

## **Coronavirus: Considerations regarding varying lockdown rules for employers on a national and regional level**

The coronavirus is giving rise to a variety of challenging issues for employers and particularly due to the ever changing national and regional laws and guidelines relating to lockdowns. Indeed, following reports in the press this week it appears that even MP's and the Prime Minister himself are struggling to keep up to date with all the regional variations. At the time of writing a number of regions around the UK are in or embarking on imminent lockdowns with a number of further regions anticipated to be following suit.

Whilst the government is working hard to avoid a second national lockdown and instead locking down the population by regions depending upon the rate of infection, it means that the rules are often confusing and vary greatly from region to region. Therefore, how should employers deal with the ever-changing landscape especially where you are national business with multiple sites across the UK. Do national employers need to adopt a regional strategy or is there still a "one size fits all"?

In this note we give you some factors that you may wish to consider when identifying which strategy is best for your business.

### **Place of work**

Since the announcement in September all 4 nations of England, Wales, Scotland and Northern Ireland are now very clear in that office workers, including key workers, who can work effectively from home should do so until the spring, at the earliest. Anyone else who cannot work from home should go to their place of work.

Therefore, you should consider:

- Do you require your workers to attend work to fulfil their roles or could they work from home?
- Do you require all of your workers to attend the workplace fulltime, or can you operate with a hybrid workforce i.e. some people onsite and some people working from home?
- If you require some employees to be in the workplace for some of the time, how do select who should attend and when?
- Do staff working from home need any support or equipment to effectively carry out their roles?
- How will managers manage their teams remotely, do any adjustments need to be made to performance standards?
- What measures do you need to put in place to stay connected with your workers and check in on their wellbeing?
- Do you need to carry out or review any H&S risk assessments both in the workplace and for those working from home?
- Are your IT and Data Protection procedures sufficient to ensure security and manage the risk of any data breaches or do they need updating, particularly for those working from home?
- How will employees be reimbursed for any business-related expenses incurred whilst working from home?

It may be prudent for managers working with your H&S Advisors and HR to carry out an impact assessment to identify what roles can be carried out remotely and how to manage any risks identified with working from home, including wellbeing, now that it is effectively being extended to 12 months.

If you are going to operate a hybrid workforce, you will need to ensure a fair method of selection. The fairest way may be to operate a rota system so that all employees attend

the workplace for at least some of the time. However, it would also be prudent to consider issues such as health concerns and childcare and whether, in light of these, it would more appropriate to allow homeworking on a fulltime basis whilst restrictions are in place.

If employees are required to attend the workplace for some or part of the time, you may need to consider:

- Are there any issues arising from workers travelling to work, for example; do they use public transport and could they experience delays due to social distancing measures or local lockdown rules?
- Do workers car share and therefore have to make alternative arrangements to travel to work, particularly if they live in different areas subject to different lockdown restrictions, for example: one employee lives just over the border in England whereas their car share partner lives the other side of the border in Wales?
- Will there be any impact on workers who live in a locked down area having to travel outside the area to attend work or vice versa?

It would be advisable to consider these issues in advance and encourage dialogue with your employees who may experience any difficulties. For example, do you need to consider flexible working or an amended start or finish time for any employees who may have difficulty in travelling to work.

### **Health and Safety**

All workplaces are required to be COVID- secure and you should display a valid risk assessment. However, in a local lockdown additional measures could be implemented. Therefore, as a business you will need to make sure that you stay up to date with the rules in each of your work locations and ensure any additional measures are adopted. Therefore, you need to consider:

- Who will be responsible for staying up to date with the guidance and ensuring the implementation of any additional measures required? Will you make one person responsible for this across the UK or will you designate one person in each region you have a workplace?
- If workers routinely travel between sites, how you will make them aware of different requirements at each site?
- Alternatively, if you are a national business, to avoid multiple different sets of rules across different sites do you wish to implement the tightest restrictions across all of your locations?

The key here will be to have clear identifiable roles and responsibilities so that any changes to lockdown rules are picked up and actioned quickly and are clearly communicated to your workers so as to avoid any confusion. Therefore, you may want to (if you haven't done so already) consider creating a Covid taskforce consisting of managers, HR and H&S who meet regularly and are responsible for not only actioning any changes and communicating this to the rest of the workforce but also for leading contingency planning and implementation, should that prove necessary.

With regards to PPE, employers are required to enforce the use of face coverings in indoor workplaces where social distancing cannot be maintained, unless there are strong reasons

not to, for example in a school setting. Staff in hospitality and retail and those working in public places are required to wear face coverings.

Therefore, notwithstanding the local or national rules on face coverings and other PPE, you may wish to consider whether taking such measures would reduce the risk of transmission in the workplace. For example, should you enforce the mandatory wearing of masks in enclosed spaces such as a shared toilet facility, a shared kitchen area, corridors?

### **Communication**

Effective communication with your workers is critical during these ever-changing times. This will give your workers reassurance regarding the measures you are taking to keep them safe and enable you to remind them of their obligations. Therefore, once you have decided whether you will adopt a regional or national strategy you need should clearly communicate the following either nationally or as applicable in each workplace location:

- Expectations around H&S and PPE to all workers and visitors on site;
- Any updates to your H&S, Disciplinary, IT or Data Protection Policies;
- Remind all workers (regardless of location) that by law they are legally obligated to inform you if either they or someone they live with tests positive for Covid and that a failure to do so is a criminal offence for which they personally could be fined. As an employer you could commit an offence if you knowingly allow somebody to work (other than from home) if they have tested positive for Covid or someone that they live with has tested positive. For further guidance please see our [mandatory self isolation guidance on the hub here.](#)
- Any breach of Covid secure measures, PPE requirements, IT or Data Protection policies may lead to disciplinary action up to and including dismissal as per the existing disciplinary procedures;
- (If you have not already done so) what your policy is on what workers should do regarding holidays where they find they will need to quarantine on return from travel abroad. It would be advisable to distinguish between those who knew they would have to quarantine prior to going away and those caught whilst they are abroad. For further guidance on holidays and quarantine please see our [coronavirus advice hub here.](#)
- How you will consult on new or review existing Covid secure measures to reassure the workforce or to address any concerns for example with a recognised Trade Union or works council, if applicable.

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

If you wish to discuss further any of the issues highlighted above, then please contact a member of the Vista team.

**Vista Employer Services Ltd**

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