



Do you employ staff?

Coronavirus Frequently Asked Questions

We have recently received many similar questions from numerous clients related to coronavirus work related issues, so we thought it would be a good idea to address the most frequently asked questions in an FAQ newsletter:

My employee has a holiday booked in a country that will require a 14-day self-isolation period when they get home. The FCA is advising against all but essential travel, but they refuse to cancel their holiday, even though they can't work from home whilst they isolate. Is there anything I can do to manage this? Do I have to pay them SSP during their isolation?

Whilst the Government is introducing 14-day isolation periods for people returning from certain countries, and the FCA is advising against all but essential travel to those countries, this is not the same as "banning" travel to these countries. We all have a right to a private life, which means we can have differing opinions on what travel is or isn't "essential". As an employer, you can't tell an employee to not go on holiday to a country they can still legally travel to, and you can't decide what travel is and isn't viewed as "essential", because the word can mean different things to different people. It's frustrating, but technically there isn't much employers can do in this situation. We don't advise that employers attempt to "manage" employees for continuing with booked holidays as employees have a legal right to use their annual leave. However, the Government has been quite clear that periods of isolation following a holiday are unpaid. The employee would not be entitled to receive SSP for their period of isolation, unless they develop symptoms or test positive, which would cause the advice to change. This means an employee can either work from home during the self-isolation, use their annual leave to cover the additional time away from the workplace, or they will have to remain at home unpaid.

I have several employees with school aged children, what happens if their child is sent home due to Coronavirus, will my employee have to isolate too? How should their period of isolation be paid?

It all depends on why the child/student has been sent home from school. If the child is symptomatic or has tested positive, they must stay home from school for a minimum of 10 days and everyone in their household will also be required to self-isolate for a minimum period of 14 days, even if they do not have symptoms themselves. If your employee can work from home during their isolation then they should be paid as normal, but if working from home is not an option, the employee will be entitled to receive SSP from the first day of the period of isolation.

However, if the child/student is sent home because someone in their “education bubble” has tested positive, but they have no symptoms themselves, then the entire household may not need to isolate. It will depend upon the advice provided by the school, which will be advised by the NHS Test and Trace system. However, the current NHS Test and Trace advice is that people who live in the same house as someone who has been advised to isolate, but who does not have symptoms or a suspected case, are not required to isolate as well. So if your employee’s child has been sent home for precautionary measures only, your employee should not be required to isolate. However, they may be required to stay at home to care for their child. Where possible, the employee should be able to work from home whilst caring for their child, but if this is not possible you could either allow the employee to use some annual leave at short notice (which is entirely a discretionary decision on your part), or the employee would have to take “Time off for Dependents” which is a statutory right to unpaid leave.

My employee has recently tested negative for Coronavirus but they’re telling me they still need to isolate; shouldn’t they be returning to work if they had a negative test result?

This is a common misconception, but unfortunately the situation isn’t that simple. The testing process is not 100% reliable and the Government and NHS have both recognised that people can get a “negative” test result when the virus is incubating in their system, only to develop symptoms a few days later. When NHS Test and Trace provide people with their test results, they also provide advice on what to do next. Sometimes people are told they can return to their normal routines as soon as possible, sometimes people are told to isolate for 24-48 hours and then return to their normal routines if no symptoms develop, sometimes people are told to isolate until their symptoms stop (even though the symptoms are likely caused by a different virus) and sometimes people are told to continue to isolate for 14 days, even if their test is negative. The latter is most likely when the person has definitely come into contact with a confirmed case of Coronavirus. The employee should comply with the advice provided by NHS Test and Trace, regardless of their negative result. When an employee is advised to isolate by NHS Test and Trace, they should be allowed to work from home. If working from home isn’t an option, the employee should receive SSP from the first day of their isolation period.

Can I take my employees’ temperatures, and send them home if their temperature is high, even though the Government hasn’t advised this for my industry?

Whilst we understand the desire to take as many precautions as possible, we would not advise this. The Government has provided specific guidance for different industries, and this is the advice employers should follow. Whilst temperature checks may help your employees to feel like “more is being done”, there are many reasons why an employee’s temperature can vary. The employee could have a minor infection not related to Coronavirus, so it is not as reliable as you perhaps believe. If you want to send an employee home purely because of a temperature result, and not because they feel symptomatic or have been advised to self-isolate by the NHS Test and Trace service, you would be required to provide the employee with full pay as they are ready and willing to work and you

are the person refusing them work. If you sent employees home in this way and did not provide full pay this could be viewed as a breach of contract.

My employee is absent, but their illness is not related to Coronavirus. I've asked them to provide a Fit Note, but they keep telling me this service isn't provided by their GP Surgery, what should I do?

GP surgeries have definitely been impacted by the Coronavirus pandemic, many appointments are now held over the phone or via a video call, and many GP surgeries have reduced staffing levels, either because the GPs have been redeployed to other areas of the NHS, or because they are affected by self-isolation guidance. However, GP Surgeries are still operational and are still providing prescriptions and Fit Notes for those who need it. It is realistic to expect some delay in this service, so employers are expected to be reasonable and flexible with their expectations, but employees can still get Fit Notes. Any employee who says it's "impossible" to get a Fit Note should be advised to discuss this with their GP. They may have to telephone their GP surgery multiple times, or wait on hold, but they will be able to provide a Fit Note. If an employee fails to provide a Fit Note this could be viewed as a breach of Company policy, but we would not advise that you attempt to manage the employee for this before you have discussed the case with us.

I have an employee who is refusing to self-isolate, even though he's exhibiting several of the key Coronavirus symptoms. Other employees have informed me that they know a member of the employee's household has a confirmed case of Coronavirus, what should I do?

Employees are expected to comply with the guidance from the Government and NHS, not only for their own health and safety, but for the health and safety of their colleagues and everyone else within their local community. As an employer, you have a duty of care towards your employees' physical and mental health. If you feel that an employee is deliberately disregarding the Government and NHS guidance and putting their colleagues at risk, and you have formally communicated an expectation that all employees will comply with the official guidance at all times, you have the ability to investigate the situation and formally manage the employee for failing to comply with the official guidance and causing a health and safety risk within the workplace. However, we would not advise that you attempt to manage an employee in this situation before you have discussed the case with us.

How Can We Help?

We have an entire section of our website that focuses specifically on Coronavirus related advice. To access this information, please click [here](#). Alternatively, if you have any questions relating to the content of this newsletter, you can contact us via hradvice@hasslefreehr.co.uk