

COVID-19

What Employers Need to Know

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Relevant Law

- In deciding how to respond to COVID-19 employers should consider:
- their duties under Health & Safety law to protect the health, safety and welfare of their workforce, as well as others who may be affected
- their duty under the Management of Health and Safety at work Regs to carry out risk assessments, implement necessary measures and training
- their common law duty to take reasonable care for the health of their workforce
- the express and implied terms of employment contracts, in particular, implied duty of trust and confidence
- their duty under the Equality Act 2010 not to discriminate against employees/workers with protected characteristics.

Sick Pay - what is payable?

- *Employees* with COVID-19 or symptoms = company sick pay; or
- Self-isolation on Gov't advice = SSP - usual 3-day waiting period suspended, payable from day 1
- SSP refunded (employers fewer than 250 employees) for 2 weeks
- If employee refuses to attend work because scared of effects of COVID-19 no legal duty to pay them, but consider:
- Staff with underlying health conditions/elderly/pregnant employees. Consider if they can work from home, take paid/unpaid leave. Also:
- Stress/anxiety may render some employees unfit for work and entitled to be paid sick pay/SSP
- *Self-employed* are not entitled to SSP. Can claim Employment and Support Allowance or Universal Credit.

Can I reduce employees' working hours or pay?

- Check contract of employment for short-time working or lay-off clause
- Length of time indefinite but if 4 weeks in a row or 6 weeks in a 13-week period employee can ask for redundancy
- Pay depends on contract but minimum 'guarantee pay' for days where no work provided. £29 a day for 5 days in any 3-month period
- If no short-time working or lay-off clause = breach of contract, unless employee agrees to changes
- If employee disagrees and employer proposes to dismiss, if affects 20 or more employees at one establishment this will trigger collective consultation
- In all cases should follow individual consultation.

Sources of Advice

- **Acas:** Guidance for employers and employees is available here: <https://www.acas.org.uk/coronavirus>
- **NHS:** Health-related guidance from the National Health Service is available here: <https://www.nhs.uk/conditions/coronavirus-covid-19/>
- **Public Health Guidance:**
 - Public Health England including, eg, specific guidance for employers, educational and health-related organisations, and an option to receive updates directly is available here: <https://www.gov.uk/government/organisations/public-health-england>
 - Public Health Wales: <https://phw.nhs.wales/topics/latest-information-on-novel-coronavirus-covid-19/>
 - Health Protection Scotland: <https://www.hps.scot.nhs.uk/a-to-z-of-topics/wuhan-novel-coronavirus/>
 - Public Health Agency in Northern Ireland: <https://www.publichealth.hscni.net/news/covid-19-coronavirus>