

Coronavirus

Factsheet for employers

This document is intended to provide general employment law advice for employers in light of the current coronavirus pandemic and is based on latest government and public health service guidance available at the time and date stated at the top of this page.

We will update this document regularly as a live document. Please check the latest version on our website (www.tinsdills.co.uk) to be sure the information you receive is entirely up-to-date (see [disclaimer below](#)).

Coronavirus (COVID-19) is likely to affect most, if not all employers, in the coming months. This factsheet is intended to provide simple guidance on the current best practice for dealing with coronavirus and your workforce.

It is **good practice** to:

1. keep your workforce updated on actions you are taking to reduce exposure in the workplace;
2. reconsider any unnecessary travel (particularly, overseas or to any networking/social events);
3. provide sufficient cleaning stations (with hot water and soap)
4. encourage everyone to undertake regular handwashing;
5. provide hand sanitiser and tissues for staff (if possible) and encourage their use;
6. ask everyone to check that their emergency contact details are up-to-date;
7. make sure senior members of staff are trained on how to spot symptoms of coronavirus and any relevant workplace processes (such as sickness reporting);
8. you should maintain records of staff absences;
9. you should not require employees to provide a GP fit note;
10. never single anyone out (for example, on grounds of being a national of an affected country).

**Ensure you keep up-to-date with [latest government and public health advice](#).
Refer to the [NHS 111 online coronavirus service](#) for more guidance.**

Public Health England (PHE) recommends that everyone should follow general cold and flu precautions to help prevent people from catching and spreading coronavirus.

Face masks for the general public are not being recommended as protection from infection as there is currently no evidence of benefit from their use outside healthcare environments. Instead, they are only recommended to be worn by symptomatic individuals where advised by a healthcare worker.

PHE recommends that the best way to reduce any risk of infection is good hygiene and avoiding direct or close contact (closer than 2 metres) with any potentially infected person. Any member of staff who deals with members of the public from behind a *full* screen will be protected from airborne particles.

If a member of staff (or public) with a *suspected* case of coronavirus has recently been into work:

- There is no need to close the workplace or send other staff home at this point.
- Current guidance states that no restrictions or special control measures are required while the results of the laboratory test on that member of staff/public for coronavirus are awaited.



If a member of staff (or public) with a *confirmed* case of coronavirus has recently been into work:

- Current guidance states that closure of the workplace is not recommended (however there will inevitably be a presumption that the person will no longer be in work).
- Your management team is likely to be contacted by a local Health Protection Team from PHE to discuss the case, identify people who have been in contact with them and advise on any necessary actions or precautions to be taken.
- A risk assessment of the workplace is likely to be undertaken by the Health Protection Team.
- The Health Protection Team should also contact the person who is confirmed to have coronavirus directly to advise them on isolation.
- Advice on cleaning of communal areas such as offices or toilets should also be given to you by the Health Protection Team.

Self-isolation and sick pay

Able to work from home?

If an employee is required to self-isolate and their work is such that it can be done from home, you should permit them to work from home during their isolation period at their normal rate of pay (even if they are entitled to SSP). A failure to do so could give rise to a claim for a breach of the implied duty of trust and confidence or unlawful deduction from wages.

Unable to work from home

Where an employee is required to self-isolate and the nature of their work does *not* allow them to work from home, your contractual sick pay scheme may provide for payment in those circumstances; you may also choose to pay the employee at their normal rate of pay regardless of whether or not they are entitled to SSP. (It could be argued that this would be appropriate in order to incentivise employees who potentially pose a risk to others to stay in isolation rather than return to work because they cannot afford to, or do not want to, lose pay.)

Many workers do not qualify for SSP, including those on zero hours contracts and those who earn less than the current threshold of £118 per week. This is likely to be an area of future development as the impact of coronavirus continues increases.

Changes to SSP

Where eligible, workers will be entitled to SSP from day one (rather than day 4) of any sickness absence as a result of coronavirus. SSP will also be temporarily extended to those who self-isolate due to someone in the same household displaying coronavirus symptoms.

