

# Coronavirus: FAQs for Business

## **1. If someone is healthy but has received a written notice to self-isolate from a GP or NHS 111 are they entitled to sick pay?**

Yes, because they are deemed (in accordance with 2 of the Statutory Sick Pay (General) Regulations 1982) to be incapable of work, and so are entitled to statutory or company sick pay in line with your normal sick pay procedure.

This is assuming they are unable to continue working remotely. Employees who are healthy but have been instructed to self-isolate may be able to work from home – if this is an option, you may wish to discuss this with employees in this situation

On 4 March 2020 the Prime Minister announced plans for Statutory Sick Pay to be available from day one (rather than day four) for employees who self-isolate as a temporary measure to respond to the outbreak. This change has not yet come into effect but we will make you aware when it does.

## **2. If somebody chooses to self-isolate, and/or is not given formal written notice to do so by a GP or NHS 111, are they entitled to sick pay?**

No, they are not entitled to statutory or company sick pay as they are not incapable (or deemed to be incapable) of work. You can of course use your discretion to pay sick pay in this circumstance but there is no obligation, in which case anyone who chooses to self-isolate will either have to:

- take unpaid leave; or
- use their holiday entitlement.

In practice, as this is a preventative measure to reduce the transmission of the virus, you should consider whether other arrangements can be put in place to allow the employee to self-isolate whilst still working, for example home working. If it is possible to put such arrangements in place, the employee should be paid as normal.

## **3. If an employee is self-isolating, can we still require him or her to submit a 'fit note'?**

You may need to be flexible with an employee in this situation. For example, someone who has been told to self-isolate for 14 days may well not be able to provide a fit note after 7 days. You should therefore use your discretion when requiring medical evidence.

## **4. What if we are concerned about someone who has recently returned from a high risk country such as China or Italy, can we tell them not to come into work?**

You are under a duty to protect the health and safety of your employees, so if there is an identified risk that an employee may have been exposed to the virus, you can ask them not to come to work as a preventative measure for the protection of other employees. You should also check whether they have followed the current Government and NHS guidance on self-isolation. If they have returned from one of the countries listed by the NHS as being at higher risk of Coronavirus, it may well be that if they contact their GP or NHS111 they will be issued with a written notice requiring them to self-isolate.

Any instruction not to attend work should be related to potential exposure to the virus in line with the current Government and NHS guidance and should apply to all staff regardless of nationality or ethnicity. Where there are viable alternatives, such as working from home, these should be explored before any instruction is given to stay away from work.

If the individual is not unfit to work, their entitlement to sick pay will be determined by whether or not they have a written notice requiring them to self-isolate. If the individual is later diagnosed with Coronavirus or otherwise becomes too unwell to work, they will be entitled to statutory or company sick pay in the normal way.

**5. What if an employee requests time off to look after someone else who has or may have the Coronavirus?**

Employees are entitled to unpaid time off work to deal with an unexpected situation or emergency involving someone who depends on them (i.e. child, spouse, parent or other individual in the same household). This might apply in the context of Coronavirus where an employee:

- needs time to make alternative childcare arrangements because a childminder or nursery is unable to provide childcare or their child's school has closed;
- needs time to make arrangements for the care of an elderly parent who has become ill or is required to self-isolate.

The amount of time off an employee is entitled to take must be reasonable to deal with the emergency in question – usually no more than two or three days. There is no statutory right to paid or unpaid time off to provide ongoing childcare or to look after an elderly parent in the long term so if more time is needed, an employee will have to book holiday or take it as unpaid leave.

**6. What if employees cancel their current holiday plans at short notice if they were planning to visit an affected country. Do we have to accept this if the rotas have already been reorganised?**

These requests should be granted if at all possible otherwise employees may feel pressured to risk taking their holiday as originally planned, leading to a period of self-isolation or a risk to colleagues on their return to work.

**7. What if employees are refusing to come to work for fear of catching the Coronavirus?**

You should listen to any concerns employees may have and where there are genuine concerns, you should try to resolve them to protect the health and safety of employees. For example, you should consider flexible working arrangements such as home working or it may be possible to allow employees who wish to do so to take holiday or unpaid leave. If their fear is the risk of infection on public transport, it may be possible to adjust their hours to enable them to travel outside rush hour.

