



Coronavirus in the UK – a guide for employers

MARCH 2020

With so much rumour and speculation surrounding coronavirus and its potential impact on life in the UK, we have compiled some of the latest guidance for employers from a range of trusted sources covering the legal/HR perspective.

If you have any specific queries or questions please do get in touch and we will try to help. You can contact us on 01904 557150 or hqn@hqnetwork.co.uk.

A legal perspective, by David Gibson, specialist in employment law at Short, Richardson and Forth.

There are a number of employment issues raised by the potential pandemic that may result as a direct consequence of the coronavirus.

- Information should always be taken from government sources as to the exact extent of the problem and requirements
- The best resource points are Public Health England, gov.uk and for general guidance – the ACAS website is a good source of information (some of which is set out below)
- It is imperative to communicate regularly and from a designated source of information with employees, workers, consultants and those coming into contact with members of the public
- Obviously, advice will vary according to the geographical location or nature of the business. Some of the larger companies have already closed sites, facilitated home-working options or organised employees into certain functions/rotas to ensure there is back up available
- With the various technological communication networks available, messages to staff could and should be sent via various routes including email, skype, Whatsapp and internal message boards
- Employers should be putting plans into place now in the event of office closures and communicating with staff well in advance. For example, what is the fallback provision if a particular department is hit with substantial levels of sickness? Will employees who are required to self-isolate be required to still undertake home-working duties? What evidence will be required from them to ensure that they are not exploiting the situation, eg, they are not unwell?
- In terms of legal responsibilities – employers are required by health and safety legislation to ensure a safe place of work
- Therefore, if a member of staff reports that they are to be tested or have become unwell staff should be immediately requested to self-isolate. A decision will need to be made as to whether this should be the whole workforce or particular units. Advice should be taken from the company doctor or medical advisors

- In terms of sick pay, it should be noted that absence is sickness and not holiday for those suffering with the virus. Contractual sick pay provisions should apply unless the request is made by an employer to self-isolate and then normal pay would be applicable. In terms of SSP – the government have indicated that this will be an automatic state entitlement when contractual provisions do not apply. The position should be checked on a regular basis
- It should also be noted that members of the workforce may need to care for dependents. There is a statutory right for limited time off for dependents and it will be interesting to see if the government seek to extend this depending on the level of the impact of the virus.

ACAS advice for employers and employees

In case coronavirus (COVID-19) spreads more widely in the UK, employers should consider some simple steps to help protect the health and safety of staff.

According to ACAS, it's good practice for employers to:

- Keep everyone updated on actions being taken to reduce risks of exposure in the workplace
- Make sure everyone's contact numbers and emergency contact details are up to date
- Make sure managers know how to spot symptoms of coronavirus and are clear on any relevant processes, for example sickness reporting and sick pay, and procedures in case someone in the workplace develops the virus
- Make sure there are clean places to wash hands with hot water and soap, and encourage everyone to wash their hands regularly
- Provide hand sanitiser and tissues for staff, and encourage them to use them
- Consider if protective face masks might help for people working in particularly vulnerable situations
- Consider if any travel planned to affected areas is essential.

Employers must not single anyone out. For example, they must not treat an employee differently because of their race or ethnicity.

Sick pay

The workplace's usual sick leave and pay entitlements apply if someone has coronavirus.

Employees should let their employer know as soon as possible if they're not able to go to work.

Pay if someone has to go into self-isolation

The government has stated that if NHS 111 or a doctor advises an employee or worker to self-isolate, they should receive any Statutory Sick Pay (SSP) due to them. If the employer offers contractual sick pay, it's good practice to pay this.

The employee must tell their employer as soon as possible if they cannot work. They should tell their employer the reason and how long they're likely to be off for.

The employer might need to be flexible if they require evidence from the employee or worker. For example, someone might not be able to provide a sick note ('fit note') if they've been told to self-isolate for 14 days.

If an employee is not sick but their employer tells them not to come to work, they should get their usual pay. For example, if someone has returned from China, Italy or another affected area and their employer asks them not to come in.

If an employee needs time off work to look after someone

Employees are entitled to time off work to help someone who depends on them (a 'dependant') in an unexpected event or emergency. This would apply to situations to do with coronavirus. For example:

- If they have children they need to look after or arrange childcare for because their school has closed
- To help their child or another dependant if they're sick, or need to go into isolation or hospital.

There's no statutory right to pay for this time off, but some employers might offer pay depending on the contract or workplace policy.

The amount of time off an employee takes to look after someone must be reasonable for the situation. For example, they might take two days off to start with, and if more time is needed, they can book holiday.

If employees do not want to go to work

Some people might feel they do not want to go to work if they're afraid of catching coronavirus.

An employer should listen to any concerns staff may have.

If there are genuine concerns, the employer must try to resolve them to protect the health and safety of their staff. For example, if possible, the employer could offer flexible working.

