



PENINSULA

MANAGING CORONAVIRUS ISSUES AT WORK (AN HR and HS PERSPECTIVE)

Guidance Notes and Q&A

INTRODUCTION

As Covid-19 cases continue to rise, the government have increased restrictions in an effort to curb the spread of the disease.

All schools, colleges child childcare facilities pubs, including hotel bars are closed and only essential retail outlets and essential service providers are allowed remain open.

There are a number of risks posed by the virus that employers will need to be aware of; it is important to remember that employers have a duty of care towards their employees and must take reasonable steps to protect the health and safety of their workforce.

This advice is under constant review and is subject to change, in particular, the list of countries. You should familiarise yourself with ongoing guidance from the HSE and the Department of Foreign Affairs.

WHAT IS THE CORONAVIRUS?

The World Health Organisation explains that coronaviruses (CoV) are a large family of viruses that cause illness ranging from the common cold to more severe diseases such as SARS (Severe Acute Respiratory Syndrome).

This particular episode has been named '2019-nCoV' or 'COVID-19'. It first appeared in December 2019 in Wuhan, which is within the Hubei province, China. A seafood market has been identified as the possible source of the virus.

This is now classified as a worldwide pandemic.

WHAT ARE THE SYMPTOMS?

Symptoms include fever, cough and shortness of breath. Some people will suffer from mild illness and recover easily whilst in other cases, infection can progress to pneumonia. Reports suggest that the elderly, those with weakened immune systems, diabetes, cancer and chronic lung disease are the most susceptible to serious illness and death.

Symptoms can appear in as few as 2 days after infection or as long as 14 days.

HOW IS THE VIRUS PASSED ON?

The virus is most likely to spread from person to person through:

- direct contact with a person while they are infectious;
- contact with droplets when an infected person coughs or sneezes; or
- touching objects or surfaces (such as drinking mugs or desks) that were contaminated by droplets from secretions coughed or sneezed from an infected person with a confirmed infection, and then touching your mouth or face.

EMPLOYER CONSIDERATIONS

Duty of care

Employers have a duty of care towards their employees which includes not exposing them to unnecessary risk. Following the Government announcement on 24th March, all hotels and non-essential retail outlets will close - a list of those will be provided. Social distancing, in as far as practicable, is to be ensured between the clients/patients in confined settings. In this case, that may include not putting them in a position in



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which they could become infected by the virus without taking all reasonable precautions.

Your duty of care, where Coronavirus is concerned, may differ depending on an employee's specific circumstances and specific Government advice issued.

Wellbeing

It's important to remember that your employees will be worried about the virus. In addition to having a duty of care to protect health and safety, you also need to consider their wellbeing. Consider any wellbeing initiatives you have and remind employees of them, for example, an Employee Assistance Programme.

Give employees the facts

The risk of anyone picking up the infection is very low, provided they follow social distancing protocols and where good hygiene procedures are maintained. Obviously, risk of becoming infected will differ depending on personal circumstances but it is important to convey to employees the reality of the situation to keep concern proportionate to the risk.

Employees located in affected regions

Subject to local travel restrictions, the Department of Foreign Affairs advises all Irish nationals to leave affected regions where possible. You should consider making plans to enable any of your employees who are based in affected regions for work to return to Ireland.

Employees returning from affected areas

The Irish Health Authorities require anyone coming into Ireland, apart from Northern Ireland, to either self-quarantine or self-isolate on arrival for 14 days. Check the Irish Health Service COVID-19 Advice Page for full information on these requirements. This includes Irish residents. Exemptions are in place for providers of essential supply chain services such as hauliers, pilots and maritime staff

Business travel

The Department of Foreign Affairs and Trade advises against all non-essential travel overseas until further notice. This includes Great Britain but does not apply to Northern Ireland. It also includes all travel by cruise ship.

Flight restrictions and route cancellations are happening on a daily basis worldwide and there is no guarantee that air routes will continue to operate

Always know where your employees are and where they are going. Ensure they are given clear instructions on hygiene to reduce the risk of picking up the virus. If employees do report symptoms of the virus while they are travelling, you will have to support them. Have a plan in place in advance of travel setting out what the employee should do if they feel ill.

Annual leave

Some employees may have plans to travel to an affected region on annual leave. Please note that the Department of Foreign Affairs and Trade advises against all non-essential travel overseas until further notice. This includes Great Britain but does not apply to Northern Ireland. It also includes all travel by cruise ship. Ultimately, you can't restrict what your employees do in their spare time and whether they travel or not is their decision. Whilst in some cases you may be able to cancel annual leave that has already been requested and authorised, this may not be good for employee relations. For more on this, see the Q&A later.

