

Covid-19 mandatory Self-isolation – Guidance for Employers

The *Health Protection (Coronavirus, Restrictions) (Self-Isolation) (England) Regulations 2020* came into force **in England** at midnight on Monday 28th September 2020. The Regulations set out mandatory periods for self-isolation, and a duty to notify the Secretary of State of the names of people in the same household as anyone who has tested positive for Covid-19.

What aspects of the Regulations do Employers need to be aware of:

From an employment perspective, employers need to be aware of the provisions of Regulation 7 which make it an offence for an Employer to knowingly permit a worker (including an agency worker) to attend any place other than where the individual is self-isolating (usually their home). This **includes** individuals who are required to self-isolate because they live with someone who has tested positive. Therefore, if you know a worker has tested positive for Covid-19 or lives with someone who has tested positive, you are now responsible for stopping the worker from working (unless they can work from home). If you fail to do so you will face a fine, starting at £1,000 and rising to £10,000 for repeat offenders.

Regulation 8 also places an obligation on the worker to inform their employer that they are self-isolating. Any individual who breaches self-isolation will, normally, commit a separate criminal offence for which they could also be fined.

What action do Employers need to take:

In light of the Regulations, employers should communicate with employees and remind them of their obligation to inform the business as soon as possible if either they or somebody they live with tests positive for Covid-19 and that it is a criminal offence not to do so for which they could be personally fined. The employer should also make it clear that in such circumstances the employee will not be permitted to attend work for the period of isolation and consideration should be given to whether any work can be undertaken from home. It would also be useful to remind employees of what their sick pay entitlement will be for the period of self-isolation in the event that work cannot be undertaken from home (SSP or contractual sick pay if appropriate – for more information please see the guidance [on our hub here](#)). Further, certain low-income employees may be eligible for a £500 self-isolation payment from their local council so employers may also wish to signpost this and provide evidence to the employee that they cannot work from home as they will need this in support of their application.

Employers should also remind managers that anybody who has tested positive or lives with someone who has tested positive, should, under no circumstances be permitted to carry out any work other than from home (if possible) and again remind managers that it is a criminal offence to do so. Managers should also be encouraged to make the business aware if they have reason to believe that an employee or someone they live with has tested positive for the virus so that this can be managed accordingly, and further enquiries made with the employee. It may also be prudent to make it clear to both managers and employees that anyone found to be breaching the Regulations will also be liable to disciplinary action up to and including dismissal.

Do the Regulations prevent Employers for managing the absence in accordance with their usual absence management procedures?

No, the Regulations only make it an offence for employers to knowingly permit a worker to attend any place other than where the individual is self-isolating. However, it is not inconceivable that employees already on a warning for absence may try and argue that they were left with no choice but to come into work for fear of losing their job if they don't. However, we are of the view that provided an employer has made it clear to its workforce that anybody testing positive for Covid-19 or living with somebody has tested positive should not attend work during the self-isolation period and are actively managing any cases where they have reason to believe someone has test positive or lives with someone who has tested positive, should not be guilty of an offence under the Regulations. For more information on how to manage coronavirus related absence [please see our guidance here](#).

At present the government guidance is being updated daily so please look out for any further changes affecting the above.

We'll keep you posted.

Vista Employer Services Ltd

9th October 2020