



# Lockton Risk Radar

September 2022



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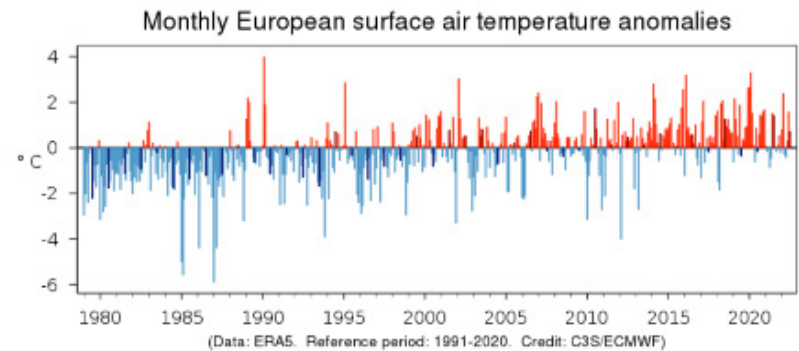
# 01

By Mark Black, Lockton

## Making businesses more resilient against rising temperatures

A particularly dry and hot weather this summer has tested Europe's resilience to heatwaves, demonstrating the challenges that businesses face due to climate change and the need for an enterprise risk management plan addressing such emerging risks.

Heatwaves have already become increasingly common in Europe in recent years with temperatures exceeding the historic average more regularly.



Projections from the World Climate Research Programme [suggest](#) that temperatures across European land areas will continue to increase throughout this century at a higher rate than the global average. Land temperatures in Europe are projected to increase further by 1.2 to 3.4°C under one scenario and by 4.1 to 8.5°C under another scenario (by 2071-2100, compared to 1981-2010).

In July, the UK has broken a new temperature record with 40.3°C in Coningsby, Lincolnshire, while 33 other locations went past the UK's previous highest temperature of 38.7°C, set in 2019.

The hot weather has caused train tracks to bend, airport runways to buckle, roads to melt, and created a series of implications for businesses.

### Employees' health risk

Ever rising temperature records are producing new challenges from a health and safety perspective for both indoors and outdoors works.

The UK's Health and Safety Executive (HSE) [noted](#) that there is no law for maximum working temperature in offices or similar environments, or when it's too hot to work. The 'Workplace (Health, Safety and Welfare) Regulations 1992' currently state that "the temperature in workplaces must be reasonable."

However, vulnerable groups of people such as those with pre-existing medical conditions have a significantly elevated risk of medical emergencies or death during extreme heat events. The duty of care on employers will be higher on employers where they are aware of such conditions and this should be factored into risk assessments.

While until recently air conditioning was not seen as a necessity in the UK, perceptions might change. Other options to address the heat indoors may include:

- providing fans
- ensuring that windows can be opened and there is adequate ventilation
- relaxing the formal dress code
- placing insulation around hot plant and pipes
- shading employees from direct sunlight with blinds or by using reflective film on windows to reduce the heating effects of the sun

For people working outdoors, options are more limited and extreme heat can create unworkable conditions, slowing down the delivery of services and potentially impacting the business' financial performance. There is also an increasing potential risk that businesses could face civil claims from breach of duty of care as temperatures continue to rise.

The HSE recommends employers to assess a few factors, including:

- Additional sources of heat a person is exposed to such as cookers, drying equipment, or even the sun
- 'Air velocity' or how well ventilated the environment is
- Humidity

- The clothing worn, which may be dictated by personal protective equipment the worker is required to wear, uniforms or dress codes
- The amount of physical labour required in the role
- The individual's size, weight, age and general fitness level

### Infrastructure

Extreme temperatures can deteriorate building materials and therefore impact on safety levels. Infrastructure in areas with historically mild climates is usually unprepared for extreme heat.

Many train services had to be cancelled during the July heatwave in the UK and others operated at reduced speed to avoid any damage to the tracks and to prevent rails from buckling, more than doubling journey times for some passengers. The hottest railway track reached a scorching 62°C.

Road traffic also faced disruptions due to melting roads and the risk of tyres bursting. Some local authorities sent out the gritters to put sand on roads to try to prevent the road surface from melting.

Air traffic was also affected as the hot weather damaged the tarmac causing flight cancellations.

Transport disruptions caused by extreme heat events can not only affect staffing but also impact the supply chain and distribution networks, interrupt production, create friction with clients, and raise costs and prices.

