

## **Coronavirus (COVID-19)**

Cases of Wuhan novel coronavirus (COVID-19) have been confirmed in around 30 countries other than China including the UK, the USA, Canada, France, Thailand, Singapore and Japan.

Based on current evidence, novel coronavirus (COVID-19) presents with flu-like symptoms including a fever, a cough, or difficulty breathing. There have been a number of deaths and severe cases in China although it is reported that symptoms are mild in the majority of cases and the deaths occurred where the person had a pre-existing illness or condition.

Employers should consider what they can do to protect their business and their workforce from the virus particularly if the threat escalates. Employers should issue clear guidance to employees who have recently travelled to China or who have been in contact with someone who has.

Employers should also consider putting in place a flu pandemic or infectious diseases contingency plan that addresses business continuity in the event that the situation worsens.

World Health Organization's declaration that this is a public health emergency of international concern, and the UK has been categorised as moderate.

### **How can we become infected?**

The virus is mainly transmitted by large respiratory droplets when an infected person coughs for example and direct or indirect contact with infected secretions. In addition to respiratory secretions, other coronaviruses have been detected in blood, faeces and urine.

### **Latest Updates**

Today (04/03/2020) the Prime Minister announced that any employees who do not attend work due to self-isolation or if asked to self-isolate by an employer, they will be entitled to Statutory Sick Pay from day 1 instead of day 4. Official guidance for this new legislation is still to be released.

### **Returning travellers**

Call NHS 111, stay indoors and avoid contact with other people immediately if you've travelled to the UK from:

- Hubei province in China in the last 14 days, even if you do not have symptoms
- Iran, [lockdown areas in northern Italy](#) or [special care zones in South Korea](#) since 19 February, even if you do not have symptoms
- other parts of mainland China or South Korea, Hong Kong, Japan, Macau, Malaysia, Singapore, Taiwan or Thailand in the last 14 days and have a cough, high temperature or shortness of breath (even if your symptoms are mild)
- other parts of northern Italy (anywhere north of Pisa, Florence and Rimini), Cambodia, Laos, Myanmar or Vietnam since 19 February and have a cough, high temperature or shortness of breath (even if your symptoms are mild)

In Scotland call your GP or NHS 24 on 111 out of hours. In Northern Ireland call 0300 200 7885. Do not go to a GP surgery, pharmacy or hospital.

Lockdown areas in northern Italy:

- in Lombardy: Codogno, Castiglione d'Adda, Casalpusterlengo, Fombio, Maleo, Somaglia, Bertonico, Terranova dei Passerini, Castelgerundo and San Fiorano
- in Veneto: Vo' Euganeo

Special care zones in South Korea:

- Daegu
- Cheongdo

This guidance is based on the recommendations of the UK Chief Medical officers. These areas have been identified because of the volume of air travel from affected areas, understanding of other travel routes and number of reported cases. This list will be kept under review.

For areas with direct flights to the UK we are carrying out enhanced monitoring. Passengers will be told how to report any symptoms they develop during the flight, at the time of arrival, or after leaving the airport.

### **Foreign & Commonwealth Office (FCO) travel advice**

The FCO is currently advising against all travel to Hubei Province, and against all but essential travel to the rest of mainland China. If you're in China and able to leave, you should do so. See the [latest travel advice for China](#).

The Foreign & Commonwealth Office (FCO) is also advising against all but essential travel to:

- the cities of Daegu and Cheongdo in South Korea
- ten small towns in the Lombardy region and one in the Veneto region of Italy

See the latest travel advice for [South Korea](#) and [Italy](#).

The FCO is not advising against travel to any other country/territory as a result of coronavirus risks.

FCO travel advice remains under constant review to ensure it reflects our latest assessment of risks to British people. Find more information about how we put FCO travel advice together and make decisions on advising against travel in our [travel advice guidance page](#).

### **Impact for travellers**

If you're concerned about the impact of the COVID-19 outbreak on your existing travel plans, check with your airline, tour operator, cruise line or other transport and accommodation providers as applicable. Individual providers may also have their own requirements for customers or passengers to meet.

### **Entry restrictions**

Many countries in Asia and some further afield have introduced screening measures and entry restrictions at border crossings and transport hubs. If you have recently been in China or other affected countries, you may not be allowed to enter or transit, or you may be required to enter a period of quarantine after entry.

Screening measures on arrival may include temperature checks, and you could be asked about your general health or recent travel history. Where these checks identify a concern, further medical checks may be required.

For country-specific information, check the FCO travel advice pages for all countries you are planning to visit or transit.

If you're affected by these changes and need further information about entry requirements, contact the local immigration authorities or the embassy, high commission or consulate of the country you're travelling to. You should also check with your airline or travel company for the latest information.

### **Air travel**

Some airlines, including British Airways and Virgin Atlantic, have suspended flights to and from China, or revised their schedules. Other flights in the region may also be affected. If you're due to travel on an affected route, keep up to date with the latest information from your travel company or airline.

