

**The guidance contained in this factsheet is subject to change in accordance with updates in Government, Public Health guidance and legislative changes. This factsheet is reviewed on a daily basis. This factsheet was last updated on 24.3.2020 at 4.00pm.**

## **THE CORONAVIRUS: GUIDANCE FOR EMPLOYERS**

A new strain of coronavirus that had not been previously identified in humans (Covid-19) was first reported in Wuhan, in the Hubei province of China, in December 2019. The coronavirus causes respiratory illness in humans, usually resulting in mild symptoms including runny nose, sore throat, cough and fever. Some individuals experience more severe symptoms and it can lead to pneumonia and breathing difficulties and, in rare cases, death. More susceptible individuals at greater risk of becoming seriously ill include older people, those with pre-existing medical conditions and possibly also pregnant women. People with the most serious health conditions (which are set out the public health bodies in the UK) are at the greatest risk should they contract the virus.

The government has assessed the overall risk in the UK as high. In response, the government has put in place increasingly stringent measures with the aim of delaying the spread of the virus. These measures are set out in the Coronavirus Bill which, when passed into legislation by the end of March 2020, will give the Government new powers to remain in place over a 2-year period, which will be invoked when needed based on the advice of the Chief Medical Officers in the UK.

### **Public Health Advice regarding symptoms which require self-isolation:**

Previous government advice was that individuals returning from category 1 areas/countries should self-isolate for a period of 14 days from their return even where symptomless, with those returning from a category 2 area being required to self-isolate for 14 days only where they develop symptoms of the coronavirus. Unfortunately, as the epidemic has now spread to the UK (with London being at particular risk), this advice has been replaced by the current advice on self-isolation which applies across the UK:

- Anyone who develops a high temperature (37.8 degrees and above) and/or a new, continuous cough must self-isolate for 7 days. They must stay at home and avoid all but essential contact with others for 7 days from the point of displaying those symptoms, to slow the spread of infection.
- In the case of anyone who lives with someone who has symptoms: they will need to stay at home for 14 days from the day the first person in their home started having symptoms.
- If the individual who develops symptoms lives with someone who is 70 or over, has a long-term condition, is pregnant or has a weakened immune system, the individual should try to find somewhere else for them to stay for 14 days (the later categories of individuals are not required to self-isolate, but should adopt rigorous social distancing). However, if they have to stay at home together, they should try to keep away from each other as much as possible.
- Individuals do not need to call NHS 111 to go into self-isolation. Where their symptoms worsen during home isolation or are no better after 7 days, they should contact NHS 111 online at [111.nhs.uk](https://111.nhs.uk). For individuals without internet access, they should call NHS 111. For a medical emergency they should dial 999.
- In Scotland, individuals should phone their GP or NHS 24 on 111 out of hours. Individuals in Northern Ireland should call 0300 200 7885.

Isolation notes are now available in England from NHS Online (<https://111.nhs.uk/isolation-note>) for employees who need to provide medical evidence of self-isolation to their employers. Isolation notes may be obtained for individuals who have symptoms of coronavirus and have used the 111 online

coronavirus service, have been told by a healthcare professional they have symptoms of coronavirus, or who live with someone who has symptoms of coronavirus.

Public Health bodies are likely to expand the categories of people who are required to self-isolate as the public health risk increases due to the rapid spread of the virus.

### **Employers' Duties**

Employers have a duty under health and safety legislation to take steps to ensure the health, safety and welfare of all their employees, so far as reasonably practicable, including those who are particularly at risk for any reason. Employees also have a duty to take reasonable care of their own health and safety and that of people they work with. They must cooperate with their employer to enable it to comply with its duties under health and safety legislation. Employees who refuse to cooperate, or who recklessly risk their own health or that of others in the workplace, could be disciplined where this is appropriate. Where, for example, employees attend work but the employer reasonably believes the employee has symptoms that would require them to self-isolate in accordance with current public health advice (i.e. where they have a new persistent cough and/or high temperature), it is likely that the employer has a duty of care towards other staff to require the employee displaying those symptoms to stay at home and self-isolate for a period of 7 days or 14 days where applicable. Employees will be entitled to SSP in this scenario under new temporary SSP Regulations (see below). Alternatively, where employees are fit enough to carry out some work whilst self-isolating and it is practicable for them to do so, employees would be paid their normal wages for the period they are carrying out work.

