



## The Covid diaries: A daily fly-on-the-wall blog about running a legal business during the Covid-19 crisis

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We have started blogging about life running a law firm during the Covid-19 pandemic. Daily updates. It's a fly-on-the-wall thing.

We hope you enjoy it!

By [Darren Isaacs](#) and [Dónall Breen](#)

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**Day 47: Friday 22 May** - by [Dónall Breen](#)

### Should You Be Reading This Blog?

Does reading this article count as work?

Are you actually finished for the weekend or is our hard-hitting blogging getting in the way of that one last task?

More importantly, if someone took a screen shot of your computer right now, capturing all the tabs you have open, and sent it to your manager - would you be worried?

Well, for many employees, that's what happens every few minutes.

This morning Darren sent me an article about productivity monitoring software that periodically captures screenshots and keystrokes. In a thinly veiled attack on my utilisation, the article made me realise that if this was implemented I wouldn't be the first or last white collar worker to start having their screen time recorded. Monitoring software is on the rise, and with so many people working from

home companies are looking to digitise the key managerial task of peering over your shoulder now and again.

In truth, as someone who manages to carve out 30 minutes a day to work on their irrelevant soapbox blog I know all about procrastination and distraction. I can understand the lure of managers to this software, being able to keep an eye on employees who are known to read one too many Daily Mail articles once they hit the 3pm slump.

But I add this health warning - thread carefully. It is a Friday, and frankly I am already aggressively winding down for the weekend, so I won't go into the law. But tracking employees, even when using company equipment, is far from straight forward. GDPR, your local data protection laws, discrimination and harassment laws and a slew of other legal minefields mean that a disgruntled employee has a potential bag of ammunition to fire at you if you misstep.

It doesn't mean you can't use this software, many employers in the UK already do, but you should be careful.

So with that in mind, get back to work!

Unless you are reading this outside of working hours, in which case, thanks for reading.

Have a good weekend everyone, from all us here at GQ|Littler. Don't forget that we have yet another long weekend here in the UK this weekend - so back on Tuesday.

This blog was based off an excellent article from Australia's ABC, see [here](#) if you want to read more.

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**Day 46: Thursday 21 May** - by [Ursula Bosworth](#)

## We can dance if we want to...

*Ursula Bosworth is our Marketing Director and we have invited her to join in creating our daily diary entries, for a different view of our Covid-19 practice.*

11:30: 3 meetings down (tick tick off the list). It seems to be a very productive morning.

My oldest daughter peeks her head through the door saying "Mummy, are you on a call? (I wear my headset). Familiar? I do have a sign on the door saying that I am on a call, but the workplace has become fluid and I engage in conversations when my family peeks in the room. Something I share with a lot of parents out there...

11:45: I get a call from my colleague and we discuss some ideas. Expanding ideas is exciting. I still like using the phone for calls...it gives me time to detox from the screen.

Marketing is all about communicating an idea, changing behaviour, inspiring, positioning. We are planting seeds. I look out of the window; My husband is sowing some seeds in our freshly dug garden. I thought it would be good for our children. He was not too keen... I think he actually hated gardening...but look now, how things have changed. He loves his beans!

I reflect...this all seems normal now. I am a marketer but also a psychologist. This phase is far from normal. Now we must imagine a future where we just don't know what's around the corner... but marketing has always been about dancing on a moving carpet.

4 months ago, we celebrated our 10-year anniversary. I close my eyes and see all my colleagues chatting away with clients, smiling, having fun...oh I miss the buzz of it.

12:00: I have joined our know how session. It is all complex to say the least! There is no reset button...things have changed. The team is handing over control remotely...several presenters...collaborating in our new work space. We have scheduled the next session for tomorrow morning.

15:00: I go downstairs because my Fitbit has told me that I have not moved...sound familiar? Francesca, my youngest daughter works on a Greek vase in the garden...she asks me if I want to do a yoga session. She is nearly 8 years old and she loves yoga. She is also a brilliant teacher, telling me that I should not worry if I cannot do the pose. "Adults are not as flexible" she says in the cutest voice. She



looks happy that I have spent 5 minutes with her and I feel great (I have booked my next session for tomorrow!).

15:10: I work on data. I love the insights of data, the directness, the clarity, the different perspective it offers. This is a good time to focus on it and plan the future. It is exciting.

16:00: Time for our marketing WIP call. We create, produce, design, re-design, source images and we look after each other. They say separation makes the heart grow fonder.

17:08: I hear something slipped under the door to the office. It's probably the bill from the yoga teacher!

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**Day 45: Wednesday 20 May** -by Dónall Breen

## I Ventured Into the City

As I ventured down Cheapside\* [\*one of the main streets in the financial/legal heart of London], a hoard of City traders in tattered clothes gathered around a closed pub scratching at the window. A smartly dressed lady queued outside a boarded-up Pret, muttering to herself that they will open soon. A cycle courier raced up and down the street, desperately trying to find any red light he could break.

In an empty Bank junction, a cabbie beeped and shouted at no one in particular. He looked downtrodden, but cheered up when he spotted the cycle courier and took off after him down the street.

OK, it wasn't quite as bad as that, but the City is weird right now.

I needed to drop into the office to collect my bicycle from the bike shed and decided to jog in to avoid public transport. At 8am on a Wednesday morning the pavements were empty, the streets were quiet and the offices were closed.

I hadn't been into the City since this started, and to experience one of the busiest places on the planet looking like this - midweek - is an image I will never forget. It was a real 'Statue of Liberty in the sand at the end of Planet of the Apes' moment. Spoiler alert by the way.

Part of it is perception. The City is that quiet on a summer Sunday and no one bats an eyelid. However, to think it has been like that for weeks is eerie.

To be honest, I was glad I experienced it and it will be a story for the kids. But, like everyone else, I miss the hustle and bustle. The beating heart of London. The packed pubs, the wait for overpriced sandwiches and the never-ending battle between cabbie and courier.

Who would have thought I would miss those things the most?