### **International cruises**

Some cruise line passengers have experienced disruption to their travel as a result of measures taken by individual countries to combat coronavirus. The Cruise Line International Association (CLIA) has adopted an enhanced member health policy which all CLIA ocean member cruise lines are required to follow to address the coronavirus. This includes guidance on who should be permitted to board cruise ships. If you are due to travel on an international cruise, contact your travel company for the latest information.

### **Travel insurance**

The Association of British Insurers (ABI) has produced information on travel insurance implications following the outbreak. If you have any further questions about your cover or would like further reassurance, you should contact your travel insurance provider.

### **FAQ's**

**Q. If an employee has symptoms associated with the coronavirus (COVID-19), or has been in contact with an infected person, or someone who has recently travelled to China, can they be instructed not to come to work?**

R. Employers are under a duty to ensure the health and safety of all their employees and to provide a safe place and system of work. These duties exist under both the common law and statute. Employees are also under a duty to take reasonable care to ensure that they do not endanger themselves or anyone who may be affected by their acts or omissions at work.

In light of the above duties, and the serious implications for its business if the coronavirus (COVID-19) is contracted and spread in the workplace, an employer would be justified in instructing an employee with the symptoms associated with the coronavirus not to attend work, and to seek a diagnosis from a medical professional and not return to work until the symptoms have cleared.

In relation to an employee who does not have the symptoms associated with the coronavirus, but who has recently travelled to China or another affected region or has been in contact with someone who has or with an infected person, the employer should check advice from the relevant public health body on whether or not it is necessary on risk

grounds to ask such people not to attend work. However, it is open to the employer to agree with the employee that they will work from home or return to work only if they do not develop symptoms during the incubation period.

**Q. Is there any duty on employers to close their workplace during a flu pandemic or an infectious disease outbreak to prevent the spread of viruses such as the coronavirus (COVID-19)?**

R. There is generally no requirement for employers to close their workplace during a flu pandemic or an infectious disease outbreak, but employers should check guidance from the Department of Health or the relevant public health body on a regular basis. Guidance for businesses from the Department of Health during previous threats such as the swine flu pandemic was that the primary focus of businesses should be on environmental, organisational and general hygiene measures to reduce the risk of transmission of flu.

Employers should consider putting in place a contingency plan that addresses business continuity in the event that the coronavirus (COVID-19) threat escalates and results in workplace closures. In particular, alternatives such as homeworking, working from different premises, lay-off and enforced holiday should be explored. Employers should review the extent to which their technology enables remote access via broadband or satellite connections where this would enable employees to work from home.

**Q. Can an employer insist that an employee who has flu-like symptoms is tested for the coronavirus (COVID-19)?**

R. Employers cannot insist that their employees are tested for flu. Testing an employee without their agreement would constitute a criminal assault and could also result in a claim for constructive unfair dismissal.

In order for an employer to require an employee to submit to a test for flu, it would need a contractual right to do so contained in either the contract of employment or a separate policy. Even where the employer has the contractual right to require such a test, the employee must be willing to be tested, although a failure to agree in these circumstances can be treated as a disciplinary issue. The level of any disciplinary sanction should be set out in the relevant policy and should be reasonable in the circumstances of the case.

**Q. Can an employer insist on its employees having a flu vaccination?**

R. An employer has no right to insist on a flu vaccination without first obtaining consent from its employees, even if it has a contractual right to provide a vaccination. If an employer forces an employee to have a vaccination, it could prompt a number of employment-related claims as well as a charge of criminal assault. Equally there is no obligation on an employer to offer a vaccination against flu.

**Q. During a flu pandemic or an infectious disease outbreak such as the coronavirus (COVID-19), can an employer insist that someone with flu symptoms comes to work?**

- R. An employer will be in breach of its common law and statutory duties to ensure the health and safety of its employees and to provide a safe place and system of work by insisting that an employee with flu symptoms attend the workplace. Additionally, such action is likely to breach the implied term of trust and confidence between the parties, as the employer could jeopardise the health of the employee in question, and of its entire workforce, given the contagious nature of flu and the coronavirus (COVID-19).

If the employee has symptoms that are consistent with flu or the coronavirus, the employer should advise them not to return to work until the symptoms have cleared and they feel well enough to return. Employees should also be advised to follow advice from the relevant public health body about how to obtain an initial assessment of their symptoms and further advice.