Symptoms of the coronavirus

As per guidance from the HSE:

It can take up to 14 days for symptoms of coronavirus to appear. They can be similar to the symptoms of cold and flu.

Common symptoms of coronavirus include:

- a fever (high temperature - 38 degrees Celsius or above)
- a cough - this can be any kind of cough, not just dry
- shortness of breath or breathing difficulties

If you have any of these symptoms, you should behave as if you have the virus and self-isolate for 14 days. People in your household will need to restrict their movements.



Close contact

This is only a guide but close contact can mean:

- spending more than 15 minutes face-to-face contact within 2 metres of an infected person
- living in the same house or shared accommodation as an infected person

Anyone with [symptoms of coronavirus](#) who has been in close contact with a confirmed case in the last 14 days should:

- isolate themselves from other people - this means going into a different, well-ventilated room alone, with a phone
- phone their GP, or emergency department”

If you are feeling well

If you are feeling well, carry on with your normal routine. As per guidance from the HSE:

“The risk of catching coronavirus in Ireland is still low to moderate. This may change. However, most people may continue to go to work, school and other public places, as usual.

Follow the [advice on how to protect yourself and others from coronavirus](#).

When you may need to be tested for coronavirus

As per guidance from the HSE:

You can phone your GP to be assessed for a test in any of these situations.

If you are in a priority group and have:

- fever and a cough, or
- fever and shortness of breath (breathing difficulties)

If you are in a priority group and have been in contact with someone you think or know has coronavirus and you have any of these symptoms:

- cough
- congestion
- runny nose
- sore throat

- body aches
- tiredness

If you do not have a GP, any GP can arrange a test for you. Phone your GP. Do not go to a GP surgery, pharmacy or hospital. The GP will assess you over the phone.

Do not ring GP out-of-hours services. They cannot arrange testing.

[Read this advice if you've been to a place with spread of coronavirus.](#)

If you have had close contact with a person who has coronavirus, you will be monitored for 14 days. A doctor will phone you daily to make sure you remain well. You will be asked to stay separate from other people as much as you can for 14 days. This includes not going to work.

Employees in self-isolation

If an employee is instructed to stay away from work (most likely for 14 days), there is no legal requirement to pay employees who are under these instructions unless they report to you as sick during that time in which case normal sickness absence and pay procedures should apply. However, due to the circumstances, you may decide to maintain payment to the individual, particularly if they were in an affected area on business.

If an employee has to self-isolate, they should stay indoors and avoid contact with other people. In particular, such persons should keep away from older people, pregnant women, and anyone with a long-term medical condition. For a person in self-isolation, it is fine for people to deliver food and supplies to them but the individual in self-isolation should stay in a different room. If the individual does have to meet someone then it should be in a room with the window open.

More stringent restrictions will be in place for employees who have to self-quarantine. Full guidance can be found at <https://www2.hse.ie/conditions/coronavirus/self-isolation-and-limited-social-interaction.html>



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If employees who fall into this category attempt to come to work, you should remind them of the instructions and tell them to go home for the stated period. Again, there would be no legal requirement to pay the employee because it is not you who is requiring them to avoid work; it is Government advice.

Hygiene measures / Keeping Well

The World Health Organisation's standard infection control measures are:

- frequently cleaning hands by using alcohol-based hand rub or soap and water
- when coughing and sneezing cover mouth and nose with flexed elbow or tissue – throw tissue away immediately and wash your hands.
- avoid close contact with anyone who has fever and cough.
- if you have fever, cough and difficulty breathing seek medical care early and share previous travel history with your health care provider.
- Infectious disease outbreaks like coronavirus (COVID-19) can be worrying. This can affect your mental health.
- [Read some advice on minding your mental health during the coronavirus outbreak.](#)

Precautionary Paid Leave

Where you have concerns about a non-symptomatic employee (particularly if it is known or suspected that the employee has had contact with someone known to have the virus) then the best advice might be to play it safe with a brief period of suspension on precautionary grounds.

Where you choose to suspend returning employees just as a precaution, it will have to be on full pay unless the contract gives you a right to suspend without pay for this reason (which is unlikely).

Discrimination, bullying and harassment

Coronavirus is not a reason to treat employees differently because of their national origin. Placing extra obligations on individuals (more

robust hygiene methods, for example) just because they are from China places you at risk of a claim of race discrimination. Extra hygiene measures, if you decide to implement them, should be required of all employees.

You should be alert to 'banter', or more serious instances of harassment, between employees about the virus which relates to someone's nationality or ethnicity and ensure that your zero tolerance stance to harassment is maintained.