Drivers should check the car's tyre pressure before setting off on a journey and when the tyre is cold, ensure that the car has enough fuel or electric charge to keep the air-conditioning running and drive earlier in the day to prevent engines from overheating.

Unusually hot weather can also push up demand for energy, putting additional stress on energy infrastructure, potentially leading to power outages. In July London [narrowly avoided](#) a power blackout. Increased demand for energy across Europe, combined with a bottleneck in the grid, forced the UK's National Grid Electricity System Operator (ESO) to buy electricity from Belgium at the highest price Britain has ever paid to keep power flowing. The risk of blackouts during heatwaves is considerable also because electricity generation may be reduced for example if nuclear power stations lack the necessary cooling effect from rivers or the sea or if water levels are too low to generate hydropower.

Dry, hot conditions also make wildfires more likely, creating additional risk for staff as well as physical assets such as buildings and machinery.

40.3°C

New temperature record in July for the UK

62°C

The hottest railway track temperature reached

8.5°C

Projected land temperatures increase by 2071





## Preparing for climate risks

As climate-related risks become more frequent and intense they need to be incorporated within a business' organisational risk registers. Heat is just one of many emerging risks that businesses will face as the climate changes and therefore preparing corporations for heatwaves should be part of a wider analysis of a company's climate risk exposure and resilience plan. This will need to include the business' operations globally, identifying the main risk exposures including internal and external supply chains, considering controls/treatments to mitigate impacts, improving resilience and realise opportunities.

Climate resilience is part of the wider enterprise risk management (ERM) strategy, which should consider short- and medium-term impacts, and assess how they may affect the business and its workforce, with specific action points. Clear and succinct business continuity/crisis management plans to prepare for adverse events is also necessary to show stakeholders that the company's management is taking its duty of care for the business and its employees seriously. This capability will gain in importance as climate-related risk reporting moves up on stakeholders' agenda and is supplemented by the Task Force on Climate-related Financial Disclosures (TCFD), which assesses the financial implications of climate change and linkage with ERM frameworks.



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### Recommendations:

- Analyse the changing environment and how extreme temperatures may impact the business
- Review and communicate arrangements and controls for safe driving in periods of hot weather
- Appoint heat officers
- Develop a heat action plan to protect people and to maintain operations in periods of disruption
- Address the increased fire risks
- Adjust plant maintenance schedules during heatwaves
- Communicate the implications of extreme heat to staff
- Monitor the workplace working conditions in heatwaves
- Monitor the weather forecast and engage with staff as required
- Increase air circulation for indoor workers
- Introduce rest and water breaks
- Adjust dress codes
- Offer sun protection for outdoor workers
- Set a temperature threshold and a maximum exposure time
- Retrofit buildings to withstand higher temperatures
- Assess building materials as per their thermal properties
- Upgrade equipment to higher energy-efficiency to reduce energy demand
- Identify the risk from extreme heat on supply chains, develop a business continuity plan
- Create a climate-resilient supply chain

# 02

By Steve Vachre, Lockton

## Mobile phone rules trigger call to action for fleet managers

A new law in the UK [bans mobile phone use](#) for drivers in almost any scenario, and fleet managers need to make sure that handbooks are updated and acknowledged by drivers to avoid being penalised by insurers and/or face prosecution.

Using a mobile phone or similar hand-held device while driving has been an offence in Great Britain since 2003. However, the offence (under [Regulation 110 of the Road Vehicles \(Construction & Use\) Regulations 1986](#)) was specified as using a hand-held device for ‘interactive communication’: principally phone calls and messages or accessing the internet.

The law needed updating because mobile devices are nowadays being used for many other purposes such as playing music and games, taking photos or videos, or scrolling through articles. In a recent court case, ([DPP Vs Barreto](#)), a driver who was filming a nearby road accident while at the wheel was found not guilty because they were not using a hand-held mobile phone for ‘interactive communication’. The judge said they were therefore out of the scope of this offence.

Following the update to the Highway Code it is now “illegal to hold and use a phone, sat nav, tablet, or any device that can send or receive data, while driving a vehicle or riding a motorcycle.”