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**Day 44: Tuesday 19 May** - by Darren Isaacs

## 1984

We have been thinking a lot about the intersection between legislation, court/tribunal decisions, and Government guidance.

It has been very interesting, sometimes frustrating, and also downright frightening, to see some of the issues unfolding on an almost daily basis in the context of the Covid-19.

To put it in a nutshell:

Legislation is law.

Court/tribunal decisions (on points of law) are law.

Government guidance is, well, not law. It may be useful, but it is not law.

Government guidance is often just the opinion of the Government, or of a particular Government agency, on a particular legal issue - and it may be legally correct or it may be legally completely wrong.

That is not intended as a criticism of the Government for issuing guidance. Most of us would normally think that it is better - far better - to have some well-thought-out Government guidance on a legal grey area, than none at all. It helps put flesh on the bones of vague laws, especially when the laws are new and we have little judicial guidance from cases having been argued before the courts/tribunals.

It can also indicate to us what relevant Government agencies consider to be the legally correct way to go about doing something. And if the relevant Government agency is the Information Commissioner's Office (ICO), or the Health & Safety Executive (HSE) - both of which have an enforcement function as well as an advisory function - then following their guidance is normally a good idea.

But, as lawyers, we do always have to take Government guidance with a healthy grain of salt - we have to try and look behind it and, on occasion, to question it.

We will no doubt all be familiar with the Government guidance on good public health lockdown steps to take (not law), versus the actual legal requirements set out in the lockdown regulations (law). The guidance and the law did not entirely see eye-to-eye, and confusion reigned.

In contrast, we have previously expressed the view in these diary entries that the recent Government guidance on returning-to-work safety measures for offices, is good (see Day 41). So a big tick from us there.

The moral of the story: pay attention to what the Government says we should do, but don't make the mistake of equating it to the law - they are often two very different things. After all, this isn't a George Orwell novel (not yet, anyway).

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**Day 43: Monday 18 May** - by [Dónall Breen](#)

## Office Space

So, what did you do with all your new freedom over the weekend - for those living in England at least?

I took full advantage and left the house twice on both days. I felt like a real rebel. I should have worn a leather jacket and had an unlit cigarette hanging from my mouth.

In fact I put on my lycra and went for a cycle. I looked absolutely uncool, according to my other half.

The lifting of restrictions also meant that this week more and more people will be going back to work, in theory at least. It still isn't clear how many offices have actually reopened but the roads look busier from my window.

The government has published some guidance on what precautions employers must take, but the bottom line is that most office spaces are about to profoundly change. Gone is hot-desking, apparently. There may be some sections of the employee population cheering that.

Ball pits will also have to go, which is gutting for all those tech companies who will now have to replace their onsite playgrounds with something boring like a fish tank.

Even in our own office, the open plan, hot-desking arrangement we had going has now been derailed by the 'Rona. We are starting to brain storm what the office might look like when it reopens. Buzzwords like 'collaboration spaces' and 'drop in areas' are floating about instead of just lines of desks. I feel like I am in Silicon Valley sometimes.

But from speaking to many of our clients, they are hunkering down for the long haul at home. Instead of thinking about what their office cubicle will look like, we are hearing that employees are now looking at their homes and wondering if some permanent changes



are needed.

If you are looking for a new career right now, I imagine interior design is on the up.

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**Day 42: Friday 15 May** - by [Darren Isaacs](#) and [Dónall Breen](#)

## National Working from Home Day

In the greatest case of irony since Alanis Morissette's song 'Ironic' ironically misused the word ironic, today is National "Working from Home Day".

There is not a huge amount to laugh about right now, but this did give us a chuckle. In fact, it gave everyone on our 'all hands' meeting this morning a good giggle.

So what are we doing on this unique day? Well, we are all working from home. Extraordinary. Now, the fact that this is mandated by the government and there is a public health crisis is irrelevant. Today is the first day we have chosen to work from home in keeping with the spirit of the day.

We have also woken up to the news that London's R-number is trending at 0.4, so for a town that was once the epicentre of the Covid-19 pandemic in the UK, we are now racing ahead on the downward recovery slope of the curve. [Editorial note: I have just re-read that sentence and LOLs given that a year ago it would have been total gobbledygook but now seems like an entirely normal thing to say].

So, we can cue an uptick in the number of London office-based businesses wanting legal advice on trying to return to a more 'normal' (ish) office-based working life (see yesterday's entry, Day 41, for more on this).

And again, we have a sunny Friday and a promise of decent weather ahead on the weekend. Things are indeed looking up.

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**Day 41: Thursday 14 May** - by [Darren Isaacs](#)

## I Like to Ride my Bicycle

I spent a large part of the morning wading through the Government's various new guidance documents on how different workplaces can try to re-open safely.

I am not normally one to heap praise on Government agencies, but to be fair, I think the guidance notes are actually quite helpful. The one on office workplaces in particular is quite useful for clients who are starting to plan their "new world" office environments. I am going to suggest that clients with offices who are thinking of re-opening soon, walk through the document to use it as a guide to what they should be considering.

In contrast is the guidance from the Department of Transport on cycle-to-work schemes, which I have also been looking at. A lovely client wants to help its team to be able to get into work without using public transport, so we have been looking at cycle-to-work schemes.

To cut a long story short, cycle-to-work schemes have previously been something an employer could offer to an employee in a tax beneficial way, but the value of the equipment being hired was capped at £1,000.

£1,000 does not get you much of a bike these days, so in 2019 the government removed the cap. What a great way to encourage more employees to cycle to work (all the more important in the coming months)!

However - to cut another long story short - the government did not change the rules dealing with FCA authorisation (you know, the Financial Conduct Authority - the same regulator for hedge funds and the like).



If anyone hires out bike equipment (including an employer) and the kit is worth more than £1,000, then FCA authorisation will be required.

Solution: outsource the hiring to a bike shop. So far, so good.

However, Department of Transport guidance \*helpfully\* warns that an employer may still be seen as a credit broker (err, a what?) and require separate FCA authorisation, or alternatively the regulated "authorised representative" of the bike hire company (also complicated). And, of course, this: "If in doubt about this or any other regulatory issues, you should consider seeking legal advice on your position."

