

Coronavirus: Employer FAQs

With the spread of the Coronavirus in the UK, it's inevitable that employers will have questions about employment law and how it will affect their workforce. Here are some FAQs which cover the main topics surrounding the Coronavirus.

Please visit the [Government website](#) for the most recent updates on Coronavirus.

What if an employee needs time off work to look after someone?

Employees are entitled to reasonable time off work to help someone who depends on them (a 'dependant') in an unexpected event or emergency. This would apply to situations to do with Coronavirus.

For example:

- If they have children, and need to look after or arrange childcare because their nursery or school has closed
- To help their child or another dependant if they are sick or need to go into isolation or hospital

There is no statutory right to pay for this time off. If more time is needed the employee could request holiday to help financially.

Is Homeworking a feasible option?

If there are genuine concerns about the health & safety of staff attending the workplace, then one possible option is homeworking.

Of course, it would depend on whether or not the work can be done at home.

- You could ask staff who have a laptop and/or mobile phone to take them home so they can carry on working
- Arrange paperwork tasks that can be done at home for staff who do not have access to a computer or mobile phone

This can be a temporary measure whilst the Coronavirus is having an impact on the workplace, after which, normal working can resume.

Please note there are other considerations such as health & safety risk assessments, security, confidentiality and data protection issues which all need to be considered by both employer and employee if homeworking is agreed.

What is the position with Statutory Sick Pay when an employee is unable to attend work?

As part of the Government's strategy to contain the Coronavirus, they have announced that it will bring forward emergency legislation temporarily amending the eligibility requirements for statutory sick pay (SSP), allowing the statutory payment to be made from the **first day** of sickness absence. These regulations have not yet been published and we await further guidance.

Under section 155(1) of the Social Security Contributions and Benefits Act 1992, SSP is not currently payable for the first three qualifying days in any period of incapacity for work.

In a statement to the House of Commons on 4 March 2020, Prime Minister Boris Johnson said that the emergency measures were being introduced so that employees would not lose out financially where they are asked to stay at home to protect others in the workplace from the virus.

It is understood that this change will not be limited to those employees who have been diagnosed with Coronavirus; the legislation will amend the requirements for all those eligible to receive SSP. The Prime Minister appeared to refer to employees who have been requested to self-isolate on medical advice, even if they are not suffering from any symptoms and so remain able to work.

On 12th March 2020 the Prime Minister announced further measures, stating that anyone who displays even mild symptoms, such as a new continuous cough or a raised temperature should self-isolate for a period of 7 days, and should refrain from calling 111 ([see here](#)). As such the previous advice that employers could ask for a written note from the employee, provided from the 111 helpline, is no longer feasible to obtain. If an employee rings in to self-isolate because of the mild symptoms

described above, employers will have to pay SSP from day 1 of absence for at least the 7-day period.

The rate of SSP will increase from £94.25 per week to £95.85 on 6 April 2020. The Prime Minister refused to be drawn on whether the emergency legislation would allow SSP to be paid to those not currently eligible i.e. those who don't earn more than £118 per week (the current lower earnings threshold which will increase to £120 per week from 6 April 2020).

Important – whilst the cost of SSP is borne by the employer it was announced in the Budget that the Government will refund, in full, any statutory sick pay for people self-isolating if you employ fewer than 250 employees. This recognises there are exceptional circumstances with the Coronavirus outbreak and is a key measure to financially support small and medium sized businesses.

Where there are contractual sick pay entitlements (full or half pay) payment is normally inclusive of Statutory Sick Pay (SSP) so this would enable you to reclaim the SSP element only.

Why has the advice on self-isolation changed from 14 days to 7 days?

The 14 day period is for those who have had exposure to a confirmed case but have not shown symptoms. The 14 days represents the potential incubation period (the time it takes for symptoms to show if you have been infected).

Most people will no longer be likely to transmit the virus 7 days after the onset of symptoms. You do not need to call NHS111 to go into self-isolation. If your symptoms persist past 7 days you should contact NHS 111 online at 111.nhs.uk. If you have no internet access, you should call NHS 111.

