

COVID 19 AND THE WORKPLACE

Employers and employees alike are understandably increasingly anxious about the impact of coronavirus on their businesses and their job security. Employers face both practical and legal issues including management and communication with staff in a rapidly changing landscape and how best to protect the health and safety of staff and customers.

We are fortunate that there is a great deal of information available from government authorities including guidance for employers and employees from the Ministry of Business, Innovation and Employment (see <https://www.employment.govt.nz/leave-and-holidays/other-types-of-leave/coronavirus-workplace/>), information from Work Safe concerning the expectations regarding minimising risk in the workplace (see <https://worksafe.govt.nz/managing-health-and-safety/novel-coronavirus-covid-19/workplace-preparedness-for-novel-coronavirus>) and information on government support available to businesses in response to the Coronavirus (see <https://www.business.govt.nz/news/coronavirus-information-for-businesses/>).

Now that the virus has reached New Zealand, businesses are facing the economic impacts on their business together with the potential impact of significant absenteeism and isolation of staff due to illness or self-isolation. It is wise to have clear policies in place for preventing infection and to address situations where infection occurs. Businesses should also develop a business continuity plan to deal with the interruptions to their business as a consequence of the virus and the governments response to it. There is information to assist with developing a plan and a template which provides a useful starting point available at <https://www.business.govt.nz/risks-and-operations/planning-for-the-unexpected-bcp/continuity-and-contingency-planning/>

Policies and plans should be reviewed and updated as information on the virus is updated. A review of current policies, employment agreements and health and safety obligations may also be prudent and employers should ensure employees are kept informed of all policies and procedures.

We have addressed in brief below some of the key issues for employers to consider and we encourage employers and employees to regularly check information provided online by MBIE, Work safe and advice from the Ministry of Health.

HEALTH AND SAFETY

Employers have a duty to take all reasonable steps to minimise the risk of harm to staff and others in the workplace. The employer's obligation to provide a safe workplace applies regardless of where employees are working.

The coronavirus is a health risk and employers must take all reasonably practicable steps to minimise the risk it poses. It is not clear what all reasonable steps means but an employee who is infected or has been exposed to the virus poses a clear risk to others in the work place and employers will need to mitigate that risk and have processes in place to deal with the situation should it arise.

Other reasonable steps may include warnings on the premises for customers and others advising not to enter if they have symptoms of coronavirus, making antiseptic handwash available, minimising staff / client meetings in person and facilitating staff working remotely where possible.

Employers should carry out risk assessments and put processes in place to protect the health and safety of their employees. Employees are also required to take all reasonable steps to protect their own health and safety.

Employers and employees should follow the ministry of health guidelines in relation to coronavirus.

SELF ISOLATION, SICK LEAVE, REMUNERATION

If an employee contracts coronavirus they will use their sick leave if they have sufficient leave accrued to cover the period they are required to remain absent. Employers may want to consider granting sick leave in advance for those with insufficient sick leave available.

If an employee is required to self-isolate but does not have coronavirus, employers should consider whether the employee can work remotely. If it is not practicable for the employee to work from home, employers may apply to the Ministry of Social Development for a subsidy on behalf of the employee (see <https://workandincome.govt.nz/products/a-z-benefits/covid-19-support.html#null>)

ADJUSTING STAFF LEVELS

There is no doubt the coronavirus outbreak will place a significant financial strain on many businesses. The government has introduced a package to assist businesses to retain staff by offering subsidies for those who can demonstrate reduced revenue. Nevertheless, many employees will need to consider reducing their staff levels.

It may be that some employers can offer 4-day weeks or other reduced hours arrangements but if there is insufficient work and businesses are unable financially to sustain their current staff levels, they may be forced to reduce staff levels.

It is important that employers faced with making positions redundant follow a fair process. Employers must provide staff with all relevant information and must consult with staff in good faith before making any decisions which affect employees on going employment.

The coronavirus is undoubtedly of considerable concern to all New Zealanders and will have a significant effect on many businesses. We can but hope that with measured and well thought out responses, clear policies implemented and a commitment to follow official advice, we can avoid a situation where the panic and fear generated by the virus overtakes rational decision making.

DISCLAIMER

The information on this site is in the nature of a general guide only and is not, nor should it be treated as, a substitute for legal advice. For advice on employment law and the impact of coronavirus on your organisation readers should contact an employment lawyer.