

Statutory Payments Consultation Group

Thursday 28 January 2010

13.00 - 16.00

100 Parliament Street

Present

Linda Pullan (Payroll Alliance)
Chris Hind (BCC)
Simon Parsons (IREEN)
Elaine Gibson (IPP)
Dianne Spruit (Private Sector Payroll Group)

Mark Norton (BIS)
Sheila Honey (BIS)
Rachel Bishop (BIS)
Kate Wheeler (DWP)
Prabha Mistry (DWP)
Graeme Young (HMRC)
Simon Clark (HMRC)
Connie Kirk (HMRC)
Des McKnight (HMRC) - Chairman

Apologies

Norman Green (BCS)
Lynsey Groom (FSB)
Abigail Morris (BCC)
David Harris (ICAEW)
Jackie Petherbridge (FSB and Private Sector Payroll Group)
Nicola Dissem (BIS)
Karen Haseldine (BIS)
Shelley Fuller (DWP)
Ann-Maria Loughman (DWP)

1. Introductions and background

- Consultation group noted as virtually five years old.
- Thanks to Chris Hind who had represented BCC very conscientiously over the years and would be handing over the baton after this meeting to Abigail Morris.
- Welcome to Graeme Young who would be the future chairman.

(a) Welcome to Sheila Honey and Rachel Bishop (BIS) – needs to be away before 14.30 – will lead us on W&F 2006 evaluation.

(b) Re-state purpose, as very first meeting - Statutory Payments (SPs) matters generally, from a practical operational point of view and to help give policy developments a practical steer.

2. Matters arising

(a) **EU proposals to amend Pregnant Workers Directive**

Voting on this is taking place in February.

(b) Stringer v HMRC

Still considering implications of judgement but further guidance will be issued once the implications have been fully explored, in the meantime there is some basic information in the 2010 version of the E14.

(c) Re-styling helpbooks for SPs – 2 cols per page

HM Revenue & Customs (HMRC) report back – Simon said that he had spoken with CAM and although they accepted that this was an issue when the helpbooks were viewed online or on the CD-ROM there were no plans to change the style at the moment. However, the matter would be kept under review.

(d) Changes in EU cross-border NICs liability – and impact on entitlement to SPs

(i) NICs position - where the non-UK based employer is in another EU Member State, from 1 May 2010, that employer will be obliged under both UK domestic law and new EC Regulations 883/2004 to operate NICs for workers in the UK NIC scheme. The EU business will be treated as having a place of business in the UK.

(ii) Purpose is to further strengthen our hand against non-compliant labour providers and others.

(iii) Will get you a more authoritative response later on implications for SPs.

(e) New pension reform changes – will pensions have to be deducted from SPs?

(i) New Pensions Act 2008 – defines earnings to include SPs – and defines qualifying earnings as the part (if any) of the gross earnings payable in that period that is over a threshold and not more than a limit.

(ii) Any problems you want us to pursue for you – the question of the implication of this for 'Personal Accounts' was raised – currently the employer is liable to continue to pay during the SP period – does this apply to personal accounts? It was agreed to take this forward.

(iii) SSP1 substitutes - details of what needs to go in employers own versions covered in the 2010 E14. Let us know if you need anything further from us.

(iv) Simple guidance for small businesses

Simon advised that his team had developed a two-sided check sheet for employers in respect of ASPP which had been passed to Lynsey for comment. He advised he was still awaiting a response and would follow it up. However, if this was considered to be useful his team would consider something similar for the other SPs and he would seek the groups views on the best way to publish this.

3. Update from BIS

(a) Work and Families Act 2006 evaluation

Sheila Honey and Rachel Bishop provided feedback on this on – with regard to the administration of the scheme there had been no real comments on the provisions

relating to the any day start and the ability to split payment to match pay patterns. There was some discussion about this and members felt it would be helpful to have some further guidance on daily payments and the split to match payroll cycle – if anything is produced Linda Pullan and Elaine Gibson agreed to have a look at the draft – we would then consider if it could be added to the frequently asked questions page on the internet and the CD-ROM.

(b) Additional Paternity Leave and Pay (APL&P)

(i) Mark Norton gave an update. The Government response to the consultation document was to be published today (28 January 2010) alongside the final impact assessment which was published on 18 January 2010. Affirmative legislation had been laid with the debate due to be held in February whilst the negative regulations were due to be signed today (28 January 2010). BIS and HMRC are working on the guidance for employers and we will look to involve members in comments etc.

(ii) KIT days on ASPP – any comments to be passed to BIS Nicola has spoken to Lawyers and is currently looking at revising guidance – need to ensure HMRC is copied into outcome.

4. Update from DWP - SSP matters - Prabha, Kate on hand too for any expert input especially on SMP related issues

(a) Changes to medical certificate and impacts for SSP

The regulations and impact assessment and the Government response were due to be completed and published on 29 January 2010. Draft guidance for employers is due to be published within the next couple of weeks. Linking rules will apply during a phased return for SSP purposes, so if an individual comes in for one day a week staff need to be sick for four days again to be entitled to SSP.

(b) Flu pandemic

Threat of an epidemic has now passed so no expectation of a change to SSP rules.

(c) SSP record keeping – can it be simplified?

DWP will continue to look at what can be done but it is difficult to reduce record keeping so they may need to look for other ways to reduce the burden on business.

5. HMRC's electronic calculators for Statutory Payments

(a) Graeme – issue with errors on calculators, and two different calculators on the internet and CD-ROM. The group was advised that HMRC are considering the withdrawal of the internet calculators and putting all resources behind the current CD-ROM versions. In the current financial climate it was difficult to justify the costs of maintaining both sets of calculators. Overall there were no pressing objections but there was concern over access for individuals which we said we were looking into. The possibility of the CD-ROM being available through the internet was also mentioned and a concern was raised over where the calculators would be sighted and how easy they could be located.

(b) The group was also advised that we would not be producing two versions of the ASPP calculator only a CD-ROM version.

6. Any other business

(a) Linda Pullen raised a concern from members relating to linking letters for SSP. In some cases employees were not passing them on resulting in employers overpaying SSP. Prabha agreed to pick this up with Jobcentre Plus.

(b) The group thanked Des for his role in managing the group and wished him a long and happy retirement.

Date of next meeting 1 July 2010.