**Q. If, during an infectious disease outbreak such as the coronavirus (COVID-19), an employer has a high proportion of employees absent, can it require other employees to work extra hours to cover the work?**

- R. An employer can require its employees to work extra hours where the contract of employment allows for this, and many employment contracts contain a term that states the employee is required to work additional hours in accordance with the needs and the requirements of the business. Any contractual right should be exercised fairly and reasonably so as not to breach the implied term of trust and confidence. The employer should consult with its workforce so as to determine which employees are able to work extra hours, and which have good reasons for not being able to do so. Where there is no relevant contract clause, employers must remain conscious of the difficulties of unilaterally imposing contractual changes, which may result in claims for constructive unfair dismissal. Any changes should be undertaken with early consultation and with a view to reaching agreement with employees. An employee may be taken to have agreed to contractual changes by working extra hours without complaint.

Employers should also ensure that they observe their obligations under the Working Time Regulations 1998 (SI 1998/1833). The Regulations apply to "workers", which is defined as anyone engaged under a contract to do any work personally, but excludes the genuinely self-employed. Under the Regulations, a worker is entitled to an 11-hour daily rest period (reg.10), a 24-hour weekly rest period (reg.11) and a rest break of 20 minutes where the employee works more than six hours (reg.12). The employer must also provide adequate rest breaks where the pattern of work is such as to put the worker's health and safety at risk, eg monotonous work (reg.8). There are exemptions that apply to regs.10, 11 and 12. One that may apply in the case of a flu pandemic is where the worker's activities are affected by an occurrence due to unusual and unforeseeable circumstances beyond the control of the employer or an accident or the imminent risk of an accident. Finally, unless employees have signed voluntary opt-out agreements, employers should ensure that their adult workers do not work more than 48 hours a week calculated over a reference period of 17 consecutive weeks.

**Q. Do employers have a duty to take special measures to protect those employees who are most at risk if they are exposed to the coronavirus (COVID-19)?**

- R. Employers should check guidance from the Department of Health or the relevant public health body on any health conditions that could cause a vulnerability to becoming seriously ill with the coronavirus (COVID-19). People at particular risk could include

those with weakened immune systems, older workers, and those with long-term conditions like diabetes, cancer and chronic lung disease. Given the duty to ensure the health and safety of their employees, employers should consider measures to protect these employees from the risk of infection, for example by reassigning staff from high-risk work sites or locations.

Employers are also under special duties in relation to pregnant employees and disabled workers. In relation to pregnant employees, reg.16 of the Management of Health and Safety at Work Regulations 1999 (SI 1999/3242) imposes a duty on employers to conduct a risk assessment if working conditions could involve risk to a new or expectant mother or their baby. If the assessment reveals any risk to an employee, or their baby, the employer must follow a series of steps to ensure that they are not exposed to the risk or damaged by it. If the risk cannot be avoided, the employee's working conditions or hours of work should be altered. Where that is not feasible, they should be removed to another job or, as a last resort, suspended on full pay. However, where there is suitable alternative work within the company, the employee must be offered the work before being suspended on maternity grounds. Previous guidance from the NHS advised that the risk of infection can be reduced if pregnant women avoid unnecessary travel and crowds, therefore employers should also try to limit these aspects of a pregnant employee's role.

In relation to other vulnerable employees, such as those who are asthmatic, they may be protected by the disability provisions of the Equality Act 2010 if their condition satisfies the definition of "disability" in s.6. Where the Act applies, employers are under a duty to make reasonable adjustments, which may entail taking special measures to protect disabled staff. Examples of reasonable adjustments include assigning the disabled person to a different place of work and allowing homeworking

**Q. Can an employer require an employee who is concerned about the risk of contracting the coronavirus (COVID-19) to attend work?**

R. As a general rule, an employer can require employees concerned about contracting the coronavirus (COVID-19) to attend work. The fear of contracting an illness is not sufficient reason for failing to attend work, and an employer faced with an employee refusing to come to work will be entitled to take disciplinary action for unauthorised absence. An employer could also stop paying an employee who refuses to attend work on the basis that the employee is failing to perform their part of the contract.

However, where business needs allow, an employer may wish to take a more flexible approach and allow employees to take periods of annual or unpaid leave, or to work from home. This is particularly advisable when the employer is dealing with vulnerable employees, ie those at high risk of developing more severe symptoms from the coronavirus, including employees with respiratory problems or poor immune systems and pregnant employees.

**Q. Do employers have any duties in relation to flu jabs for employees?**

R. Most employers do not have a duty to make flu jabs available to their employees or to allow employees to take time off for a flu jab. However, the Department of Health states that front-line health and social care workers should be provided with flu vaccinations by their employer.

Many employers do choose to make arrangements for seasonal flu vaccinations, with the aim of keeping staff healthy over winter and reducing sickness absence levels. Vaccinations

can be carried out in the workplace, arranged through a private healthcare provider, or employers can purchase vouchers for employees to use at a participating pharmacy.

Some employees will be entitled to free flu vaccinations from the NHS, including those who have certain medical conditions, are aged 65 or over, pregnant, or the main carer for an elderly or disabled person.

It is for the employer to decide whether or not to provide time off for employees to have a flu vaccination, and whether any time off will be paid or unpaid.