



RE-EMERGENCE FROM COVID-19 MAKING CHANGES TO STAFFING STRUCTURES

As the gradual easing of lockdown gets underway and we move into the re-emergence stage, the focus for all businesses is to rebuild, and reassess projections and working requirements over the coming months and, in some cases, years.

With the furlough scheme (at the time of writing) unchanged until the end of July 2020, and continuing in some form until the end of October, employers who have weathered the storm during the lockdown will be moving on to consider staff resource requirements – some temporary and some more permanent.

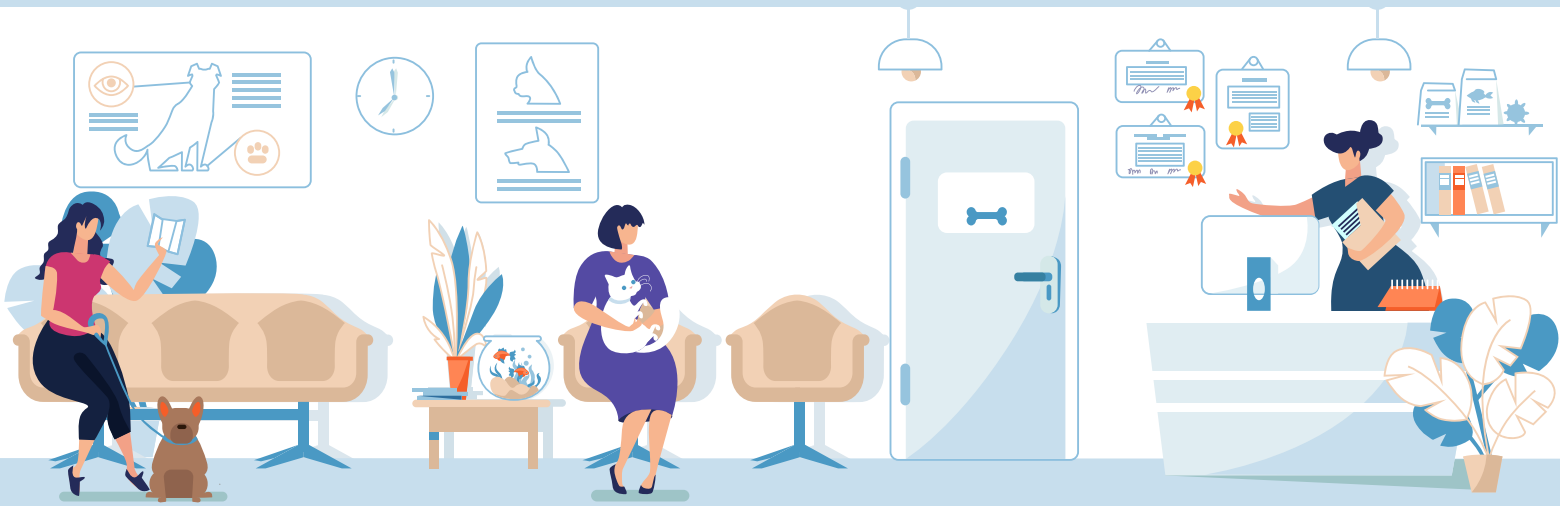
With the vast majority of veterinary practices using the furlough scheme to some extent – our own poll of Vet Dynamics webinar participants put that level at 97% of practices¹ - the emerging reality of a changed landscape across the economy will mean many employers have difficult choices to make. Taking cost cutting measures is never easy, and will be particularly hard where the practice has been able to support ongoing staff wages by virtue of the Coronavirus Job Retention Scheme (CJRS). This will undoubtedly be worsened by the knowledge that, for many households, multiple income providers will be impacted by the financial effect of the pandemic.

The eventual cessation of the CJRS means all employers – regardless of whether they used the scheme – will need to adjust forecasts. Changes to staffing requirements may be immediate, or may take time to filter through. What we can conclude is that very few practices will continue unchanged.

Early consideration of the variety of measures available will enable practices to fully assess how to move forwards with any headcount reduction or changes to working practices. Consider the following options carefully (though not necessarily in this order). Detailed legal advice is recommended before embarking on many of the possible routes below:

1. Review your current staffing portfolio

Who are your employees? What are their lengths of service? Are any fixed term contracts due to expire? Who are your locums and self-employed resource? What are the terms of those arrangements? You need to know the details of your workforce before making significant decisions.



2. Review your current contracts of employment for short time working and lay off

Is there any contractual wording that gives you the ability to change working hours, or place staff on short time working? Is there is a lay off clause you can activate? If so, consider invoking those measures. This may be particularly useful if you have a short term need for reduced working but expect your pipeline to increase over time. If not, the practice will need to enter into consultation to change terms and conditions. Depending on the changes and number of staff involved, consultation of some form – collective and/or individual – will be needed. Ensure you factor in appropriate time for those processes (discussed below) to be followed.