What if the employee isn't sick but you tell them not to attend work?

If an employee is not sick but you ask the person not to attend work the individual should receive their normal pay. For example, if the employee has returned from China, Italy or another affected area and you do not want them attending the premises in the short term.

What if an employee chooses not to attend work because of the outbreak but is not sick?

As stated above, this would be classed as absent without leave. There is no entitlement to normal pay or sick pay in these circumstances. All reasonable attempts should be made to contact the employee to persuade them to return to work. Where there are genuine health & safety concerns about attending the workplace, try to resolve these making it clear that you will take all reasonable steps to protect the health & safety of your staff. Are you able to consider homeworking or a period of annual leave or unpaid leave if possible? If these options are not possible and the employee continues to take unauthorised leave with no justified reason, then disciplinary action and potential dismissal may result.

What if my workplace is forced to temporarily close or we are faced with a situation where our employees cannot access a client's premises and there is no alternative work available?

Where there is a contractual right to do so, temporary layoff is an alternative to sending staff home on normal pay. In order to do this, you would need to have a clause similar to below in your contracts of employment/employee handbook:

SHORTAGE OF WORK

Should the Company be faced with a shortage of work or is unable to provide you with work for any reason, every attempt will be made to ensure your continuing employment. This could include temporarily placing you on short time working, laying you off from work or reducing your working hours. In these circumstances, you will be paid for those hours worked, or in accordance with the statutory guarantee pay provisions.

This would allow you to lay the staff off without normal pay because there is a temporary shortage of work.

You would have to pay Statutory Guarantee Pay (currently £29 per day) to those affected. This is payable for the first five workless days within a 13-week period.

Potentially, it could be for an indefinite period, especially if an employee doesn't challenge this because of the circumstances. However, in most lay off situations the employee cannot afford for this to be indefinite and are therefore entitled to resign and claim a redundancy payment where the employee has been:

- Laid off for 4 or more consecutive weeks or
- Laid off for a series of any 6 weeks within a consecutive 13-week period.

If either of the above is applicable, an employee can seek to claim a redundancy payment (if eligible – 2 years or more service) but only if they have given notice in writing to their employer of their intention to claim a redundancy payment and subsequently resign.

You then have the option to counter the redundancy request provided that you can show a reasonable expectation that, within 4 weeks of the serving of the notice by the employee, normal working will resume and will continue for at least 13 weeks. You must give notice of this to the employee, in writing within 7 days of the employee's notice being served.

Please note the rate of Statutory Guarantee Pay will increase to £30 per day effective from 6 April 2020 (£150 per person in any three-month period).

Any employee who is temporarily laid off should be issued with a letter to confirm the reason for the lay off to assist with any entitlement to claim job seekers allowance from the Benefits Agency.

What if I don't have a lay off or short time working clause in my contracts/handbook?

In the absence of a contractual right to temporarily lay employees off work you would have to maintain normal pay (in accordance with their normal contractual hours of work) whilst the employees remain at home unless you can come to a mutual agreement on the pay situation.

Is there the possibility of suggesting employees take annual leave or unpaid leave if we have a reduction in work?

Another option where there is a shortage of work is to suggest that employees may wish to take some time off work during a quiet period. This can be a request for annual leave where there is sufficient holiday entitlement to take or even a period of unpaid leave if the employee does not have sufficient leave/holiday pay remaining. Remember to ensure that normal procedures are followed for requesting time off to ensure correct payments are received.

What if one of my employees has volunteered to help out in the NHS?

The Government is proposing to protect an employee's job for up to 4 weeks if this becomes necessary. Any reasonable employer would be expected to support such a request and would need to ensure the individual returns to the same job on the same terms after the short period of time away from work.

What 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 protection team will get in touch with you 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

Please note the above is intended to be a guide only and you should seek advice on any specific cases.

The above FAQ is based on guidance issued as at 13 March 2020.

Please see the link below which will lead you to the most recent updates from the Government:
<https://www.gov.uk/guidance/wuhan-novel-coronavirus-information-for-the-public>