

Living With COVID-19 – Practical Strategies for Managing Your Workforce in the UK

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The UK Government announced last week that we are entering a new phase of the pandemic – one where we now learn to live with COVID-19. On 24 February 2022, all domestic COVID-19 regulations restricting public freedoms came to an end. We are now being encouraged to act reasonably and use our discretion. What do these changes mean for employers?

Health and Safety Must Remain a Priority

Health and Safety England's guidelines on continuing to work safely during COVID-19 remain in place. Some of the more detailed guidance is due to be updated in light of recent government announcements, so keep an eye on any changes to that over the coming weeks. Failure to follow this guidance can lead to serious sanctions for companies and their directors, including fines, imprisonment and disqualification.

Returning to the Office

Employers should now look at what working patterns have been adopted and whether anything needs to change over the coming months. This might mean a phased return to the office, permanent hybrid working or an immediate full-time return to the office. Business needs, market standards and company culture will all influence that approach.

If an employee is denied the hybrid working arrangement they are looking for through informal channels then, provided they have more than six months of service, they can submit a more formal flexible working request. Requests should be considered in accordance with the Advisory, Conciliation and Arbitration Service (ACAS) guidance and can be accepted or rejected, based on eligibility grounds or for one of eight prescribed statutory reasons.

Implement COVID-19 Policies

Staff are no longer legally obliged to self-isolate if they have symptoms and access to free tests will soon come to an end. Without the right policies, this could make for a perfect storm when managing sickness-related absence and office attendance. Here are some factors that employers should consider when formulating those policies:

1. Symptoms

We know that COVID-19 symptoms are broadly the same as the common cold, or a winter 'bug', or a late night with some raucous shouting. Employers need to be clear that they expect employees to have the wisdom to know the difference. That's a balance for employers to determine, whether they want slightly sick employees coming into the office at all to spread germs, versus giving a green light to those who are more likely to be persistent absentees needing management in accordance with usual procedures.

2. Testing

From 1 April 2022, access to free COVID-19 tests will come to an end. Employers need to decide whether employees will be either expected to self-fund tests or be supplied with them by the business, if requested.

3. Failure to comply with a reasonable request

There then remains those employees who either refuse to take a test, or refuse to provide evidence that they have tested positive. If they refuse to take a test but are absent – without reasonable excuse – because they’re symptomatic, it’s potentially a disciplinary matter with the consequences that could follow.

If employees neglect to send evidence of a positive test then it’s the same as failing to provide a Fit for Work certificate. While employees can self-certify a week’s absence in order to maintain their qualification for statutory sick pay, consider withholding company sick pay pending the provision of a genuine picture of a positive test result.

In order to implement COVID-19 policies, employers might consult with employees or simply tell them about changes, and the employer might introduce consequences for failing to comply. By thinking about those consequences from the outset, employers will be able to implement effective strategies that both reflect their culture and achieve their objectives.

CONTACTS

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