Really? Really take regulatory legal advice just to get a simple cycle-to-work scheme going?

And this is before we even get to the limits on how a cycle-to-work scheme operates, from a tax angle. Another rant for another day.

So:

Recommendation #1 - if you have an office workplace and want to re-open, do read the government's new guidance on this. It's good.

Recommendation #2 - do consider a cycle-to-work scheme, but keep in mind that it is a little tricky on the regulatory and tax sides, and you may need to speak to someone about it. Stupid red tape, but red tape nonetheless.

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**Day 40: Wednesday 13 May** - by [Dónall Breen](#)

## 40 Days and 40 Nights

We have survived in the desert (our kitchen tables, spare rooms and beds) living off honey (no commutes, no suits) and locusts (no printing and limited office supplies).

Please excuse the biblical references, but 40 working days on from where we started is quite the milestone. We were basically thrust into a proof of concept experiment that working from home is a viable alternative to being in the office, whilst at the same time dealing with one of the biggest surges of client work in our firm's history.

Some things have gone well (Teams has been a life saver in keeping the gang together), some things are harder (I would give my left leg for a laser printer that isn't the size of a car) and some things are just different (I now see more of my colleagues' faces than I ever did in the office).

Hand on heart, I know I've had it easier than most. I don't have children and we have space in the house so that my wife and I can work in separate rooms. I am under no illusions that things could be much more challenging. Most importantly, I know I have a job.

However, I'm now at the point where commuting into the office seems like a distant memory. I just can't see us going back to that again in the way we used to. 40 days on and the change feels permanent. Only time will tell what will change forever and what won't, but working from home will no longer be the exception. Twitter recently announced that all employees could work from home - forever.

I can't remember the movie, but I can vividly recall the scene. There is a guy who tries to survive in the wilderness. At the start he meets a local who sees him struggle, cold and hungry as the night approaches. Over time he masters the elements and kills a bear or something silly like that. Anyway, SPOILER ALERT at the end of the movie he sees the same local guy again, but this time our survivor has shelter, a fire and food. The local guy says "you've come a long way", to which the protagonist replies, "it feels long".

We have achieved a lot in the last 40 days, but it does feel like it...

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**Day 39: Tuesday 12 May** - by [Dónall Breen](#)

## May I Have Some More?

Today I returned from one day of annual leave.

What greeted me on my return were hundreds of pages of government guidance about reopening the economy, a new announcement that the Coronavirus Job Retention Scheme was to be extended until October and a protocol published by the Irish government about what employers must do to reopen their businesses.

If a week is a long time in politics, a day is a long time in employment law (for now, at least). Thankfully I was well rested from my relaxing day at home to deal with all this - from my home office.

What I will say about all this information flowing through is that any news is good news. For some time now we have been in a severe information vacuum about... pretty much everything. From when and how workplaces can reopen to what employers must do. But, at least now the flow of guidance has started there are some framework documents that we can build our advice around.

It seems like we are living in the years of uncertainty. Both Brexit and Covid-19 have been dominated by this term. So like a hungry Oliver Twist asking for some more soup, any drop of certainty we can get is gratefully accepted.

But please Sir, may I have some more?

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**Day 38: Monday 11 May** - by [Darren Isaacs](#)

## Hey Ho, Hey Ho ...

We now have some updated guidelines from the Government on how the UK is going to get back on its feet, following a public statement by the Prime Minister yesterday (Sunday) evening.

It is a bit wishy-washy but from a HR perspective it basically seems to boil down to this: keep working from home if you can, go into a workplace if you need to, avoid public transport whatever you do (and wear face-masks), and if you are out and about (including at a workplace) continue with social distancing and increased hygiene measures.

As mission statements, these all seem fine as high-level goals.

But I am starting to ponder what specific and practical steps, an employer could be putting in place. This is relevant anywhere but particularly important in a dense urban location like central London. The obvious things will be workplace redesign and installing fancy hygiene stations around the office (alcohol gel, wipes, etc etc).

There are also going to be some other challenging issues, like how we even get to/from work whilst maintaining social distancing. In the past, taking the Tube (London Underground) to work was like playing a game of "sardines"\*. We may not be Tokyo just yet, but, even so, there is no chance of keeping 2 metres/6 feet apart on a rush-hour train, no matter how well-intentioned some of us may be.

What about the other, not so obvious, changes required when we actually get into work? For example, do we set up one-way movement lanes on the floor of the office, so people don't accidentally bump into each other? What about water-cooler gossip - it's going to have to be shouted across the office floor instead (which, sadly, may put a dampner on things).

Then we have the issue of some employees wanting to come into the office when they really should not, and some refusing to come in when their boss thinks they really should.

No doubt looking at all of these issues in detail will keep me, and my colleagues, quite busy over the next week or so, as we try to plan how we can all work with a new set of Covid-19 rules.

\* Sardines = a Victorian version of "hide-and-seek" in which the players end up hiding together until they last one finds them. Picture the players all trying to squeeze into a closet together, and you will get the picture.



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**Day 37: Thursday 7 May** - by [Darren Isaacs](#)

## Wake up sleepy Jean

One of my guilty pleasures during lockdown has been taking a secret "nana nap" during the middle of the day.

I have it down to a fine art now - 15 minutes for a (very) quick bite to eat at lunch, and then 'salary sacrificing' another 30 minutes of my lunch break from eating into snoozing in the sun. And that still leave me with 15 minutes for a break later on. A very productive use of my notional lunch hour.

It doesn't always go according to plan - some days I find myself sitting down at my laptop at 9am and coming up for air 11 hours later, with hardly any break aside from essential nature calls and quick coffee-brewing stops. Nothing new there, I guess.

On the days that are a little slower - just a little, it never really stops in a legal practice - it feels like I am cheating just a bit by sneaking in a little snooze to break the day up. And, I have to say, it works wonders. Maybe the Spanish really were on to something. My mental productivity afterwards is great, and I usually end up working later than normal as a result - so it pays dividends.