Currently, the government's advice is that where employees with symptoms of the coronavirus have attended work, employers do not need to take any special measures such as sending other staff home, closing the workplace or deep cleaning the workplace. This guidance is subject to change.

In respect of employees who have attended the workplace and who test positive for coronavirus, the employer will be contacted by the relevant local Health Protection Team to identify those who have been in contact with the employee and to discuss any special measures for the employer to take.

### **Public Health Advice on Social Distancing**

Social distancing measures are steps individuals can take to reduce the social interaction between people. Social distancing will help reduce the transmission of coronavirus and is now advised for *everyone* regardless of whether or not they are in a vulnerable group. More stringent social distancing measures are required for vulnerable groups. "Social distancing" should be distinguished from "self-isolating", which goes further and applies where someone has developed the symptoms associated with coronavirus, or who lives with someone who has developed coronavirus symptoms.

The social distancing measures the government has advised are to:

- Avoid contact with someone who is displaying symptoms of coronavirus. These symptoms include high temperature and/or new and continuous cough
- Avoid non-essential use of public transport, varying travel times to avoid rush hour, when possible
- Work from home, where possible. Employers are required to support employees to do this where practicable.
- Avoid large gatherings, and gatherings in smaller public spaces noting that pubs, restaurants, leisure centres and similar venues are currently shut as infections spread easily in closed spaces where people gather together. All "non-essential" businesses were further ordered to close for at least 3 weeks on 23 March 2020

- Avoid gatherings with friends and family. Keep in touch using remote technology instead such as phone, internet, and social media
- Use telephone or online services to contact your GP or other essential services

On 23 March 2020, in an extension to the above social distancing measures, people should only leave the house for one of four reasons:

- Shopping for basic necessities, for example food and medicine, which must be as infrequent as possible.
- One form of exercise a day, for example a run, walk, or cycle - alone or with members of your household.
- Any medical need, or to provide care or to help a vulnerable person.
- Travelling to and from work, but only where this absolutely cannot be done from home.

These four reasons are exceptions - even when doing these activities, individuals should be minimising time spent outside of the home and ensure they are 2 metres apart from anyone outside of their household.

Everyone should be following these measures so far as it is practicable to do so.

For those who are over 70, have an underlying health condition or are pregnant, individuals are strongly advised to follow the above measures as much as they can, and to significantly limit their face-to-face interaction with friends and family if possible (please see below).

This government has said that this advice on social distancing is likely to be in place for "some weeks". This will also have an impact on their ability to work without some "social distancing" adjustments in place.

### **Pregnant Employees and other at risk-groups: advice on Social Distancing**

The government has advised that the following groups who are at increased risk of severe illness from coronavirus must be particularly vigilant in following the above social distancing measures.

This group includes those who are:

- aged 70 or older (regardless of medical conditions)
- Any adult regardless of age with certain underlying health conditions (i.e. anyone instructed to get a flu jab as an adult each year on medical grounds). This includes individuals with:
  - Chronic (long-term) respiratory diseases such as asthma or bronchitis
  - Chronic heart disease or liver disease
  - Chronic neurological conditions, such as MS, a learning disability or cerebral palsy
  - Diabetes
  - Being seriously overweight (a BMI of 40 or above)
  - Those who are pregnant

### **Highest Risk Groups**

People falling into this group are those who may be at particular risk due to complex health problems such as:

- people who have received an organ transplant and remain on ongoing immunosuppression medication
- people with cancer who are undergoing active chemotherapy or radiotherapy

- people with cancers of the blood or bone marrow such as leukaemia who are at any stage of treatment
- people with severe chest conditions such as cystic fibrosis or severe asthma (requiring hospital admissions or courses of steroid tablets)
- people with severe diseases of body systems, such as severe kidney disease (dialysis)

Those groups will be contacted by the NHS by Sunday 29 March 2020 on the more stringent measures they should follow to keep themselves and others safe. Employers are advised to request that employees share this information with them as part of a risk assessment, should those employees still be attending work (including home working) during the coronavirus epidemic. As these groups of employees will also very likely to be disabled for employment law purposes, employers should already have put in place any reasonable adjustments required.

