



FAQs

Advice for employers in dealing with Coronavirus

This weekend 13 new patients in England and Scotland have tested positive for Coronavirus (Covid-19), bringing the total number of cases reported in the UK to 36 (as of 2/3/2020) and with it, increased fears of a pandemic in the UK. In response to this the Prime Minister has organised a COBRA meeting to discuss the situation and the UK Health Secretary Matt Hancock confirmed yesterday that the government is going to be publishing its battle plan this week that will detail how it will tackle any major outbreak of the virus. Mr Hancock explained that this could involve banning large public gatherings of more than 5,000 people, closing schools, urging people to work from home and even possibly isolating individual cities.

All of this is adding to the public's concern over Coronavirus and from an employer's perspective is likely to lead to more queries from anxious employees who may be reluctant to come in to work for fear of contracting the virus. We have already seen an increasing number of enquiries from employers who are worried about the potential impact of Coronavirus on their workforce. Here are some of the questions we've been asked.

1. Who should self-isolate and what does it mean?

Public Health England has advised that the following groups should self-isolate:

- People who have travelled back from an area where Coronavirus is known to be present, have symptoms and are waiting for a test result;
- People who are identified as being a close contact of someone with Coronavirus;
- Returning travellers from Hubei province in China, Iran, lockdown areas in northern Italy and special care zones in South Korea, even if they do not have symptoms; and
- Returning travellers from Mainland China, South Korea, Thailand, Japan, Republic of Korea, Hong Kong, Taiwan, Singapore, Malaysia, Macau, other parts of northern Italy, Cambodia, Laos, Myanmar or Vietnam and have a cough, high temperature or shortness of breath.

Self-isolation requires an individual to stay at home for 14 days and to limit contact with other people.

2. Do I have to pay an employee who is self-isolating or has gone in to quarantine?

At the moment employers are not legally obliged to pay employees who are not sick but are unable to attend work because they have been instructed by a medical expert to self-isolate or go into quarantine. This is because those individuals will not actually be "sick" and as a result they are unlikely to qualify for sick pay.

However, in accordance with ACAS guidance it is “good practice” for you to treat that period as sick leave and to pay employees in accordance with your usual sick leave policies. As an alternative to this you could consider providing affected employees with the option of taking the time as annual leave. By adopting this sort of approach you are hopefully reducing the risk of affected employees feeling obligated to come into work because they want to get paid and by doing so potentially spreading the virus.

3. Can we require employees to stay at home if there is a risk they have come in to contact with the virus? If so, do we have to pay them for that time?

If an employee is not sick but there is an identified risk that they may have been exposed to the virus, for example their partner has recently returned from a high risk area, and they have not chosen to voluntarily self-isolate, you may want to keep that individual away from the workplace until the risk has passed. One way to do this would be to suspend the employee on health and safety grounds. During any period of suspension they would be entitled to continue to receive their usual full pay (assuming the contract of employment does not say otherwise) up until the point you can establish they have either (1) not contracted the virus and can return to work or (2) have contracted the virus at which point they would be entitled to sick pay.

One alternative to suspending an employee who may have been exposed to the virus, would be to ask them to work from home for a prescribed period of time until the risk has passed. This would of course be subject to the employee being well enough to work from home.

At the moment there is a difference in an employees’ right to be paid during a period of self-isolation which seemingly depends on whether their employer has instructed them to remain off work (as above) or if they have chosen to do so (as in question 2). It remains to be seen whether the Government is going to take steps to address this problem which may involve introducing a new right to normal pay during any period of self-isolation. We will have to wait and to see if this is the approach adopted by the Government.

4. What can we do about employees who refuse to come in to work?

Some employees may be unwilling to attend work if they are concerned about contracting Coronavirus in the workplace. You need listen to any concerns that employees may have and provide appropriate reassurance. Any individuals who continue to unreasonably refuse to attend work should be dealt with in accordance with your disciplinary and/or absence policies.

Certain employees however may be more susceptible to catching the virus and as such have genuine concerns about attending work, for example pregnant women, those with existing respiratory problems or other health problems. In those situations you should carry out a risk assessment to identify any workplace risks to these individuals and implement suitable measures to control any risks so far as is reasonably practicable. It may be you need to consider offering flexible working arrangements such as homeworking or allowing individuals to take some time off as holiday. If this is not possible and there are still concerns, the employee may need to be suspended from work on pregnancy and/or medical grounds. Any such suspension would be on full pay.

5. What happens if an employee is diagnosed with Coronavirus?

Employees who have been diagnosed with Coronavirus should be managed under the employer’s sickness absence policy and the usual sick leave and pay entitlements will apply. In the UK statutory sick pay is payable to qualifying employees for up to 28 weeks. Employees may also be eligible to receive contractual sick pay from their employer.

6. What if an employee wants to take time off because their child's school or nursery has closed as a result of the Coronavirus outbreak?

Employees have the statutory right to take time off to deal with emergencies involving their dependents which includes where there has been an unexpected disruption to their childcare arrangements. As such this would enable employees to take a reasonable amount of time off to take necessary action to deal with the disruption to their childcare arrangements.

There is no right to be paid for this time off, subject to any provision in the individual's contract of employment or employee handbook. Employees must tell their employer of the reason for their absence and its likely duration as soon as is reasonably practicable.

7. What can we do to try and reduce the risk of Coronavirus spreading?

One of the most important steps we can all take to protect ourselves is to follow good hand washing procedures. As an employer you should make sure that there are clean facilities available for staff to wash their hands with hot water and soap. You may also want to think about providing hand sanitisers and tissues and reminding staff of the importance of using them. Keeping the office environment clean is also important, particularly work surfaces, kitchen areas and door handles.

It is important to make sure everyone knows how to spot the signs of Coronavirus and what to do if they or someone they know is at risk of developing the virus. As an employer you may want to think about displaying notices in the workplace with the symptoms of the virus and the steps to take should an employee suspect they may have come in to contact with the virus.

The situation is changing rapidly so employers need to keep up to date with advice from both Public Health England and the Foreign and Commonwealth Office.