At this stage I should probably confess that I don't have children, so if you are reading this and light nap at lunch is the least thing you can see yourself doing in-between working and school lessons, please don't send me hate mail.

Parents aside, it does make me wonder how many other home-workers are doing the same? It can't just be me. And how will we all cope when we have to spend 45+ minutes commuting back into an office (and the same again on the way home), without a nap room in which to rest our weary lunchtime heads?

There are many reasons I may not rush back into an office, but this is currently very high up my list.

Finally, for those who are reading from the UK - have a great long weekend. Hopefully it won't rain too much! For those who are tuning in from elsewhere, we will be off tomorrow but back in full swing next week.

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**Day 36: Wednesday 6 May** - by [Dónall Breen](#)

## Through the Looking Glass

I had an amusing little moment last night with my parents. We were happily chatting on WhatsApp video when I started to admit that I had completely forgotten my brother's birthday and I would just have to pretend his card was lost in the post. A laugh went up in the background; he was sitting on the other side of the phone.

A little awkward, but I did promise him a shout out in my blog to say sorry. Hi Martin! :)

Inevitably it will also happen at work. And the problem will only get worse if the meeting is recorded and shared around to people who were never supposed to listen in.

Back in the good old pre-Covid days, meetings were rarely recorded, other than exceptional circumstances. And almost always it was recorded with audio only as a special file on HR's desktop.

But now it is easier than ever with everyone on video chat. And why not record a video instead of some poor sod taking notes for the whole thing?

Most companies\* have little experience in how to deal with records of company meetings, so it is understandably hard to try and magically concoct a firm policy on what should happen. No meetings should be recorded? Some meetings can be recorded if requested and everyone agrees? Recordings cannot be forwarded (how do you police this)? Videos need to be password protected (can we do this easily with ready-to-use software)? It's all a little tricky. And that without the GDPR torpedo or other laws being considered.

\* Some regulated entities that must record phone calls for record keeping purposes will be well aware of some of these struggles.

Before I feel too superior on my high horse, I'll admit we haven't grappled with the issue entirely either. We sometimes (OK, twice) record non-sensitive team catch ups for those who are missing. But we have yet to get some standard practice around how that will work for more sensitive meetings (if recordings are deemed necessary). Thus far, we have ducked the issue by only managing to record two boring meetings, but do need to think about it going forward.

In the meantime, I think the safe thing to do is to not record any meeting unless you are certain you can control who sees the recording (or frankly, you wouldn't care who sees it). Otherwise, missing birthday cards might be the least of your worries.

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**Day 35: Tuesday 5 May** - by [Darren Isaacs](#)

## Ground Control to Major Tom

I have so many alerts to manage on my laptop now that some days I feel like I am DJ-ing at a live concert, or flying a plane.

Not that I have ever done either of those things, but you get what I mean.

I am someone who has always embraced "tidy desk, tidy mind" as a working philosophy. That extends to my online environment. As soon as a red alert pops up on my iPhone, I like to sort it out. I'm definitely not one of those people who has a mail icon on his or her phone with thousands of unopened messages taunting them from a little red circle. Or even a single unread message.

Like many businesses, once we moved into home-working as our primary office location, we also moved into 'virtual' everything. Meetings, blogs, chats, etc etc. A recent survey of the UK legal market recently showed that the most popular online call apps are Zoom (22%), Microsoft Teams (17%), Skype (16%), and then the rest (23%) [note: that only adds up to 78% in total - not sure what happened to the other 22% but maybe they don't use online call apps at all]. The numbers themselves aren't that important, the principle is. Lawyers have embraced online working environments just like everyone else.

For us, we have gravitated to Microsoft Teams as we already use other Microsoft products. On the whole, it is an awesome set of tools.

However, one downside is that I am now finding that my communication "channel" management time is skyrocketing. Emails (work and personal accounts), phone, video calls, wiki entries, Team chats, text messages and WhatsApp. My entire desk beeps and buzzes at me all day long, with every app trying to outbid the other for my attention. And then there is the dish-washer and washing machine, both of which have the same annoying high-pitched beeping to tell me that they are done (the same high-pitched beeping the office photocopier also had - those were the days).

So, I am very happy for all of this new technology, but Oh. My. Goodness. some days I could do with an extra pair of hands to manage all the alerts that pop up every 30 seconds on my screen!!

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**Day 34: Monday 4 May** - by [Dónall Breen](#)

## The Irish Understanding

As an employer lawyer with my foot in two jurisdictions (Ireland and the UK), it is often interesting to see how they interact. In jurisprudence, the UK tends to be a trend-setter with the Irish courts often looking to UK cases for guidance on novel points of law. To be honest, this really helps with my two-hat work.

But now and again, Ireland is the first mover. With a smaller population and less complex political structure, it tends to be more nimble for those 'think on your feet' moments. Covid-19 has been one of them.

The latest news is that over the weekend Ireland has published its [road map](#) for reopening society and business. It is a little light on specific detail for now but my educated guess is that it is going to look similar in many European countries (as they specifically refer to high level discussion happening at EU level). Therefore, it is worth a little glance if you have time (page 10 and 11 are about reopening



workplaces and businesses).

### Just a few headline points:

- They admit that economically supporting all affected businesses and employees will not be feasible in the long run.
- As expected, those who can work from home will be the last to be allowed to return to work.
- Outdoor workplaces will be the first to reopen with shopping malls and hairdressers some of the last (expected August).
- Nothing about the pubs reopening (sad face).
- All arrivals from outside the state to self isolate for 14 days. There seems to be no exception for the UK, although not clear how they would enforce this for Northern Ireland. I expect there will be more detail on this soon.
- No guidance on employers being able to run temperature check or Covid-19 tests (if available).

They say it will be a living document, updated as things develop, so I imagine more detail will be pencilled in as things go on.

Probably just a passing interest for most of you but good to have some clarity for a close neighbour all the same.

Ireland be nimble, Ireland be quick, Ireland be good at dealing with this virus stick.