Please refer to the below table which summarises the above.

**A summary of the Public Health Advice on Hygiene, Self-Isolation and Social Distancing**

Group/ Action	Wash hands more often	Household isolation for 14 days*	Self - isolation for 7 days**	Social mixing in the community***	Having friends and family to the house	Use remote access to NHS and essential services****	Vary daily commute and use less public transport	Home working
0 – 69	Yes	Yes	Yes	Advised against	Advised against	Advised	Advised	Advised
70+	Yes	Yes	Yes	Strongly advised against	Strongly advised against	Strongly advised	Strongly advised	Strongly advised
Any age Member of vulnerable group with an underlying health condition <sup>1</sup>	Yes	Yes	Yes	Strongly advised against	Strongly advised against	Strongly advised	Strongly advised	Strongly advised
Pregnant women	Yes	Yes	Yes	Strongly advised against	Strongly advised against	Strongly advised	Strongly advised	Strongly advised
Those with serious underlying health conditions	As above, but further bespoke guidance will be provided by the NHS next week							

**\* if one member of your family or household has a new continuous cough or high temperature**

**\*\* if you live alone and you have a new continuous cough or high temperature**

**\*\*\* for example cinema, theatre, pubs, bars, restaurants, clubs**

**\*\*\*\* for example via telephone or internet**

**1- such as anyone instructed to get a flu jab each year**

Individuals in self-isolation must follow the published advice from Public Health bodies on how to self-isolate effectively. This includes, not having visitors to their home and requesting that friends, family or delivery drivers drop off deliveries at the doorstep.

Employers are advised to keep an eye on the current government advice as the rapidly changing as the epidemic increases in pace and to refer employees to it where they may be concerned about their individual risk. The advice is reviewed by the government on a daily basis:

<https://www.gov.uk/guidance/wuhan-novel-coronavirus-information-for-the-public>

The government has produced guidance for employers, which can be accessed here:

<https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19/guidance-for-employers-and-businesses-on-covid-19>

### **Statutory Sick Pay where employees required to self-isolate**

Employees who develop symptoms of the coronavirus or symptoms which require self-isolation will of course be unfit for work. They will be entitled to SSP subject to meeting the qualifying criteria.

### **Temporary Reform of the SSP Rules**

In response to the coronavirus outbreak, new Regulations known as The Statutory Sick Pay (General) (Coronavirus Amendment) Regulations 2000 came into force on 13 March 2020. These will remain in force for a period of 8 months. These Regulations amend the Statutory Sick Pay (General) Regulations 1982 and provide that:

- Individuals who self-isolate to prevent infection or contamination with coronavirus disease in accordance with guidance published by Public Health England, NHS National Services Scotland or Public Health Wales (i.e. advice from the public health bodies in Great Britain) and are unable to work for that reason will be entitled to SSP.

Equivalent legislation has been passed in Northern Ireland with effect from 12 March 2020 where employees are self-isolating in accordance with guidance published by the Regional Agency for Public Health and Social Well-being (i.e. the public health body in Northern Ireland).

In other words, this extends the current entitlement to SSP to those employees who are self-isolating for 7 days in accordance with Public Health advice due to having a fever and/or new persistent cough. This is subject to employees meeting the qualifying criteria for SSP.

For SSP purposes, the employer cannot require a medical certificate for the first seven calendar days of sickness absence. If employees need to provide evidence to their employer that they need to stay at home due to coronavirus, they will be able to get it from the NHS 111 Online instead of having to get a fit note from their doctor.

These Regulations have been passed in order to encourage self-isolation and to minimise the risks to public health arising from coronavirus disease.

