

Creating a Safe Place to Work in the UK

May 13, 2020

The UK Government has published guidance on steps employers are required to take to ensure that they are providing a safe place to work before their employees can return to the workplace. In this advisory, Katten has broken down the risk assessment components to help you achieve compliance.

Employers have a statutory duty to provide a safe place of work and no worker is obliged to work in an unsafe environment.

The guidance is clear that employees should continue to work from home wherever possible and employers should take reasonable steps to assist with this. It is only if employees are in roles that are critical for business and operational continuity, safe facility management, or regulatory requirements which cannot be performed remotely that they should consider coming into work.

- Employers must plan for the minimum number of people needed on site to operate safely and effectively.
- Vulnerable people are strongly advised to stay home.
- Employers must ensure that social distancing in the workplace is maintained wherever possible.

Enforcement Measures for Failure to Comply With Legislation and Guidance

A failure to follow the guidance could lead to enforcement notices from the Health and Safety Executive (HSE). A business which operates in contravention of health and safety laws, however (e.g., for failing to provide a safe place of work), will be committing an offence. Businesses and venues that breach the law will be subject to prohibition notices, fixed penalty notices and potentially unlimited fines. Businesses that continue to contravene the law will be forced to close down.

Workplace Risk Assessments

1. Carry out a risk assessment.

If workers are business critical and must come into the office, employers must carry out a **COVID-19 risk assessment** before they are allowed back into the building.

- The risk assessment is not about creating huge amounts of paperwork. You must identify sensible measures to control the risks in your workplace.
- If you have more than five workers, you must have a written risk assessment.
- If you have more than 50 employees, **the Government expects you to publish the risk assessment on your website.**

2. Fulfil the duty to consult with elected employee representative on the risk assessment.

You must consult with your elected health and safety representative or, if there isn't one, a representative chosen by your workers. As an employer, you cannot decide who the representative will be. In any event, the Government expects you to have shared your risk assessment with your employees (who are often the best people to understand the risks in the workplace and will have a view on how to work safely).

3. Determine what should be contained in the risk assessment.

The assessment must be tailored to your business needs, your premises lay out and the individual needs of employees to minimise risk of infection, recognising that you cannot completely eliminate the risk of COVID-19.

There is a [Risk Assessment Template](#) available to support you from the HSE *noting, however, that this have not yet been updated for COVID 19*. Katten will let you know if and when these tools are updated.

You should use the latest [Government Guidance](#) to inform your decisions and control measures. The guidance covers, for example, social distancing guidelines, staggering arrival and departure times at work, the frequency of handwashing and surface cleaning, screens or barriers to separate people from each other, the use of hand sanitiser, consideration of smaller teams, assigning workstations to individuals instead of sharing, frequent deep cleaning of work areas and equipment between uses, etc.

4. Assess the need for PPE/face coverings.

The Government has stated that workplaces should not encourage the precautionary use of extra personal protective equipment (PPE) to protect against COVID-19 outside clinical settings or when responding to a suspected or confirmed case of COVID-19. Unless you are in a situation where the risk of COVID-19 transmission is very high, your risk assessment should reflect the fact that the role of PPE in providing additional protection is extremely limited. However, if your risk assessment does show that PPE is required, then you must provide this PPE free of charge to workers who need it. Any PPE provided must fit properly.

There are some circumstances when wearing a face covering may be marginally beneficial as a precautionary measure (although the Government notes that the evidence of the benefit of using a face covering to protect others is weak and the effect is likely to be small). In the Government's view, face coverings are not a replacement for the other ways of managing risk, including minimising time spent in contact, using fixed teams and partnering for close-up work, and increasing hand and surface washing. ***Wearing a face covering is optional and is not currently required by law, including in the workplace.*** If employees choose to wear one, it is important to use face coverings properly and wash their hands before putting them on and taking them off.

5. Display the COVID-19 Secure Notice.

The Government requires employers to display a form of notice in the workplace confirming compliance with Government guidance, available [here](#).

CONTACTS

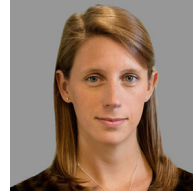
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