If you do permit remote working or holiday, you should reserve the right to require workplace attendance on short notice in case you find yourself short staffed. You should also make it clear that disciplinary action could be taken if an employee refuses to attend work without good reason.

You are not obliged to agree to a request to take time off, whether paid or unpaid, where the request is not in line with Government or NHS guidance. If you refuse a request for time off and an employee still refuses to attend work, you are entitled to take disciplinary action. Before any disciplinary sanction is imposed, the situation should be discussed in full with the individual and account should be taken of any mitigating circumstances. Whilst you may wish to impose a disciplinary warning, bear in mind that it is likely to be unfair to dismiss because of a refusal to attend work arising out of a genuine albeit misguided fear of infection.

**8. Can we require employees to take annual leave if they have requested time off work?**

An employer may give notice ordering a worker to take statutory holiday on specified dates, however, such notice must be at least twice the length of the period of leave the worker is being ordered to take. That means if an employee is concerned about coming into work and you require them to take a week's holiday, you will have to give them at least 14 days' advance notice. As such, this is unlikely to be a practical option. Obviously if an employee agrees to take holiday at your request, no notice is needed.

**9. What if we decide to close because of the risk of people catching the virus?**

If this becomes necessary, you should where possible make alternative arrangements so employees can continue to work, whether that be from home or at another location. You should also ensure that employees know how to communicate with managers and colleagues.

You should note that where an employee is willing and able to perform work in accordance with their contract, you have an obligation to pay wages so employees in this situation will be entitled to their normal pay unless their contract provides otherwise.

**10. What if an employee or member of the public who is confirmed to have the virus has recently been in the workplace?**

You will be contacted by the PHE local Health Protection Team to discuss the case, identify people who have been in contact with them and advise on any actions or precautions that should be taken.

The government guidance suggests closure of the workplace is not required unless the PHE local Health Protection Team advise you of this.

**11. What if an employee has had contact with a person who has a confirmed case of the virus for example, an employee living in the same household as a confirmed case?**

If an employee informs you that their child/partner has a confirmed case of the virus, urge them to seek immediate advice from their GP or NHS 111. Those who have had close contact will be asked to self-isolate at home for 14 days from the last time they had contact with the confirmed case.

Employees who have not had close contact with the original confirmed case, i.e. those who have just had contact with an employee who has had contact with the confirmed case, do not need to take any precautions and can continue to attend work as normal in accordance with current Government guidance.

**12. What if an employee is refusing to handle post, packages or food from affected areas?**

The Government guidance states that there is no perceived increase in risk when handling post or freight from specified areas so employees should continue to follow existing risk assessments and safe systems of work and be asked to review the Government guidance in this regard for peace of mind.

If employees refuse to do certain tasks without good reason, disciplinary action may be appropriate.

### **13. Should we be doing anything to reduce the risks of exposure in the workplace?**

Yes, you are under a duty to protect the health and safety of employees. Such actions could include:

- Sending round an email/guidance encouraging employees to be extra-vigilant with washing their hands, using and disposing of tissues etc.;
- If you have the ability to do so, it may be worth designating an 'isolation room' where an employee who feels ill can go and sit away from the rest of the company and privately call '111' before taking any further necessary action.
- Providing and keeping readily accessible information on what Coronavirus is and the latest World Health Organization guidance on precautionary measures to be adopted;
- Making 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. However managers should not single out anyone because of their race or ethnicity on the assumption that they may have the virus without any symptoms present;
- making sure there are clean places to wash hands with hot water and soap and encouraging everyone to wash their hands regularly;
- providing hand sanitiser and tissues for staff and encouraging them to use these items; and
- instructing cleaners to concentrate on door handles, cistern handles, taps, phones, keyboard etc.

You should keep everyone updated on actions being taken to reduce the risk of exposure in the workplace. It is also a good time to remind employees that they should make sure their contact numbers and emergency contact details are up to date.