The CIPP Payroll Assurance Scheme is a payroll quality and compliance service aimed at accrediting organisations who display best practice in payroll processes and people. Consisting of two modules; the process module and the people module; the scheme assesses payroll and associated processes to ensure compliance, reduce errors and highlights areas for improvement; as well as diagnosing staff skill levels and learning and development needs.



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Target Employee Range: 50+  
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Website: www.frontiersoftware.com

The fully integrated ichris system allows HR and payroll to share all employee information, working in real time from one database, with on-premise or cloud (hosted) options. Flexible and easy to use, ichris automates routine tasks and benefits from an inbuilt report designer for efficient data analysis and a self service interface for on-line payslips and workflow authorisations. Optional modules to manage the employee lifecycle include Recruitment, Onboarding, Learning & Development, Performance Management, Time & Attendance and Expenses Management.



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Our intuitive, integrated HR & Payroll software is designed for UK businesses. You get HMRC & BACs accredited software and access to dedicated UK-based subject matter experts. Our rich functionality includes employee self-service, easy expense & timesheet management, intelligent absence management and rapid recruitment & selection. Founded in 1966, we have 10,000+ customers across the UK and process over half a million payslips every month.



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#### Payroll Business Solutions Ltd

Abbey House, 28 Chapel Street, Marlow,  
Bucks, SL7 1DD  
Tel: 0203 855 4297 Fax: 020 8551 8861  
Contact: Steven Spiers Email: sales@payrollbs.co.uk  
Website: www.payrollbs.co.uk

Our outsourced service portfolio offers fully managed or bureau services as well as hosted payroll software with Bacs approved payment service.

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Website: www.intelligosoftware.com

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Accord Payroll is a comprehensive, scalable and configurable system with advanced features that include pension processing and auto-enrolment, holiday pay uplift, salary sacrifice, client-specific calculations, and user reporting tools. We offer both hosted (SaaS) and on-premise solutions which can interface with 3rd party HR, T&A, pension and accounting systems.

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Email: info@cipp.org.uk  
Website: www.cipp.org.uk

The CIPP has spent the last 40 years leading the education of payroll, pensions and reward professionals, through the delivery of qualifications from level three through to MSc (Level seven) and through a wide range of up-to date, payroll, pension and reward training courses, held throughout the year, utilising a variety of delivery methods.



## PAYSLIP DISTRIBUTION AND ARCHIVING

### Datagraphic

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Tel: +44 (0)1246 543000  
Contact: Joanne Hawxwell  
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The CIPP's mission is to lead payroll and pension professionals through education, membership and recognition. This is achieved by elevating the standing of the payroll profession, awarding it the recognition it deserves.



## RECRUITMENT AGENCIES

### Frazer Jones

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Website: www.frazerjones.com

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#### Hays Payroll Management

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Email: helen.livesey@hays.com  
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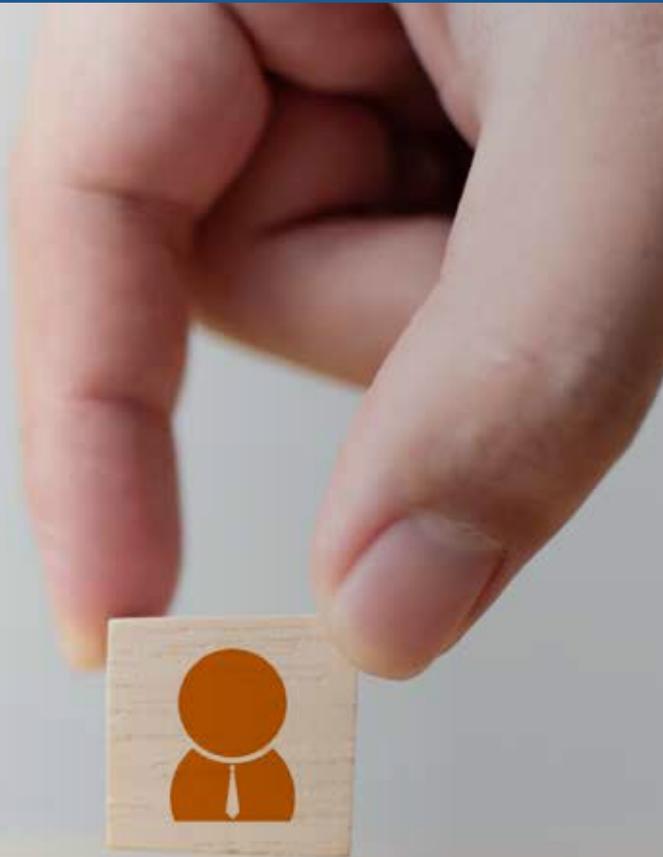
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# Confessions of a payroll manager - I'll be home for Christmas

Another anonymous episode revealing the world of payroll featuring payroll avatar, Penelope Fortham ('Penny'), who is payroll manager at the nation's favourite biscuit makers Crumbitt's Confections.