It was announced in the Budget on 11 March 2020 that further reforms to the SSP rules will be introduced as follows. These reforms are set out in the Coronavirus Bill which is set to come into force at the end of March 2020 and applies across the UK (including Northern Ireland). These new measures (once enacted) are as follows:

- People who cannot work due to coronavirus and are eligible for SSP will get it from day one, rather than from the fourth day of their illness (i.e. the 3 waiting days for SSP will be removed). The Coronavirus Bill provides that this will apply retrospectively from 13 March 2020 i.e. from the introduction of the new requirements around self-isolation for fever and cough symptoms and the further public health advice requiring self-isolation for 14 days for those who live with someone who has developed symptoms.
- The Government will reimburse small and medium employers (i.e. those employing fewer than 250 employees, as determined by the number of people they employed as of 28

February 2020) any statutory sick pay they pay to employees for the first 14 days of sickness as a result of coronavirus.

- Under the new rules, employers should maintain records of staff absences, but should not require employees to provide a GP fit note.
- As the Percentage Threshold Scheme which previously permitted small businesses to reclaim SSP from the Government was abolished in 2014, the government will set up a new repayment mechanism for employers for reclaiming SSP in due course.

For individuals who are not entitled to SSP, such as the self-employed and those that fall below the Lower Earnings Limit, a 'new style' Employment and Support Allowance through the welfare system will be payable for people directly affected by coronavirus or who are self-isolating according to government advice, from the first day of sickness or self-isolation. Those individuals may also be entitled to Universal Credit.

## **Further Measures Under the Coronavirus Bill**

### **Emergency Voluntary Leave**

Recently retired health care and social care professionals (i.e. those whose registration to practice has ceased within the last 3 years), including retired doctors, nurses and midwives, will be contacted by the National Medical Council and The Nursing and Midwifery Council to re-register with them on a voluntary basis in order to practice. Under the new legislation to be introduced under the Bill, employees will have the statutory right to take Emergency Voluntary Leave in blocks of 2,3 or 4 weeks' statutory unpaid leave. Those who take the leave will be entitled to a payment from the government to compensate for loss of earnings and expenses to be paid at a flat rate for those who volunteer through an appropriate authority. Employees who take the leave will be protected by employment legislation from dismissal or any other detriment as a result of taking the leave. They will remain employed for the duration of their leave (and will continue to accrue statutory rights, such as annual leave whilst on leave). They will have no right to remuneration from their employers during the period of leave. They will have the statutory right to return to their roles at the end of their leave. Employers that employ those categories of retired professionals will need to permit employees to take this leave any accommodate any subsequent staff shortages.

### **Contractual Sick Pay**

Employers that offer enhanced contractual sick pay over and above SSP rates, should consider whether or not they will revise their contractual sick pay eligibility criteria for contractual sick pay or exercise discretion to include employees who are self-isolating as a result of coronavirus but not unwell, or whether to pay SSP only in this circumstance. Employers considering amending their enhanced sick pay schemes as a financial measure (including on a temporary basis) in view of the likely increase in staff sickness levels due to coronavirus and the new Government guidance on self-isolation (particularly in relation to self-isolation now being for up to 14 days) should bear in mind the following points:

- Employers with discretionary sick pay schemes whereby the employer operates the SSP scheme but may exercise their discretion to pay more than SSP in any particular case must exercise their discretion fairly and reasonably and not arbitrarily or capriciously. In particular, to maintain mutual trust and confidence, the employer should ensure consistency in their decision making and must not discriminate against a particular employee because of their disability.
- Employers with contractual (enhanced) sick pay schemes can only lawfully change the criteria for payment (including on a temporary basis during the coronavirus outbreak) with employees' agreement, or in accordance with any contractual flexibility clause. This means

that a failure to make a payment in accordance with the rules of the scheme would amount to a breach of contract and, depending on whether the breach is sufficiently serious or not, it may entitle the employee to claim constructive dismissal (in the latter case, subject to the employee having at least 2 years' service, or 1 years' service in Northern Ireland)

### **Should employees be required to wear face masks to protect themselves from infection?**

Employees are not recommended to wear facemasks (also known as surgical masks or respirators) to protect against the virus other than in health care settings or where protective face masks might help employees working in particularly vulnerable situations. Face masks are only recommended to be worn by symptomatic individuals (advised by a healthcare worker) to reduce the risk of transmitting the infection to other people.

Public Health bodies recommend that the best way to reduce any risk of infection is good hygiene and avoiding direct or close contact (closer than 2 metres) with any potentially infected person.