If an employee still does not want to go in, they may be able to arrange with their employer to take the time off as holiday or unpaid leave. The employer does not have to agree to this.

If an employee refuses to attend work, it could result in disciplinary action.

If someone becomes unwell at work

If someone becomes unwell in the workplace and has recently come back from an area affected by coronavirus, they should:

- Get at least 2 metres (7 feet) away from other people
- Go to a room or area behind a closed door, such as a sick bay or staff office
- Avoid touching anything
- Cough or sneeze into a tissue and put it in a bin, or if they do not have tissues, cough and sneeze into the crook of their elbow
- Use a separate bathroom from others, if possible.

The unwell person should use their own mobile phone to call either:

- 111, for NHS advice
- 999, if they're seriously ill or injured or their life is at risk.

If someone with coronavirus comes to work

If someone with coronavirus comes to work, the workplace does not necessarily have to close.

The local Public Health England (PHE) health protection team will get in contact with the employer to:

- Discuss the case
- Identify people who have been in contact with the affected person
- Carry out a risk assessment
- Advise on any actions or precautions to take.

Please note: The process may be different in Scotland and Wales.

If the employer needs to close the workplace

Currently it's unlikely that an employer will need to close their workplace.

But they should still plan in case they need to close temporarily. For example, making sure staff have a way to communicate with the employer and other people they work with.

Where work can be done at home, the employer could:

- Ask staff who have work laptops or mobile phones to take them home so they can carry on working
- Arrange paperwork tasks that can be done at home for staff who do not work on computers.

In some situations, an employer might need to close down their business for a short time. Unless it says in the contract or is agreed otherwise, they still need to pay their employees for this time.

If the employer thinks they'll need to do this, it's important to talk with staff as early as possible and throughout the closure.

Coronavirus Q&A, Human resources company HR Dept has compiled a detailed Q&A for employers on specific questions that might arise on coronavirus

Q. A member of staff is travelling to an area that has been confirmed by the UK government as a risk to travel, and they must be quarantined for 14 days on return. Do we have to pay them for this absence?

The Government has announced that those employees who are quarantined or required to self-isolate for a period of time will be eligible to receive statutory sick pay from day one.

Q. A member of staff is travelling to an area that is a risk, but the UK government does not require them to be in quarantine unless they show symptoms. Our company has a policy saying that external visitors can't attend site if they have travelled to one of those countries within the last 14 days. Can we have the same policy for employees?

Yes, but you must pay employees for the time off, as you are technically suspending them on health and safety grounds.

Q. Our employees travel a lot for business reasons to countries worldwide. Can we insist that they still travel?

If there is a travel restriction or guidance to not visit particular countries unless it is essential, then you would be putting the health and safety of your employees at risk if you insisted that they travel to that country. This may be deemed unreasonable behaviour on the part of the employer. We would not advise that you insist that they travel to such countries.

If there is no travel restriction and the country that they are visiting has no warnings, then you can insist that the employee travels as per the normal role. If they refused to do so, then you could take disciplinary action.

Q. There is a lot of speculation in the media that airports themselves are a place to catch coronavirus. So our employees don't want to travel at all, even though the destinations are safe. What do we do?

If the destination is a 'safe' one, then you can insist that they travel. You could offer to pay for items that would act as a protection against coronavirus such as antibacterial hand gel, a supply of disposable gloves to wear in the airport and on the plane, etc, to make the employee feel more comfortable with travelling. And remind the employee that the advice given is to regularly wash hands, use tissues and immediately put them in the bin, etc.

Q. Our employees are starting to talk about refusing to come to the office because their colleagues may infect them. They would rather work from home or have the time off until coronavirus passes. What do we do?

If an employee is not sick and has not been instructed to self-isolate or be quarantined, and they refuse to attend work, then this would be unauthorised absence and unpaid. They could be disciplined.

Our advice is to take a pragmatic approach. As situations like these happen so rarely, don't be concerned about setting a precedent. If it's possible for employees to work from home and they are feeling nervous, why not just let them work at home? If this isn't possible (we understand that a lot of businesses do not have the technology to fulfil this), then reassure employees by having plenty of antibacterial hand-gel and soap available. Remind employees about hygiene standards in the office.

This is an ever-changing situation. So keep talking with your employees and keep an eye on the news and on guidance from the professional bodies that relate to your industry, particularly in cases concerning travel and the vulnerable.

Q. What do we do when an employee has booked time off for holiday, but their holiday is cancelled because of a situation outside of their control (eg, flight cancellations or the destination country status means they are advised not to travel there)? Can the employee cancel their annual leave and take it again at another time?

This is at your discretion as an employer. It might be straight-forward for you to allow this with minimal business disruption. But you have no obligation to allow the cancellation. However, where possible we are sure most businesses will try to support employees in this situation.

Q. What do we do if an employee has returned from their holiday from a high-risk country, but there is no mandatory quarantine and no advice to self-isolate; they want to return to work, but their colleagues do not want them to come in?