Closure of business

Some employers may decide to put in place a plan to cover a situation where their business temporarily closes down due to exposure / potential exposure to the virus. Employees who are ready and willing to work but are not provided with work (as would be the case with a temporary closure) can be placed on lay off. Lay off must be with full pay unless there is a provision within the contract for lay off without pay. If there is no contractual provision, you can attempt to agree with employees a period of unpaid lay-off. The Government has put in place new support measures for employers and employees impacted.

Increased Restrictions / Business Closures

The government has announced significant new restrictions that will further reduce employment and confirmed that the initial review date of 29th March has now been extended until April 19th.

The government announced that all non-essential retail outlets and non-essential service providers will close to members of the public and all other retail outlets and service providers are to implement physical distancing from midnight 27th March 2020.

The widening of the restrictions effectively leaves only employees who can work from home and essential frontline staff in the retail and healthcare sectors assured of continued employment.

For full Guidance please see our note on Essential Retail Outlets and Essential Service Providers on our [Peninsula Website](#).



Essential Service Providers

The government issued further guidance on 28th March on essential service providers.

If you are providing an essential service, you should identify those employees (including sub-contractors and so on) who are essential to the provision of that service and notify them. This can be done by category of employee or by individual; it could include all employees of the organisation

If you are providing an essential service, latest public health guidance should be followed at all times

For full Guidance please see our note on our [Peninsula Website](#).

Employee income supports

The government has also made substantial increases to social welfare benefits developed to handle the economic impact of the pandemic. The COVID Unemployment Payment has risen to €350 a week.

Likewise, the COVID Illness Benefit for self-isolating employees has also increased from €305 to €350 per week and can be topped up by employers.

Temporary Wage subsidy scheme

To avoid large scale redundancies, the government has also moved to encourage employers to keep staff on their payrolls.

Under the government's wage subsidy scheme, the state will co-fund 70% of the cost of salaries up to a maximum of €38,000 a year. At a salary of €38,000 the subsidy equates to €410 a week in take-home.

Employers will only be eligible if they have suffered a 25% decline in turnover and are unable to cover their outgoings.

For full Guidance please see our note on the TWSS on our [Peninsula Website](#).

Support for Childcare Providers

The Department of Children and Youth Affairs will roll out the below measures as quickly as possible will apply for up to 12 weeks.

- Revenue will reimburse childcare employers by 70% of their pre COVID-19 staff costs
- in addition, the Department of Children and Youth Affairs will reimburse childcare employers by 30% of their pre COVID-19 staff costs
- the Department of Children and Youth Affairs will pay a retention top-up designed to retain staff in the sector
- the Department of Children and Youth Affairs will fund Childcare Providers with a proportion of staff costs during the closure period to assist with their ongoing costs where needed
- These emergency measures will apply for up to 12 weeks in line with the government's announcement yesterday and reflect the unique challenges and demands facing the sector.

For full Guidance please see our WSCS note on our [Peninsula Website](#).

Employment Permits

The Department of Enterprise and Innovation have stated that they will be flexible in dealing with employment permit issues that arise for both employers and employees as a result of the pandemic. The Department is cognisant that the measures introduced to tackle the COVID 19 crisis and the challenges of travelling to the State may impact on the ability of new employees to take up employment. In these circumstances changes to applications will be facilitated, for example applicants may wish to change the employment contract start date, to continue to hold the application in the processing queue for processing at a later date or withdraw the application.

For full Guidance please see our note on the Employment Permits on our [Peninsula Website](#).



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Useful links;

Updates from the Department of Health

<https://www.gov.ie/en/campaigns/c36c85-covid-19-coronavirus/>

<https://www2.hse.ie/conditions/coronaviruses/coronavirus.html>

The Health Protection Surveillance Centre

<https://www.hpsc.ie/a-z/respiratory/coronavirus/novelcoronavirus/>

Business Continuity Planning

<https://dbei.gov.ie/en/Publications/Business-Continuity-Planning-A-checklist-of-Preparatory-Actions-in-Responding-to-the-COVID-19-Outbreak.html>

Contact the Peninsula Group

Occupational Health intervention and Employee Assistance Programmes are essential tools to effectively manage absence in the workplace, to support staff and to add value to your business. We can provide you with the details of Health Assured, a company who can provide such services. For further information please speak to your HR Expert and visit:

<https://www.healthassured.org/ie>

Health & Safety advice line on 01 855 5050, option 2.



MANAGING CORONAVIRUS ISSUES AT WORK Q&A

Can I cancel an employee's annual leave if I know they are going to an affected region?