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### Day 33: Friday 1 May - by [Darren Isaacs](#)

## Time flies

So that's another day, another week, and another month finished.

I have seen a lot of commentators saying it recently, and a fair number of memes have picked up on it, but lock-down seems to have created a strange rift in the space-time continuum. The hours seem to pass so very slowly, and at the same time, the weeks have flown by. A bit like the way time seems to dramatically slow down when you are in the middle of a horrible HIIT exercise session, but passes in the blink of an eye when your binge-watching an amazing box set.

So it is with legal life during the pandemic.

Some days just stretch on forever under the weight of boring non-client work. Writing and updating endless furlough FAQs is a prime example, as is anything to do with office accounting (ugh) and the appraisal process (important but OMG time-consuming). Other days are just so cram-packed with pressing client work that 10 hours at our desks seem to pass without even thinking about it (along with a dozen cups of coffee along the way).

From what I can tell, it's a universal, but strange, phenomenon of the human psyche.

Anyway, for those of you who are bravely keeping up with our meandering daily thoughts, we hope you get to raise a glass shortly and find time to enjoy the weekend ahead.

More next week.

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### Day 32: Thursday 30 April - by [Darren Isaacs](#)

## Red Red Wine

Today we are holding our monthly team meeting after work, or as we call it, "Whine with Wine".

Of course, lots of businesses have lots of team meetings. We have a regular slot at 9.30am every morning to check in on everybody, another regular slot for fortnightly training, and various other things in the diary.

But this particular meeting is a bit different. It's a monthly open forum where people can have a drink and raise any issue they would

like to put out there for discussion. By "issue", I mean some sort of HR or office-related matter, not some boring legal question they are pondering (they can raise that during our training session or, frankly, any other time).

So what do we chat about? Well, historically, the topics have ranged wide and far but often come down to the more mundane aspects of office life.

Like:

- Please don't leave your teabags in the office kitchen sink
- Please close the loo door once you are finished so the lights go off (thankfully we have not yet had to remind people to close the loo door when they are inside)
- Can we get another photocopier?
- Should we organise a team lunch?

All riveting stuff.

On the one hand it's an hour of delving into absolute trivia as we debate the relative merits of buying a new kettle and, if so, what type. On the other hand, it always makes me thankful - if these are the types of pressing "issues" people would like to raise in our workplace, then it basically says things are, on the whole, chugging along quite smoothly.

We are continuing these meetings even though we are all in lock-down. But the topics have now, unsurprisingly, shifted to less physical and more virtual issues: do we like Zoom or Teams more? Should we organise a remote working lunch? What are people doing about their hair? That sort of thing.

It is making a nice change from debating what system we should put in place for emptying the office dishwasher or replacing the office loo roll, for a while anyway ...

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**Day 31: Wednesday 29 April** - by [Dónall Breen](#)

## Open for Business (Sort Of)

If all good things must come to an end, then by definition all bad things must come to an end too. That conference call that started (what feels like) 6 days ago eventually finishes. The treadmill that counts down to 0:00 in extra slow time, it eventually stops. And at some stage the restrictions we are currently living with will end in some form or another.

Running a law firm we generally deal in the short to medium term. Issues faced by clients tend to be on the 2 week to 6 month timeline. But now and again we get something like Covid-19 that potentially stretches years into the future. We need to start thinking about what happens when we reopen for business, and how that will affect how we engage with employees in the long run.

That process has already started. Even when most governments still haven't published their plan, businesses are looking at what will happen if testing is mandatory, forcing people to socially interact (or distance) is a HR decision, and choosing who works from home will be a discussion fraught with tension.

Just like any good exam question, the answers to these issues are rarely straight forward and typically requires some mental horsepower to tease them out.

But unlike an exam question, the answers have some serious real world implications. Not just financially, but it is starting to look like employment law and social policy are going to mesh in a new public health debate. Lawyers and HR practitioners alike may need to start dusting down some of those old academic articles, listen to Radio 4 more often (for non-UK readers: a \*serious\* radio station for \*serious\* discussions) and engage in lively debates with people outside of law (horror!) so we can clue up on this.

No doubt it will be hard, but no doubt it will be interesting too.

All good things must come to an end, even this blog post...



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**Day 30: Tuesday 28 April** - by [Dónall Breen](#)

## Testing Times

Sometimes it feels like we are in a bad episode of Black Mirror.

Although we haven't descended into full dystopia just yet, going to the shops yesterday through a valley of squinting windows made me think I was in the White Bear episode. Of course, neighbours peering from balconies is nothing new or unusual, but on such a scale is a little unsettling. Especially when I was rocking my 'ankle high sport socks in dirty trainers' look usually reserved for the back garden.

Another 1984esque development is temperature testing at ever increasing locations. Many are now predicting that temperature checks will gradually turn into Covid checks once a speedy, reliable kit is available. That raises a whole host of employment law issues.

This post isn't about looking at those issues in detail (spoiler alert: GDPR), however I am starting to reflect on the new tool kit I will need in the future to do my job properly. Employment lawyers of 2021 will require a firm grasp of medical law, the rights surrounding handling health data, and a slew of other (once tangential) areas of regulation that will now fall squarely in our labour law arena.

In short, if the workplace turns into a makeshift field testing centre, those advising the employers will need some new knowledge to advise properly.

It is not only lawyers who are affected. I can only imagine the sea-change that is about to occur in the health and safety industry as consultants grapple with virology as their latest line item on the workplace safety checklist.

Sometimes your job changes as you react to the demands of your client. That's normal. But the breadth of this change and the pace at which it is occurring are making this transition anything but normal. As I said, testing times...

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**Day 29: Monday 27 April** - by [Darren Isaacs](#)

## Was it lockdown, or was it just Monday?

Whichever it was, today has been very dull. After another lovely, sunny weekend, we were back to ho-hum weather to start the week. At one stage I even had a jumper on (though, to be fair, I do feel the cold).

