

EXPERT ADVICE GUIDE

Managing HR Risk in your Business

Q. What are the employer obligations at this time regarding health and safety?

The obligation is to provide a safe and healthy place of work under Section 8 of the Safety, Health and Welfare at Work Act 2005 (the “**2005 Act**”). This obligation obliges employers to take reasonable steps to address any health and safety risks.

In principle, you as an employer/manager must take all necessary and appropriate measures to protect the health of your workers. It is best therefore to do a risk assessment and then put a plan in place to proactively reduce or eliminate those risks e.g. ensure social distancing where possible and put signage in place for customers regarding the measures you need them to follow.

The guidelines and information set out by the HSE are located here:

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

Q. What do I need to tell my employees?

While there is very substantial media focus on the spread of COVID 19, it is important that employees are aware of the bespoke policies, protocols and practices that apply to your workplace. A key message to reinforce is the medically validated advice regarding prevention and the importance of informing you:

- Of any symptoms they may have
- If they have been to an effected region

If employees have been in contact with an effected person, they should stay at home and contact their GP.

Instructions concerning hygiene in the workplace should be reinforced (e.g. washing hands with soap, not touching mouth, nose and eyes, disinfecting of the workplace, etc.) All staff should be reminded of these instructions at briefings at the beginning of each shift.

Ensure that your business continuity plan is fit for purpose. For example, run testing on your employee messaging service so that the business is ready to communicate remotely with employees if necessary, at short notice e.g. in case you need to put remote workers on short time etc.

You need to keep people informed regarding their employment status e.g. short time, lay-off and redundancy and of any relevant benefits they should apply for including illness benefit. They are worried so it's really important your communication is proactive and very regular.

Q. What do we do if an employee is confirmed with the coronavirus?

1. Ensure the employee stays at home if they have a suspected case. Refer the employee to stay at home and contact their local GP or out of hours GP service where their public health medical advisors will advise on what to do. It is imperative that employers follow the public health advice. It is the public health professional's role to contact and inform the relevant employees after contact tracing has been completed.
2. Where there is a case of the virus within the business, the employer/manager should conduct an updated risk assessment to determine what further measures need to be taken to ensure the health, safety and welfare of the workforce including following the guidelines regarding possible self-isolation of close contacts.

Q. What are the illness benefits if an employee is medically certified?

If employees receive instructions from their employers to stay at home, they are entitled to payment of wages in accordance with the general legal and contractual provisions.

If an employee is experiencing coronavirus symptoms and cannot attend work due to illness, the company sickness/absence policy should be adhered to and the company sick pay scheme (if in place) should be applied in its normal course. The same applies for those required to self-isolate and are medically certified to do so.

The Department of Employment Affairs and Social Protection have introduced measures to provide income support to people affected by COVID-19 (Coronavirus).

The Government announced on 9th March 2020 very welcome news that Illness Benefit has now risen from €203 per week to €305 for a maximum of 2 weeks medically-required self-isolation or for the full duration of absence from work following a confirmed diagnosis of COVID-19 (Coronavirus). The current 6-day

waiting period for Illness Benefit will not apply to anyone who has COVID-19 (Coronavirus) or is in medically required self-isolation. This applies to those medically certified as a confirmed case or those required to self-isolate. It will be available from the first day of illness rather than after six days as at present, and conditionality will be waived to allow the self-employed to receive it. There will be no minimum number of PRSI contributions, but medical certification will be required.

Q. What if I have to reduce staff hours to part time hours?

An employee can choose to take holidays or unpaid leave; otherwise you have the option to put a short-time working arrangement in place due to business lost arising from the coronavirus, this occurs when the business has implemented a reduction hours/weekly pay which is less than half the normal weekly pay or hours. When selecting employees for lay off or short time working an employer should apply the same standard of selection criteria. These criteria need to be documented by the business.

The employer can lay off or put staff on short time if it is in the contract of employment or if it is custom and practice in the workplace. Otherwise the employer should not lay the employee off or put employees on short time without employee's agreement but we are in unprecedented times of crisis so it is expected that this will be forthcoming.

However, if an employee doesn't agree they may be made redundant. This needs to be avoided in the best interests of both employers and employees as we know this crisis will pass.

Employees can apply for a payment called Short Time Work Support which is a form of Jobseeker's Benefit.

The employer should explain to the employees the reason for the lay off or short time working, which in this case is clear due to COVID 19, and keep employees informed of the situation during this time. In both cases these must be temporary situations and the employer must notify the employee to this effect before they advise of the layoff.

Q. What do I need to do if I need to close my business?

The Redundancy Payments Acts provides for the layoff of employees where an employer is unable to provide work for which the employee was employed to do, and the employer believes that the cessation will not be permanent.

An important point to note is that an employer can only place employees on a period of lay-off where there is a contractual provision to do so or where the employer relies on an established custom and practice of laying employees off within the particular workplace. We are in a crisis currently and explaining the lack of any other option to staff has been clearly outlined e.g. due to government direction for a business to close due to health and safety.

New Welfare Payments

The new payment that has been put in place is available to all employees and the self-employed who have lost employment due to a downturn in economic activity caused by the COVID-19 pandemic.

The payment will have a simple one-page application form and will be paid for a period of 6 weeks at a flat rate payment of €203 per week.

Individuals applying for the payment will be required to apply for the normal jobseeker's payments within this 6-week period because this is only a temporary payment to help you immediately. See links to these welfare payments

Jobseeker's Benefit <https://www.gov.ie/en/service/1221b0-jobseekers-benefit/>

Jobseeker's Allowance <https://www.gov.ie/en/service/1306dc-jobseekers-allowance/>

Once this normal jobseeker claim is subsequently received, the department will process these claims and reconcile payments at that time. This will involve backdating increased payments for certain customers. The Government is asking employers, if at all possible, to continue to pay workers even if they are laid off during this period - at least at the jobseeker rate of €203 per week and employers will get the money back as part of a new refund scheme. If this isn't possible employees will be paid via the department scheme.

Remember for many it will be their first time having to be in this position of lay off so it's new and difficult for both employers and employees so be kind and patient at this time. This link has the full details:

<https://www.gov.ie/en/news/965011-covid-19-introduction-of-simplified-unemployment-payments-for-employ/>

The option to make positions redundant will hopefully be a last resort but this occurs when the job won't be there anymore e.g. due to business closure etc. The employee should be notified of same and receive redundancy payment of 2 weeks

wages per year of service and a bonus week if they have 2 years' service. Remember it's the position not the person you are making redundant.

If a lay-off or a short-time situation exists and has continued for 4 weeks or more, or for 6 weeks in the last 13 weeks, an employee may give their employer a notice in writing of their intention to claim redundancy under legislation.

Unless you give the employee a counter-notice within 7 days of their notice, stating that within 4 weeks of the date of their claim for redundancy, it will be possible to offer the employee not less than 13 weeks work without lay off or short time. We are all currently lobbying the government to change this as many businesses are really concerned of this cost and the implications of same if it were to occur.

Q. If someone wants to stay at home and mind their children can they take Parental Leave?

Parental leave entitles parents to take unpaid leave from work to spend time looking after their children during the school closure. The employee can take up to 22 weeks parental leave for each eligible child before their 12th birthday. In general, the employee must have been working for the employer for at least a year to get the full amount of parental leave or pro-rata if the time is nearing the 12-year limit. The employee must give the employer at least 6 weeks' notice before taking parental leave however this can be waived in this situation if agreeable to the employers.

Didn't find the answer you were looking for?

Email businesssupports@failteireland.ie with your question.