Whilst the law states that an employer can determine when an employee takes their annual leave, there are some restrictions around this. One such restriction is that the employer must have "consulted the employee ... not later than 1 month before the day on which the annual leave ... is due to commence". Thus, you may be able to cancel annual leave as long as you have done so at least 1 month in advance. However, cancelling leave which has already been authorised, in any situation, is not likely to go down well with the employee and will often lead to a loss of money for them. If you proceed with cancellation, consider offering compensation for the employee's financial loss. But there may also be a discrimination risk here; cancelling all leave to China for example may have a disproportionate impact on Chinese employees who are using their leave to visit family.

Do I have to allow employees to cancel their booked period of annual leave if they cannot travel abroad as planned?

No, there is no requirement for you to do this. If you have specific rules on allowing employees to cancel their leave, you should stick to these but, in the circumstances, you may decide to be more flexible and allow cancellation.

As a deterrent to travel, can I deduct pay from employees who insist on going to an affected region on annual leave?

It is highly likely that this type of deduction will be deemed an unlawful deduction from wages and so it is not advisable to proceed in this way.

I have an employee who was in an affected region on holiday and now can't get home because their flight has been cancelled. What should I do?

You can expect that the employee will try to identify other methods of getting back home. If, for whatever reason, they cannot travel back,

there are several ways in which you can deal with this:

- use their annual leave to cover the absence. The length of their absence and their remaining entitlement to annual leave will dictate the extent to which you can do this. Using annual leave like this will generally have to be agreed with the employee and that is particularly the case considering you will be unlikely to meet the 1 month consultation requirement in such a scenario;
- agree for the employee to work from their location if the nature of their job allows for this and they have the equipment they need to fulfil their duties. The employee cannot insist that they work from their location if it is clearly not tenable;
- agree that the employee uses banked time off in lieu. It is not likely that the employee would have enough lieu time to cover an extended absence;
- agree a period of paid leave that is not annual leave;
- agree a period of unpaid leave;
- agree any other type of leave permitted by the contract that may be appropriate.

A mixture of the above can be used to cover an extended absence.

We are due to have visitors to our Irish office from an affected region next month. Should we postpone the visit?

Provided there are no travel restrictions preventing the visitors entering Ireland which will take the matters out of your control, it's up to you whether to postpone the visit. Your employees may raise concerns about potential exposure to the virus and you may wish to take this into consideration, though any unreasonable resistance should be dealt with accordingly. If you decide the visit should go ahead, ensure there are robust hygiene measures in place, restrict contact



between your employees and the visitors as much as reasonably possible and take more care with any of your employees who are older, pregnant, have existing respiratory conditions or those who have diabetes, chronic lung disease or cancer.

One of my employees has recently come back from an affected area and told me that they were informed during the flight that there was a suspected case of Coronavirus on the aeroplane. What should I do?

It is best to take precautionary measures seen as your employee has potentially been in contact with someone who has the virus. A period of suspension (paid unless the contract says otherwise) is advisable. The employee should be advised to contact the HSE for further instruction as highlighted above.

My employee has told me they have family due to visit from an affected region next month. I am worried that their risk of infection will increase. What can I do?

Provided there are no travel restrictions in place preventing the visit, there is little you can do to stop this happening. Ensure the employee knows what to do if they begin to feel ill during or after the visit. Suspension of the employee would probably not be appropriate in this scenario unless you know or suspect that one of the family members has the virus but this will be your decision.

We regularly receive packages that have been sent from an affected region. The staff in my post room are concerned about exposure to the virus and are refusing to touch them. What can I do?

There is currently no evidence that Coronavirus can be carried in packages that have originated in an affected region and so no grounds for your employees to refuse to deal with any that are received. Indeed, the HSE's guidance at the time of writing is that "you cannot get coronavirus from packages or food that has come from China or elsewhere. There's no evidence that animals or animal products legally imported into the EU are a health risk due to coronavirus." To allay fears, you could consider providing gloves which will be thrown away after each use, and encourage good hand hygiene.

My employee needs to care for their children due to a school closure. What is the situation here?

If the employee can work from home and the employer can facilitate this then the employee should continue to work and will be paid as normal. If the home-working is not a possibility then there is no requirement to pay the employee.

However, the employer and employee may be able to agree to treat the period as annual leave, or unpaid leave, or parental leave, or a combination. Additionally, the employer could agree to continue to pay the employee wholly or in part subject to the employee working back those hours upon their return to work.

My employee needs to care for a person who has contracted the coronavirus. What is the situation here?