I have a number of small-ish legal jobs on the go at the moment, so I have been working my way through them today. Mostly wrapping up loose ends on projects that are coming to a resolution. But a large part of today has been dealing with annual compliance reviews. Yet another reminder that although the world may be completely different to how it was six months ago, some things remain the same. We still need to do a bunch of regulatory things and look at reporting for year-end (our financial year has just finished).

I did read an interesting newspaper article on the weekend about a survey in Australia of men and their attitudes to home-working, in light of the current pandemic. Of note is that more men now seem to be saying that they would consider working from home on a regular basis, given that the transition to remote working has been easier than many imagined. This is a thought I keep coming back to. There will be many things the Covid-19 world will teach us, and this is one. If we can get more people - especially men - embracing more agile working, then that would be great. Except maybe for office landlords.

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**Day 28: Friday 24 April** - by [Dónall Breen](#)

## RuPaul GIFs and GDPR

Soon I will be logging onto some Friday evening beers with my fellow associates on Microsoft Teams. Earlier I had a few Zoom calls and later this weekend I will bounce between WhatsApp and Skype for catch-ups with my family. Even my elderly parents now send

memes on WhatsApp. I thought lock-down was bad until my mother started incorrectly using RuPaul GIFs on the family chat.

If we thought our lives were online before, Covid has been a injection of steroids into that direction of travel.

So as I reflected on this, I thought no Friday would be complete without your friendly local lawyer shoehorning GDPR into the conversation - so here it goes.

As we increasingly start sharing more and more information, across multiple platforms, are we thinking enough about data protection?

This fun and exciting question was actually considered by the Irish Data Protection Commissioner who recently published guidance on why we should be careful using videoconferencing if personal data is being shared.

Sending sad cat memes to your other half when they don't bring you ice-cream? Who cares about who sees that [example drawn from real life]. But discussing an employee's medical file over a platform your company hasn't pen-tested for data security - a little dodgier.

As lawyers we were switched on to this a little earlier than most, as we have to be careful with confidential client documents. However, if you are dealing with sensitive information just consider whether the platform you are using is secure.

So, on that happy note I wish you all the best as we look towards another sunny weekend here in London. Stay safe, stay connected, always have GDPR on your mind.

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**Day 27: Thursday 23 April** - by [Darren Isaacs](#)

## Let the Sunshine In

This isn't a diary entry about sunshine at all, it's actually about hair. Hair and clothing.

Why the title? Well, as annoying influencers on Instagram say, "if you know, you know".

More specifically, today's diary is about our general appearance at work now that we are all Zoomers, including "but not limited to"\* hair and clothes. [\*once a lawyer, always a lawyer].

I joined a Zoom meeting of lawyers in SME city practices last night, to chat about how we are all getting on with the transition to home-working. One of the topics that came up is how our clients are getting to see a whole new side to us. And how lovely that is.

You see, lawyers tend to have this reputation for being a bit on the formal and conservative side. We wear suits and ties (at least the men) and carry serious-credential briefcases.

But the transition to online-based practices is a great leveler. Our clients are now seeing us with dodgy big hair (or some even dodgier home haircuts), and wearing outfits that are \*fine\* but that we wouldn't typically rock into to a business meeting wearing. Then there is the inevitable interruptions of home-life: children, pets, street activity, and Amazon deliveries - all at the most inopportune time.

But actually it's refreshing. Our clients are in the same boat. We are all making do and just getting on with it. One of my clients was starving during a meeting the other day so she carried on with her soup whilst we spoke. And why not? I didn't care, multi-tasking is an enviable skill. And why bother putting on a tie and suit jacket to have a video call which is so obviously just taking place in someone's front room or kitchen? We aren't newsreaders.

I do have my limits though. One of our Zoom call attendees was enjoying a cocktail in his garden wearing the kind of pink shorts that are not normally seen outside of Sloane Square. I'm not sure if it was the outside space (which I have none of) or the shorts that upset me the most.

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**Day 26: Wednesday 22 April** - by [Darren Isaacs](#)

## It's Oh So Quiet.

After an absolute helter-skelter of a few weeks preparing for the government's new furlough system to go live, it finally has done.

The HMRC's furlough portal opened on Monday morning and on the first day 185,000 businesses made claims covering 1.3 million employees (with claims valued at around £1.5bn). That is a LOT of fiscal support for struggling businesses and their employees.

We had a mad rush on Monday to update our [Furlough FAQs](#) as the government rushed out version 6 (or is it now 7?) of its furlough rules. Sincerest apologies if this is now driving you insane, but welcome to the club.

The rules are fairly detailed now, though there are one or two rather key points that remain to be sorted out. So more fun ahead, but hopefully we can shortly move on to other legal matters.

For now, clients seem to be just getting on and making their claims. Which means, in turn, we are noticing a burgeoning drop in the amount of legal advice we are being asked to provide on furlough. Hurrah for small mercies.

However, our loss will surely be the accountants' gain - the rules on how to calculate the amount that can be claimed are now quite complicated - so we are very happy to be passing that particular hot potato over to our more mathematically-minded friends.

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**Day 25: Tuesday 21 April** - by [Dónall Breen](#)

## The Company Card.

Today I became part of the 1% club. I managed to buy a printer for home. Forget white truffle, diamonds or Iranian caviar - the decently priced office printer has suddenly shot up in the rankings as one of the rarest commodities on the market, joining monitors and home gym equipment as newcomers.

But the immortal question loomed large - can I expense this?

Employment lawyers come across some ridiculous expenses submitted by employees. They usually come out of the woodwork during a termination. I've seen a van for transporting bicycles put on the company books (it was a financial services client with no cycling aspect whatsoever), the taxidermy of a stag was one receipt on a claim (it was a professional services firm) and finally the cleaning of a moat (admittedly, that was a politician I saw on the news).

But what about desks, chairs, stationary and IT equipment that employees need to work from home? That's a bit trickier. There are two things to consider:

What does the contract of employment or expenses policy say? What does the law say? On question one, the answer will probably be a very lawyerly "it depends". Most clauses and policies say you can expense what is reasonable. Therefore, communication is key here. You need to have an frank discussions with your employees what working from home equipment is reasonable. A £600 Mont Blanc pen for signing contracts with scanner to send - probably no. A subscription to an e-signing platform - probably yes. What the law says is slightly different. You are under a dual legal requirement to 1. make reasonable adjustments for disabled employees; and 2. ensure the employees workplace is safe. As a general rule, employers are expected to do what is reasonable.