The law also applies if the driver is:

- stopped at traffic lights
- queuing in traffic
- supervising a learner driver
- driving a car that turns off the engine when you stop moving
- holding and using a device that’s offline or in-flight mode

Exceptions apply when:

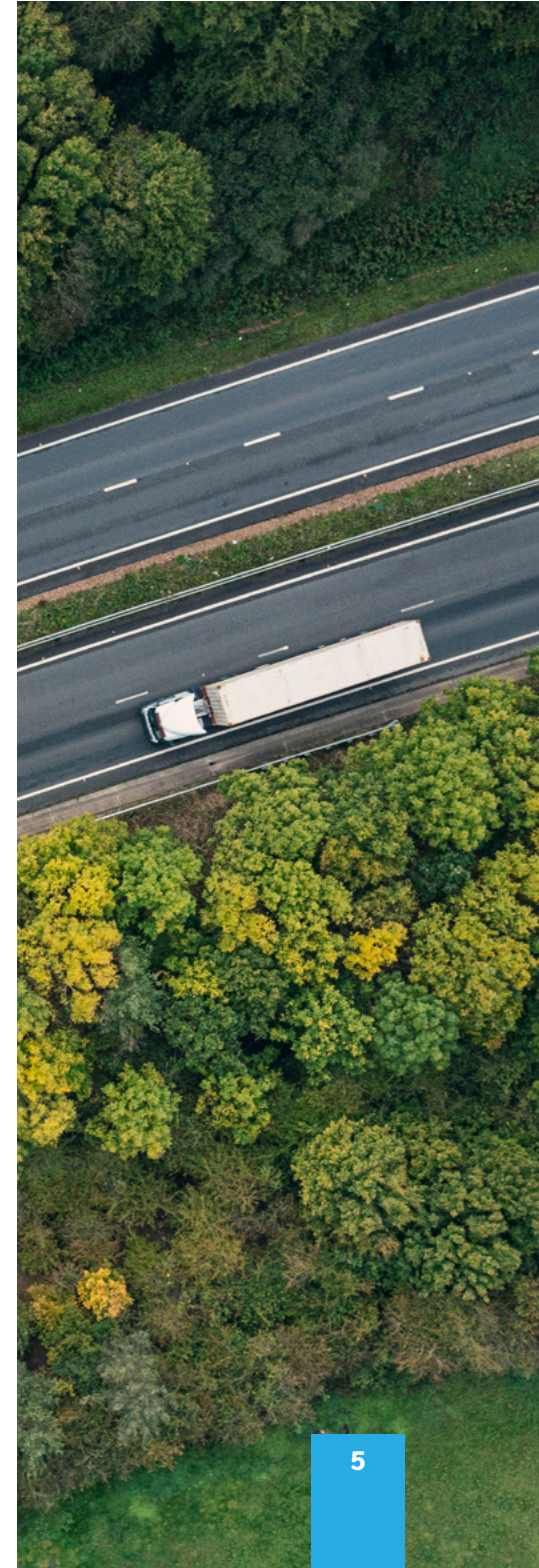
- you need to call 999 or 112 in an emergency and it’s unsafe or impractical to stop

- you’re [safely parked](#)
- you’re making a contactless payment in a vehicle that is not moving, for example at a drive-through restaurant
- you’re using the device to park your vehicle remotely

Devices can be used hands-free through:

- a Bluetooth headset
- voice command
- a dashboard holder or mat
- a windscreen mount
- a built-in sat nav

Though again drivers can be penalised for touching the devices if it is deemed unsafe to have done so or contributed to an accident.





## Consequences for drivers

A driver caught infringing the rules can get six penalty points and a £200 fine. If the driver [passed the driving test in the last 2 years](#) they may lose their licence.

The driver may also be taken to court where they can:

- be banned from driving or riding
- get a maximum fine of £1,000 (£2,500 if you're driving a lorry or bus)

Anything that the driver is doing that may have contributed to an accident can be used by prosecution against them.

## Consequences for businesses

Fleet owners and managers need to ensure that their drivers are aware of the new rules. This can include toolbox talks with drivers, the distribution of leaflets informing about what is not permitted and the potential fines, the use of the company's intranet and on-site posters. The employee handbook should include clear rules for drivers with explanations for how and when they can use handsets, take a client call, or use of the navigation application. Employees calling a colleague or client should quickly end the call once they realise that the other person is driving. If the conversation contributes to an accident the employer may be held liable.

