



Latest Employment Advice on Covid-19 Coronavirus

This advice has been taken from various sources, Employment Lawyer & Employment QC Newsletters and Bulletins, HR/CIPD Websites, Acas Website and Gov Websites.

As information changes I will amend and resend to keep you as up to date as possible.

This document is for your guidance only. Professional advice should be sought.

Do I have to pay my staff if they self-isolate?

Under new legislation passed quickly by the Government, employers should pay Statutory Sick Pay to all employees that are self-isolating, providing they are doing so in accordance with guidance published by Public Health England.

The right to SSP starts from day 1 of their absence, not day 4 as usual. Legislation is expected that will allow smaller employers (under 250 employees) to re-claim this from the Government.

If your employee is actually ill and you have a contractual sick pay scheme in place, do remember that *they may also be entitled to that contractual sick pay as well.*

Can I require my staff to take annual leave if our site is closed due to Covid-19?

This is something you can ask your staff if they want to do. They may say yes given that this would mean their full salary is paid and not just SSP which is currently £94.25 per week.

Under Reg 15(2) of the Working Time Regulations 1998 you may also give notice requiring a worker to take some of their 5.6 weeks statutory holiday on specified dates. The notice for this must be twice as long as the length of period of leave that the worker is being ordered to take. You should check if your contract or holiday policy says anything about how this will be exercised. Although there is the legal right to do this, be aware that some staff may not like it as they consider holiday to be their right, to take as they will.

Also be aware that if someone was actually sick when being asked to go on annual leave, they can seek to notify of their sickness (in the usual way) and so take the day as sick leave and not holiday.



Will I need to pay my staff if the Government shuts down Schools and Nurseries and my staff need to be at home to care for children?

The quick answer is that you don't have to pay them, unless of course they are doing some kind of work from home at the same time.

You just need to be careful with bonus' to ensure that they don't create an inadvertent potential claim for sex discrimination, in view of the fact more women than men may take the leave.

There are 2 possible rights that apply here:

Parental Leave

For parents of (or those with responsibility for) children under 18, they can take up to 18 weeks unpaid leave per child. This should be taken in blocks of a week and would usually be limited to 4 weeks per year although you can agree to more of these weeks in a year if you wish.

Time off for Dependants

If an employee has to take leave due to caring for dependants (which can mean any dependant), they are entitled to do so under s57A and 57B of the Employment Rights Act 1996.

You may have a Time off for Dependants policy which you should have a look at which helps govern this.

Usually it is for time off to make care arrangements for a dependant or to deal with unexpected end of care arrangements.

There is no set period that they can have off – it is what is reasonable, which given the global crisis is probably going to be thought to be a fairly long period.

Can I ask my employees to take a temperature check each day before coming onto our site?

You would need staff consent for this, so would need to get either a signed form or confirmation return email. You would also need a thermometer that is 'non-contact' so you don't spread the virus.

Also you would need a *Policy on controlling the risks of infectious diseases in the workplace* (available on the Kernow HR Toolkit) ensuring you add temperature checks to your list of procedures.

For GDPR purposes it would be best practice to set out how you will record, process and monitor the information. This would be personal information and allowing other employees to know the results of colleagues would be a clear breach of GDPR. If employees choose to share their own results that is their choice.



If an employee does not want to go home but I think they should, can I insist they do so?

Yes. One of an employer's fundamental duties is to protect the health and safety of its employees in the workplace. If an employee becomes infected with Covid-19, or there is a chance they have been infected (for example if they have returned from an infected area abroad), the employer would have a duty to take reasonable steps to protect its employees. Asking the affected employee to stay at home may be a reasonable step to prevent the virus spreading to other employees.

Be aware that if you insist, they go home you may have to pay them full pay as you are medically suspending them, rather than SSP.

My business is being impacted and I'm worried about my ongoing staff costs when my income is slowing. What options are there to reduce or manage my staff costs going forward?

The following are options to consider before considering a redundancy exercise:

- Speak to your employees to explain the situation and to see if they would voluntarily agree to reduce benefits, hours or pay at this difficult time. Often staff will agree temporary measures to get the business through this difficult time. Make sure you are clear and set out in writing on what you are agreeing and the timescales for the change.
- See if you have terms in your employment contracts that allow *lay off or short term* working. If you do reduce your employees hours unilaterally, be aware that after a period your employees may be able to claim redundancy. ***You must check your contracts to see if you have this option available, plus you must give notice of doing this.***
- If you have made job offers to new staff who have not yet started, consider whether it is appropriate to withdraw these. If the job has been accepted this could be a breach of contract which could mean you owe the employee for any loss they have suffered as a result. Again it is best to discuss with the new person before just pulling the plug on new roles.
- Freeze pay rises and promotions for a temporary period.
- Ask your staff if they would be prepared to take a sabbatical, annual leave or a period of unpaid leave. This may be less attractive to people at this time when they cannot or don't want to travel.



If someone with coronavirus comes to work

If someone with coronavirus comes to work, the workplace does not necessarily have to close.

The local Public Health England (PHE) health protection team will get in contact with the employer to:

- discuss the case
- identify people who have been in contact with the affected person
- carry out a risk assessment
- advise on any actions or precautions to take

However with cases rising it is doubtful PHE will be able to respond to all workplace requests. New guidelines about what to do are expected soon. In the meantime still contact PHE.