What is reasonable is going to be fact dependent. If a disabled employee needed to some ergonomic equipment in the office they probably need it at home. However, it may be perfectly reasonable for an employer to say they will courier they equipment out to them rather than the employee expensing a whole new set for home. Similarly, having the screen at the correct height can prevent back problems. Does this mean you have to buy a £200 desk clamp? Maybe. Or maybe just use some books to prop it up.

As always, it all depends.

So what did I do? As it turns out, it didn't matter. The supplier cancelled my order within 10 minutes citing 'shipping difficulties'. I sadly rejoined the 99%. Please excuse typos in this blog post, I didn't get a chance to print and proof.

This blog was compiled with help from my colleague Chris Coombes. Chris has written an article on expenses when working from

home that will premier in our April newsletter, out next week.

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**Day 24: Monday 20 April** - by [Dónall Breen](#)

## Permanent and Pervasive?

My colleague Ursula recently shared a great video with me - see [here](#).

In short, the video talks about coping strategies for businesses in the current environment. It is well worth watching the video (at a very manageable 10min).

The two biggest takeaways for me were:

1. This is not permanent, even if it feels like it;
2. Everything is not awful, even if it feels like it.

The argument is fantastically cogent. And as they say, to a man with a hammer everything is a nail. To this blog, everything is an employment law issue.

Unavoidably, employers need to be sensible and take precautions. For example, this morning the government opened up the online Coronavirus Job Retention Scheme (CJRS) portal so that businesses can start claiming back wages for furloughed employees. Excellent! Let's get on to that immediately. Inevitably, there were widespread reports of crashes and bugs but by evening it seems the system was stabilising.

However, HR departments should also remember that in all likelihood the workforce will be back to a new normal relatively soon (if not so already). The panic is not permanent. Planning for the (medium to long term) future still needs to happen, even if those plans are subject to change. Not everything is in ruins - the usual run-of-the-mill tasks still needs to be done and avoiding them now will do you no favours in the future.

Whilst a 10min YouTube video isn't going to solve the world's problems, I think it is also important we all start to read up a bit of resilience. Now more than ever, having the ability to cope under pressure may be the defining attribute of a successful company.

As someone wiser than me once said, the person who thinks they can and the person who thinks they can't are both usually right.

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**Day 23: Friday 17 April** - by [Darren Isaacs](#)

## Boy, are we glad to see the end of this week.

Long weekends are great, but the downside is that you sometimes end up with 5 working days of work, squished into 4 days. Such was the week just gone. It has been hectic.

So, as we race towards the end of another UK Friday, all I can say is that it cannot get here soon enough.

I recently wrote about some of the more practical challenges for a law firm during lockdown (see [Day 21](#)). But the pandemic - and the government's responses to it - also continue to throw up interesting and new legal problems. If you have been reading our diaries, you will be tired of hearing all about furlough (though that particular topic keeps on keeping on - so, like Rocky Balboa, it will soon be making a comeback).

One thing I have been considering today is the potential new UK government Covid-19 app. Like governments elsewhere, the UK government has been working on some sort of contact tracing app that we will be 'encouraged' to download (or is it upload? I get so confused these days) onto our phones. The idea is that if someone you have been in close contact with tests positive for the virus, the app can alert you (and anyone else necessary).

I am half in awe of the very practical use of apps and GPS technology - and I am half horrified by it.

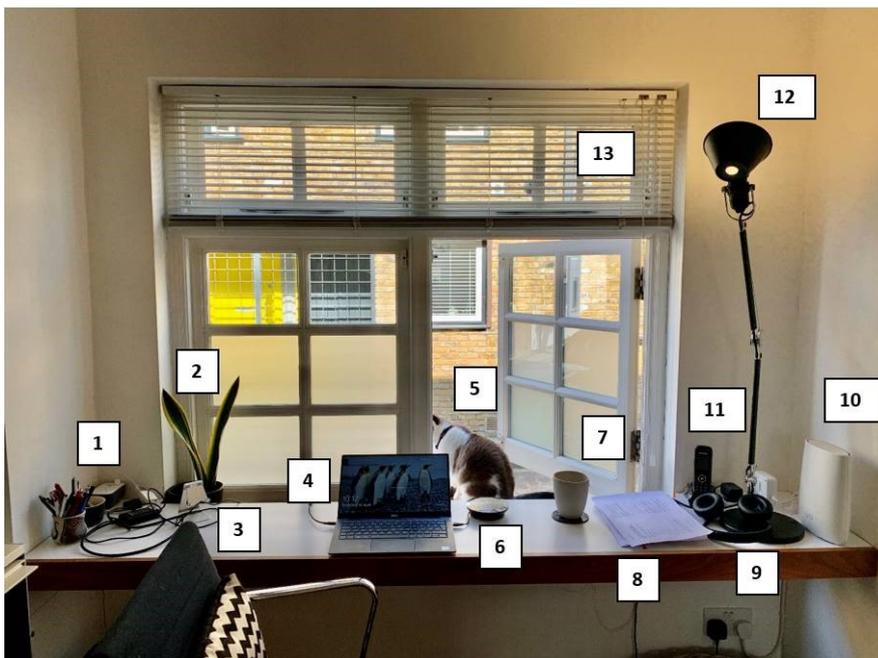
The HR lawyer in me - spurred on by a client query - is now wondering how it would all square off against the GDPR and what the potential issues are for an employer if the employee only has a work phone. Will the app be voluntary (like in Singapore)? Will the government try to make it compulsory (like in China)? Will the employer have to make sure IT puts it on everyone's work phones? If the phone gets returned to the employer, would the employer have access to the data? And who else, for that matter, might be able to access the data? What will the ICO say (the UK's privacy regulator)?