Apart from the potential human cost that accidents may cause in the event of a collision due to distracted driving, employers may also face:

- Loss of driver – due to injury or loss of licence
- Damage to vehicle – inconvenience due to vehicle out of use and cost to repair or replace
- Reduction in service – due to staff and/or vehicles being out of action
- Damage to reputation – press reports or images about the incident

In addition, companies who have not informed and trained their driving staff appropriately may be held responsible following an accident for breaches of their duties of care. The employee handbook is the first defence of a company when it comes to a dispute. Employers should ask staff to confirm that they have acknowledged and understood the new rules. If an employee broke the law banning the use of mobile phones whilst driving, an insurer is unlikely to penalise the business if appropriate information and training has been put in place and documented. An insurance claim following an accident could theoretically be void if the employer has been negligent. While this is unlikely, it is not impossible that an insurer decides to recoup the claims payment from the employer.



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# 03

By Mark Black, Lockton

## Rising Inflation: Risk mitigation

Rising inflation is impacting prices across all sectors of the economy. As a result, replacement costs may be higher than expected following a claim, leaving many businesses underinsured.

A wide range of materials and products have significantly increased in value during the last 12 months, including construction materials, electronics, precious metals, and renewables. Prices for widely used raw materials such as steel or copper have been very volatile with some significant spikes.

For most businesses, this may create a widening gap between accounting valuations, which are typically discounted calculations from the original purchasing costs, and replacement values. Companies shipping and storing commodities such as oil, gas, metals, and agricultural products are currently particularly exposed to the risk of underinsurance, but any company that handles physical assets will be affected in some way or another. For companies operating in commercial property, for example, the cost to repair or rebuild structures following a loss has soared significantly.

It's not only the materials' prices that have gone up due to supply chain issues, but also higher labour costs will add to the bill caused by worker shortages.

### Are Valuations on your Radar?

Without the value at risk being correct, everything else, which is hinged on this, becomes irrelevant. If the declaration is incorrect, subsequent Estimated Maximum Loss (EML) calculations are wrong. The onus is entirely on the insured to provide up to date valuations.

With building cost escalation at c.10-15% over the past 12 months, many buildings will be underinsured. If Average is applied in the instance of an under insured loss, this leaves the shortfall of rebuild/repair costs to be covered by alternative means i.e. company reserves, margin, refinancing, or just to suffer the loss.

In this time of increased inflationary pressure, we look at the process of having correct asset values for insurance purposes and some important factors for businesses to consider.

### Reasons for Incorrect Sums Insured

When reviewing completed valuations over the last five years, approximately 90% of clients were incorrectly insured and over 70% were under insured. Common reasons for incorrect sums insured are:

#### Additions, deletions, or developments

The most common reason is incorrectly reflecting changes for plant and equipment assets or development work on buildings when setting insurable values. The size of the client, the overall project cost and how the insurable values are managed across the business often dictate whether these changes are captured or reported as part of the yearly insurance process.



### Using the wrong information

Often reliance is placed on the wrong information. For example asset registers are designed and managed for accounting purposes, and if they are used for insurance, care needs to be taken that they are reflective of the facility being valued. Another example would be using project costs or development values without making any adjustments needed to be appropriate for insurance purposes. In both examples reliance is placed on the premise that the information is correct, fit for purpose and reflective of what is physically onsite.

### No Formal Valuation

Historic values have been used for many years and the risk manager is unsure where the values have come from, as there is no evidence to support the process.

### Incorrect Indexation

Indexation relies on the accuracy of the current information. Where there have been no changes and the valuation is current, indexation can be applied to update the values. Indices are generic, often a forecast and capture movements relative to those indices over a time period. Yearly indexation to already indexed figures is a subjective approach. Selecting the appropriate indices and updating the original valuation amounts is key to this.

### Modelling

Whilst modelling can be useful, it is based on assumptions and industry rules of thumb analysis. Valuing a sample of locations or assets and extrapolating the results across the remainder, or using a cost to capacity approach is not an independent valuation. Care does need to be taken that this approach is fit for the assets being valued.

### Mitigating the impact of inflationary pressures

There are a number of considerations and actions for risk managers, that may help to mitigate the impact of these inflationary pressures. These include:

- Conduct more robust reviews of reinstatement values than in recent years and consider appointing third party valuer to undertake an reinstatement cost assessment (RCA).
- Ask your broker to review current policy conditions to ensure they provide appropriate protection to help mitigate the potential for underinsurance and that they are fit for purpose.
- Review adequacy of your business interruption indemnity period to ensure it reflects the short/medium term supply chain disruptions and potential extended lead times for key items of building materials and plant (e.g. automated platforms within fulfilment centres).