Any member of staff who deals with members of the public from behind a full screen will be protected from airborne particles.

Face masks play a very important role in clinical settings, such as hospitals but there's very little evidence of widespread benefit from their use outside of these clinical settings. Facemasks must be worn correctly, changed frequently, removed properly and disposed of safely in order to be effective.

The advice from the World Health Organisation states that if you are healthy, you only need to wear a mask if you are taking care of a person with a suspected coronavirus infection.

### **Are employees entitled to pay where employers require them to stay away from work?**

Employers may choose to go further than the advice from the Public Health bodies and, as a precautionary measure, ask require employees to stay away from work when they are not sick or are not self-isolating in accordance with current Public Health advice. In those cases, employers will need to pay employees their normal salary for this absence. This is because the absence is at the employer's request and is not sickness absence. Alternatively, employers may choose to ask employees to work from home if this is an option in which case, of course, they would receive their usual pay.

### **How should employers respond where employees refuse to work or employer does not believe there are genuine grounds for self-isolating?**

To varying degrees, employees are likely to be anxious about the risks of being exposed to the virus, including when attending the workplace. The government has advised that homeworking should be put in place where possible.

The government has advised against non-essential use of public transport for everyone and for commuters to vary travel times to avoid rush hour, where this is possible. Where practicable, it may be possible to agree with employees a temporary variation of their working hours to avoid them travelling during rush hour, or to work from home where practicable. Due to their anxieties around the coronavirus, employees may refuse to attend work in cases where it is not possible for employees to work from home, or where, for example a period of annual leave cannot be agreed. Whilst their absence in this circumstance is likely to be unauthorized, it will be impossible in most cases to form a view that those anxieties are not genuinely held (particularly in view of the fact that Public Health advice is now to avoid all non-essential social contact), the best approach would be to attempt

assuage employees' anxieties by reassuring staff regarding the additional hygiene measures the employer has put in place to protect their health, safety and well-being, so far as practicable. It is unlikely to be reasonable to treat absences from work in those cases as unauthorized or as a disciplinary matter.

Where employees return to work from a period of self-isolation in accordance with public health advice, employers can require them to self-certify their absence. It is likely that the Government will introduce new legislation extending the period for self-certification for SSP purposes to 14 days due to self-isolation. Employers can still investigate the matter with their employee should they suspect the employee is not required to self-isolate in accordance with public health advice and can, for example, ask employees in England to provide a self-isolation note from NHS online

### **Employees who are unable to attend work due to school closures or due to dependants self-isolating**

The government has now moved to the "delay" phase of its action plan with closure of schools across the UK having been put in place (to remain in place possibly until September), with the exception of the continued provision of schooling for "key workers" and vulnerable children. School closures will inevitably impact on childcare arrangements and employees' ability to attend work, unless those employees fall within the limited category of parents for whom schools remain open. In this scenario, it is also likely to be more difficult for employees to find replacement childcare cover. Elder care arrangements may also be adversely affected.

Section 57A of the Employment Rights Act 1996 gives employees the right to a reasonable amount of unpaid time off work because (amongst other reasons) of the unexpected disruption or termination of arrangements for the care of a dependant. This statutory provision may apply where employees have children they need to arrange childcare for because their child's school is closed, or to arrange care for their child or another dependant if they're sick, or need to go into isolation. An employee may complain to an Employment Tribunal where their employer has failed to permit them to take time off under this provision. Employees also have the right not to be subjected to any detriment for reasons relating to time off for dependants and any dismissal on these grounds is automatically unfair, regardless of the length of the employee's employment.

As the statutory regime does not apply to planned time off to care for dependants, it is unlikely to apply where school closures are known about in advance (for example, it may only apply to the first couple of days of a school closure, whilst longer-term childcare arrangements are put in place). Also, the statutory right is to a "reasonable" amount of time off only, so it may not extend to a 14-day self-isolation period, or longer period of school closure.

However, the Government announced at the Budget on 11 March 2020 that SSP will be extended to those caring for others who self-isolate as a result of coronavirus (presumably for up to 14 days), such that employers would treat this as sick leave. Details of this have not yet been published and the temporary reform to the SSP rules in this regard has not yet been enacted.

