



EMPLOYMENT, PENSIONS AND EMPLOYEE BENEFITS

Coronavirus: How Employers Can Prepare For Potential Challenges

by **Aoife Bradley**

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Given that the number of cases of the novel coronavirus/COVID-19 which have been confirmed in the Republic of Ireland is rising significantly, many employers are formulating strategies to deal with the anticipated escalation of cases and any likely consequences for employers and the workplace.

At the time of writing, there are confirmed cases in over eighty-eight countries, areas or territories.

This article outlines some practical steps that employers can take to mitigate against the risks the virus may pose to their organisations and what employers can do to in preparation for further spread of the disease.

Assess the risk and plan accordingly

An employer has a statutory duty to ensure the health and safety of employees and to take reasonable steps to identify and address risks to health and safety in the workplace.

Employers should conduct a risk assessment of the potential effects of COVID-19 on its organisation and make contingency plans accordingly. Each employer will be affected differently and the risk assessment should be tailored to the needs and operations of each business. It should include a review of the business operation, the steps that can be taken to reduce the risk of spread of infection, and contingency planning for business disruption due to absenteeism or widespread quarantine.

The risk assessment and contingency planning should be revisited as new information is released from official disease monitoring agencies and government bodies.

When conducting risk assessments, special consideration should be given to more vulnerable employees who are at greater risk from the coronavirus such as those who are immunocompromised, pregnant employees and those with underlying respiratory illnesses.

It may be useful to appoint a central coordinator to liaise with staff in respect of coronavirus communications to ensure a consistent, factual and up to date message is communicated to staff.

Prevention is Better than Cure

There are simple measures that an employer can take to reduce the risk of coronavirus affecting its organisation.

Promoting Hygiene

Employers should communicate with staff and place signage in the workplace regarding the symptoms of the coronavirus. Good hygiene should be encouraged amongst staff to include promoting effective handwashing, coughing/sneezing etiquette, provision of alcohol-based hand sanitiser and other materials for cleaning workspace surfaces and workstations.

Travel Restrictions

Many employers have put in place immediate temporary bans on international travel to reduce employees' potential exposure to the virus.

Virtual Meetings

Employers can consider temporarily banning face to face meetings or site visits with individuals who have travelled from affected regions, encouraging virtual meetings instead.

Flexible Working

If available, homeworking and flexible working arrangements can be an effective way for employers to mitigate the risk of staff exposure to the virus and to manage the potential situation of employees being subject to quarantine.

Where flexible working does not form part of existing business practice, employers should examine ways that such flexible working could be facilitated. This may include introducing temporary work from home policies and investing in infrastructure to facilitate remote working. Such contingency planning may incur extra costs in the short-term if it requires investment in network access or equipment for remote working, but it is likely to prove to be a prudent and worthwhile investment. The financial costs should be viewed as a means of offsetting the business costs: consider the potential for employees to be affected by the virus, the potential for employees to be quarantined for extended and repeated periods, and that the coronavirus appears likely to remain a very real threat for the foreseeable future.

Leave

The situation of leave — paid or otherwise — in respect of private sector employees' absence arising from the effects of coronavirus will depend on the individual circumstances of the absence, including whether employees are acting in accordance with official public health guidelines.

Whilst pay arrangements between an employer and an employee during periods of illness-related absence are governed by the terms of the employment contract, the situation in respect of self-isolation is more ambiguous.

The Workplace Relations Commission (WRC) has issued a guidance note for employers and employees on the coronavirus which outlines a number of the potential leave options available to employers and employees in the case of absence due to the coronavirus.

The Government has also announced this week that officials are to examine the possibility of making financial assistance available to private sector workers affected by the coronavirus which may involve private sector employees in quarantine being eligible for a State benefit.

Sick Leave Policies

Where an employee is ill due to the coronavirus, an employer's standard sick leave policy should apply.

Employers who do not currently pay sick leave or who have discretionary sick leave policies should give careful consideration to exercising discretion in favour of granting paid sick leave. Depending on the individual organisation, it may ultimately be more costly to it to have employees continuing to come to work despite displaying symptoms of the virus or returning to work not having fully recovered from the virus for fear of loss of income.

Quarantine

The situation in respect of paid leave for employees who are subject to quarantine should be assessed according to the individual circumstances of the quarantine.

Where an employee is subject to quarantine, is not unwell, and is in a position to work from home, they should be paid as normal.

In accordance with the WRC guidelines on the coronavirus, where an employee is required by official public health guidelines to self-isolate, and such leave is not covered by the contract of employment, there is no statutory right to pay for such absence. Whilst the WRC guidelines are a very useful resource, it cannot be ruled out that an employer's decision not to pay employees will not be challenged or result in claims e.g. a claim under the Payment of Wages Act. In order to maintain good employee relations and to assist in the defence of any such claims, the employer should clearly communicate to employees and engage in a consultation with them in respect of such decisions.

Force Majeure

Where an employee's close family member becomes ill and the employee's immediate presence is indispensable, the employee may be entitled to avail of statutory force majeure leave. The maximum length of such leave is 3 days in any 12 month period or 5 days in any 36 month period. Such leave is paid by the employer.

Annual Leave or Unpaid Leave

Where an employee does not wish to attend work due to perceived risk in contracting the virus, perhaps during the commute, and home or remote working is not an option, employers could consider facilitating an employee to take unpaid leave or annual leave to cover such absences.

Lay-Off and Short Time

Where, due to the effects of the coronavirus, an employer experiences a temporary downturn in business and is unable to provide work for employees on a temporary basis, it may be able to place employees on short time or lay-off, subject to the provisions of employees' contracts.

Eligible employees may be able to claim social welfare benefits during periods of lay-off or short time.

Please [click here](#) to read our article focusing on short time and lay-offs during the COVID-19 outbreak.

Prepare and Communicate

Clear communication with staff is of fundamental importance. Employers should ensure that employees are fully informed of the steps it is taking to reduce the risk of coronavirus in the workplace, the employees' responsibilities to assist in minimising the spread of the virus, and the contingency plans that the organisation has in place should the spread of the virus worsen or directly impact its employees or workplace.

Instances of coronavirus in Ireland are currently limited but are unquestionably rising. Now is the time for employers to carry out risk assessments and prepare options for contingency plans.

Useful Links

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

<https://www.who.int/emergencies/diseases/novel-coronavirus-2019>

<https://www.ecdc.europa.eu/en/novel-coronavirus-china>

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

https://www.workplacerelations.ie/wrc/en/news-media/workplace_relations_notices/covid-19-guidance-notice-for-employers-and-employees-.html

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