If their colleagues refuse to attend work, this would be deemed unauthorised absence and potentially disciplinary action could be taken in line with your absence policy.

If an employee was pregnant or was in ill health, then you may try to allow them to work from home or in a restricted area to alleviate concerns.

If you ask the returning employee to refrain from work, then they are entitled to full pay. You could suggest that they work from home if that's easy for them to do.

Q. How do we treat parents of children who are told by a GP they must self-isolate after returning from a school trip?

The parent doesn't need to self-isolate, so this should be treated as any other childcare emergency and usual 'time off for dependant' rules apply.

Q. What if an employee comes in to work and I am concerned they have coronavirus?

Follow official guidance, see links above to the PHE and other official websites.

Q. An employee has a current health problem, like diabetes, and says they do not wish to come to work with someone who has returned from an at-risk country but is not required to self-isolate. What do we do?

Ask them to contact their health professional, GP or call 111 for advice and follow that.

Q. We want to close our premises to deep clean. As this is to protect the health and safety of employees, do we have to pay them to stay away from the premises and not come to work?

- Yes, you must pay them because you are taking the decision to close the premises
- You could request employees work from home where possible
- If you give the appropriate notice (notice should be double the length of the holiday, eg, one day's holiday requires two days' notice, two weeks' holiday requires four weeks' notice) then you could insist employees use their holidays whilst the building is being deep cleaned. Providing that this does not contravene their contractual terms
- If you relocate to other premises for a period of time, and should it cost more for them to travel to the new premises, then you could pay travel expenses for the difference so that they can still work.

Q. We have started to receive notifications from clients and event venues that our events are being postponed. This will mean an immediate reduction in revenue which has a detrimental and severe impact on our cashflow. What options do we have?

- You can consider short-term layoffs. To do this you must either have an express term in their contract or get agreement through consultation. You would lay off staff on a temporary basis to avoid redundancy, safe in the knowledge that your business will improve again in the near future. Contact your local HR Dept for advice on the process and pay for lay-offs
- You could dismiss short-serving staff (employees with less than two years' service) without going through redundancy consultations, but it's important you contact your local HR department office to discuss this first
- You could offer employees the opportunity to take unpaid leave
- You could insist employees take their holiday entitlement (again, please contact your local HR department office for advice on how to do this) so that when you get busier again, your staff are there to support income generation rather than taking their holidays
- You could start consulting with your employees to reduce their hours for a period of time until this crisis passes
- If the effect turns out to be longer term you could consider redundancies, but do contact your local HR department office first.

Q. With growing worries about coronavirus, if staff phone us to say that they are self-isolating, how can we check that this is legitimate?

Our advice is that, like any other situation, you trust your employees unless proven otherwise. If you have evidence of anything fraudulent then you can conduct an investigation. In this type of situation, as a rule, it would be difficult to prove that someone is misleading you about their symptoms or who they have been in contact with. If you have a suspicion and feel that you have evidence of any potential fraudulent action though, please get in touch with your HR department.

Q. We have heard in the news that Boris Johnson has said we should pay statutory sick pay (SSP) from day one instead of day four – what should we do?

See the official government announcement. At the time of writing this, the legislation has not yet been passed and we don't know if this will apply to past absences.

Where employees self-isolate, or are in quarantine on the basis of medical advice, the government advice is that those employees should be treated as 'sick' and will be eligible to receive statutory sick pay once SSP legislation has changed.

Q. We offer company sick pay to all staff, but don't think that we should pay full pay to someone who is well but in isolation or quarantine. What is your advice?

In these circumstances there is no legal obligation to pay company sick pay, just to pay SSP when the government changes the legislation, to anyone who is not unwell, however financial pressure may make staff attend work when they should not. This is an unusual situation and could cause significant financial risk to SME businesses. Our advice is to tread carefully and be aware that this situation could impact more people, so consider the financial position if more employees were affected. An important aspect though is being consistent so that there is no perception of favouritism.

Q. What action should we take if schools close and parents can't attend work?

The usual rules apply for 'time off for dependant emergency', so parents should arrange appropriate childcare as quickly as possible. But, in the meantime, employers should allow unpaid time off for the parents.

If parents can work from home, this will help if their children are old enough to not require constant attention during working hours.

Q. I heard in the press that schools are going to close – how do we handle it with our employees who are parents?

Have those "what if" conversations now to encourage employees who are parents to consider their childcare options ahead of time. For those who have no alternatives but to stay at home with their children, we would advise that you allow the time off but unpaid. Also consider the option of the parent working from home if their children are old enough to not require constant attention.

Fast, practical guidance on everything to do with housing.

HQN provides high-quality advice, tailored support and training to housing associations, councils, ALMOs and other housing providers.

Find out more about HQN and our network membership by visiting www.hqnetwork.co.uk or call us on +44 (0)1904 557150.