Employers with predominantly female staff, who tend to be the primary carers of dependants are most affected, so employers will need to consider how they will provide for this. Where this is practicable, employers should be flexible by permitting affected employees to work from home, or to alter their working hours on a temporary basis due to the school closures or where there is a temporary breakdown in existing childcare arrangements or arrangements for care of elderly dependants. Alternatively, the employer may consider agreeing with the employee a period of unpaid leave or paid annual leave to cover the time off work.

## **Lay Offs and Short Time Working**

Most businesses have been severely affected by a downturn in work or custom. This has been caused initially as a result of public anxiety around contracting the virus through social mixing and latterly as a result of public health guidance to avoid non-essential social contact where practicable. On 20 March 2020, the government ordered the closure of cafes, pubs and restaurants by that evening, except for take-away food. It further ordered that nightclubs, cinema, theatres, gyms and leisure centres should close "as soon as they reasonably can". A business operating in contravention of the Health Protection (Coronavirus, Business Closures) Regulations 2020 will be committing an offence. On 23 March 2020, the government announced that all "non-essential" shops and community spaces are to be closed with immediate effect for at least 3 weeks and until further advised and the Regulations will be extended to apply to those businesses too (a full list of the non-essential businesses which are to close are available here, these include clothing and electronics stores; hair, beauty and nail salons; and outdoor and indoor markets, excluding food markets):

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/874732/230320\\_-\\_Revised\\_guidance\\_note\\_-\\_finalVF.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/874732/230320_-_Revised_guidance_note_-_finalVF.pdf)

Takeaway and delivery services may remain open and operational. This means people can continue to enter premises to access takeaway services, including delivery drivers.

Online retail is still open and encouraged and postal and delivery services continue to run as normal.

Employees working in those businesses which have closed or experienced a downturn in custom due to social distancing will be particularly impacted by lay offs, short time working and potentially, redundancies.

However, the Chancellor has since announced the proposed introduction of the Coronavirus Job Retention Scheme. Once this comes into force, all UK employers (i.e. employers in Scotland, Northern Ireland, England and Wales) will be able to access funding from HMRC to continue paying 80% of their employees' employment costs, up to a cap of £2,500 per month, for those employees who are not provided with work and that would otherwise have been laid off (or made redundant) during this crisis. Please see our factsheet entitled Furlough Leave for guidance on the Scheme, although the precise details of the Scheme have not yet been formulated. In view of this, it is advisable that employees be retained where possible or kept on lay off or short-time working where this is already in place. This is particularly those employees have accrued unfair dismissal rights, who may otherwise assert that a redundancy dismissal prior to the Scheme coming into place is unfair in the circumstances) until the new Scheme is in place. Please refer to our template Letter to Staff about the Coronavirus Job Retention Scheme (Furlough).

Where this may avoid redundancies, or whilst employers await the introduction of the Coronavirus Job Retention Scheme, lay-offs and short time working can be put in place to address temporary work shortages or business closures, without having to resort to redundancy. However, employers can only lawfully take this action to avoid potential unlawful deductions from wages claims or breach of contract claims where employees agree to being laid off or kept on short-time working, or it is provided for in the contract (e.g. the contract contains a "lay-off" and/or "short-time working" clause). Please refer to our factsheet on Lay-offs, Short Time Working and Guarantee Payments for further guidance.

## **Financial Support for Employers, Employees and Businesses**

At the Budget on 11 March 2020, the Government announced other measures it will introduce to support businesses that experience increased costs or disruptions to their cashflow as a result of coronavirus, including a Coronavirus Business Interruption Loan Scheme and a dedicated HMRC helpline for those who need a deferral period on their tax liabilities. Lending banks have also put in place their own measures to assist businesses during this period. The Government has since

announced a wider range of financial support during the coronavirus epidemic, which includes the proposed introduction of the Coronavirus Retention Scheme. A summary of the government support can be found in the following link: <https://www.gov.uk/government/publications/guidance-to-employers-and-businesses-about-covid-19>.