If the employee is caring for a close family member then the employee may be entitled to force majeure leave. This is a maximum 3 day entitlement and the employer should seek advice on the rules. The employee may also be entitled to a period of carer's leave.

If the employee is not entitled to any of these statutory leaves, the employer and employee may be able to agree to treat the period as annual leave, or unpaid leave, or parental leave (if caring for a child), or a combination. Additionally, the employer could agree to continue to pay the employee wholly or in part subject to the employee working back those hours upon their return to work.

My business needs to shut down for a period of time. What are my options?

If the business needs to close but you can facilitate home working then the employees should continue to work and will be paid as normal.

Temporary Lay Off

If you cannot facilitate home working then you will need to consider placing employees on a period of temporary lay-off. The employees should receive as much notice as is reasonably possible. In addition, the employees should be



issued with [Form RP9](#), which is the official form that must be issued.

If employees remain on lay-off or short-time for an extended period of time can they claim redundancy?

The government has now forbidden employees who have been laid off or put on short time during the crisis from making redundancy claims until 31st May 2020 (or any extended period).

[Covid-19 Pandemic Unemployment Payment](#) has been introduced for employees whose employer is unable to continue to pay them. The payment is available to all employees who have lost employment due to the pandemic. They will get a payment of €350 per week for the duration of the crisis.

As an alternative to lay-off, the employer may offer employees the option to take the period as annual leave, but this is subject to agreement. Additionally, the employer could agree to continue to pay the employee wholly or in part subject to the employee working back those hours upon their return to work.

Short Time Working

If you can continue operations but need to reduce employees' hour, then you may place employees on short-time working. Advice should be sought on the rules surrounding this, but similar to lay-off the employees should receive as much notice as is reasonably possible. In addition, the employees should be issued with [Form RP9](#).

Additionally, the Government has announced that its emergency [Short-time Work Support](#) will be made available to employees/companies impacted by the coronavirus measures. Short-time Work Support is available under Jobseeker's Benefit and is an income support payment for employees who have been temporarily placed on a shorter working week, due to business challenges affecting their employment. Employees must work 3 days per week or less to qualify, having previously been employed on a full time basis.

This Support will top up an employee's pay in circumstances where their hours have been

reduced. For example, if an employee is placed on a 3 day work pattern having previously worked 5 days, they may be entitled up to two-fifths of the maximum weekly rate of Jobseekers Benefit for the 2 days they are no longer working. Employers should inform employees of this Support payment in the event that they have to reduce employee hours.

My employee has contracted the coronavirus and needs to take a period of leave. Are they entitled to sick pay?

In this situation, normal sick pay rules apply. If the company operates a sick pay policy then they should pay the employee in keeping with normal company sick pay rules.

If the company does not have a sick pay policy then any such payment would be discretionary. The employee will be entitled to an [Illness Benefit](#) of €350 per week from day one of their absence. This rate will be paid for a maximum of twelve weeks for employees who are self-isolating and will be paid for the duration of a person's absence where they have contracted COVID-19.

Is there a Government support available to top up employee wages?

The COVID-19 Wage Subsidy allows employers to pay their employees during the current pandemic.

It is administered by Revenue.

Employers will be refunded up to 70 percent of an employee's wages - up to a level of €410.

The employer must make their best efforts to maintain as close to 100% of normal income as possible for the subsidised period.

Further details are available on the [Peninsula Website](#).

What is the temporary relaxation of EU driving and resting time rules due to COVID-19?

In light of the potential impact of the Coronavirus on HGV operations and the importance of the road haulage sector to the



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national economy and in response to requests from the haulage industry, the Road Safety Authority and the Department of Transport, Tourism and Sport have agreed to allow a temporary and urgent derogation in respect of certain provisions of the EU driving and resting time rules. The proposed derogation will apply to all operators and drivers subject to the EU driver's hours and tachograph rules engaged in the carriage of goods.

Coming into effect: The derogation comes into immediate effect from 18 March 2020 up to 16 April 2020 which will be reviewed every week as regards application and scope.

The driving time rules are being relaxed by lifting the fortnightly driving limit from 90 hours to 112 hours. As a consequence of this approach, drivers will be entitled to drive a maximum 56 hours in each consecutive week until further notice (there is no change to the rules relating to working time).

The rules relating to weekly rest are also being relaxed by allowing drivers to take a reduced weekly rest of at least 24 hours in each consecutive week during the relaxation period. There will be no obligation on a driver to take at least one (1) regular weekly rest period in any two consecutive weeks until further notice. Furthermore, there shall not be any requirement for compensation where reduced weekly rest is being taken.

As outlined above, there is no change to the rules relating to working time

Need Further Advice?

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