3. Consider your benefits package

For many employees maintaining their immediate bottom line income is the key consideration at present. This may enable the practice to review benefits offered in addition to salary, if a temporary cessation could save the practice expenditure. Whilst your benefits package is a valuable addition to basic pay, in these difficult times, you may find staff more open to accepting and agreeing the removal or reduction of benefits – for example, additional pension contributions over statutory percentage, removal of other benefits such as life insurance, vet discount fees, annual leave over the statutory 5.6 weeks. Again, you will need to follow the processes outlined below.

4. Invite suggestions from staff

Before embarking on compulsory cost cutting measures, many employers invite expressions of interest from staff to change their hours, change job role or take voluntary redundancy. This may enable some cost cutting to be achieved without imposing decision making on the workforce, maintaining a better level of working relations.

This may not yield the extent of cost cutting required, or may lead to staff you consider a necessity for practice recovery suggesting changes you do not wish to make. Accordingly, ensure any communication inviting suggestions makes it clear that management will decide if these changes are appropriate and that they will be subject to ongoing discussion regarding business need.

Do not immediately disregard more creative solutions, such as working from home on reduced hours, if that leads to cost savings for the employees (e.g. reducing commuting costs, childcare expenses) if that will enable

employment to continue in a more dormant manner until business picks up. You can agree to changes being temporary or for a fixed period.

Likewise, consider unpaid leave such as sabbaticals, or changing to zero hours contracts if staff are willing to be flexible.

5. Consider compulsory changes – reduction in pay, benefits and working hours

If it is necessary to look for deeper cuts to change staff contracts, a formal consultation process will usually need to be adopted to change staff pay, benefits or working hours. Unless you expect staff agreement to be immediately forthcoming, failing to follow legal requirements risks claims for breach of contract, unfair or constructive dismissal, as well as claims for breaches of statutory consultation requirements, all of which carry the risk of hefty tribunal awards.

Giving appropriate consideration to processes and procedural requirements is time well spent and may avoid costly claims, at a time when the liquidity of the practice is the major concern. Mistakes could lead to financial viability of the practice being called into question.

When changing contracts of employment, ensure that the staff are informed of the changes and the financial impact it will have upon them. Explain that you are seeking to reach agreement on the changes but if that cannot be achieved, you will need to move to more drastic measures. Give staff reasonable opportunity to consider the proposals and to put forward their comments.

It is imperative that at this stage you abide by collective consultation requirements should they apply, based on staffing numbers. Likewise, ensure where staff representatives are in place – including trade union representatives, that you adhere to your particular workplace requirements on consultation processes (if in place), or the legal requirements to collectively consult with recognised representatives.

Where agreement cannot be reached, the next stage is to consider dismissal and re-engagement on new terms and conditions of employment. Again, there are defined legal processes to be adopted, and care should be taken to follow these closely.

6. Compulsory redundancies

The deepest of the cost cutting measures is compulsory redundancy. Against the backdrop of the post-Covid-19 landscape, there may be no other option.

The statutory definition of redundancy includes workplace closures and reduction in workload. For some impacted practices there will be easily identifiable, genuine redundancy situations where it is possible to predict a continued downturn in client work. It will probably be reluctantly acknowledged by staff, in view of the wide ranging extent of the pandemic, that such extensive changes are needed for business survival.

It is essential for practices to adhere to a fair redundancy process to minimise the risk of claims. This involves following requirements:

- Consideration of the job roles which are to be removed
- Assessing pools of job roles where there are cross-over skills

- Adopting fair and transparent selection criteria that can be evidenced and is free from discrimination
- Embarking on meaningful consultation with the affected employees and seeking their views
- Reviewing options for suitable alternative employment
- Calculating accurate redundancy and termination payments.

Veterinary practices, like many other service businesses, have seen an unprecedented reduction in workflow. Although emergency clinical work have continued during the lockdown, the re-emergence stage is unlikely to show a return to full service levels. Whilst it is easy to foresee a gradual increase in client flow for routine veterinary work as public confidence grows, for some practices the prospect of returning to pre-pandemic work capacity is some way ahead.

19 May 2020

Stephenie Malone

Harrison Clark Rickerbys & HR4VETS



Stephenie Malone

Legal Director, Health and Social Care

M: 07896 462 779

E: smalone@hcrlaw.com

¹ Vet Dynamics poll of 163 participants, 17th April 2020: Webinar Sustaining Peak Performance During a Pandemic: Grants, Loans & Access to Cash