- Consider establishing a robust business continuity plan (BCP) or challenge the assumptions of an existing BCP.
- Review appropriateness and efficiency of your liability deductibles and policy limits – in addition to the factors highlighted above there is a need to consider “social inflation”, e.g. the rising costs of insurance claims resulting from things like increasing litigation, broader definitions of liability and more plaintiff-friendly legal decisions. This means that adequate policy limits from two/three years ago may need uplifting to keep pace.
- Consider the use of broker analytical tools to assess policy limit v probability of exhausting the limit and economic cost of risk (ECoR) modelling for choosing the optimum deductible level and assessing the continued efficiency of your casualty insurance programme.
- If not already established, consider setting up a motor fleet risk management steering group with support from your broker and insurer. Key objectives of such a group will include identifying strategies which will be effective in reducing motor fleet risk and motor fleet claims costs.



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**c.10-15%**

Building cost escalation  
over the past 12 months

**90%**

After reviewing completed  
valuations over the last five  
years, approximately 90% of  
businesses incorrectly insured

**70%**

After reviewing completed  
valuations over the last  
five years, approximately  
70% of businesses under insured

## HSE case reports

### Unregistered gas installer fined

A plumber has been fined after carrying out unlawful gas works, and then failing to answer questions posed by a HSE inspector. Luke Rogers was alleged to have carried out works to replace a boiler, which was then left in such a dangerous state that it had to be disconnected to be made safe by a Gas Safe registered engineer.

During an interview under caution with HSE, Mr Rogers claimed that he had not carried out any gas works and had in fact arranged for a friend to complete that aspect of the work, but would not provide a name to inspectors. As such, Mr Rogers was fined £583 and ordered to pay £1,500 after pleading guilty to breaching Section 3 of the Health and Safety at Work etc Act 1974.

Following the hearing, HSE inspector David Beaton commented:

“The defendant blatantly failed to comply with a requirement under the Health and Safety at Work (etc) Act 1974. This prosecution would not have happened had the defendant provided the information. Hopefully, this will send a warning to others that failing to comply with Her Majesty’s Inspectors while they exercise their lawful powers will not be condoned by the HSE.”

**Top tip: any and all work carried out on gas appliances in the home or workplace must only ever be carried out by a Gas Safe registered engineer.**

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### Asbestos management company director jailed after failing to protect workers

Stagecoach Devon Limited have been fined following a crushing incident at their Torquay depot. Employees had been reversing buses without the appropriate supervision of a banksman, and unfortunately an employee became caught between a reversing bus and stationary vehicle. He required six titanium plates and 65 metal staples between his wrist and elbow to treat multiple compound fractures.

HSE found during their investigation that Stagecoach Devon Limited failed to put a suitable and sufficient risk assessment in place, which would have identified the dangers of multiple reversing vehicles on site. The company were fined £380,000 and ordered to pay costs of £18,000 after pleaded guilty to breaching Section 2(1) of the Health and Safety at Work etc. Act 1974.

HSE inspector James Collins said:

“Those in control of work have a responsibility to devise safe methods of working and to provide the necessary information, instruction and training to their workers in the safe system of work. If a suitable safe system of work had been in place prior to the incident, the life changing injuries sustained by the employee could have been prevented.”

**Top tip: safe systems of work and risk assessments are fundamentally important to any industry, but particularly in those that work with vehicles or machinery, as the risk to workers is simply that much greater. Ensuring that proper processes are in place can prevent injury to workers and of course substantial fines to companies.**

It is also worth keeping in mind that all such convictions have to be reported to the Traffic Commissioner who may decide to instigate a public enquiry into the transport operation.

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## HSE case reports

### Carpentry and joinery company fined after worker falls from a fork-lift truck

Staircraft Group Limited have been fined following an employee falling 3.5 feet from the forks of a forklift truck, on which he was working unsecured. The employee sustained a broken leg and an injured elbow, though his injuries could clearly have been far worse given the height he fell from.

An investigation by HSE found that the company had no safe systems of work or risk assessments in place and offered no training to their employees on safely working from heights. Staircraft Group Limited were fined £200,000 and ordered to pay costs of £6,477.93 after pleading guilty to breaching Section 2(1) of the Health and Safety at Work Regulations 1974.

