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## COVID-19 update

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### Re-Open for Business - How to plan a safe return to the workplace

As the UK nears the end of its 7<sup>th</sup> week in 'lockdown', it is widely anticipated that the government will shortly start to ease restrictions and enable a gradual return to the workplace. However, with physical distancing likely to remain a reality for the foreseeable future, businesses need to start thinking about how to manage the return whilst maintaining the health and safety of their employees.

Whilst there can be no one-size-fits-all approach, we've set out below some of the steps which will be critical to ensure a safe return to the workplace in the UK.

- **Monitor official guidance:** Continue to follow guidance from the government on physical distancing and workplace health measures and keep this under close and careful review as it develops.
- **Consider which employees should return to the workplace:** Think about how many employees should physically return to the workplace. It is likely that employers will be expected to maintain home working arrangements for some time to the extent possible. Employers will need to exercise particular care in respect of staff members in vulnerable groups or who develop or live in a household with someone who develops symptoms of COVID-19, in line with the government's guidelines. Businesses should plan to deal with a higher number of staff absences as a result. It is advisable to keep smaller teams of workers together and reduce physical meetings to minimise transmission risk.
- **Conduct risk assessments:** Assessments should cover all key risks involved in returning to the workplace, including any risk presented by reduced staffing levels and operational changes necessary to implement physical distancing. Appropriate steps should be taken to mitigate identified risks. Where this is not possible, businesses should consider whether certain activities are necessary for the business to operate or if they can be temporarily suspended.
- **Facilitate safer travel arrangements:** Think creatively to support staff with adopting alternative travel methods to reduce exposure to infection. Examples might include allowing cycling/walking time to count towards the working day, staggering start and end times to reduce commuting during peak hours, or providing a shuttle service to reduce use of public transport.
- **Adapt the workplace:** Take steps to enable physical distancing in the workplace and minimise cross-contamination. This could include limiting/staggering access to small or confined spaces and common areas such as toilets and kitchens, rearranging workstations to maintain a 2 metre distance or, where this is not possible (for example in manufacturing facilities and on production lines), erecting barriers and minimising face to face working, encouraging use of stairs rather than lifts, using a one-way system for entrances and exits and reviewing ventilation systems to reduce the spread of airborne particles. The government has already issued sector-specific physical distancing guidance for certain types of workplaces (including factories, retail and transport) and further guidance for these and other workplaces is expected.
- **Take additional hygiene measures:** Hygiene measures should be introduced to limit the spread of infection. These could include increasing the frequency of cleaning with extra focus on contact 'hot spots' such as door handles, reducing reliance on hardcopy documents in favour of digital alternatives, increasing availability of handwashing stations, hand sanitiser, anti-bacterial wipes and tissues, and reminding staff to maintain good personal hygiene practices, including regular hand washing. PPE (including face masks) is not currently legally required in the UK, but businesses might consider making appropriate PPE available to staff. If so, it is advisable to provide training to staff to ensure effective use of such equipment and provide for safe disposal of used items.
- **Monitor for illness:** Ensure that managers know how to spot the symptoms of COVID-19 and are aware of processes in case someone in the workplace is potentially infected. Continue to remind staff to only come into work if they are well and not experiencing any symptoms. A number of businesses are considering testing and screening methods, such as temperature controls. Such measures present additional data privacy considerations and should only be implemented with appropriate legal advice.
- **Update key policies:** Consider whether changes are required to existing sickness, health and safety and disciplinary policies or if new policies are required. Ensure that managers and staff are aware of any updated procedures, e.g. in relation to sickness reporting and sick pay. Also ensure that existing health and safety obligations are complied with, such as maintaining appropriate numbers of fire marshals and first aiders on-site notwithstanding staff absences. Employers should also be aware that the Health and Safety Executive (HSE) must be notified of any workplace incidents that lead to exposure to COVID-19 and any cases where there is "reasonable evidence" that it was caused by exposure in the workplace.
- **Put in place processes to manage legal claims:** US companies are already starting to face claims from employees who allege to have become infected with coronavirus at work. UK employers should already have legally required employer's liability insurance in place which will cover occupational disease, but should consider putting in place processes to manage any claims from employees alleging to have become ill as a result of returning to the workplace.

Ultimately, a lack of planning could result in unnecessary health risks and potential liabilities under criminal law (including for breach of employer duties under the Health and Safety at Work Act) and civil claims. Communication and engagement with staff will be key to ensuring that employees feel supported and that their needs are being looked after.

As the workplace gradually re-opens, businesses should also regularly review the policies that have been put in place to ensure they remain effective and be prepared to reverse measures in the event of a 'second wave' of infections.

These issues are rapidly evolving and we are working with a number of clients on implementing safe return to workplace plans. For further information on this topic, please contact the authors, your usual Hogan Lovells contact or visit our **COVID-19 Topic Center** for the latest updates.



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