The only thing comparable to the satisfaction of creating a cracking spreadsheet is the joy of list-making. If I were Father Christmas, making the 'naughty' and 'nice' lists would be the highlight of the job. So far, I've resisted the urge to create an 'orange in a stocking' or 'a piece of coal and an eyeroll' list of Crumbitt's employees, so the closest I've got is the 'Christmas payroll checklist'. It's a bit like your typical Christmas card list – insofar as it's remained fundamentally unchanged for the last ten years – but, as with most things, this year it's needed an overhaul.

I contrived a reason to divide the list into two (why have one?!). One for the processing side of the work and the other for the team comprised mainly ideas for reconnecting with them following the really tough few months we've all had to keep things running.

Evaluating new initiatives for 2020 was high on the list and it was heartening to see the amount of staff who had taken advantage of the 'Christmas savers club' scheme (involving weekly deductions straight from payroll) and now had a 'stress-free' pot of money to use for Christmas shopping. I was slightly less convinced by the sudden uptake of staff wanting to get involved with the 'cycle to work' scheme this close to Christmas as a fair few had chosen bikes that were far too small, too glittery and, dare I say, childlike for an effective commute.

To help boost the morale of my slightly

flagging team I set up a virtual secret-Santa draw for them with the idea that the parcels would be posted directly to their houses with the whole team opening them together at our virtual Christmas lunch. Stevie Stevenson made some grumbling noises at this as apparently his intended gift this year was 'inappropriate' for posting. (I guess this reveals who annually gifted the 'stinky soft cheeses from around the world' cheeseboard!)

It has been strange running the Christmas payrolls without seeing all the usual faces dropping into the office and feeling the seasonal excitement building. With the Crumbitt's Christmas Collections as well as the regular biscuit and confectionary orders, the factory runs at maximum capacity from October to December so the constant smell of cinnamon and nutmeg, coupled with the Christmas hits blaring out of from a multitude of radios across the site, reminded us that Christmas was nearly here. Without these, I've felt a bit flat. My one attempt at Christmas baking did not result in a seasonal sensation for the nose and instead left an unpleasant tang of burnt plastic in the air and a set of Christmas cookies that could be deployed more usefully as coasters. My sole Christmas CD has been played so often I know all the lyrics, key changes, time signatures, and guest musicians – and could recite the running order forwards, backwards and alphabetically.

On the plus side, Mr Crumbitt (who has been pretty much housebound since March) has been doing some genuinely amazing baking and sending it out to the team for feedback. I don't know what's happened – well, let's face it, his 'experiments' in the past have been

rather less than successful, and on one memorable occasion actually dangerous – but this Christmas he's been churning out hit after hit! Current team favourite is the mince-pie garibaldi with brandy icing, although judging by the drop in team productivity post-garibaldi I think there's rather more brandy than biscuit.

The team had our virtual – oh, how I'm starting to despise that word – Christmas lunch yesterday and, while it wasn't the same (well, how could it be?) we had a good crack at it and it was genuinely fun. Charades over Zoom, while challenging, were actually more fun than the usual format. What with broadband breaking up, people muting and unmuting themselves, postmen interrupting halfway through (and the influence of Mr Crumbitt's brandy-iced garibaldi), it took seventeen minutes to guess *Miracle on 34th Street*. By the time we got it the entire team was bright red, laughter tears streaming down our faces and Evie conked out on her kitchen floor almost hyperventilating.

It's been a funny old year – the strangest ever – but we've got through it all so far; and, with this amazing team, I know we'll continue to rise to whatever challenges come our way. Though things in the world may change I know that payroll will be a constant and there are some years, like this one, when we all need constancy in our lives.

Happy Christmas all – and let's hope for a healthier and happier 2021! □

**The Editor:** Any resemblance to any payroll manager or professional alive or dead, or any payroll department or organisation whether apparently or actually portrayed in this article is simply fortuitous.

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