HSE inspector Rebecca Whiley stressed after the hearing that:

“Companies should be aware that HSE will not hesitate to take appropriate enforcement action against those that fall below the required standards”

**Top tip: working from heights remains a terrible cause of workplace injury despite the many varying examples of how badly wrong it can go when proper precautions are not taken. Employers must ensure that their workers are trained fully, given the appropriate equipment and kept safe at all times. [See HSE guidance here.](#)**

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### Company fined after tragic death of 7 year old

A construction company have been fined £600,000 after a child became trapped within a pipe on a site and suffocated. 7-year-old Conley Thompson had been missing from the previous morning when he was discovered by workers on the site. Poor planning and management of the site meant that it was not sufficiently fenced off from the public.

Howard Civil Engineering Ltd were fined after pleading guilty to breaching regulation 13(4)(b) of the Construction (Design and Management) Regulations 2015 and to breaching Section 3 (1) of the Health & Safety at Work etc Act 1974.

HSE inspector Paul Yeadon said:

**“Conley should never have been able to be on that site. He should have been kept out. The construction industry should be aware of the dangers of construction sites to members of the public and any other unauthorised persons. The dangers to children gaining access to construction sites and treating them like a playground is an ongoing problem which must be addressed at all types of sites no matter what their complexity or size. The industry must do all it can to ensure children can’t access construction sites and be exposed to the inherent risks they present to prevent further tragedies like this from occurring.”**

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## HSE Updates

### HSE publishes report “Fatal injuries in Agriculture, Forestry and Fishing in Great Britain”

HSE have published their annual report which looks at the figures concerning deaths in agriculture related activities – [a copy can be found here](#).

The report indicates that whilst there are fewer deaths for the period than the high numbers seen in 2021, the industry remains that with the highest rate of deaths of all major industries. It also notes that the most common causes of agriculture-related fatalities have remained the same for many years, and are:

- Being struck by a moving vehicle
- Being struck by an object, such as bales
- Coming into contact with machinery, during operation or maintenance
- Falling from height

- Being crushed or trampled by animals, usually cattle.

Head of Agriculture at HSE Sue Thompson said:

“Agriculture will continue to be a priority sector for HSE. We are committed to making workplaces safer and holding employers to account for their actions, as part of our mission to protect people and places. Awareness of the hazards and risk have never been higher, and Farm Safety Week has played its part in this. But it’s regrettable that we’re not yet seeing the widespread changes in attitude towards safety, and the improvements in behaviour that will reduce the numbers of people injured or killed.

Everyone in agriculture has a role to play in making the changes we all want to see. Together, we can make farming safer.”

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### Monkeypox update

Government guidance on Monkeypox has been updated in light of the recent swell in numbers, and follows the categorisation of the outbreak by the WHO as a “Public Health Emergency of International Concern”.

As of 8 August there were 2,914 confirmed and 103 highly probable monkeypox cases in the UK: 3,017 in total. Of these, 2,883 are in England. Compared with data from 8 July which indicated that there were 1,552 confirmed cases in the UK with 1,482 in England, clearly the situation with the virus is changing quickly and should be treated with due gravitas.

Guidance updated on 25 July titled “[Principles for monkeypox control in the UK: 4 nations consensus statement](#)” lists the following strategic aims;

- to suppress the transmission of monkeypox in the community and aim for eradication (decreasing Rt below 1) by targeting public health measures to the highest risks for transmission
- to protect against spread of infection in hospitals and healthcare settings and to healthcare workers assessing and managing patients

- to enable safe functioning of NHS services, including those services which can diagnose and manage cases, in the context of community transmission of monkeypox

The guidance also explains that for those who are infected and ambulatory, the highest risk transmission routes are via droplet, fomite, or direct contact – particularly with any scabs. Therefore it is essential that confirmed or suspected cases must isolate.

Whilst no workplace guidance yet exists for the management of the virus, it would be circumspect to begin to consider what steps can be taken to manage the spread of the virus. Many workplaces may still be following sensible Covid-19 precautions such as practicing ventilation, mask wearing and handwashing, which would of course apply to minimising any spread of monkeypox.

Links to government guidance can be found below:

[Monkeypox: background information](#)

[Principles for monkeypox control in the UK: 4 nations consensus statement](#)

[Monkeypox cases confirmed in England – latest updates](#)

# 05 | In case you missed it



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