Government refund of SSP

On 11 March 2020, the government announced in its Budget, that certain eligible SSP costs will be refunded to small and medium-sized employers where employees are absent from work due to sickness resulting from coronavirus:

1. Refunds for SSP will be limited to two weeks per employee;
2. Employers with fewer than 250 employees (as at 28 February 2020) will be eligible;
3. The eligible period for the scheme will commence from 13 March 2020, being the day on which the regulations extending SSP to self-isolators came into force;
4. While existing systems are not designed to facilitate such refunds for SSP, the government have confirmed they will work with employers over the coming months to set up a repayment mechanism for employers as soon as possible.

For now, employers should keep a full record of absences as a result of coronavirus so that any refund due to them can be calculated once the repayment mechanism is confirmed.



Sending employees home

As an employer, you have a duty (under the Health and Safety at Work Act 1974 and associated legislation, as well as at common law) to protect the health safety and welfare of your workforce.

If an employee insists on coming in to work and it is reasonably suspected either that they themselves are infected or that they pose a health risk to other employees in some other way (e.g. because they had recently travelled to an [affected area](#)) and you ask that employee to go home and maintain a period of isolation for a specified time, that employee would be entitled to receive their normal pay, unless there was a clear contractual right to withhold pay in those circumstances.

Similarly, if you instruct employees who would otherwise be capable of work to stay at home for a specified period as a *precautionary measure*, you would be obliged to keep those employees on full pay as if they had been suspended, or risk claims for breach of contract and constructive unfair dismissal. Obviously where such employees can work from home, they should be requested to do so.

The position would not necessarily be the same for an employee who self-isolates voluntarily, without being required by their employer to do so (see immediately below).

Vulnerable people

Employers need to take extra steps for anyone in their workforce who is at increased risk from coronavirus. This will include, but is not limited to, those who:

- have a long-term health condition (e.g. asthma, diabetes or heart disease) or a weakened immune system as the result of medicines such as steroid tablets or chemotherapy;
- are pregnant;
- are aged 70 or over; and/or
- care for someone with a health condition that might put them at a greater risk.

Social distancing, flexible working and working from home

Current government advice is for everyone to try and stop unnecessary contact with other people (known as 'social distancing'). This includes:

- working from home, where possible;
- avoiding busy commuting times on public transport;
- avoiding gatherings of people, whether in public, at work or at home (including networking).

You should support your workforce to take these steps; ways in which you can do this may include:

- agreeing to more flexible ways of working – for example, by allowing and facilitating staff being able to work from home, or changing start and finish times to avoid busier commuting times;
- cancelling face-to-face events and meetings and using video or conference calling technology as an alternative.

Where an employee chooses to self-isolate without being required to do so

Someone who chose to self-isolate, purely as a precautionary measure without being required to do so in accordance with guidance published by PHE would not be entitled to SSP during their period of isolation.

In the absence of a contractual right to pay in those circumstances, it would generally be for the employer (you) to agree what payment will be made (if any).

Lay off or short-time working

Where your business is adversely affected by coronavirus, you may need to protect the business by laying-off employees (temporarily or permanently) or putting them temporarily on to short-time working. For more information and advice, please contact our Employment Team using the details below if you find yourself in this situation.



LAST UPDATE: 13:00 ON 19 MARCH 2020

Data protection considerations

Information regarding an employee's health, such as whether the employee is suffering symptoms of coronavirus, or has been diagnosed as having the virus, is special category data under the General Data Protection Regulation (GDPR) and the Data Protection Act 2018.

Additional requirements and obligations apply to the processing of such data by you as their employer and any third parties.

If you would like further advice on dealing with coronavirus in the workplace, please contact a member of **our Employment team** on:

01782 652300

or through our online contact form at:

<https://tinsdills.co.uk/about-us/contact-us/>

DISCLAIMER: Tinsdills Limited shall not be liable in contract, tort, negligence, breach of statutory duty or otherwise for any loss, damage, costs or expenses of any nature whatsoever incurred or suffered as a result of any reliance on the information provided in this document which is based on government or public health service guidance which is inaccurate, incomplete, or not current. All information is for general information only and should not be relied upon or used as the sole basis for making decisions without consulting primary, more accurate, more complete, or more timely sources of information. Any reliance on the material on this site is made at your own risk.