We would expect to see an amendment to the Coronavirus Bill providing for Regulations to be made for government financial support for the self-employed who are not in scope for financial assistance under the proposed Coronavirus Job Retention Scheme soon, although no legislation has yet been passed by Parliament in this regard. Currently, self-employed individuals would need to apply for government benefits such as Universal Credit in the absence of any alternative financial support.

### **Variations of Contract**

Businesses affected by a downturn are considering other temporary measures to avoid the need for redundancies and whilst awaiting the introduction of the Coronavirus Job Retention Scheme, such as introducing a temporary reduction in pay, working hours, or removing/reducing certain contractual benefits. Employers will need to consult with staff to obtain their agreement to these measures in the absence of any relevant contractual flexibility clauses or short-time working clauses. Please refer, for example, to our template Letter Seeking Agreement To Vary Terms of Contract of Employment.

On the other hand, there will be a significant increase in workload for staff that are able to continue working during the coronavirus outbreak, particularly in certain sectors such as healthcare and social care. Employers need to consider what measures they can put in place to support those staff in helping them to manage increased workloads. In the absence of existing contractual overtime provisions, employers will need to seek staff agreement to working overtime. Employers may, for example, seek to agree a short period of lay off in the first instance which is kept under regularly review, with consent for a further period of lay off sought where necessary. Agreement to any period of lay off should be confirmed in writing in the absence of existing contractual lay off provisions.

### **General measures in the Workplace**

Employers should continue to monitor the latest travel advice from the Foreign & Commonwealth Office as this advice is rapidly changing. At present the government has advised against all but essential travel. Many international borders have however now closed making international travel impossible in most cases.

Whilst employees are now working from home where practicable and some businesses have been told by the government to temporarily close for at least 3 weeks and until further advised (please see above section on Lay offs and Short Time Working for details of these types of businesses), for those that are still attending their workplace, please refer to our factsheet, Employment Law Issues During a Pandemic Virus for guidance on workplace health and safety measures. In addition to informing staff of the new government requirements around self-isolation and social distancing, staff should be reminded (such as through written notices displayed in the workplace) to strictly adhere to the following hygiene practices:

- Washing hands frequently with soap and water for at least 20 seconds and to use an alcohol-based sanitiser gel where this is not available; as well as carrying tissues and using them to catch coughs and sneezes, and disposing of used tissues in the bin straight away.

Employers should ensure that soap and running water is readily available in the workplace. It is also good practice to make available supplies of alcohol-based sanitisers, particularly for mobile workers who may not always have access to soap and water. Employers should ensure that all potentially high-contact work areas, such as toilets, door handles and shared office equipment are regularly cleaned using household type detergents. The government has produced guidance on cleaning in non-health care settings, which can be accessed here:

<https://www.gov.uk/government/publications/covid-19-decontamination-in-non-healthcare-settings/covid-19-decontamination-in-non-healthcare-settings>

Where homeworking is not practicable and employees are still attending their workplace, it is also good practice for employers to:

- keep everyone updated on actions being taken to reduce risks of exposure in the workplace
- ensure employees who are in a vulnerable group are strongly advised to follow social distancing guidance (as set out above)
- make sure everyone's contact numbers and emergency contact details are up to date
- make sure managers know how to spot symptoms of coronavirus and are clear on any relevant processes, for example sickness reporting and sick pay, and procedures in case someone in the workplace is potentially infected and needs to take the appropriate action

Employers should also remind employees of any existing risk assessments for reducing the risk of infection in the workplace and should ensure that these are still relevant and sufficient.

The NHS has produced some posters around hygiene measures that can be displayed in public areas: [https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/866065/Handwashing\\_techniques.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/866065/Handwashing_techniques.pdf)

[https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment\\_data/file/866065/Handwashing\\_techniques.pdf](https://assets.publishing.service.gov.uk/government/uploads/system/uploads/attachment_data/file/866065/Handwashing_techniques.pdf)

Government guidance applicable since 23 March 2020, which is to remain in place for at least 3 weeks and until further notice, states that retail and public premises which remain open to the public must:

- Ensure a distance of two meters between customers and shop assistants; and
- Let people enter the shop only in small groups, to ensure that spaces are not crowded.
- Queue control is required outside of shops and other essential premises that remain open.

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