It's all too much for a Friday so, maybe if I have a glass of wine someone else will think of some clever answers over the weekend. We can only hope.

**Day 22: Thursday 16 April** - by [Darren Isaacs](#)

Well, they say a picture paints a thousand words.

So, after a month of home-working, I thought it was time to share my office setup with you. Much easier to do visually than by text, though I have annotated appropriately (under the picture).



**Scene Setting (Darren's Home Office)**

My office is very small and basically a desk that has been mounted across a wall and under a set of windows that open pretty much directly onto a cobbled laneway in front of my cottage (for more chat about my house, see Day 14).

**Details (anti-clockwise from left):**

- [1] Pens, electrical outlet (laptop cable plugged in here).
- [2] Sansevieria (Mother-in-Law's-Tongue) plant. Was in the bathroom, but not doing so well. Relocated to the study for some rest & recuperation.
- [3] The little metal stand to the top left (hard to see) is an iphone holder, so I can position the phone for video calls without using my hands. Most video calls are on my laptop, so this is just in case I need to use the phone, instead.
- [4] Laptop. Goes without saying. Basically, my entire office now. Currently displaying a nice picture of some penguins.
- [5] Edie, my trusty paralegal. She is up/down the study desk all day, and in/out the window. Also chief security officer. Here she is keeping an eye on the street, just in case there is any trouble brewing (mostly in the form of other cats daring to walk in front of the



house). It's quite tiring, though, so she needs plenty of naps in-between shifts. The window has to be shut and locked for safety every time I get up from my desk, and when I am on a client-related call (for confidentiality reasons, though frankly I am not sure how many of my neighbours would be interested in my furlough chat right now). Some days I feel like all I do is open and shut the window for the cat, all day long.

[6] Portable speaker. So much better than relying on my laptop audio.

[7] Coffee. Sometimes mint tea. I normally have a hot drink on the go all day long. Mostly decaff, so don't worry.

[8] The latest government furlough scheme rules. As soon as I print them out and process them into FAQs, the government publishes an update and I have to do it all over again. It is giving me nightmares. So, for now, these rules are a permanent fixture in my study.

[9] Also hard to see, but these are headphones - just in case I need them (rarely). Out of shot, on the left-hand side of the photo is some shelving with books and a radio. I listen to Classic FM (the local classical music station) when I'm not on calls.

[10] Apparently this is some internet thingy that my husband says we need. I have no idea.

[11] A home phone (why??). Nice throw-back to decades gone by. I haven't used it in literally years.

[12] Lamp, pointing upwards for subtle mood lighting. Also because it was apparently blinding my colleagues on our team video calls.

[13] You can't see it, but if I angle the venetian blinds upwards I can see the sky above my opposite neighbour's house. The study is north-facing so is in a shadow during the morning, but from lunchtime onwards it gets really lovely afternoon light.

It's not quite "Home Beautiful" but it will do for now!

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## Day 21: Wednesday 15 April - by [Darren Isaacs](#)

### Another day and another unexpected law firm mini-crisis to sort out.

What do you do when court rules require you to print, sign and send court papers to the other side - but you no longer have any office infrastructure to work from and you are stuck at home (as are any admin support personnel you previously relied upon)?

Queue today's latest drama and a flurry of emails: Who has a printer at home? Who's got paper? Who can sign this document? And, most crucially, who can make the stress-inducing trip to the post office to send something to the other side (not counting those of us who are higher-risk)?

We used to take all of this for granted. I mean, of all the stupid little things we had to worry about in the past - popping something in the mail was just not one of them.

Some of our courts have moved very quickly to modify their procedures in light of the Covid-19 pandemic. But most of those modifications relate to how the main show - hearings - are dealt with (answer: a massive move online).

And often our fellow lawyers - even those on the other side - are being pragmatic and much more flexible with complying with procedural matters.

There are, however, still things that are a bit tricky to comply with in the "new world". Serving court papers (in the post or in person) is one of them.

Another one is how you get settlement papers "signed" and returned by an ex-employee, when the same ex-employee quite reasonably says they have no printer (to print something off at home for signing), no scanner (to scan something back), no witness in the same household to witness anything, and who does not want to deal with paperwork handed over by a courier because they are self-isolating.

All relatively minor problems in the grand scheme of things but making lawyers all over the country have a new-found love and appreciation of (1) the magic our admin support staff used to make happen, (2) the tech that supported us in an office that we took for granted, and (3) a decent supply of paper. Ah, those were the days.

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## Day 20: Tuesday 14 April - by [Dónall Breen](#)



## Follow the leader.

As we emerge from the long weekend, there have been two things I've reflected on during my staycation.

How much I hate gardening (after attempting it for about an hour in the blazing\* heat). Keeping myself alive is enough responsibility without adding in needy greenery.

How the present situation is straining leadership, no matter what industry you are in.

[\*Note for non-UK readers: "blazing" heat in the UK generally means anything over 20C/70F. On the weekend it got to 25C/77F, so practically the Sahara].

On point 2 specifically, I caught up with a few friends from home and we all had different stories to tell about how work is going. Some generally praised their employer in how they've responded. Others have had a worse time - many simply felt abandoned. A few friends have their own business and are employers themselves. They talked about how they simply don't know what to do a lot of the time.

To furlough, to not? To bring up performance, or to let it slide right now? To try to maintain the status quo, or accept things are different and change?

The problem is that this is hard. Like, really hard. Imagine a premier league football (soccer) manager suddenly having to deal with all the players switching position. And they are now playing volleyball.

But that doesn't mean the task is impossible. There is an element of everyone needing to step up to the mark. It doesn't matter if you are junior, senior, a law firm or a corporate. The challenges are different but the attitude needs to be the same - flexible and resilient.

That is as true for leaders as it is for the team. I always found that people do as you do, not as you say.

Easier said than done of course, but I think the point stands.

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**Day 19: Thursday 9 April** - by [Darren Isaacs](#)

## Wine Time.

A brief diary entry today.

Frankly, it has been busy again, the sun is out, the long weekend beckons, and most importantly at 5pm (i.e. now) we are having fir